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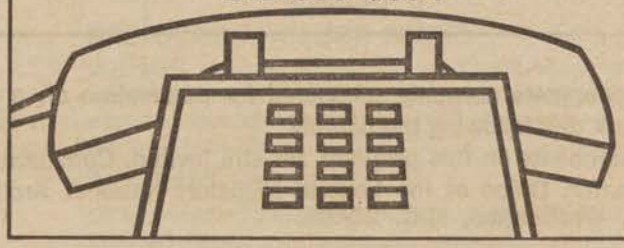
highlights

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Monday	Tuesday	Wednesday	Thursday	Friday
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	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.

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rules and regulations

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

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

[1620-01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

CONTRACT COVERAGE AND COST ACCOUNTING STANDARDS

Final Rules and Correction

AGENCY: Cost Accounting Standards Board.

ACTION: Final rules and correction.

SUMMARY: This document adopts as a final rule two proposed rules. The first will exempt completely most educational institutions which receive negotiated national defense contracts and which are subject to Federal Management Circular 73-8. The second amends section .10, General Applicability, of Standards 401 through 409. An omission in § 415.80 is being corrected. These actions are in response to request that the Board review and revise the applicability of its standards, rules and regulations.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

J. Jett McCormick, Associate General Counsel, Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548, 202-275-5940.

SUPPLEMENTARY INFORMATION: The Cost Accounting Standards Board is authorized by Pub. L. 91-379 to prescribe rules and regulations exempting from its requirements such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by the Act.

The Cost Accounting Standards Board has been requested by several Federal agencies and by representatives of educational institutions to consider the extent to which its standards, rules, and regulations should apply to educational institutions that are subject to Federal Management Circular 73-8 or OMB Circular A-21 and to consider whether an exemption for such institutions from Board promulgations is appropriate. The Board had provided exemptions for them in certain specific standards where the application would not be appropriate.

On March 15, 1978, the Board published for comment in the FEDERAL REGISTER (43 FR 10699) a proposal to exempt most educational institutions. The exemption would not apply to contracts with federally funded research and development centers operated by such educational institutions. Forty-seven comments have been received, all of which favored the proposed action by the Board although some respondents requested minor changes and clarifications.

A few commentators expressed concern that an educational institution receiving a contract from the Government could apportion the contract effort between the university and the FFRDC to take advantage of differences in cost accounting required under CAS and under FMC 73-8. If this becomes a problem, the procuring agencies are able to take the necessary corrective action.

Several commentators noted that there could be some misunderstanding concerning the applicability of CAS 403 to the university which is functioning as a "home office" for an FFRDC. The Board intends that CAS 403 not be applicable to the university in this situation and minor changes have been made to the language to clarify its intent.

One commentator indicated that the definition of FFRDC is not meaningful and suggested that the Board list the criteria by which NSF designates an FFRDC. Since coverage is intended only for those organizations designated as FFRDC's by the NSF based on whatever criteria they deemed appropriate, inclusion of their current criteria would not be useful. Accordingly, no changes have been made in the definition included in § 331.30(b)(3).

One commentator noted that the removal of current exemptions from CAS 403, 408, and 410 for FFRDC's will require a transitional period. It is considered that the provisions of §§ 403.70(a), 408.80, and 410.80 will furnish sufficient time for compliance by the FFRDC's with those standards. Section 403.70(a) provides that a contractor, if not exempt, shall be required to comply at the start of his first cost accounting period following receipt of the award of a negotiated national defense contract making the standard applicable. A contract awarded after August 1, 1978, will make the standard applicable to a FFRDC. Consequently, a FFRDC must comply with CAS 403 as of the start of its next cost accounting period after receipt of a contract after August 1. Standards 408 and 410 apply in the same way. It is recognized that all FFRDC's do not necessarily receive a new contract each year and that annual funding may be by means of an amendment to an existing contract. Applicability would be at the start of a cost accounting period after receipt of a new contract or after receipt of the annual extension of an existing contract.

The Board having found the exemption appropriate and consistent with purposes sought to be achieved by Pub. L. 91-379, is modifying its regulations as set forth below.

In the FEDERAL REGISTER of February 16, 1977 (42 FR 9391), the Board proposed to amend section .10, General Applicability, of standards 401 through 409 to conform these sections to the general applicability section as it appears in standard 410 et seq. No comments were received on this proposed amendment. The Board considers this change to be appropriate and is amending standards 401 through 409 as set forth below.

FR Doc. 77-10513, appearing in the FEDERAL REGISTER on April 11, 1977 (42 FR 18857), established the effective date for cost accounting standard 415 by amending § 415.80. In restating § 415.80, § 415.80(b) was omitted. This correction republishes § 415.80 in its entirety.

The rules, regulations, and Standards of the Cost Accounting Standards Board are hereby amended as follows:

PART 331—CONTRACT COVERAGE

Section 331.30 is amended by adding paragraph (b)(3):

§ 331.30 Applicability, exemption, and waiver.

* * * * *

(b) * * *

(3) Any contract made with an educational institution whose cost principles are subject to Federal Management Circular 73-8 except contracts

that are to be performed by a federally funded research and development center (FFRDC) operated by such an institution. A FFRDC is a laboratory or similar operation which is designated as such by the National Science Foundation. If a contract or any part of a contract awarded to an exempt educational institution is to be performed by a FFRDC, the contract shall contain the clause set forth in § 331.50 or § 332.50, as appropriate, and the requirements of that clause shall be applicable to that part of the contract effort, and the costs thereof, which are performed by the FFRDC. Costs incurred by the institution which may be allocated to the FFRDC are specifically exempted by this provision as is the requirement to prepare part VIII of the disclosure statement (CASB-DS-1 or CASB-DS-2).

* * * * *

PART 401—COST ACCOUNTING STANDARD CONSISTENCY IN ESTIMATING, ACCUMULATING, AND REPORTING COSTS

Section 401.10 is revised to read as follows:

§ 401.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 402—COST ACCOUNTING STANDARD CONSISTENCY IN ALLOCATING COSTS INCURRED FOR THE SAME PURPOSE

Section 402.10 is revised to read as follows:

§ 402.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 403—COST ACCOUNTING STANDARD ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

Section 403.10 is revised to read as follows:

§ 403.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

In § 403.70 paragraph (b) is revised to read as follows:

§ 403.70 Exemptions.

* * * * *

(b) This standard shall not apply to contractors who are subject to the provisions of Federal Management Circular 74-4 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments).

PART 404—COST ACCOUNTING STANDARD CAPITALIZATION OF TANGIBLE ASSETS

Section 404.10 is revised to read as follows:

§ 404.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 405—COST ACCOUNTING STANDARD ACCOUNTING FOR UNALLOWABLE COSTS

Section 405.10 is revised to read as follows:

§ 405.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter)

PART 406—COST ACCOUNTING STANDARD COST ACCOUNTING PERIOD

Section 406.10 is revised to read as follows:

§ 406.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 407—COST ACCOUNTING STANDARD USE OF STANDARD COSTS FOR DIRECT LABOR AND DIRECT MATERIAL

Section 407.10 is revised to read as follows:

§ 407.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 408—COST ACCOUNTING STANDARD ACCOUNTING FOR COSTS OF COMPENSATED PERSONAL ABSENCE

Section 408.10 is revised to read as follows:

§ 408.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

Revise § 408.70 to read as follows:

§ 408.70 Exemption.

This standard shall not apply to contractors who are subject to the provisions of Federal Management Circular 74-4 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments).

PART 409—COST ACCOUNTING STANDARD DEPRECIATION OF TANGIBLE CAPITAL ASSETS

Section 409.10 is revised to read as follows:

§ 409.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost ac-

counting standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

PART 410—COST ACCOUNTING STANDARD ALLOCATION OF BUSINESS UNIT GENERAL AND ADMINISTRATIVE EXPENSES TO FINAL COST OBJECTIVES

Section 410.70 is revised to read as follows:

§ 410.70 Exemption.

This standard shall not apply to contractors who are subject to the provisions of Federal Management Circular 74-4 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments).

PART 415—COST ACCOUNTING STANDARD ACCOUNTING FOR THE COSTS OF DEFERRED COMPENSATION

Section 415.80 is revised to read as follows:

§ 415.80 Effective date.

(a) The effective date of this standard is July 10, 1977.

(b) This standard shall be followed by each contractor for awards of deferred compensation made on or after the start of his next cost accounting period beginning after the receipt of a contract to which the cost accounting standard is applicable.

Effective date of the foregoing amendments is August 1, 1978.

(34 Stat. sec. 103 (50 U.S.C. app. 2168).)

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 78-15890 Filed 6-7-78; 8:45 am]

[3410-02]

Title 7—Agriculture

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

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 1, Amdt. 13]

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

Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum grade requirements on domestic and export shipments of Florida seedless grapefruit from Improved No. 2. For all seedless grapefruit, except pinks, the minimum grade is lowered to U.S. No. 2 for the period June 5-18, 1978, and to U.S. No. 2 Russet for the period June 19-August 27, 1978. For pink seedless grapefruit the minimum grade is lowered to U.S. No. 2 Russet for the period June 5-August 27, 1978. Specification of minimum grade requirements for Florida grapefruit is necessary because of current and prospective supply and demand for the fruit, and to maintain orderly marketing conditions in the interest of producers and consumers.

DATES: The amendment is effective June 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367; 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committee established under the marketing agreement and order, and upon other information, it is found that the regulation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Florida grapefruit. Less restrictive grade requirements for such fruit are consistent with the character of much of the fruit available for fresh shipment.

(3) 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 amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of seedless grapefruit.

Accordingly, it is found that the provisions of § 905.301 (42 FR 57947; 59367; 59955; 60918; 61590; 62470; 63635; 63881; 43 FR 2820; 5497; 10910; 17797; 20475) should be and hereby are amended by revising in Table I (applicable to domestic shipments of the specified fruit) and in Table II (applicable to export shipments of the specified fruit) the minimum grade applicable to seedless grapefruit as follows:

§ 905.301 Orange, Grapefruit, Tangerine, and Tangelo Regulation 1.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, except pink	June 5 through June 18, 1978	U.S. No. 2	3 1/16
Do	June 19 through Aug. 27, 1978	U.S. No. 2 Russet	3 1/16
Do	Aug. 28 through Sept. 24, 1978	Improved No. 2	3 1/16
Seedless, pink	June 5 through Aug. 27, 1978	U.S. No. 2 Russet	3 1/16
Do	Aug. 28 through Sept. 24, 1978	Improved No. 2	3 1/16

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, except pink	June 5 through June 18, 1978	U.S. No. 2	3 1/16
Do	June 19 through Aug. 27, 1978	U.S. No. 2 Russet	3 1/16
Do	Aug. 28 through Sept. 24, 1978	Improved No. 2	3 1/16
Seedless, pink	June 5 through Aug. 27, 1978	U.S. No. 2 Russet	3 1/16
Do	Aug. 28 through Sept. 24, 1978	Improved No. 2	3 1/16

* * * * *

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

Dated: June 2, 1978, to become effective June 5, 1978.

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

[FR Doc. 78-15868 Filed 6-7-78; 8:45 am]

[3410-02]

[Valencia Orange Reg. 592]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 9-15, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 9, 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 June 6, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges showed strength early in the week, but weakened toward the end.

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 is 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. 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.

§ 908.892 Valencia Orange Regulation 592.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 9, 1978, through June 15, 1978, are established as follows:

(1) District 1: 336,000 cartons;
(2) District 2: 464,000 cartons;
(3) District 3: Unlimited;

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

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

Dated: June 7, 1978.

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

[FR Doc. 78-16157 Filed 6-7-78; 12:00 pm]

[3410-02]

PART 932—OLIVES GROWN IN CALIFORNIA

Amendment of Expenses for 1976-77 Fiscal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the previously approved expenses for the 1976-77 fiscal year of the Olive Administrative Committee which locally administers the Federal marketing orders covering California olives.

DATES: Effective September 1, 1976, through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of information submitted by the committee, established under the marketing order, and upon other information, the expenses previously approved and revised.

Therefore, the amount specified in paragraph (a) of § 932.211 (41 FR 42181) is changed from "$891,000" to "$895,404".

It is 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) in that this increase in the amount of expenses authorized is a necessary administrative adjustment applicable only to a fiscal year which ended August 31, 1977.

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

Dated: June 5, 1978.

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

[FR Doc. 78-15867 Filed 6-7-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE), by this action issues Crude Oil Price Schedule No. 11, effective June 1, 1978, for the months of June, July, and August 1978. The Schedule provides monthly crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159). Beginning in June 1978, inflation adjustments

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

will be applied to the projected May 1978 lower tier and upper tier prices (approximately $5.41 per barrel and $12.08 per barrel respectively) at an annual rate of 7.1 percent, resulting in lower tier and upper tier prices for the months of June, July, and August 1978 of approximately $5.44, $5.47, and $5.50 per barrel (lower tier) and $12.15, $12.22, and $12.29 (upper tier), respectively.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), Department of Energy, 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

William D. Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310, Washington, D.C. 20461, 202-254-7477.

Ben McRae (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5140, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

A. Introduction.
B. Crude Oil Price Schedule No. 11.

A. Introduction

Under the EPAA, Congress provided flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976. Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at a rate not to exceed 10 percent annually.

With the issuance of Crude Oil Price Schedule No. 9, (42 FR 62125, December 9, 1977), the ERA undertook to continue the policy, announced by the President in the National Energy Plan (NEP) and implemented by the Federal Energy Administration (FEA) in Crude Oil Price Schedule No. 8 (42 FR 45284, September 9, 1977), to adjust both lower tier and upper tier ceiling prices to reflect only the rate of inflation as measured by the GNP deflator. Reference should be made to the Notice which accompanied Crude Oil Price Schedule No. 8 for a description of prior actions taken by FEA to achieve compliance with the composite price constraints of the EPAA and for a discussion of the domestic crude oil pricing policy set forth in the NEP.

B. Crude Oil Price Schedule No. 11

This price schedule continues the policy as described in the Notice which accompanied Crude Oil Price Schedule No. 8. Accordingly, under Crude Oil Price Schedule No. 11, effective June 1, 1978, the May 1978 lower tier ceiling price (the May 15, 1973 posted price plus $1.72 per barrel, resulting in an average first sale price of approximately $5.41 per barrel), and the May 1978 upper tier price (the September 30, 1975 posted price less $.59, resulting in an average first sale price of approximately $12.08 per barrel), are adjusted for inflation for June, July, and August 1978, based on the first revision of the GNP deflator published on May 18, 1978 which reflects an annual rate of inflation of 7.1 percent.

1. *Lower Tier Ceiling Prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July, and August 1978, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00573 which when applied over a twelve-month period yields an effective annual rate of adjustment of 7.1 percent.

B. June adjustment ($5.41) (.00573) per barrel equal $.031 per barrel rounded to $.03 per barrel.

C. July adjustment ($5.41+.03) (.00573) per barrel equal $.031 per barrel rounded to $.03 per barrel.

D. August adjustment ($5.41+.03+.03) (.00573) per barrel equal $.031 per barrel rounded to $.03 per barrel.

Based upon the monthly adjustments computed above, average lower tier ceiling prices for the months of June, July, and August 1978 are, computed as follows:

June, $5.41+$.03=$5.44.
July, $5.44+$.03=$5.47.
August, $5.47+$.03=$5.50.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next three months have been determined as follows:

Month	Ceiling price	Estimated average first sale price
June	May 15, 1973, highest posted field price plus $1.75	$5.44
July	May 15, 1973, highest posted field price plus $1.78	5.47
August	May 15, 1973, highest posted field price plus $1.81	5.50

2. *Upper Tier Ceiling Prices.* Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July, and August 1978 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) equals .00573.

B. June adjustment ($12.08) (.00573) per barrel equals $0.069 per barrel rounded to $.07 per barrel.

C. July adjustment ($12.08+.07) (.00573) per barrel equals $0.07 per barrel.

D. August adjustment ($12.08+.07) (.00573) per barrel equals $0.07 per barrel.

Based upon the monthly adjustments computed above, average upper tier ceiling prices for the months of June, July, and August 1978 are computed as follows:

June, $12.08+$0.07=$12.15.
July, $12.15+$0.07=$12.22.
August, $12.22+$0.07=$12.29.

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustment as computed above, upper tier prices for the next three months have been determined as follows:

Month	Ceiling price	Estimated average first sale price
June	Sept. 30, 1975, highest posted field price less $0.52	$12.15
July	Sept. 30, 1975, highest posted field price less $0.45	12.22
August	Sept. 30, 1975, highest posted field price less $0.38	12.29

On or before September 1, 1978, the ERA will issue Crude Oil Price Schedule No. 12, setting forth lower tier and upper tier ceiling prices for the months of September, October, and November 1978.

The following table summarizes first sale price data for the months February 1976 through August 1978.

Month	Lower tier price	Upper tier priced	Statutory composite price	Actual composite price[1]	Cumulative excess receipts (millions)
1976					
February	$5.05	$11.48	$7.66	$7.87	$49
March	5.07	11.39	7.72	7.79	67
April	5.07	11.52	7.78	7.86	86
May	5.13	11.55	7.84	7.89	97
June	5.15	11.60	7.88	7.99	123
July	5.19	11.60	7.93	8.04	152
August	5.18	11.62	7.98	8.03	164
September	5.17	11.65	8.04	8.19	198
October	5.15	11.62	8.11	8.23	228
November	5.17	11.62	8.17	8.40	282
December	5.17	11.64	8.24	8.40	332

Month	Lower tier price	Upper tier priced	Statutory composite price	Actual composite price[1]	Cumulative excess receipts (millions)
1977					
January	5.17	11.44	8.30	8.29	316
February	5.18	11.39	8.37	8.33	308
March	5.15	11.03	8.44	8.19	246
April	5.15	10.97	8.50	8.14	161
May	5.18	10.98	8.57	8.23	76
June	5.16	10.92	8.64	8.17	−36
July	5.16	10.99	8.71	8.21	−159
August	5.18	10.93	8.78	8.25	−295
September	5.20	11.21	8.85	8.26	−446
October	5.23	11.42	8.92	8.36	−595
November	5.24	11.63	8.99	8.35	−761
December	5.25	11.76	9.06	8.40	−937
1978					
January	5.28	11.78	9.13	8.34	−1137
February	5.29	11.81	9.21	8.48	−1306
March[2]	5.34	11.87	9.28	8.37	−1552
April[3]	5.38	12.02	9.35		
May[3]	5.41	12.08	9.43		
June[3]	5.44	12.15	9.50		
July[3]	5.47	12.22	9.58		
August[3]	5.50	12.29	9.66		

[1]Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA. Effects of Alaska North Slope crude production, which commenced June 20, 1977, are included.
[2]Preliminary.
[3]Projected on the basis of Crude Oil Price Schedule Nos. 10 and 11.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1978.

Issued in Washington, D.C., June 1, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 11 of Monthly Price Adjustments, as follows:

§ 212.77 **Adjustments to ceiling prices.**

* * * * *

APPENDIX

* * * * *

SCHEDULE NO. 11 OF MONTHLY PRICE ADJUSTMENTS

[Effective June 1, 1978]

Month	Lower tier, May 15,1973, posted price (plus)	Upper tier, Sept. 30, 1975 posted price [2] (less)
1976:		
February	$1.35	$1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.51	1.44
October	1.54	1.18
November	1.57	.92
December	1.59	.87
1978:		
January	1.61	.82
February	1.63	.77
March	1.66	.71
April	1.69	.65
May	1.72	.59
June	1.75	.52
July	1.78	.45
August	1.81	.38

[1]The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2]The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on June 1, 1978 pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through May 1978, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 10 effective March 1, 1978, are further increased as indicated in this schedule, effective June 1, 1978.

This schedule is effective only through August 31, 1978. Price ceilings for subsequent months will be provided by Schedule No. 12, to be issued on or about September 1, 1978. This schedule may, however, be superseded prior to September 1, 1978 by early issuance of Schedule No. 12 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc. 78-15791 Filed 6-7-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17522; Amdt. 39-3231]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp., BAC 1-11 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which supersedes AD 68-26-04 applicable to British Aircraft Corp., BAC 1-11 400 Series airplanes to require inspection for cracks and replacement as necessary of certain nose landing gear sustaining rams. The AD is needed to detect cracking which could result in failure of the landing gear.

DATES: Effective July 10, 1978. Compliance required as indicated.

ADDRESSES: The applicable service bulletin may be obtained from: British Aircraft Corp., Dulles International Airport, P.O. Box 17414, Washington, D.C. 20041. 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 inspection for cracks and replacement as necessary of certain nose landing gear sustaining rams on British Aircraft Corp., BAC 1-11 400 Series airplanes, was published in the FEDERAL REGISTER at 43 FR 13 on January 3, 1978. The proposal was prompted by the FAA determination

that the modified sustaining rams which AD 68-26-04 lists as replacement parts also have experienced cracking in the same area as the original part. Therefore, the FAA is superseding Amendment 39-697, 33 FR 18695, December 18, 1968 (AD 68-26-04) with a new AD which requires repetitive inspections of both the original part and the replacement part and provides for a modification which, when embodied, would terminate the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. However, upon further review, the FAA has made minor clarifying changes.

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.

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 CORP.

Applies to Model BAC 1-11 400 Series airplanes, certificated in all categories.

Compliance is required as indicated.

To detect cracks in the nose landing gear sustaining ram P/N AK44 A103 or P/N AK44 A853, as applicable, accomplish the following:

(a) For airplanes on which nose landing gear sustaining ram P/N AK44 A103 is installed, prior to accumulating 4500 landings on the ram or within 500 landings after the effective date of this AD, whichever occurs later, unless accomplished within the last 500 landings, and thereafter at intervals not to exceed 1000 landings from the last inspection, inspect in accordance with paragraph (c) of this AD.

(b) For airplanes on which nose landing gear sustaining ram P/N AK44 A853 is installed, prior to accumulating 4500 landings or within 500 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1000 landings from the last inspection, inspect in accordance with paragraph (c) of this AD.

(c) Inspect nose landing gear sustaining ram, P/N AK44 A103 or AK44 A853, as applicable, for cracks using a permanent magnet and detection ink in accordance with the procedure outlined in sections 2.1.1 and 4.1 of British Aircraft Corporation Alert Service Bulletin No. 32-A-PM3509, issue 5, dated March 23, 1977 (service bulletin) or an FAA-approved equivalent.

(d) If during the inspection required by paragraph (c) of this AD, cracks are found which exceed 2½ inches in length around the circumference of the ram, before further flight, replace the ram P/N AK44 A103 or AK44 A853 with a serviceable part of the same part number, or with P/N AK44 A987 in accordance with Modification PM5227 referred to in the service bulletin. If P/N AK44 A103 or AK44 A853 rams are used as replacements, inspect the replacement rams in accordance with paragraph (c) prior to accumulating 4500 landings on the part and thereafter at intervals not to exceed 1000 landings from the last inspection.

(e) If, during the inspection required by paragraph (c) of this AD, cracks are found which do not exceed 2½ inches in length around the circumference of the ram, such cracks may be blended out in accordance with and within the limitations of section 2.1.4 of the service bulletin or an FAA-approved equivalent. Sustaining rams reworked in this matter must be shot peened and reprotected in accordance with section 2.1.5 of the service bulletin or an FAA-approved equivalent, and the ram must continue to be inspected in accordance with paragraph (c) of this AD at intervals not to exceed 1000 landings. If the cracks cannot be blended out within the specified material limitations, the ram must be replaced before further flight in accordance with paragraph (d) of this AD.

(f) The repetitive inspections of the nose landing gear sustaining ram as specified in this AD may be terminated upon embodiment of BAC Modification PM5227 which introduces ram P/N AK44 A987 or an FAA-approved equivalent.

(g) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, where the number of landings has not been recorded for the parts affected by this AD, the number of landings may be determined by dividing the number of flight hours time in service since installation of the part by the operator's fleet average time from takeoff to landing for the airplane type.

This supersedes Amendment 39-697 (33 FR 18695), AD-68-26-04.

This amendment becomes effective July 10, 1978.

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

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

Issued in Washington, D.C., on May 26, 1978.

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

[FR Doc. 78-15559 Filed 6-7-78; 8:45 am]

[4910-13]

[Docket No. 75-WE-12-AD; Amdt. 39-3227]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to McDonnell Douglas DC-10 series airplanes by increasing the repetitive inspection intervals specified in the AD. The amendment is needed because the FAA has determined that the compliance time for repetitive inspection of the forward passenger door mechanism cables and rigging may be safely extended, thus relieving a burden. Extension of the rigging inspection interval involves successful accomplishment of door operational checks.

DATES: Effective—July 6, 1978. Compliance schedule—As prescribed in body of AD.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This notice further amends Amendment 39-2126 (40 FR 11549), AD 75-06-07, as amended by Amendment 39-2605 (41 FR 19619), which currently requires inspection and rerigging of the forward passenger doors on McDonnell Douglas DC-10 Series airplanes to insure proper functioning during emergency operation. After issuing Amendment 39-2605, the FAA has determined that, based upon service experience and additional data submitted by three petitioners, the compliance time for repetitive inspections required by the AD may be extended. Therefore, the FAA is further amending Amendment 39-2126, as amended, by increasing the repetitive inspection intervals specified in the AD, on McDonnell Douglas Model DC-10 Series airplanes.

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

DRAFTING INFORMATION

The principal authors of this document are Gilbert L. Thompson, Air-

craft Engineering Division, Mark T. McDermott, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending amendment 39-2126 (40 FR 11549), AD 75-06-07, as amended by amendment 39-2605 (41 FR 19619) by revising pargraphs (b) and (c) of the amendment to read in pertinent part as follows:

(b) * * * and thereafter at intervals not to exceed 2,250 hours time in service from the last inspection.

(3) The repetitive 2,250-hour inspections required by paragraph (b) * * *

(c)(4) The repetitive 5,000-hour inspection required by paragraph (c) may be replaced by satisfactory accomplishment, at 6,000-hour intervals of both electrical and pneumatic door operational checks at applicable doors per Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA approved revisions, provided that all service bulletins except SB 52-152, required by any one of the combination of service bulletins in paragraph (c)(3) have been accomplished.

This amendment becomes effective July 6, 1978.

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

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

Issued in Los Angeles, Calif., on May 22, 1978.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc. 78-15760 Filed 6-7-78; 8:45 am]

[4910-13]

[Docket No. 17934; Amdt. 39-3230]

PART 39—AIRWORTHINESS DIRECTIVES

Scottish Aviation Model B-206 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires repetitive inspections of the bellows portions of the Scottish Aviation Ltd. "Beagle" B-206 series II exhaust system for cracks, corrosion, and deterioration and replacement of defective bellows found during an inspection. The AD is needed to prevent the escape of hot exhaust gases when an engine exhaust system bellows assembly fails. The escaping hot gases can sever the engine tachometer electrical wiring or impinge on other components located in the engine compartment and might result in fire.

DATES: Effective June 22, 1978.

Compliance schedule—As prescribed in the body of AD.

ADDRESSES: The applicable service bulletin may be obtained from Product Support Department, Scottish Aviation Ltd., Prestwick Airport, Prestwick, Scotland KA92RW.

A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of overheated or scorched fuel lines and separated tachometer leads as the result of hot exhaust gases escaping from fractured bellows located in the Scottish Aviation Ltd. "Beagle" Model B-206 series II engine exhaust system. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires visual repetitive inspections and replacement, as necessary, of the exhaust system bellows on the Scottish Aviation Ltd. "Beagle" Model B-206 series II airplanes.

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

DRAFTING INFORMATION

The principal authors of this document are M. F. Rammelsberg, Europe, Africa, and Middle East Region and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and 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:

SCOTTISH AVIATION LTD. Applies to "Beagle" Model B-206 series II airplanes, certificated in all categories, which have exhaust system bellows assembly, P/N CE20901 or P/N CE20806, installed.

Compliance required as indicated, unless already accomplished.

To minimize the possibility of hot exhaust gases escaping from a fractured exhaust bellows assembly and impinging on the tachometer electrical leads and other engine compartment components, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, inspect the exhaust system bellows assemblies, Part No. CE 20901 and Part No. CE 20806, for cracks, corrosion, and deterioration in accordance with paragraph 3(a) of Scottish Aviation Ltd. Service Bulletin No. B-206/55 issue 2, dated January 5, 1976, or an FAA approved equivalent (hereinafter referred to as the Service Bulletin).

(b) If a crack, corrosion, or deterioration is not found during the inspection required by paragraph (a) of this AD—

(1) Within 50 hours' time in service after the inspection required by paragraph (a) of this AD and, thereafter, at intervals not to exceed 50 hours' time in service, inspect the bellows assemblies in accordance with paragraph 3(b) of the Service Bulletin; and

(2) Within 100 hours' time in service, or 3 months after the inspection required by paragraph (a), whichever occurs sooner, and, thereafter, at intervals not to exceed 100 hours' time in service or 3 months, whichever occurs sooner, inspect the bellows assemblies in accordance with paragraph 3(a) of the Service Bulletin.

(c) If a crack, corrosion, or deterioration is found during any inspection required by this AD, replace the affected bellows assembly with a serviceable part of the same part number.

(d) For bellows assemblies installed as replacements—

(1) Within 50 hours' time in service after installation and, thereafter, at intervals not to exceed 50 hours' time in service, inspect the bellows assemblies in accordance with paragraph 3(b) of the Service Bulletin;

(2) Within 200 hours' time in service, or 6 months, after installation, whichever occurs sooner, and, thereafter, at intervals not to exceed 100 hours' time in service or 3 months, whichever occurs sooner, inspect the bellows assemblies in accordance with paragraph 3(a) of the Service Bulletin.

This amendment becomes effective June 22, 1978.

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

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

Issued in Washington, D.C. on May 26, 1978.

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

[FR Doc. 78-15558 Filed 6-7-78; 8:45 am]

[4910-13]

[Docket No. 17933; Amdt. 39-3229]

PART 39—AIRWORTHINESS DIRECTIVES

Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive which requires replacement of an existing fuel system purge valve with a modified purge valve of new part number. This AD, which affects certain serial number Short Brothers Ltd. Model SD3-30 airplanes, is necessary because failures of the existing purge valve have occurred in service and as a result fuel vapors were detected in the cabin. The presence of fuel or fuel vapors in this area of the airplane is a potential fire hazard.

DATES: Effective June 22, 1978.

Compliance schedule—As prescribed in the body of AD.

ADDRESSES: The applicable service bulletin may be obtained from Product Support Department, Short Brothers Ld., P.O. Box 241, Airport Road, Belfast BT39DZ, Northern Ireland.

A copy of the service bulletin is contained in the rules docket for this amendment in room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of fuel leakage and fuel vapors in the cabin area of certain Shorts Model SD3-30 airplanes attributable to the incorrect seating (sealing) of an O-ring type seal incorporated in the fuel system purge valve, P/N 3706190, which can result in fuel leakage when normal fuel system pressure is applied to the purge valve.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires replacement of the purge valve with a modified design, new part number, purge valve on certain Shorts SD3-30 airplanes.

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

DRAFTING INFORMATION

The principal authors of this document are M. F. Rammelsberg, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and 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:

SHORT BROTHERS LTD. Applies to Model SD3-30 Airplanes Serial Nos. SH3003 to SH 3014 inclusive, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent fuel system purge valve leakage and associated fuel leakage or fuel vapors entering the cabin accomplish the following:

(a) Within the next 30 hours time in service after the effective date of this AD, remove purge valves, Part No. 3706190, and replace them with modified purge valves, Part No. 3706235, in accordance with Shorts Service Bulletin SD3-28-08 dated March 8, 1978, or an FAA-approved equivalent.

(b) If fuel leakage or vapors are detected in the cabin prior to compliance with paragraph (a) of this AD but after the effective date of this AD, comply with paragraph (a) before further flight.

(c) Equivalent methods of compliance with paragraph (a) of this AD may be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York 09667, if the request is submitted through an FAA Maintenance Inspector and contains substantiating data to justify the method of compliance for that operator.

This amendment becomes effective June 22, 1978.

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

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

Issued in Washington, D.C. on May 26, 1978.

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

[FR Doc. 78-15557 Filed 6-7-78; 8:45 am]

[4910-13]

[Docket No. 17676; Amdt. Nos. 121-145 and 129-9]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

Aircraft Security; Charter Flights

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the regulations governing aircraft security to cover: (1) Public charter flights conducted by domestic, flag, supplemental and foreign air carriers, and (2) all intrastate public charter flights conducted in large aircraft by a commercial operator engaging in intrastate common carriage operations with a frequency specified in the regulations. In addition, this amendment requires that these flights be provided with appropriate law enforcement support by airport operators or certificate holders to support passenger screening operations. The FAA considers these security requirements to be necessary due to the increased threat of criminal violence and air piracy and the recent liberalization of charter requirements by the Civil Aeronautics Board.

DATE: Effective date: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Jones, Air Operations Security Division, Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8409.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In Notice No. 78-4 (43 FR 9160, March 6, 1978), the FAA proposed to amend Parts 121 and 129 of the Federal Aviation Regulations and extend the rules pertaining to aircraft security to cover charter flights conducted by domestic, flag, supplemental and foreign air carriers, and all intrastate charter operations conducted by a commercial operator engaging in common carriage operations governed

by § 121.7. In addition, it was proposed to require the aircraft operators to provide law enforcement support for charter operations conducted at airports not governed by Part 107 of the regulations.

In response to requests of several organizations that petitioned the agency for additional time to study the proposal prior to submitting their comments, the FAA issued a notice on March 30, 1978, which extended for 15 days the period for submitting comments in response to Notice No. 78-4.

II. Discussion of Comments

The FAA received more than 100 comments from members of the general public, individual air carriers and airport operators, and organizations representing air carriers, foreign air carriers, airport operators, pilots and flight attendants.

Expressions of general support for the proposal were received from most members of the general public who commented, the National Air Carrier Association, the Air Line Pilots Association, and the Association of Flight Attendants.

Comments received from representatives of foreign air carriers were about equally divided in their expressions of approval and disapproval of the proposals.

The Air Transport Association of America (ATA), which represents most of the U.S. scheduled air carriers, and the Airport Operators Council International (AOCI) acknowledged that recent changes and proposed changes in the regulations of the Civil Aeronautics Board (CAB) governing charter flights will remove certain security safeguards which have served to protect charter flights without the use of security procedures prescribed by regulation in the interest of safety. However, these organizations and certain individual air carriers pointed out that although the changes made in CAB regulations may eliminate security safeguards for "public charters", they will not have such an effect upon single entity charters and military charters. They recommend, therefore, that single entity and military charters be excluded from coverage of the proposal for screening passengers and providing law enforcement support.

After further study of the situation, the FAA agrees that this recommendation has merit. Accordingly, the proposal has been changed in this amendment to limit coverage of the regulation to "public charters" and exclude "private charters." The "private charter" excluded from coverage of the regulation is defined as a charter for which the charterer engages the total capacity of an aircraft for the carriage of only passengers in civil or military air movements conducted for the United States or foreign Governments; or for the carriage only of passengers invited by a charterer who bears the entire cost of the charter, none of it being borne directly or indirectly by the individual passengers.

Comments on behalf of air carriers, foreign air carriers, and airport operators expressed concern about the added costs which the proposal will impose upon carriers and airport operators required to provide law enforcement support at Part 107 and non-Part 107 airports.

Initially, it should be noted that costs which the proposal would have imposed on carriers and airport operators have been reduced under this amendment by virtue of the exclusion of "private charters" from coverage of the requirements for screening and law enforcement support.

The FAA recognizes that the adoption of the proposal requiring law enforcement support for the screening of passengers boarding public charter flights will probably result in additional costs for carriers and airport operators. However, the FAA is convinced there is adequate justification in the interest of safety in air transportation and air commerce to adopt the proposed security measures for public charters. The protection such security measures will afford passengers on those charters will, in the opinion of the agency, justify any unavoidable costs they impose on carriers and airport operators. However, judging from comments received from individuals in response to Notice No. 78-4, most people appear to be willing to pay these additional costs.

Certain comments contained objections to the proposal making the carriers responsible for law enforcement support at non-Part 107 airports. They contend that law enforcement support should be the responsibility of the operator of those airports rather than the air carrier. The FAA does not agree with that contention. Considering that airport selection normally rests with the carrier and that charter flights are unscheduled, we believe it is more practicable to impose the responsibility for providing law enforcement support on the carrier at non-Part 107 airports. Under the circumstances, the FAA has determined that such comments do not justify supplemental rulemaking action, as requested, to make non-Part 107 airport operators responsible for providing law enforcement support rather than the carriers. Accordingly, the petition for such action is denied.

As previously mentioned, the amendment adopted herein excludes "private charters" from the screening and law enforcement support requirements. Furthermore, FAA review of information on file with the Civil Aeronautics Board regarding world-wide charter operations for the period July 1976 through June 1977, indicates that non-Part 107 airports handle a very small portion of the total number of charter flights conducted. Accordingly, the FAA believes the adoption of this amendment is likely to have a minimal economic impact on carriers and airport operators.

Certain comments contained objections to the fact that the proposal does not apply the security regulation to air taxi operators certificated under FAR Part 135. The agency cannot extend coverage of the regulation to air taxi operators by this amendment because such action would go beyond the scope of Notice No. 78-4. However, the need for extending security requirements to air taxi operations will be re-evaluated. At the present time approximately 26 air taxi operators have elected to screen their passengers under an FAA-approved program set forth in their operations specifications.

In response to comments from representatives of the State of Alaska, it should be pointed out that exemptions currently in effect for operators in that State will be extended, as appropriate, and made applicable to certain of the requirements prescribed in this amendment.

It should also be noted that the security regulations prescribed in § 121.538 currently apply to only large aircraft operations. Small aircraft operations are excluded from coverage of the security regulation by virtue of § 121.9 which requires Part 121 certificate holders to comply with the operating rules in FAR Part 135 in lieu of those in FAR Part 121.

III. Drafting Information

The principal authors of this document are Robert P. Jones, Civil Aviation Security Service and R. G. Leary, Office of the Chief Counsel.

IV. Effective Date

In order to provide adequately for the safety and security of public charter flights during the approaching Summer charter season, this amendment must be made effective at the earliest practicable time. Accordingly, this amendment becomes effective on July 25, 1978. However, the FAA urges each Part 121 certificate holder to submit its public charter screening program for FAA approval by June 25, 1978, if it can reasonably do so. The FAA will endeavor to approve security programs within 15 days after submission.

The Amendment

In consideration of the foregoing, Parts 121 and 129 of the Federal Aviation Regulations (14 CFR Parts 121 and 129) are amended, effective July 25, 1978, as follows:

1. By amending paragraphs (a) and (d) of § 121.538 and by adding a new paragraph (1) to that section to read as follows:

§ 121.538 Aircraft security.

(a) For the purposes of this section:

(1) "Certificate holder" means a domestic, flag, or supplemental air carrier, when it engages with large aircraft in scheduled or public charter operations; and means a commercial operator engaging in a frequency of operations governed by § 121.7 when it engages with large aircraft in those operations or in any public charter operations under this part. The term does not include an air carrier when it engages in all-cargo operations under a certificate issued by the Civil Aeronautics Board pursuant to Section 418 of the Federal Aviation Act of 1958, or an air taxi operator of large aircraft governed by § 135.2 of this chapter.

(2) "Public charter" means any charter that is not a private charter. A "private charter" is a charter for which the charterer engages the total capacity of an aircraft for the carriage only of:

(i) Passengers in civil or military air movements conducted under contract with the Government of the United States or the Government of any foreign country; or

(ii) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

* * * * *

(d) Each certificate holder shall submit its security program to the Administrator. Each certificate holder holding certificate authority under this part on June 25, 1978, shall submit a security program for its public charter operations no later than July 25, 1978. Each certificate holder issued a certificate under this part after June 25, 1978, shall submit its entire security program at least 60 days before the date of intended operations.

* * * * *

(1) Unless otherwise authorized by the Administrator, each certificate holder engaging in operations from airports within the United States not governed by Part 107 of this chapter shall, as part of its security program, provide for law enforcement support, as specified in Part 107, to support passenger screening operations required by this section for flights at those airports.

2. By amending paragraph (a) of § 129.25 and by adding new paragraphs (f) and (g) to the same section to read as follows:

§ 129.25 Aircraft security.

(a) Each foreign air carrier landing or taking off a large aircraft in the United States shall:

(1) In scheduled operations; and

(2) After July 25, 1978, in public charter operations;

use a security program in the conduct of those operations that requires all passengers and all property to be carried in the aircraft cabin to be screened by weapon-detecting procedures or facilities prior to boarding and that meets the requirements prescribed in paragraph (b) of this section.

* * * * *

(f) Unless otherwise authorized by the Administrator, each foreign air carrier engaging in the operation of large aircraft from airports within the United States not governed by Part 107 of this chapter shall, as part of its security program, provide for law enforcement support, as specified in Part 107, to support passenger screening operations required by this section for public charter flights at those airports.

(g) For the purposes of this section, "public charter" means any charter that is not a private charter. A "private charter" is a charter for which the charterer engages the total capacity of an aircraft for the carriage only of:

(1) Passengers in civil or military air movements conducted under a contract with the Government of the United States or the Government of any foreign country; or

(2) Passengers invited by the charterer, the cost of which is borne entirely by the charterer and not directly or indirectly by the individual passengers.

§ 129.25 [Amended]

3. By deleting the word "scheduled" from the introductory clause in paragraph (d) of § 129.25.

(Secs. 313(a), 315, 316, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, and 1421), Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in Washington, D.C., on June 6, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-15958 Filed 6-7-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-184]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Jamaica Bay, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the operation regulations for the Marine Parkway drawbridge across Jamaica Bay, mile 3.0, to require that the draw open on signal from 8 a.m. to 4 p.m., Monday through Friday. At all other times the draw shall open on signal if at least 8 hours' notice is given. This amendment is the result of a request by the Triborough Bridge and Tunnel Authority to man the drawbridge only during the day, Monday through Friday. This request was made because of a significant decrease in requests for openings of the draw from vessels during the evening and weekend periods. Public comment was solicited and the only two responses received either had no objection or no comment concerning the proposal. This change will relieve the bridge owner of the obligation of opening the draw at all times.

EFFECTIVE DATE: This amendment is effective on July 10, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On February 16, 1978, the Coast Guard published a proposed rule (43 FR 6815) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a public notice dated March 15, 1978. Interested persons were given until March 20, 1978, and April 17, 1978, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by adding a new paragraph (d) to § 117.175 to read as follows:

§ 117.175 Jamaica Bay and Connecting Waterways, N.Y.

* * * * *

(d) Marine Parkway Drawbridge. The draw shall open on signal from 8 a.m. to 4 p.m., Monday through Friday. At all other times, the draw shall open on signal if at least 8 hours' notice is given, except the draw shall open for the U.S. Navy and National Oceanic and Atmospheric Administration vessels, in the event of an emergency, if a 1-hour notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 31, 1978.

J. B. HAYES,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc. 78-15929 Filed 6-7-78; 8:45 am]

[3410-11]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 254—LANDOWNERSHIP

Implementation of Procedures

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the procedures that a non-Federal landowner must follow in exchanging real property with the Forest Service. It also shows the actions the Forest Service will take in processing exchanges. This rule implements the provisions of the National Forest Management Act of 1976, the Federal Land Policy and Management Act of 1976 and exchange laws available to the Forest Service.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Johnson, Lands Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 703-235-8686.

SUPPLEMENTARY INFORMATION: On December 19, 1977, the Secretary of Agriculture published a proposed rule (42 FR 63649) which would set forth general guidelines for a non-Federal entity to follow in effecting exchanges of real property within the National Forest System. This document proposed establishing subpart A to a new part 254 in chapter II of title 36 of the Code of Federal Regulations. Its purpose was to set forth regulations to implement the provisions of the National Forest Management Act of 1976, the Federal Land Policy and Management Act of 1976 and exchange laws available to the Forest Service.

After considertion of the comments received, the proposed rule is revised in both content and organization. The changes are as follows:

SECTION 254.1 SCOPE AND APPLICATION

This title was not used in the proposed rule. Subsections (b) and (c) were in § 254.1, Requirements. Subsections (a) and (e) were in § 254.3 Authority. Subsection (d) was added and (e) was expanded in response to comments received. The mineral interests in (d) are under the jurisdiction of the Bureau of Land Management and not subject to exchange under laws available to the Forest Service.

SECTION 254.2 DEFINITIONS

This section was renumbered. The definitions that are now at (c), (d), and (e) were changed. The definition for a land exchange agreement is not needed here since it is explained fully in § 254.11. There is no need to define an equal value exchange or the term "cash equalization." The rules in § 254.3 Requirements provide the needed clarification.

The final rules do not contain any examples of interests in lands. Examples are not used because of the concern expressed in a comment that it may be construed that the examples are the only interests that may be exchanged. It was questioned whether a grazing privilege should be considered an interest in land that could be exchanged. A grazing privilege is generally treated as personal property and, therefore, is not an interest in land, as defined in paragraph (e), § 254.2, which can be exchanged. The acts of March 1, 1911, as amended (16 U.S.C. 516) and March 20, 1922, as amended (16 U.S.C. 485) authorize the exchange of timber. Timber is a part of the real property and is not personal property. Therefore rights to timber are interests in lands.

SECTION 254.3 REQUIREMENTS

Comments were made on the criteria for determining when an exchange proposal was in the public interest. This section has been expanded to better define the public interest and to provide for the retention of those interests needed for the public. The explanation of the specific requirements in the exchange laws has been expanded.

SECTION 254.5 INITIATING AN EXCHANGE

It was recommended that exchanges be negotiated with principals only and that exchanges with non-principal third parties be declared unlawful. Many desirable exchanges have been accomplished through third parties at substantial savings to the United States. Continued use of this method of ownership adjustment is desirable so long as the public interest is fully protected.

It was recommended that these rules include a reference to request the Bureau of Land Management to segregate, pursuant to 43 CFR 2202.5, those National Forest lands considered for exchange to prevent filing of claims on those lands. Segregation under the Federal Land Policy and Management Act of 1976 will be subject to the Department of the Interior's regulations for segregations and withdrawals.

The rules now provide that all exchange offers be made to the District Ranger of the District where the non-Federal land is located. This requirement is in the interest of uniformity in the exchange process.

SECTION 254.7 APPRAISAL

It was recommended that the rules provide for appraisal procedures that are not set forth in the "Uniform Appraisal Standards for Federal Land Acquisition." The Standards include those appraisal procedures that are commonly accepted as sound methods for determining fair market value. It would not be in the public interest to use other procedures.

SECTION 254.8 PUBLICATION OF PROPOSED EXCHANGE

This section has been revised to provide for early advertisement of lands considered in an exchange proposal and not require readvetisement of the final exchange agreement.

SECTION 254.9 CONDITIONS IMPOSED BY OTHER REGULATIONS AND EXECUTIVE ORDERS

The examples of the regulations and Executive Orders have been deleted. The Forest Service is bound to follow all the applicable regulations and orders that deal with the acquisition and disposal of lands. These regulations and orders are found elsewhere in the Code of Federal Regulations and in the FEDERAL REGISTER. There is no need to repeat or make specific reference to them in these rules.

SECTION 254.10 APPROVAL

It was recommended that a maximum period be specified for the Forest Service to determine if it will concur with an exchange proposal. Since all exchanges are not alike the establishment of a firm time frame is not appropriate. The time when the Forest

Service may approve the exchange has been identified.

SECTION 254.11 EXCHANGE AGREEMENT

This section has been revised to define the general content of an exchange agreement. The point in the process when the agreement may be signed has been identified as requested by a comment received. A provision has been added that neither exchange party has any contractual obligations if an agreement is not executed.

SECTION 254.12 CONVEYANCE DOCUMENTS AND SEC. 254.13 TITLE EVIDENCE

Comments were made that the rules should provide for different standards in both conveyance documents and forms of title evidence other than those required by the Department of Justice. That Department's standards are applicable to all Federal land acquisitions and should be followed.

The changes in the proposed rules do not create any more environmental impacts than originally assessed. Therefore the Department of Agriculture affirms its position that a detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required. The Department has also determined that there is no need to prepare an Economic Impact Statement to meet the requirements of OMB Circular A-107.

Having considered the proposed rules (42 FR 63649), the written responses to the proposal, and other relevant material, a new subpart is added to title 36, chapter II, part 254 as follows:

PART 254—LANDOWNERSHIP

Subpart A—Land Exchanges

Sec.

254.1 Scope and application.
254.2 Definitions
254.3 Requirements.
254.4 Procedures.
254.5 Initiating an exchange.
254.6 Legal description of properties.
254.7 Appraisal.
254.8 Publication of proposed exchange.
254.9 Conditions imposed by other reguations and Executive orders.
254.10 Approval.
254.11 Exchange agreement.
254.12 Conveyance documents.
254.13 Title evidence.
254.14 Title approval.
254.15 Taxes, liens, and encumbrances.

AUTHORITY: Act of March 20, 1922, as amended (16 U.S.C. 485, 486); Act of March 1, 1911, as amended (16 U.S.C. 516); Act of July 22, 1937, as amended (7 U.S.C. 1011); Act of October 23, 1962 (16 U.S.C. 555a); Act of October 21, 1976 (43 U.S.C. 1715, 1716); and other applicable laws.

§ 254.1 Scope and application.

(a) There are many laws that authorize the exchange of National Forest System real property to meet management objectives within the System. The particular law that may be used for an exchange depends on the status of the National Forest System property and the purpose for which the exchange is to be made.

(b) Land exchanges are discretionary, voluntary real estate transactions between the Secretary of Agriculture acting by and through the Forest Service and private owners, States, or other non-Federal entities. These transactions may involve the exchange of lands or interests therein. The Forest Service is not required to exchange any part of the National Forest System.

(c) These rules are applicable to all National Forest System exchanges, except exchanges under the authority of the Alaska Native Claims Settlement Act, as amended (89 Stat. 1156) and as otherwise noted. Each exchange authority has specific, as well as general, requirements which must be met.

(d) These rules are not applicable to mineral interests which have been retained by the United States in prior conveyances.

(e) There is no authority for the Forest Service to exchange lands that are withdrawn from the public domain for use by the Forest Service as administrative sites where the withdrawn lands are not a part of a National Forest.

§ 254.2 Definitions.

(a) National Forest System is defined in the Act of August 17, 1974 (88 Stat. 480, 16 U.S.C. 1609), as including all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the System. The National Forest System will be referred to in these rules as NFS.

(b) Status is the condition of landownership within the NFS and is determined by the method that the land became part of the NFS.

(c) A reservation is a right created by the grantor in a clause in an instrument of conveyance by which the grantor reserves some right, interest, or profit in the estate granted.

(d) An outstanding interest is a right or interest in property owned by a person other than the present landowner.

(e) An interest is a partial or undivided right in real property that is less than the complete fee or estate.

(f) Lands means any land or interests therein.

§ 254.3 Requirements.

(a) There are general and specific requirements that must be met in effecting an exchange.

(1) *General requirements.* (i) Lands can only be exchanged to a person who is a citizen of the United States, a corporation that is subject to the laws of any State or the United States or to a non-Federal Governmental entity.

(ii) The exchange must be in the public interest. When considering public interests the Forest Service shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife. There must be a finding that the exchange will not result in a decrease in public values or the ability to meet NFS management objectives.

(iii) An exchange of lands must be equal in fair market value. A payment of money not to exceed 25 percent of the market value of the NFS lands may be paid by either party to equalize the transaction. The parties will try to minimize the amount of cash equalization. The amount of the payment is not limited in exchanges pursuant to the Exchange for Schools Act of December 14, 1967 (81 Stat. 531). Differences in the size of the exchange properties will not disqualify the exchange if the value requirements are met and the proposal is in the public interest.

(iv) The Forest Service will exchange only lands that are suitable for elimination from the NFS and will reserve rights or retain the interests that are needed for the public interest.

(v) The lands conveyed to the United States cannot be encumbered by reservations or outstanding interests that would unduly interfere with their use and management as part of the NFS.

(vi) Reservations by the non-Federal owner must be subject to the appropriate rules and regulations of the Secretary of Agriculture for such reserved rights, except upon special finding by the Chief, Forest Service in case of States. (36 CFR 251.15 to 251.19.)

(2) *Specific requirements.* (i) The exchange must accomplish the specific requirements and objectives contained in each exchange act. The status of the NFS lands determines the exchange act that may be used except in special cases.

(ii) Most of the exchange laws require that the exchange lands be in the same State. Major exceptions are Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011); the Act of August 3, 1956 (7 U.S.C. 428a(a)) and the Act of October 23, 1962 (16 U.S.C. 555a).

(iii) Exchanges under the authority of the Act of March 1, 1911, as amended (16 U.S.C. 516) must be submitted to the Secretary of Agriculture for approval. The Secretary must submit transactions of $25,000 or more in value to the Congress for oversight.

§ 254.4 Procedures.

Formal procedures for exchanges are outlined in these rules. Specific details are contained in Title 5400 of the Forest Service Manual.

§ 254.5 Initiating an exchange.

(a) Exchanges may be initiated by a private landowner, a non-Federal public agency, or the Forest Service. When an exchange proposal is made to the Forest Service, it should be made directly to the district ranger of the district where the non-Federal land is located.

(b) The party initiating an exchange should set forth the proposal in writing, including a statement of ownership or other right to make such an exchange. Permission should be clearly granted by each party to examine the lands of the other.

§ 254.6 Legal description of properties.

The lands proposed for exchange must be properly described and locatable under the survey laws and standards of the United States and the State. The lands may be described as part of a surveyed section or by metes and bounds survey. Any survey required is the responsibility of each owner unless otherwise negotiated.

§ 254.7 Appraisal.

The United States follows appraisal principles set forth in the Department of Justice publication titled "Uniform Appraisal Standards for Federal Land Acquisitions."

§ 254.8 Publication of proposed exchange.

(a) An exchange notice will be published for all exchanges once a week for four consecutive weeks in a newspaper(s) of general circulation in the area in which the lands proposed for exchange are located.

(b) The purpose of this notice is to advise the public of the exchange proposal. This will allow anyone having a claim to the lands to notify the appropriate Forest Service officer and present evidence supporting their claim. It also affords opportunity for objections to be submitted to the Forest Service. All claims and objections must be in writing and postmarked or delivered within 15 days of the final publication.

(c) The notice may be published when the lands that may be included in the exchange have been identified. The notice may describe lands which may not be a part of the exchange agreement (254.11). It will not be necessary to republish the final land descriptions providing the lands were identified in a prior notice.

§ 254.9 Conditions imposed by other regulations and Executive orders.

A land exchange proposal must comply with all laws, regulations, and Executive orders.

§ 254.10 Approval.

(a) After preliminary negotiations which result in concurrence on an exchange proposal, the Forest Service will determine whether an environmental impact statement should be filed as provided in section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853). Objections received in response to the exchange notice in § 254.8 will be considered in making this determination.

(b) When an environmental impact statement need not be filed, the Forest Service will notify the exchange party and anyone who filed written objections of the decision whether or not the Forest Service will proceed with the exchange.

(c) When an environmental impact statement is filed, objections received in response to the exchange notice will be considered in the environmental statement. The decision on the exchange proposal will be sent to the objectors and the exchange party.

(d) Rights of appeal pursuant to the Secretary of Agriculture Appeal Regulations (36 CFR 211.19, 36 CFR 292.15(l)(1)) are applicable to the decisions.

(e) The authorized Forest Service officer may approve the exchange after the requirements (§§ 254.3, 254.10) have been met.

§ 254.11 Exchange agreement.

(a) An exchange agreement may be entered into between the Forest Service and the exchange party. The agreement will identify the estates to be exchanged, all reservations and outstanding interests, any necessary cash equalization and all other terms and conditions which each party agrees to perform. The agreement may be executed after the Forest Service has approved the exchange. The agreement will be binding on both parties providing (1) acceptable title can be conveyed (§§ 254.14, 254.15); (2) no loss or damage occurs to either property from any cause and; (3) the decision to complete the exchange is upheld in accordance with 36 CFR 211.19, 36 CFR 292.15(l)(1).

(b) If an exchange agreement is not executed, no action taken by the parties to the exchange shall create or establish any contractual or other obligations or rights against either exchange party prior to the issuance of the patent, deed or other consideration by the United States.

§ 254.12 Conveyance documents.

(a) The deed to the United States must be in a form that complies with the Department of Justice "Standards for the Preparation of Title Evidence in Land Acquisition by the United States."

(b) Conveyances from the United States will be either a quitclaim deed from the Department of Agriculture or a patent issued by the Department of the Interior. The type of document will depend on the status of the NFS land.

§ 254.13 Title evidence.

(a) Evidence of title of land or interests being conveyed to the United States must be in a form acceptable to the Department of Justice, as described in the "Standards for the Preparation of Title Evidence in Land Acquisition by the United States."

(b) The non-Federal landowner initiating an exchange proposal will usually bear the cost of the required title evidence. The Forest Service may pay the cost of title evidence when it is in the interest of the United States and provided for in the exchange agreement.

(c) The United States does not furnish formal title evidence to its land.

§ 254.14 Title approval.

Title to lands being conveyed to the United States will be approved by the Office of the General Counsel of the Department of Agriculture.

§ 254.15 Taxes, liens, and encumbrances.

Taxes, liens, and other encumbrances such as mortgages, deeds of trust and judgments must be eliminated or released in accordance with the requirements of the title opinion of the Office of the General Counsel.

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research, and Education.

JUNE 2, 1978.

[FR Doc. 78-15810 Filed 6-7-78; 8:45 am]

[7715-01]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM76-5; Order No. 203]

PART 3001—RULES OF PRACTICE AND PROCEDURE

Filing of Periodic Reports by the United States Postal Service; Order Modifying Rules Establishing Periodic Data Reporting System

JUNE 2, 1978.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This rule amends certain financial forms which the Postal Service submits periodically to the Postal Rate Commission. The Cash Flow Statement is amended to bring its format into conformity with current Postal Service data processing systems. The Investment Income Statement is amended so as not to require the Postal Service to divulge confidential data.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David F. Harris, Chief Administrative Officer, U.S. Postal Rate Commission, 2000 L Street NW., Suite 500, Washington, D.C. 20268, 202-254-3880.

SUPPLEMENTARY INFORMATION: By Order No. 141, issued October 21, 1976 (3 PRC 96), we adopted rules establishing a periodic data reporting system requiring the Postal Service to regularly provide the Commission with certain data. (*See* Subpart G of the Commission's rules of practice, 39 CFR 3001.101 and 3001.102.) It was anticipated that the adoption of those rules would enable the Commission to obtain data from the Postal Service which the Commission determined necessary for it to perform its regulatory functions.

Thereafter, the Postal Service informed the Commission that it had encountered certain problems in providing data for the Cash Flow Statement, PRC 102 and the Investment Income Statement, PRC 103, in the required format and, by letter dated May 2, 1977, proposed modification of those two reports. The Service asserted that modifications were necessary in the Cash Flow Statement because the data systems of the Service do not generate information in the form prescribed. It also stated that the existing format of the Investment Income Statement would require the Service to divulge confidential data.

The Service's letter was treated as a request for modification of the rules and public notice thereof was given by the Commission, together with an invitation for the submission of comments. See 42 FR 32809 (June 28, 1977). The only response came from the Officer of the Commission (OOC), who objected to a number of the proposed changes. We consider these objections *seriatim*. Preliminarily, however, we direct attention to certain procedural comments by the OOC.

The OOC has complained of a series of four communications between the technical staff of the Commission and Postal Service personnel purportedly directed toward assisting the latter in overcoming technical problems in filing PRC forms 102 and 103. The OOC claims that these off-the-record exchanges were unwarranted since technical conference procedures, open to all parties, had been established at an early stage of the proceeding. We agree that it would have been preferable, under these circumstances, if all discussions, including those involving questions of the Postal Service's ability to satisfy the requirement of PRC forms 102 and 103, had been conducted via the technical conferences. We do not agree, however, that the breach is of so serious a nature as to indicate a need for (let alone necessitate) the sanctions proposed by the OOC, e.g., the placing of comments in a separate file and the removal of all employees involved from the decisional process. To the contrary, the efforts appear to have been directed solely toward ascertaining the Service's ability, within the limits of its accounting processes, to furnish as much as possible of the data initially called for and to explain possible accommodations. Accordingly, we deny the OOC's procedural objections, while directing our staff to assure maximum utilization of the technical conference procedure in all matters relating to this rulemaking proceeding.

We move on to consider the validity of the substantive modifications proposed by the Postal Service. These modifications were set out in detail in the June 1977 Notice and need not be repeated herein.

Cash Flow Statement

The OOC argues that the proposed cash flow statement is more limited in the amount of information provided, does not identify items which "balloon" into single payments and does not segregate cash disbursements for labor from other operating expenses.

In our opinion, the modifications proposed will continue to provide an acceptable amount of useful information without requiring the establishment by the Postal Service of a separate accounting system. Two of the changes primarily involve the relocation of certain information on the form and a third would change the "labor" entry from a cash basis to an accrual basis. This change should occasion only a minor and relatively insignificant difference in the information made available. Consequently the proposed modifications will be accepted. Revised form PRC 102 is included as Attachment A hereto.

Investment Income Statement

The Postal Service's proposed modifications in the format of PRC form 103 are set out in the June 1977 Notice, as supplemented by a July 20, 1977 filing in which further changes were suggested. Appendix B represents a composite of the revised Investment Income Statement thus proposed. The Service requests that the rule which requires the Investment Income Statement to be filed for each accounting period to be modified so as to provide for quarterly filings beginning with the first quarter of Postal Fiscal Year 1978, the earliest time at which the accounting systems necessary to generate the data will be operational.

The OOC contends that the changes in PRC 103 will undermine its ability to determine the magnitude of individual transactions. It asserts that the several figures required by the original form would be more helpful in determining the Service's financial status and in identifying the types of transactions being conducted. The OOC also claims that the proposal to have the book value adjustments made to the net figure, instead of being reported separately, will preclude its evaluation of the figure.

We have reviewed the changes to PRC form 103 proposed by the Postal Service and the several bases advanced in support of those modifications. We conclude that while the utility of the form may be somewhat diminished thereby, the changes are reasonable when weighed against the inordinate burden which would result from requiring compliance with the original format. We do not agree that the combination of the separate additions to the beginning book value will result in a "* * * single, meaningless figure" or that the final figure will be incapable of evaluation. Accordingly, we accept the changes proposed and deny the objections posed by the OOC.

In consideration of the foregoing, the following amendments to Part 3001 of the rules of the Postal Rate Commission (39 CFR Part 3001) are hereby adopted:

§ 3001.102 [Amended]

(1) A new subparagraph (4) is added to 39 CFR 3001.102(b) to read as follows:

* * * * *

(b) * * *

(4) Investment Income Statements (30 days after close of the postal quarter).

(2) 39 CFR 3001.102(c)(2) is deleted; subparagraphs (3) and (4) are renumbered as (2) and (3), respectively.

(3) The format for existing form PRC 102 is deleted and a revised form PRC 102 is added as set forth in Attachment A.

(4) The format for existing form PRC 103 is deleted and a revised form PRC is added as set forth in Attachment B.

(5) Revised form PRC 103 shall be filed by the Postal Service commencing with the first quarter of postal fiscal year 1978.

Effective date. These amendments shall become effective on July 1, 1978.

(Secs. 3603, 3622, and 3623 of the Postal Reorganization Act; (39 U.S.C. 3603, 3622, 3623), 84 Stat. 759-61; (5 U.S.C. 553), 80 Stat. 383.)

By the Commission.

DAVID F. HARRIS,
Secretary.

ATTACHMENT A

Revised PRC 102

U.S. POSTAL SERVICE CASH FLOW STATEMENT ACCOUNTING PERIOD — FISCAL YEAR 19 —

[Millions]

	Current accounting period	Year-to-date
Beginning balance:		
Cash		
Investments		
Total		
Receipts:		
Postal revenues		
Government appropriations		
Borrowing proceeds—operating		
Borrowing proceeds—capital		
Total		
Disbursements—operations:		
Labor, material, and services—Civil Service Retirement Fund deficit		
Workers' compensation		
Interest		
Capital investment		
Debt repayment—operating		
Debt repayment—capital		
POD liability		
Total		
Net increase (decrease) in outstanding money orders and trust funds		
Ending balance:		
Cash		
Investments		
Total		
Supplemental data (accrual basis):		
Investment income		
Proceeds from sale of assets		
Salaries and wages—gross pay		

ATTACHMENT B

Revised PRC 103

U.S. POSTAL SERVICE INVESTMENT INCOME STATEMENT FISCAL YEAR — QUARTER —

Beginning book value	
Net adjustments[1]	
Net profit/loss	
Ending book value	
Net income[2]	
Average investment balance[3]	
Composite yield (percent)[4]	

[1] Purchases at cost, disposals at consideration, and changes in book value.
[2] Net of accrued income, profit or loss, and other income from lending collateral and expense from amortization of premium.
[3] Book value weighted by calendar days.
[4] Net income (annualized) divided by average investment balance.

[FR Doc. 78-15865 Filed 6-7-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 881-7; OPP-40004B]

PART 171—FEDERAL CERTIFICATION OF PESTICIDE APPLICATORS IN STATES OR ON INDIAN RESERVATIONS WHERE THERE IS NO APPROVED STATE OR TRIBAL CERTIFICATION PLAN IN EFFECT

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is amending Part 171 of Title 40 of the Code of Federal Regulations by adding a Section 171.11 to enable EPA to conduct a Federal program for the certification of applicators of restricted use pesticides in those States and on those Indian Reservations where there is no approved State or Tribal certification plan in effect. This rule specifies the requirements which will apply to applicators of restricted use pesticides under a Federal certification program.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Lois W. French, Acting Chief, Regional Support Branch, Operations Division (WH-570), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0356.

SUPPLEMENTARY INFORMATION: On June 30, 1977, an Advance Notice of Proposed Rulemaking (42 FR 33352) was published in the FEDERAL REGISTER stating EPA's intent to develop regulations to provide for the Federal certification of applicators of restricted use pesticides in those States and on those Indian Reservations which lack their own approved certification plans. The decision to develop a Federal certification program was predicated upon the conclusion that not all States and Indian Reservations would be able, or intended, to develop plans to which the Agency could grant approval. The decision was further based upon the determination that Congress intended EPA to carry out a certification program under such circumstances.

Subsequently, following review and consideration of public comments submitted pursuant to the Advance Notice, the Agency, on December 7, 1977, published in the FEDERAL REGISTER for further public comment a proposed rule (42 FR 61873) specifying the requirements which would apply under a Federal certification program. Comments were received from twenty-three individuals and organizations. Certain changes made in response to these comments have been incorporated into this final rule. Other minor revisions have also been made in the final rule; for example, the major paragraphs have been renumbered to facilitate entry into the Code of Federal Regulations. Significant comments and modifications to the rule are discussed below.

Several commenters suggested that certified commercial applicators be permitted to renew their certification by completing an approved training course rather than by passing written examinations. The Agency agrees that recertification by completion of training may, in some instances, be a superior means of assuring the continued competence of certified commercial applicators. Therefore, §171.11(c)(6) of the final rule gives the Administrator discretion to allow certified commercial applicators to become recertified by completion of approved training in lieu of recertification by written examination. However, the Agency itself is not now in a position to provide recertification training. Therefore, the availability of the training option will be dependent upon the willingness and capability of public or private institutions within a State to develop recertification training programs which can be approved for that purpose by the Administrator.

In addition to the previously described changes in commercial applicator recertification methods, the final rule has been modified by adding provisions, at §§171.11(c)(6) and 171.11(d)(3), which require certified commercial and private applicators to complete recertification procedures during the twelve month period preceding the certificate expiration date. These minor changes correct inadvertent omissions in the proposed version of this rule and were made at the suggestion of the EPA Working Group on Federal Certification. The purpose of these additions is to ensure that recertification procedures are not completed so far in advance of certificate expiration as to be non-indicative of the applicator's competency at the time his or her certification is renewed.

Eleven commenters suggested that commercial applicators should be required to be recertified every four years, rather than every two years as provided in the proposed regulations. A lesser number of commenters also suggested that private applicators should be required to be recertified less frequently than proposed. These

suggestions were generally based on the opinion that recertification should not be required more frequently than under an average approved State plan. Similar comments were submitted in response to the Advance Notice, and the Agency's reasons for rejecting these suggestions were published in the FEDERAL REGISTER in the preamble to the proposed rule. Further, inasmuch as several States require applicators to be recertified as frequently as provided in the proposed regulations, and in some instances more frequently, the Agency can find no compelling reason to accede to the suggested changes. Therefore, the final rule retains the two year and three year requirement, respectively, for commercial and private applicators.

Four commenters objected to the proposed recordkeeping requirements for certified commercial applicators, claiming that the required record contents would exceed those established by existing regulations (40 CFR 171.7(b)(1)(iii)(E)) as the minimum required under State plans. EPA believes that the recordkeeping requirements established for commercial applicators certified by this Agency are reasonable and necessary for efficient enforcement of FIFRA and this rule. In addition, it should be noted that States submitting plans of their own have the power to require more extensive records than those described in the State plan regulations, and numerous States have done so.

EPA agrees, however, with those commenters who pointed out that proposed § 171.11(b)(7)(i)(I), which would have required commercial applicator records to contain "[o]ther information as the Administrator * * * deem[ed] appropriate," was vague and confusing. Accordingly, subdivision (I) has been deleted. In addition, subdivision (c)(7)(i)(G) of this rule clarifies what is required regarding records of amounts of restricted use pesticides used.

Four commenters suggested that procedures and rights to which individuals may be entitled during proceedings to deny, suspend, modify, or revoke a certificate should be expressly stated in this rule. EPA agrees that such a statement would be of benefit. Accordingly, paragraph (f) of this rule specifies in more detail the procedures which EPA will follow in denial, suspension, modification, and revocation actions, and the rights, including the right to a hearing in certain cases, to which an affected individual is entitled.

In addition, paragraph (f) establishes procedures for suspension of certificates which differ in some respects from the procedures established for denial, revocation, and modification actions. These suspension procedures provide for immediate action by the Administrator to protect the public health, interest, or welfare in situations where the more deliberate procedures for revocation or modification would unreasonably delay protective actions. An individual whose certificate is suspended under paragraph (f) will, however, be immediately notified that the Administrator intends to revoke or modify the certificate, whichever is appropriate. The affected individual will thereafter be entitled to the procedural and substantive rights described in subdivisions (f) (2)-(4) of the rule, as well as any other rights provided by Federal law.

Two commenters again raised the issue of whether EPA should amend this rule to provide for issuance of single purchase/single use or emergency certificates to uncertified private applicators. This issue has been carefully considered by EPA and was previously addressed in the preamble to the proposed rule. EPA has again concluded that its resources are not adequate to provide this option to private applicators.

One commenter suggested that if EPA does not provide a single purchase/single use certification option for private applicators, it should prepare an Environmental Impact Statement (EIS) describing the effect such a decision would have. The Agency considered whether any of its activities under this rule would require an EIS, under the National Environmental Policy Act of 1969 and rules thereunder, before publication of the proposed version of this rule, and concluded that they do not. This conclusion still represents the position of the Agency in this matter.

One commenter suggested that finite time periods be established for suspensions or modifications of certificates. EPA cannot agree with this comment since the appropriate length of any suspension or modification will depend on the specific facts of each individual case, and must therefore be determined on a case-by-case basis.

Another commenter suggested that EPA establish a time period of 30 days after receipt of a certification application in which to provide the applicant with the appropriate certification opportunity. Although EPA intends to respond to each application expeditiously, it cannot bind itself to any arbitrary time period for such a response. Certification opportunities will be provided by the appropriate EPA Regional Offices at times and places which are as efficient and convenient as possible.

Two commenters raised the question of whether public hearings should be held before promulgation of this rule. This issue was fully discussed in the introduction to the proposed version of this rule, where the Agency concluded that, under the circumstances, such hearings were not warranted.

One commenter suggested that a specific passing grade be established for individuals taking the commercial applicator written examinations. However, as this matter is one of the technical details involved in implementing a Federal plan in a particular State, passing grades will be specified in each Federal plan and not in this rule. Federal plans will, as a matter of course, be made available for public review and comment prior to implementation.

The same commenter suggested that some kind of "statute of limitations" be imposed on the Administrator's authority under this rule to deny, suspend, revoke, or modify a certificate on the grounds that the individual concerned was subject to a final criminal or civil penalty action under Section 14 of FIFRA, as amended. It is the opinion of the Agency that such an express limitation is unnecessary. The Administrator will, of course, take into consideration the length of time between a prior action under Section 14 and any present administrative actions in deciding what weight, if any, to accord the prior proceeding. Since past actions may, however, have a direct bearing on an individual's current qualifications to use restricted use pesticides safely, it would be unwise for EPA to set an arbitrary time limit on the Administrator's power to consider such actions.

Several commenters suggested changes in this rule's provisions for recognition of other certificates in a State where a Federal plan is in effect. Some commenters requested that EPA designate in this rule those States with which EPA and other States can establish reciprocity of certification. Others suggested that certificates should automatically be recognized as valid in all States within the EPA Region where the certificate is first issued, while others suggested that EPA should be required to accept all certificates issued by States with approved plans. EPA cannot agree with these comments. Reciprocal recognition of certification, between States or between EPA and the States, is a matter which must be resolved by the involved government bodies. Issues of State and Federal jurisdiction, sovereignty, and comparability of certification standards are too complex to be treated in a rule of general applicability. EPA believes that paragraph (e) of this rule is as specific and informative on this subject as it possible at this time, and that the Administrator should retain discretion, within the bounds set by that paragraph, to decide whether to recognize certificates issued by other jurisdictions.

Two commenters suggested limiting the provision making misuse (i.e., use inconsistent with the labeling) of any pesticide grounds for denial, suspension, revocation, or modification of a

certificate. These two commenters would limit this authority to cases of "knowing" or "willful" misuse, on the theory that otherwise EPA could, and would be obliged to, impose sanctions for every misuse, no matter how minor, inadvertent, or harmless. EPA considers that these fears are groundless. The Administrator is not required by the language of subdivision (f)(1)(i) of this rule to prosecute every pesticide misuse, and the Administrator is free to exercise his or her inherent prosecutorial discretion by not enforcing this provision to the fullest in those cases where the circumstances warrant leniency or excuse of the violation. Furthermore, to limit the misuse provision to "knowing" violations would effectively prevent EPA from imposing reasonable administrative sanctions on individuals negligently, carelessly, or otherwise unknowingly misusing pesticides in such a way as to substantially harm or threaten the environment. For similar reasons, EPA must reject a suggestion for limiting actions under subdivision (f)(1)(vi) to "knowing" violations of FIFRA or rules thereunder.

On a related matter, EPA has voluntarily modified paragraph (b) of this rule to further clarify that a certified applicator is not permitted to use restricted use pesticides for any purpose or in any manner not authorized by his or her certification. Private applicator certification will authorize only those uses described in 40 CFR 171.2(t). Commercial applicator certification will authorize only those uses included within the categories or subcategories, described in 40 CFR 171.3(b) or an applicable Federal plan, in which the applicator is certified. Any other uses would be unauthorized and in violation not only of paragraph (b), but also of FIFRA Section 12(a)(2)(G), which prohibits use of any pesticide in a manner inconsistent with its labeling, since restricted use pesticide labeling will limit an applicator's use of the product to only "* * * those uses covered by the certified applicator's certification" (40 CFR 162.10(j)(2)(i)(B)).

One commenter suggested that provisions pertaining to approval by the Administrator of certification examinations administered by other persons might not authorize him or her to approve examinations given prior to the effective date of this rule. After consideration of this comment, the Agency has concluded that these provisions, now found in subdivisions (c)(4) and (d)(1)(ii), do authorize the Administrator to approve such certification examinations.

One commenter suggested that the language of the proposed rule was not clear as to whether a certificate issued under this rule is valid on Indian reservations in the State where issued. EPA believes that the language in question, now found in subdivisions (c)(4) and (d)(2), does allow, for purposes of Federal law, a certified applicator to use restricted use pesticides anywhere within the "State * * * named on the certificate," including on any Indian reservation within the State. Use on Indian reservations may, however, be subject to other, non-federal, requirements imposed under tribal law.

Two commenters suggested that the provision allowing extension of the 45 day period for notifying individuals of their commercial applicator examination results if "* * * special circumstances justify a longer time period * * *" would cause unnecessary inconvenience to applicants. EPA does not believe that the time period, now described in subdivision (c)(4), is unreasonably long. Furthermore, every effort will be made by EPA to report examination results well before the expiration of the time allowed by this rule. EPA also rejects the suggestion that it should issue emergency certificates to applicants who desire to use restricted use pesticides while awaiting notification of test results. Such "emergency" certification would be directly contrary to one of the primary purposes of the amended FIFRA and these rules, that of making certain that only qualified individuals use restricted use pesticides.

Another commenter suggested that, if special circumstances force a delay in the notification period for applicants for certification, EPA should provide notification of the delay and the reasons therefor. Although subdivision (c)(4) does not expressly require this additional notification, it is expected that the EPA Regional Office administering the examination would issue an appropriate explanation to the affected individuals within the original 45 day time period.

One commenter requested that a formal Economic Impact Analysis be prepared prior to promulgation of this rule. EPA addressed this issue in the FEDERAL REGISTER notice of the proposed version of this rule, stating that this rule does not require such an analysis under the terms of Executive Orders 11821 and 11949 and OMB circular A-107. This determination was not made arbitrarily as the commenter apparently believes. Rather, it was the result of a detailed informal economic analysis by EPA's Office of Pesticide Programs, Criteria and Evaluation Division, concluded in October 1977. No new facts have arisen to challenge the findings of the report. Copies of the report may be obtained through the person identified in this preamble as the contact for further information.

Several other comments were received which offer valuable insights into the administration of Federal plans in Colorado and Nebraska. As these comments are not relevant to the promulgation of this rule, they will not be addressed here. However, EPA will carefully consider these comments in regard to the implementation of this rule.

Pursuant to section 25(a)(3) of FIFRA, as amended, a copy of this rule was forwarded to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture and Forestry of the Senate. This rule was also submitted for review to the Scientific Advisory Panel as required by section 25(d). The Panel "* * * determined that the document was procedural in nature and * * * further review and comment by the Panel is not warranted."

A copy of this rule was also provided to the Secretary of Agriculture for comment in accordance with section 25(a)(2)(B). The Department of Agriculture stated in response that it had no comments to offer on this final version of the rule. The Department also stated that there was no need to publish its response in the FEDERAL REGISTER.

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the effective date of a regulation must be at least 30 days after its publication, unless "good cause" is specified for establishing and earlier date. In this case, good cause exists for making this rule effective upon publication. In order to comply with the intent of FIFRA, it is important to facilitate the certification of applicators of restricted use pesticides in States which have not submitted approval State plans. Any delay in the effectiveness of this rule could substantially impede the efficient implementation of Federal plans developed by the Agency. Furthermore, since the final rule is substantially the same as the proposed rule, which was published more than 30 days ago, the public notice purpose of the 30 day requirement of section 4(d) of the Administrative Procedure Act has already been achieved. Accordingly, § 171.11 will be effective on June 8, 1978.

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.

AUTHORITY: Secs. 4 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: May 30, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR 171 is amended by adding § 171.11 to read as follows:

§ 171.11 Federal certification of pesticide applicators in States or on Indian Reservations where there is no approved State or Tribal certification plan in effect.

(a) *Applicability.* This section applies to persons in any State and on any Indian Reservation where, because there is no approved State or Tribal certification plan in effect, the Administrator implements an EPA plan for the Federal certification of applicators of restricted use pesticides.

(b) *Certification requirement.* In any State or on any Indian Reservation where this section is applicable, any person who uses or supervises the use of any pesticide classified for restricted use must be certified in accordance with this section. However, a competent person who is not certified may use a restricted use pesticide under the direct supervision of a certified applicator for uses authorized by the certified applicator's certification. Private applicator certification shall authorize only those uses, or the supervision of those uses, described in section 171.2(t). Commercial applicator certification shall authorize only those uses, or the supervision of those uses, included within the specific category(ies) or subcategory(ies), described in section 171.3(b) or an applicable Federal plan, in which the applicator is certified.

(c) *Certification of commercial applicators*—(1) *Categories for Commercial Applicators.* Categories referred to in this section are the same as those listed in § 171.3(b). Determination of competency in each category shall conform to the requirements of § 171.4(a).

(2) *Subcategories.* The Administrator may adopt subcategories as he or she deems necessary, consonant with the needs of the individual State or Reservation.

(3) *Standards for certification.* The standards of competency for certification of commercial applicators under this section are the same as those listed in § 171.4 (b) and (c) and § 171.6.

(4) *Certification procedure.* An individual who desires to be certified or recertified under this paragraph shall complete the EPA certification form and submit the form to the appropriate EPA Regional Office. In order to be initially certified as a commercial applicator under this paragraph, an individual must take and pass written examinations approved by the Administrator and administered by the Administrator or any other party approved by him or her. A general examination will be given, based on the general standards found in § 171.4(b) and the standards for supervision found in § 171.6. In addition, specific category and subcategory examinations will be given, based on the appropriate category or subcategory standards found in § 171.4(c) and the applicable Federal plan. The Administrator will notify the individual in writing of the results of the examinations within 45 days unless special circumstances justify a longer time period. The Administrator will issue to each person who has passed a general examination and one or more category or subcategory examinations a commercial applicator certificate covering each category and subcategory in which he or she has qualified. A commercial applicator certificate is valid for a period of two years from the date of issuance, unless earlier suspended or revoked by the Administrator, and is valid within the State or Indian Reservation named on the certificate.

(5) *Re-examination.* Individuals failing to pass the required certification examination(s) may be re-examined after notification of failure. An individual seeking re-examination need take only the examination(s) which he or she originally failed.

(6) *Renewal of commercial applicator certification.* A certified commercial applicator may qualify for recertification by taking and passing written examinations as specified in paragraph (c)(4) of this section, or by successfully completing any available training program approved for this purpose by the Administrator. Recertification procedures must be completed by the certified commercial applicator during the twelve month period preceding the expiration date of his or her certificate.

(7) *Record keeping requirements.* (i) Each certified commercial applicator shall keep and maintain true and accurate records of the use of restricted use pesticides, providing the following information:

(A) name and address of the person for whom the pesticide was applied;

(B) location of the pesticide application;

(C) target pest(s);

(D) specific crop or commodity, as appropriate, and site, to which the pesticide was applied;

(E) year, month, day, and time of application;

(F) trade name and EPA registration number of the pesticide applied;

(G) amount of the pesticide applied and percentage of active ingredient per unit of the pesticide used; and

(H) type and amount of the pesticide disposed of, method of disposal, date(s) of disposal, and location of the disposal site.

(ii) *Availability of required records.* Each certified commercial applicator shall keep all records required under this paragraph current and shall make such records available for inspection and copying by representatives of EPA for a period of at least two years from the date of use of the pesticide.

(d) *Certification of private applicators*—(1) *Certification procedures.* An individual who desires to be certified or recertified under this paragraph shall complete the EPA certification form and submit the form to the appropriate EPA Regional Office. In order to be certified or recertified as a private applicator to use restricted use pesticides, an individual must be determined competent with respect to the use and handling of pesticide. Standards for such determination are the same as those listed in §§ 171.5 and 171.6. The Administrator will offer one or more of the following certification options, including at least one option which does not require the applicator to take an examination—

(i) *Approved training course.* The individual may successfully complete an approved training course. Approved training courses may include courses sponsored by EPA, State cooperative extension services, State vocational agricultural courses, or private educational groups. Each training course for certification must be approved for that purpose by the Administrator and include, at a minimum, coverage of the private applicator standards listed in §§ 171.5 and 171.6, and a demonstration that the individual has successfully completed the training course. Subject to the approval of the Administrator, this demonstration may be accomplished by completion of a no pass/no fail written questionnaire or a workbook, receipt of a passing grade in an approved course offered by an educational institution, or any other equivalent procedure.

(ii) *Written examination.* The individual may pass a written examination approved by the Administrator and administered by the Administrator or any other party approved by him or her.

(iii) *Self-study program.* The individual may successfully complete a self-study learning program approved by the Administrator and administered by the Administrator or any other party approved by him or her.

(iv) *Non-reader certification.* Non-readers may be certified for specific use(s) of a single product by successfully completing an approved training course as specified in (i) above, or by passing an oral examination approved by the Administrator and administered by the Administrator or any other party approved by him or her. Such training or testing shall incorporate a specific procedure relating to label comprehension, as described in § 171.5(b)(1).

(2) *Issuance of certificates.* The Administrator will issue a private applicator certificate to each individual who successfully completes any available certification option. A private applicator certificate is valid for a period of three years from the date of issuance, unless earlier suspended or revoked by the Administrator, and is valid within

the State or Indian Reservation named on the certificate. Individuals who, for any reason, fail to successfully complete a certification option may attempt to complete the same option or, if available, an alternative option.

(3) *Renewal of private applicator certification.* A certified private applicator may qualify for recertification by successfully completing any available certification option during the twelve month period preceding the expiration date of his or her certificate.

(e) *Recognition of other certificates.* The Administrator may issue a certificate to an individual possessing any other valid Federal, State or Tribal certificate without further demonstration of competency. The individual shall submit the EPA certification form and written evidence of valid certification to the appropriate EPA Regional Office. The Administrator may deny issuance of such certificate if the standards of competency for each category or subcategory identified in the other Federal, State or Tribal certificate are not sufficiently comparable to justify waiving further demonstration of competency. The Administrator may revoke, suspend, or modify such certificate if the Federal, State or Tribal certificate upon which it is based is revoked, suspended, or modified. Unless suspended or revoked, a certificate issued under this paragraph is valid for two years for commercial applicators and three years for private applicators, or until the expiration date of the original Federal, State or Tribal certificate, whichever occurs first.

(f) *Denial, suspension, modification or revocation of a certificate.* (1) The Administrator may suspend all or part of a certificate issued pursuant to this section, or, after opportunity for a hearing, may deny issuance of, or revoke or modify, a certificate issued pursuant to this section, if he or she finds that the applicant or certificate holder has been convicted under section 14(b) of the amended FIFRA, has been subject to a final order imposing a civil penalty under section 14(a) of the amended FIFRA, or has committed any of the following acts:

(i) Used any registered pesticide in a manner inconsistent with its labeling;

(ii) Made available for use, or used, any registered pesticide classified for restricted use other than in accordance with section 3(d) of the amended FIFRA and any regulations promulgated thereunder;

(iii) Refused to keep and maintain any records required pursuant to this section;

(iv) Made false or fraudulent records, invoices or reports;

(v) Failed to comply with any limitations or restrictions on or in a duly issued certificate; or,

(vi) Violated any provision of the amended FIFRA and the regulations promulgated thereunder.

(2) If the Administrator decides to deny, revoke, or modify a certificate, he or she will:

(i) Notify the applicant or certificate holder of:

(A) The ground(s) upon which the denial, revocation or modification is based;

(B) The time period during which the denial, revocation or modification is effective, whether permanent or otherwise;

(C) The conditions, if any, under which the individual may become certified or recertified; and,

(D) Any additional conditions the Administrator may impose.

(ii) Provide the applicant or certificate holder an opportunity to request a hearing prior to final Agency action to deny, revoke or modify the certificate.

(3) If a hearing is requested by an applicant or certificate holder pursuant to paragraph (f)(2)(ii) of this section, the Administrator will:

(i) Notify the affected applicant or certificate holder of those assertions of law and fact upon which the action to deny, revoke or modify the certificate is based;

(ii) Provide the affected applicant or certificate holder an opportunity to offer written statements of facts, explanations, comments, and arguments relevant to the proposed action;

(iii) Provide the affected applicant or certificate holder such other procedural opportunities as the Administrator may deem appropriate to ensure a fair and impartial hearing; and

(iv) Appoint an attorney in the Agency as Presiding Officer to conduct the hearing. No person shall serve as Presiding Officer if he or she has had any prior connection with the specific case.

(4) The Presiding Officer appointed pursuant to paragraph (f)(3)(iv) of this section shall:

(i) Conduct a fair, orderly, and impartial hearing, without unnecessary delay;

(ii) Consider all relevant evidence, explanation, comment, and argument submitted pursuant to paragraphs (f)(3)(ii) and (iii) of this section; and,

(iii) Promptly notify the affected applicant or certificate holder of his or her decision and order. Such an order is a final Agency action subject to judicial review in accordance with Section 16 of the amended FIFRA.

(5) If the Administrator decides to suspend all or part of a certificate, he or she will:

(i) First determine that the public health, interest or welfare warrants immediate action to suspend the certificate;

(ii) Notify the certificate holder of the ground(s) upon which the suspension action is based;

(iii) Notify the certificate holder of the time period during which the suspension is effective; and,

(iv) Notify the certificate holder of his or her intent to revoke or modify the certificate, as appropriate, in accord with paragraph (f)(2) of this section. If such revocation or modification notice has not previously been issued, it will be issued at the same time the suspension notice is issued.

(6) In cases where the act constituting grounds for suspension, revocation, or modification of a certificate is neither willful nor contrary to the public interest, health, or safety, the affected certificate holder may have additional procedural rights under 5 U.S.C. 558(c).

(7) Any notice, decision, or order issued by the Administrator under paragraph (f) of this section, and any documents filed by an applicant or certificate holder in a hearing under paragraph (f) of this section, shall be available to the public except as otherwise provided by section 10 of the amended FIFRA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidentiality under section 10 of the amended FIFRA or under part 2 of this title.

[FR Doc. 78-15966 Filed 6-7-78; 8:45 am]

[4710-02]

Title 41—Public Contracts and Property Management

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AIDPR Notice 78-5]

MISCELLANEOUS REVISIONS TO THE AID PROCUREMENT REGULATIONS

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This document amends the Agency for International Development procurement regulations (AIDPR) by specifying the authority for ratification of unauthorized commitments; specifying the review and approval process for noncompetitively negotiated procurements; reflecting new minimum levels for the issuance of Federal Reserve Letters of Credit; removing illustrations of forms and removing AIDPR appendices from the Code of Federal Regulations. The amendments are procedural and technical in nature and are necessary to update the present regulations.

EFFECTIVE DATE: May 25, 1978.

FOR FURTHER INFORMATION CONTACT:

James M. Kelly, CM/SD/POL,

Agency for International Development, Washington, D.C. 20523, 703-235-9107.

SUPPLEMENTARY INFORMATION: AIDPR Notice 78-5 is being revised to:

(1) Provide the public with a list of AIDPR Appendices, and inform them where they can obtain copies of AIDPR Appendices;

(2) Add a new § 7-1.405 to specify where in AID authority lies for ratification of unauthorized commitments, and to cross reference Agency regulations governing such ratification, as established in Part 7-50 of the AIDPR;

(3) Revise § 7-3.101-50 concerning noncompetitive negotiation, to specify the review and approval process for noncompetitively negotiated procurements;

(4) Revise Part 7-16, procurement forms, to delete the illustration of forms subpart, since forms are not reproduced in the Code of Federal Regulations (CFR) edition of the AIDPR. In place of the illustration of forms, the public is informed where copies of the forms referenced in Part 7-16 may be obtained;

(5) Revise § 7-30.4500 and 7-30.4502, concerning Federal Reserve Letters of Credit (FRLC) to reflect the new minimum level for issuance of FRLC's, and the new minimum and maximum allowable drawdowns against an FRLC, as established by Treasury regulations; and

(6) Remove AIDPR Appendices from the CFR edition of the AIDPR. This is being done because the Appendices are primarily internal Agency instructions and procedures, and as such are not required to be published, and the Agency can minimize administrative funds expenditures by not publishing them in the CFR or FEDERAL REGISTER. As previously mentioned, copies of Appendices may be obtained by the public from the Agency directly.

PART 7-1—GENERAL

Subpart 7-1.1—Introduction

1. Section 7-1.105-5, "Appendices," is revised as follows:

§ 7-1.105-5 Appendices.

Procurement policies and procedures which are essentially Agency internal instructions may be issued as AIDPR Appendices. These Appendices are identified by letter and subject title (e.g., Appendix A, (title)). Appendices are indexed and filed in AID Handbook 14, Procurement Regulations. Copies of Appendices are available from either SER/MO/PAV (Room B-926, New State) or SER/CM/SD/SUP (Room 709 PP), Department of State AID, Washington, D.C. 20523. Current AIDPR Appendices are:

Appendix A. Respective Roles of Contracting and Other Personnel in the AID Procurement Process.
Appendix B. AID Contract Formats.
Appendix C. Contractor Performance Evaluation Report.
Appendix D. Notice to Cost-Reimbursement Type Contractors of Changes in Applicable Standardized Government Regulations.
Appendix E. Logistic Support Overseas to AID-Direct Contractors.
Appendix F. Direct AID Contracts with U.S. Citizens for Personal Services Abroad.
Appendix G. Contract Closeout Procedures.
Appendix H. Use of Collaborative Assistance Method for AID-Direct Contracts for Technical Assistance.
Appendix I. Approval and Reporting Procedures for Contractor Proposed Salaries that Exceed the FSR-1 Level.
Appendix J. Resolution of Costs Questioned in Audit Reports.

Subpart 7-1.4—Procurement Responsibility and Authority

2. A new § 7-1.405 is added as follows:

§ 7-1.405 Ratification of unauthorized contract awards.

Within AID, amendments without consideration, correction of mistakes, and ratification of informal commitments are governed by Part 7-50 of the AIDPR. Full authority to approve such actions is vested only in the Administrator and Deputy administrator; limited authority has been redelegated only to the Assistant Administrator for Program and Management Services; the Deputy Assistant Administrator for Program Support, Bureau for Program and Management Services; and the Director, Office of Contract Management, Bureau for Program and Management Services.

PART 7-3—PROCUREMENT BY NEGOTIATION

Subpart 8-3.1—Use of Negotiation

§ 7-3.101 [Deleted]

3. Section 7-3.101, "General requirements for negotiation," is deleted.

4. Section 7-3.101-50, "Exceptions to normal negotiation procedures," is retitled and revised as follows:

§ 7-3.101-50 Justification for noncompetitive negotiation.

(a) AID is authorized to negotiate contracts under the authority of section 633 (a) of the Foreign Assistance Act of 1961, as amended and Executive Order 11223. It is Agency policy that negotiated contracts will be awarded on a competitive basis whenever possible.

(b) There are limited circumstances where noncompetitive negotiation may be permissible; these are listed below. In each of these cases, however, consideration of as many sources as is practicable, including informal solicitation to the maximum extent practicable, is required. In each case the contract file will include appropriate explanation and support.

(1) Contracts to be performed by the contractor in person.

(2) Contracts by overseas procuring activities (AID Missions) where the estimated cost of a single contract is less than $50,000 for professional or technical services, or less than $25,000 (landed cost) for equipment and materials.

(3) Contracts for which one source is considered to have exclusive or predominant capability by reason of experience, specialized facilities or technical competence to perform the work within the time required and at reasonable prices.

(4) Contracts for which it is determined that the required property or services are available from only one source.

(5) Amendments to contracts which provide for continuation of activities designed to meet the same goal originally established in the contract (such amendments may not extend the contract beyond the life of the project as established in the Project Paper).

(6) Contracts based on unsolicited proposals awarded pursuant to AIDPR 7-4.9.

(7) Contracts or contract amendments for which the Assistant Administrator responsible for the project or program makes a formal written determination with supporting findings, that procurement from any other source would impair foreign assistance objectives, and would be inconsistent with fulfillment of the foreign assistance program.

(c) Use of the circumstances specified in § 7-3.101-50(b) require specific justification and approval; details of required justification and documentation are set forth in § 7-3.101-50(d). The dollar thresholds for approval of procurements pursuant to § 7-3.101-50(b)(1) through (6) are specified below.

NOTE—Procurements pursuant to § 7-3.101-50(b)(7) may be approved only by the Assistant Administrator responsible for the project or program, regardless of dollar value:

(1) For actions up to and including $10,000, the contracting officer;

(2) From $10,000 to $99,999, the appropriate SER/CM Division Chief, or, in the case of Mission procurement, the contracting officer's immediate superior up to the limit of his or her delegated direct contracting authority;

(3) From $100,000, the Noncompetitive Review Board, or, in the case of Mission procurements, the Mission Director up to the limit of his or her delegated direct contracting authority.

(d) Justifications and documentation in support of the circumstances specified in § 7-3.1-1-50(b) must be approved by the cognizant approving authority specified in § 7-3.101-50(c), and included in the contract file. In the

case of Mission procurements, copies of noncompetitive justifications pursuant to § 7-3.101-50(b)(1) through (6) must be sent to AID/W, SER/CM/SD/SUP. The minimum documentation for each procurement will be a negotiation memorandum supported by:

(1) For contracts pursuant to § 7-3.101-50(b)(1), a certification that the procurement meets the criteria of, and is being awarded pursuant to § 7-3.101-50(b)(1), signed by the appropriate approving authority specified in § 7-3.101-50(c) supported by a selection memorandum from the requesting project office specifying the requirements of the procurement, what individuals were considered, and why the proposed individual was recommended.

(2) For contracts pursuant to § 7-3.101-50(b)(2), a certification that the procurement meets the criteria of, and is being awarded pursuant to § 7-3.101-50(b)(2), signed by the appropriate approving authority specified in § 7-3.101-50(c).

(3) For contracts pursuant to § 7-3.101-50(b)(3), the requesting project office shall prepare a written request for approval of an exclusive or predominant capability noncompetitive procurement. This request will include the following information, as appropriate.

(i) What sources were considered and what were the evaluation criteria used;

(ii) Basis for the decision that only one source is suitable or available, including as appropriate:

(A) What capability does the proposed contractor have which is necessary to the specific effort and makes the contractor clearly more suitable than another in the same general field?

(B) What prior experience of a highly specialized nature does the contractor possess which is vital to the proposed effort?

(C) What facilities or equipment does the contractor have which are specialized and vital to the effort?

(D) Does the contractor have a substantial investment of some kind which would have to be duplicated at Government expense by another source entering the field?

(E) If time schedules are involved, why are they critical and why can the proposed contractor best meet them?

(F) Does the proposed contractor have personnel considered predominant experts in the particular field?

(iii) A certification with supporting documentation that the special capabilities of the recommended source are necessary for the project, and not merely desirable. The request shall be submitted to the contracting officer, who will obtain the approval of the appropriate approving authority specified in § 7-3.101-50(c).

(4) For contracts pursuant to § 7-3.101-50(b)(4), a certification with supporting documentation by the requesting project office that the required property or services are available from only one source. This certification must be approved by the appropriate approving authority specified in § 7-3.101-50(c).

(5) For procurements pursuant to § 7-3.101-50(b)(5), a certification signed by the contracting officer that the procurement meets the criteria of, and is being awarded pursuant to § 7-3.101-50(b)(5), and evidence of approval by the appropriate approving authority specified in § 7-3.101-50(c).

(6) For procurements pursuant to § 7-3.101-50(b)(6), a copy of the determination and findings issued by the cognizant Assistant Administrator together with the project officer's certification as required by § 7-4.910; a certification signed by the contracting officer that the procurement is being issued pursuant to § 7-3.101-50(b)(6); and evidence of approval by the approving authority specified in § 7-3.101-50(c).

(7) For procurements pursuant to § 7-3.101-50(b)(7), a copy of the findings and determination issued by the Assistant Administrator responsible for the project or program will be placed in the contract file. No further documentation or approval related to noncompetitive procurement will be required for procurements pursuant to § 7-3.101-50(b)(7).

PART 7-16—PROCUREMENT FORMS

Subpart 7-16.5—Forms for Advertised and Negotiated Nonpersonnel Services Contracts (Other than Construction)

8. Delete all parenthetical references to Subpart 7-16.9 whereever they appear in Subpart 7-16.5.

9. Section 7-16.500, "Scope of Subpart," is revised as follows:

§ 7-16.500 Scope of subpart.

This subpart prescribes forms for use in advertised or negotiated nonpersonnel services contracts, other than construction contracts. Copies of all forms prescribed in this subpart are available from either SER/MP/PAV (Room B-926, New State), or SER/CM/SD/SUP (Room 709 PP), Department of State AID, Washington, D.C. 20523.

Subpart 7-16.8—Miscellaneous Forms

10. Delete all parenthetical references to Subpart 7-16.9 wherever they appear in Subpart 7-16.8.

11. Section 7-16.800, "Scope of Subpart," is revised as follows:

§ 7-16.800 Scope of subpart.

This subpart prescribes miscellaneous forms, other than procurement contract forms, for use in connection with AID Procurements. Copies of all forms prescribed in this subpart are available from either SER/MO/PAV (Room B-926, New State), or SER/CM/SD/SUP (Room 709 PP), Department of State, AID, Washington, D.C. 20523.

Subpart 7-16.9—Illustration of Forms

§ 7-16.900-7-16.964 (Subpart 7-16.9) [Deleted]

12. This subpart is deleted in its entirety.

PART 7-30—CONTRACT FINANCING

Subpart 7-30.45—Federal Reserve Letter of Credit Method of Disbursing Advances to Nonprofit Institutions

§ 7-30.4500 [Amended]

13. Paragraph (b) of § 7-30.4500, "Scope and Applicability," is amended by deleting the figure "$250,000" and in its place inserting "$120,000."

14. Paragraph (c) of § 7-30.4500, "Scope and Applicability" is amended by deleting the figures "$10,000" and "$1,000,000," and inserting in their places the figures "$5,000," and "$5,000,000" respectively.

§ 7-30.4502 [Amended]

15. Paragraph (a) of § 7-30.4502, "Contract Clause—Federal Reserve Letter of Credit" is amended by deleting the figures "$10,000" and "$1,000,000" and in their places inserting the figures "$5,000" and "$5,000,000" respectively.

Appendices

Appendices A—J [Deleted]

16. Appendices A-J following Part 7-60 are deleted.

This AIDPR Notice is issued pursuant to 41 CFR 7-1.104.4.

Dated: May 25, 1978.

JOHN F. OWENS,
Deputy Assistant Administrator for Program and Management Services.

[FR Doc. 78-15915 Filed 6-7-78; 8:45 am]

[4710-01]

[AIDPR Notice 78-4]

PART 7-3—PROCUREMENT BY NEGOTIATION

PART 7-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 7-4.9—Unsolicited Proposals

AGENCY: Agency for International Development, State.

ACTION: Final rule.

SUMMARY: The Federal Procurement Regulations have been amended to establish a new Subpart 1-4.9, setting forth policies and procedures for processing unsolicited proposals. This FPR amendment required executive agencies to implement the new Subpart in their own procurement regulations, establishing procedures for receipt and disposition of unsolicited proposals, and providing free, written information on agency policies regarding unsolicited proposals to potential offerors. In response to this requirement, the AIDPR is being amended.

DATE: This rule is effective as of May 25, 1978.

FOR FURTHER INFORMATION CONTACT:

James M. Kelly, CM/SD/POL, Agency for International Development, Washington, D.C. 20523, 703-235-9107.

SUPPLEMENTARY INFORMATION: As required, the AIDPR are being amended to delete Subpart 7-4.53 (which provided AID policies and procedures for unsolicited proposals for research and development), these policies and procedures having been superseded by the new FPR Subpart 1-4.9. In addition, a new Subpart 7-4.9 is being added; the new Subpart incorporates the FPR coverage of unsolicited proposals by reference, tells what information is available to potential offerors and where it may be obtained, and tells potential offerors where to direct initial inquiries and subsequent unsolicited proposals. AIDPR 7-3.101-50 is also revised to reference the new Subpart 7-4.9 in place of Subpart 7-4.53.

Subpart 7-3.1—Use of Negotiation

1. In § 7-3.101-50, paragraph (c)(1) is revised as follows:

§ 7-3.101-50 Exceptions to Normal Negotiation Procedures.

* * * * *

(c) * * *

(1) Contracts based on unsolicited proposals, where the contract is being awarded pursuant to AIDPR 7-4.910.

* * * * *

2. A new Subpart 7-4.9—Unsolicited Proposals is established as follows:

Subpart 7-4.9—Unsolicited Proposals

Sec.

7-4.903 Agency program direction and operation.
7-4.905 Advance guidance.
7-4.908 Agency point of contact.
7-4.909 Receipt, review, and evaluation.
7-4.910 Method of Procurement.

AUTHORITY.—41 CFR 7-1.104.4.

Subpart 7-4.9—Unsolicited Proposals

§ 7-4.903 Agency program direction and operation.

(a) AID encourages the submission of unsolicited proposals which contribute new ideas consistent with and contributing to the accomplishment of the Agency's objectives. However, the requirements for contractor resources are normally quite program specific, and thus widely varied, and must be responsive to host country needs. Further, AID's projects are usually designed in collaboration with the cooperating country. These factors can limit both the need for, and AID's ability to use unsolicited proposals. Therefore, prospective offerors are encouraged to contact AID to determine the Agency's technical and geographical requirements as related to the offeror's interests before preparing and submitting a formal unsolicited proposal.

(b) AID's basic policies and procedures regarding unsolicited proposals are those established in FPR 1-4.9 and this Subpart.

(c) For detailed information on unsolicited proposals, see AIDPR 7-4.905; for initial contact point within AID, see AIDPR 7-4.908.

§ 7-4.905 Advance guidance.

(a) Free information concerning AID's policies and procedures for unsolicited proposals is available from the Department of State, Agency for International Development, Washington, D.C. 20523, to the attention of either SER/CM/SB, Room 601 PP or DS/RES, Room 813 RPC.

(b) The information available concerns:

(1) Contact points within AID;

(2) Definitions;

(3) Characteristics of a suitable proposal;

(4) Determination of contractor responsibility;

(5) Organizational conflicts of interest;

(6) Cost sharing; and

(7) Procedures for submission and evaluation of proposals.

§ 7-4.908 Agency point of contact.

Initial inquiries and subsequent formal unsolicited proposals (other than research) should be submitted to the Department of State, AID, Washington, D.C. 20523, Attention: SER/CM/SB, Room 601 PP. Formal unsolicited proposals for research should be submitted to the Department of State, AID, Washington, D.C. 20523, Attention: DS/RES, Room 813 RPC.

§ 7-4.909 Receipt, review, and evaluation.

AID follows the policies and procedures established in FPR 1-4.9, particularly 1-4.909 and 1-4.910.

§ 7-4.910 Method of procurement.

The justification for noncompetitive procurement based on an unsolicited proposal required by FPR 1-4.910(b) must be approved by the Assistant Administrator primarily responsible for the activity; in addition, each such justification will include a certification from the project officer that neither he/she, nor, to the best of his/her knowledge and belief, any other AID employee solicited the proposal from the offeror or had other prior contact with the offeror regarding the subject matter of the proposal other than to convey to the offeror an understanding of AID's mission and needs relative to the type of effort contemplated in the offer.

Subpart 7-4.53—Procurement Under AID Research and Analysis Programs

§§ 7-4.5300 and 7-4.5301 (Subpart 7-4.53) [Deleted]

3. Subpart 7-4.53 is deleted in its entirety.

This AIDPR Notice is issued pursuant to 41 CFR 7-1.104.4.

Dated: May 25, 1978.

JOHN F. OWENS,
Deputy Assistant Administrator for Program and Management Services.

[FR Doc. 78-15927 Filed 6-7-78; 8:45 am]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6100-1b]

PART 1067—FUNDING OF CSA GRANTEES

Subpart—Program Account Structure

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing its final rule governing its program account structure. These revisions provide a more detailed and meaningful breakout of the purposes for which CSA is using its grant funds.

DATES: This rule is effective June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Beier, 202-254-5730.

SUPPLEMENTARY INFORMATION: On December 13, 1977, the Community Services Administration published a proposed rule in the FEDERAL REGISTER (42 FR 62506) which proposed revising

and expanding its current program account structure. Comments received prior to January 12, 1978 were to be considered in drafting the final rule.

Eleven letters of comment were received from Community Action Agencies, two from State Economic Opportunity Offices, two from CAP Directors Associations, two from Limited Purpose Agencies, three from CSA regional offices and one from a Community Development Corportion.

Of the 21 letters, five suggested a further expansion of the program account system. Concerns raised by the other 16 letters dealt primarily with: (1) The extra administrative burden being placed upon the grantees which could require additional staff, reports, audits, etc.; (2) the difficulty small grantees will have in breaking out a person's time between various program accounts; and (3) the inappropriateness of using a cost category (personnel/non-personnel) breakout for the SOS program and the Youth programs.

In response to the requests for expansion we have added two program accounts to cover special program requirements. Account number 80 has been added for use by the one-time Emergency Energy Assistance Program. Also, account number 84 has been added to cover demonstrations which are not identified separately within one of the categorical program accounts.

In addressing the effect of these revised program accounts on administrative burden, we want to emphasize that additional work is not our intent. As indicated in the supplementary comments to the proposed rule, this change is not intended to reduce a grantees funding flexibility. Also, as the CSA Form 314, Statement of CSA Grant, and the Standard Form 269, Quarterly Financial Status Report both permit the inclusion of many program accounts on each form, we do not believe that this change will result in a significant increase in staff time, reports or audits.

We recognize the difficulty smaller grantees have with our present program account system in splitting the time of a limited number of staff. Estimated allocations have been acceptable in the past and will continue to be acceptable in the future. It must be remembered that even though one program (i.e. community nutrition) has been broken into many program accounts, it is highly unlikely that a single grantee will be operating programs covering all or even a majority of the ten nutrition program accounts. Also, for smaller grantees who cover many different areas within one program, it is acceptable to fund under the predominant program area rather than break out the effort into many small program areas.

The decision to use separate program accounts to identify personnel costs in the Senior Opportunities and Services program and the Youth programs was prompted by a concern that these programs are labor intensive programs which perform many difficult functions for the clients they serve which cannot easily be categorized into specific program impact areas as was done in the other categorical programs. As a result we believe that determining the amount of personnel costs as compared to other costs will contribute to our knowledge of the programs. Also, it is permissible to show both personnel and non-personnel costs on the same CSA Form 419, Summary of Work Program and Budget and CSA Form 440, Program Progress Review Report.

CSA thanks all those who took the time to respond to the proposed regulations.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1067 is amended by adding a new subpart—Program Account Structure comprising §§ 1067.41-1 through 1067.41-3 to read as follows:

Subpart—Program Account Structure

Sec.
1067.41-1 Applicability.
1067.41-2 Procedures.
1067.41-3 Description of Program Accounts.

AUTHORITY: Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

Subpart—Program Account Structure

§ 1067.41-1 Applicability.

This rule applies to all grantees financially assisted under Titles I, II, III, VII, and IX of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.41-2 Procedures.

The Program Accounts listed in Appendices A and B to this subpart will be used on all funding documents (CSA Form 314), work programs (CSA Form 419) and related Forms (CSA Form 440) beginning with fiscal year 1978. Within the Senior Opportunities and Services program and the Youth programs, dollars must be reflected separated by program account on the above forms; however, the narrative project goals may address the personnel and non-personnel accounts in total. Furthermore, flexibility to shift funds between program accounts is not being restricted by this rule. CSA Instruction 6710-1, Change 11 will be revised to reflect this continuing flexibility. Any fiscal year 1978 grant which does not reflect these revised program accounts because it was funded prior to the effective date of this Instruction may, by request of the CSA administering office, be modified using CAP Form 325b "Justification for Program Account Amendment." This document will, with the concurrence of the grantee, serve as the basis for amending the CSA Form 314 to reflect these revised program accounts.

§ 1067.41-3 Description of Program Accounts.

Appendix A to this subpart lists all program accounts by type of program. Appendix B to this subpart includes a brief description of each program account, including the section of the Economic Opportunity Act the account implements.

APPENDIX A

PROGRAM ACCOUNT CODES

01 Local Initiative/CAA Administration.
05 Local Initiative Program.
02 Youth Sports—Summer Personnel.
03 Youth Sports—Summer Other.
04 Youth Sports—Winter Program.
60 Summer Recreation—Personnel.
10 Summer Recreation—Other.
06 SOS—Personnel.
07 SOS—Other.
08 SEOO—Training.
09 SEOO—Other.
12 Nutrition—Advocacy/Monitoring.
13 Nutrition—Self-Help.
14 Nutrition—Supplementary Programs.
16 Nutrition—Crisis Relief.
29 Nutrition—Research.
39 Nutrition—Demonstrations.
42 Nutrition—T&TA—Seminars.
43 Nutrition—T&TA—On-Site Assistance.
44 Nutrition—T&TA—Other.
48 Nutrition—Evaluation.
18 Migrants and Seasonal Farmworkers.
21 Energy—Weatherization.
22 Energy—Crisis Intervention.
23 Energy—Consumer Information, Education, Legal Assistance.
24 Energy—Transportation.
25 Energy—Alternate Energy Sources.
80 Energy—Emergency Energy Assistance.
50 Energy—Research.
53 Energy—Demonstration.
54 Energy—T&TA—Seminars.
56 Energy—T&TA—On-Site Assistance.
57 Energy—T&TA—Other.
58 Energy—Evaluation.
19 Technical Assistance—Grantee Administration.
27 Technical Assistance—Grantee Program.
28 Technical Assistance—Other.
31 Rural Housing—Community Development.
32 Rural Housing—Management Services.
33 Rural Housing—Training & Technical Assistance.
36 Rural Housing—New Home Manufacture.
37 Rural Housing—Repair/Rehabilitation.
38 Rural Housing—Housing Subsidies.
64 Special Assistance.
63 Economic Development—Special Impact.
49 Economic Development—Rural Programs.
51 Economic Development—Rural Development Finance.
52 Economic Development—Community Development Finance.

61 Economic Development—Training & Technical Assistance.
66 Economic Development—Demonstration.
67 Economic Development—Research.
68 Economic Development—Evaluation.
69 Economic Development—Planning Grants.
71 Evaluation—Type I.
73 Evaluation—Type II.
75 Evaluation—Type III.
78 Evaluation—Other.
82 Research.
84 Demonstration.
98 Program Administration.

APPENDIX B—DESCRIPTIONS OF ACTIVITIES WHICH MAY BE CONDUCTED, SINGLY OR IN COMBINATION UNDER EACH PROGRAM ACCOUNT

01. *Local Initiative/CAA Administration (221).* Includes support for general administration and management of central staff, facilities, and equipment of the community action agency. Coordination, mobilization of resources, general management, information collection and use, as well as planning, program development, and evaluation activities undertaken by CAA's as part of their overall administrative and management responsibilities are included in this account. Support of the CAA board's functioning should also be included. Administrative overhead costs for delegate agencies or general support functions performed by the CAA for such delegate agencies where these costs are not related to specific programs may be included as appropriate. However, this activity does not include administration or management directly linked to specific program activities such as community nutrition activities, etc. Such administrtive overhead should be reported under the account designated for that program.

02. *Youth Sports—Summer Personnel (227).* Includes the personnel costs to operate the national youth sports program during the summer months, June through late August or mid-September. This program provides disadvantaged youths the opportunity for sports skills instruction, sports competition, learning good health practices, and career and educational opportunities. Stipends should not be included in this account.

03. *Youth Sports—Summer Other (227).* Includes the nonpersonnel costs to operate the national youth sports program during the summer months, June through late August or mid-September.

04. *Youth Sports—Winter Program (227).* Includes all costs, both personnel and nonpersonnel to operate the national youth sports program during the winter months, September through May.

05. *Local Initiative Program (221).* The basic purpose of community action programs as stated in the Economic Opportunity Act is "to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient". This purpose may be accomplished by programs designed and/or selected at the local level to meet specific community needs. They may deal with particular concerns in such areas as housing, manpower, education, health, day care, consumer affairs, economic development, general social services, etc. They may focus on particular target groups such as youth. They may employ some type of neighborhood center(s) as a means of reaching persons and delivering services.

06. *Senior Opportunities and Services—Personnel (222)(a)(7).* Includes the personnel costs to identify and meet the needs of older poor persons above the age of 60, in projects which serve or employ older persons as the predominant or exclusive beneficiary or employee group. Among other things, such projects may seek to develop and provide new employment and volunteer services; effective referral to existing health, welfare, employment, housing, legal, consumer, transportation, education, recreational, and other services; stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; modification of existing procedures, eligibility requirements and program structures to facilitate the greater use of, and participation in, public services by the older poor; development of all-season recreation and service centers controlled by older persons themselves; and such other activities and services as are necessary or specially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency.

07. *Senior Opportunities and Services—Other (222)(a)(7).* Includes the nonpersonnel costs associated with the program described in Program Account 06, above.

08. *SEOO—Training (231).* Includes all costs directly associated with providing training and technical assistance by the SEOO's to communities, State and local agencies and to community action agencies in carrying out the programs under the EOA.

09. *SEOO—Other (231).* Includes other costs incurred by the SEOO's not included as training and technical assistance under account 08.

10. *Summer Recreation—Other (222)(a)(13).* Includes nonpersonnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Personnel costs associated with this program are shown under Program Account 60.)

12. *Nutrition—Advocacy/Monitoring (222)(a)(5).* Includes operating program costs associated with the monitoring or analyzing of existing Federal food and nutrition programs, the development of methods to improve participation in and accessibility to these programs, the dissemination of food and nutrition information including the conducting of educational programs, or the representation of the interests of the poor in public proceedings involving nutrition policy.

13. *Nutrition—Self-Help (222)(a)(5).* Includes operating program costs associated with projects designed to foster self-sufficiency through the mobilization of financial and community resources. Examples include buying clubs, community gardens, food raising co-ops, community canneries, farmer-to-consumer sales and greenhouse food production.

14. *Nutrition—Supplementary Program (222)(a)(5).* Includes operating program costs associated with projects which extend, supplement, broaden or improve other feeding projects. Examples include transportation to feeding sites, distribution of surplus commodities, or supplementing a school breakfast or luch program.

16. *Nutrition—Crisis Relief (222)(a)(5).* Includes operating program costs associated with the provision of food vouchers, foodstuffs or funds to purchase food stamps on a temporary or crisis basis. (For additional program accounts dealing with nutrition see Nos. 29, 39, 42, 43, 44, and 48.)

18. *Migrants and Seasonal Farmworkers (Title III-B).* Includes costs associated with the provision of services to migrant and seasonal farmworkers such as weatherization, transportation, housing, training, technical assistance, etc.

19. *Training and Technical Assistance—Grantee Administration (230).* Includes costs associated with providing training and technical assistance to improve and maintain the administrative and managerial capacity of CSA-funded grantees, such as accounting, personnel, property or Board training. (For additional program accounts dealing with Technical Assistance see Nos. 27 and 28.)

21. *Energy—Weatherization (222)(a)(12).* Includes costs associated with home repairs and energy saving improvements to minimize heat transfer and improve thermal efficiency of dwellings.

22. *Energy—Crisis Intervention (222)(a)(12).* Includes costs associated with the intervention to prevent hardship or danger to health due to utility shutoff or lack of fuel.

23. *Energy—Consumer Information, Education and Legal Assistance (222)(a)(12).* Includes costs associated with the dissemination of energy conservation information, conduct of energy conservation educational activities, and the representation of the interests of the poor in public proceedings, for example, energy policy and utility rate structure.

24. *Energy—Transportation (222)(a)(12).* Includes costs associated with efforts to offset the increased costs to the poor of transportation needed for access to essential services and employment.

25. *Energy—Alternate Energy Sources (222)(a)(12).* Includes costs associated with the development and application to energy needs of the poor those technologies that capitalize on nonfossil fuels and renewable energy resources, or make conventional fuels available to the poor at substantially decreased costs and/or at increased energy efficiency. (For additional program accounts dealing with Energy see Nos. 50, 53, 54, 56, 57, and 58.)

27. *Training and Technical Assistance—Grantee Program (230).* Includes costs associated with the providing of training and technical assistance in specific program areas such as housing, mobilization of resources, etc.

28. *Training and Technical Assistance—Other (230).* Includes costs associated with training and technical assistance which does not relate specifically to grantee administration or grantee program areas.

29. *Nutrition—Research (222)(a)(5).* Includes costs associated with the development of new knowledge about hunger and malnutrition among the poor and/or ways to deal with their problems approved under the authority of section 222(a)(5) of the EOA.

31. *Rural Housing—Community Development (222)(a)(11); (232).* Includes costs associated with providing assistance to effect infrastructure development (e.g. water, sewer, zoning and housing projects).

32. *Rural Housing—Management Services (222)(a)(11); (232).* Includes costs associated

with providing management services to assist grantees in the acquisition and maintenance of default housing. Also, includes costs associated with providing housing assistance (such as homeownership and default counselling, homesteading, advocacy and legal services) to individuals and tenant organizations.

33. *Rural Housing—Training and Technical Assistance (222)(a)(11); (232).* Includes costs associated with area and statewide housing development corporations designed to provide technical assistance, seed money, training and advocacy support in the housing area. Also includes costs associated with developing innovative and effective packaging techniques to obtain loan subsidies for self-help, home repair, rehabilitation, and construction projects.

36. *Rural Housing—New Home Manufacture (222)(a)(11); (232).* Includes costs associated with the development of housing factory delivery systems for building low cost housing.

37. *Rural Housing—Repair/Rahabilitation (222)(a)(11); (232).* Includes costs associated with the repair and rehabilitation of housing for low-income families. Also includes costs associated with removing architectural barriers from the homes of low-income disabled individuals.

38. *Rural Housing—Housing Subsidies (222)(a)(11); (232).* Includes costs associated with the development of alternative financing mechanisms for low cost housing production.

39. *Nutrition—Demonstrations (222)(a)(5).* Includes costs associated with experimental, pilot or demonstration projects which test new or improved approaches to combatting the problems of hunger and malnutrition.

42. *Nutrition—T. & T.A. Seminars (222)(a)(5).* Includes costs associated with holding nutrition related T. & T.A. seminars for persons from two or more agencies. Such seminars should help grantees plan, conduct and/or evaluate nutrition programs.

43. *Nutrition—T. & T.A. On-Site Assistance (222)(a)(5).* Includes the cost of providing nutrition related T. & T.A. services to specific grantee personnel at the grantee's location. Such services should help a specific grantee plan, conduct and/or evaluate nutrition programs.

44. *Nutrition—T. & T.A. Other (222)(a)(5).* Includes any costs of a T. & T.A. nature related to nutrition which is not classified as seminar or on-site assistance in program accounts 42 and 43.

48. *Nutrition—Evaluation (222)(a)(5).* Includes costs associated with evaluation of nutrition projects approved under the authority of section 222(a)(5) of the EOA. Does not include cost for grantees self evaluations.

49. *Economic Development—Rural Programs (Title VII).* Includes costs associated with meeting the special economic needs of rural communities and areas pursuant to title VII, part B of the EOA.

50. *Energy—Research (222)(a)(12).* Includes costs of research related to energy type projects approved under the authority of section 222(a)(12) of the EOA.

51. *Economic Development—Rural Development Finance (Title VII, Part C).* Includes costs associated with the development, testing and operation of rural financial support mechanisms in conjunction with loans from the Rural Development Loan Fund.

52. *Economic Development—Community Development Finance (Title VII, Part C).* Includes costs associated with the development, testing and operation of community financial support mechanisms in conjunction with loans from the Community Development Loan Fund.

53. *Energy—Demonstrations (222)(a)(12).* Includes costs associated with experimental, pilot, or demonstration projects which test new or approved approaches to solving the energy problems of the poor.

54. *Energy—T. & T.A. Seminars (222)(a)(12).* Includes costs associated with holding energy related T. & T.A. seminars for persons from two or more grantees. Such seminars should help grantees plan, conduct, and/or evaluate energy programs.

56. *Energy—T. & T.A. On-Site Assistance (222)(a)(12).* Includes the cost of providing energy related T. & T.A. services to specific grantee personnel at the grantees' location. Such services should help a specific grantee plan, conduct, and/or assess energy projects.

57. *Energy—T. & T.A. Other (222) (A)(12).* Includes any costs of a T. & T.A. nature related to energy which is not classified as services or on-site assistance in program accounts 54 and 56.

58. *Energy—Evaluation (222)(a)(12).* Includes costs associated with evaluation of energy projects approved under the authority of section 222(a)(12) of the EOA.

60. *Summer Recreation—Personnel (222)(a)(13).* Includes all personnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Nonpersonnel costs associated with this program are shown under Program Account 10.)

61. *Economic Development—Training and Technical Assistance (Title VII, Part D).* Includes training and technical assistance costs related to economic development projects approved under the authority of title VII, part D of the EOA.

63. *Economic Development—Special Impact (Title VII, Part A).* Includes costs associated with community development corporation projects approved under the authority of title VII, part A of the EOA.

64. *Special Assistance (234).* Includes costs associated with projects serving groups of low income individuals who are not being effectively served by other title II programs.

66. *Economic Development—Demonstration (Title VII, Part D).* Includes costs associated with pilot and demonstration activities approved under the authority of title VII, part D of the EOA.

67. *Economic Development—Research (Title VII, Part D).* Includes costs associated with research activities approved under the authority of title VII, part D of the EOA.

68. *Economic Development—Evaluation (Title VII, Part D).* Includes costs associated with evaluation activities approved under the authority of title VII, part D of the EOA.

69. *Economic Development—Planning Grants (Title VII, Part D).* Includes costs associated with economic development planning grants approved under the authority of title VII, part D of the EOA.

71. *Evaluation—Type I (Title IX).* Includes costs associated with national impact evaluation strategies approved under the authority of title IX.

73. *Evaluation—Type II (Title IX).* Includes costs associated with determining the relative effects of different program strategies, intervention techniques and administrative processes employed to implement a national program approved under the authority of Title IX.

75. *Evaluation—Type III (Title IX).* Includes costs associated with assessing the effectiveness and efficiency of individual grantees and projects.

78. *Evaluation—Other (Title IX).* Includes costs associated with assessment projects not included under program accounts 71, 73, and 75. Examples might include short-term studies that respond to policy—relevant questions.

80. *Energy—Emergency Energy Assistance (222)(a)(12).* Includes costs associated with a special one-time assistance program to provide immediate assistance in those crisis situations which endanger the health and survival of eligible low-income household members.

82. *Research (Title I); (232).* Includes costs associated with basic research and related evaluation conducted to provide meaningful information for formulating new programs and policies affecting the poverty population in program areas not included elsewhere. Specifically excluded are nutrition (29, 39, and 48) energy (50, 53, and 58) rural housing (31, 32, 33, 36, 37, and 38) economic development (67 and 68) and title IX (71, 73, 75, and 78).

84. *Demonstration (232).* Includes costs associated with pilot or demonstration projects designed to test or assist in the development of new approaches or methods which will aid CSA's poverty population.

98. *Program Administration.* Includes costs incurred by Federal employees for the overall direction, management, coordination and support of all CSA programs and related antipoverty programs of other Federal, State, and local agencies.

[FR Doc. 78-15818 Filed 6-7-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-22; amdt. 171-39]

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

Matter Incorporated by Reference

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the hazardous materials regulations is to update the reference in 49 CFR 171.7 to the International Maritime Dangerous Goods Code (IMCO Code) in order to recognize the 1977 Edition of the Code.

DATE: The effective date is September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Regulation,

2100 Second Street SW., Washington, D.C. 20590, phone 202-426-0656.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau finds it necessary in the public interest to amend the regulations in 49 CFR 171.7 to recognize the most recently published edition of the IMCO Code. The new edition, which has been expanded to four volumes, includes the material previously contained in the 1972 edition and all supplements published between 1972 and 1976 as well as several heretofore unpublished amendments. Since this rule does not impose additional requirements, notice and public procedure thereon are unnecessary. Primary drafters of this document are A. Louise Mills, Information Services Division, Office of Program Support and Edward A. Altemos, International Standards Coordinator, Office of Hazardous Materials Regulation.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended as follows:

In § 171.7 paragraph (d)(17) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(17) "International Maritime Dangerous Goods Code," volumes I, II, III, and IV, 1977 edition.

* * * * *

(49 U.S.C. 1803 and 1804; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on June 1, 1978.

L. D. SANTMAN,
Acting Director,
Materials Transportation Bureau.

[FR Doc. 78-15870 Filed 6-7-78; 8:45 am]

[4910-60]

[Docket No. HM-103/112; Amdt. No. 172-43]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS

Placarding Extension for Nurse Tanks

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This action provides a 30-day placarding extension for highway carriage of agricultural anhydrous ammonia in nurse tanks. The extension is due to a late corn planting season resulting from unusually wet soil. The extension is intended to avoid the necessity of removing nurse tanks from agricultural service for replacarding before fertilizing operations are essentially completed.

EFFECTIVE DATE: This amendment is effective on June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: By letter of May 22, 1978, the Fertilizer Institute, a national association representing about 90 percent of the fertilizer producers as well as certain associated interests, asked the Office of Hazardous Materials Regulation for a 30-day delay in the July 1, 1978 mandatory placarding compliance date (49 CFR 172.506(c), see HM-103/112, 42 FR 58522, November 10, 1977). The Institute states that a late planting season for corn, dictated by weather conditions, is likely to require the continued use of fertilizer nurse tanks into July, with the result that a July 1, 1978, compliance date will necessitate removal and replacarding of the tanks when they are needed in service. The Institute states that anhydrous ammonia distributors generally serve an area within a 15-mile radius of bulk storage facilities and that, the low speeds, limited distances, sparse rural populations and overall safety record associated with the highway transport of anhydrous ammonia nurse tanks indicate that a limited extension will not prejudice safety.

By letter dated May 25, 1978, the Acting Secretary of Agriculture also expressed similar concerns with probable conflict between the mandatory placarding compliance date and fertilizer needs resulting from late planting, urging that a delay until August 1, 1978, be considered.

The MTB has concluded that such an extension is in the public interest. Because of the limited time remaining before the new placarding requirements become effective, and since this extension is a relaxation of an existing requirement, public notice has not been provided and this amendment is effective without delay. The amendment will not result in any significant environmental or economic impact.

In consideration of the foregoing, Part 172 of Title 49, code of Federal Regulations, is amended as follows:

In § 172.506, a new paragraph (d) is added to read as follows:

§ 172.506 Providing and affixing placards: Highway.

* * * * *

(d) Until August 1, 1978, the provisions of paragraph (c) of this section continue to apply to any cargo tank (commonly known as a nurse tank and considered an implement of husbandry) transporting anhydrous ammonia, and operated by a private carrier exclusively for agricultural purposes.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on June 5, 1978.

L. D. SANTMAN,
Acting Director,
Materials Transportation Bureau.

[FR Doc. 78-15932 Filed 6-7-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 948, 980]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 3, VEGETABLES: IMPORT REGULATIONS

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Colorado—Area No. 3 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due June 23, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado Area No. 3 Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Greeley, Colo., on May 17, 1978.

The grade, size, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent potatoes of poor quality or undesirable sizes from being distributed to fresh market outlets. The specific proposals, hereinafter set forth, would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling would be handled without regard to maturity requirements since skinning of such potatoes would be of no consequence. Also, this year the maturity requirements terminate on December 31 because at that stage of the marketing season potatoes are generally mature with skins firmly set.

The proposal is as follows:

§ 940.379 Handling regulation.

During the period July 1, 1978, through June 30, 1979, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Grade and size requirements—All varieties.* U.S. No. 2 or better grade, 1⅞ inches minimum diameter of 4 ounces minimum weight. However, Size B may be handled if U.S. No. 1 or better grade.

(b) *Maturity (skinning) requirements—All varieties.* Through December 31, 1978, for U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned"; thereafter no maturity requirements.

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing, and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per day without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned," shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 2851.1540-2851.1566) including the tolerances set

forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 2852.2421-2852.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1978, through June 4, 1979, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: June 2, 1978.

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

[FR Doc. 78-15866 Filed 6-7-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211, 212]

SIMPLICATION OF CRUDE OIL PRICE CONTROLS

Extension of Comment Period

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that the time for submission of written comments in response to the advance notice of proposed ruelemaking and public hearing concerning simplification of crude oil price controls (43 FR 15158, April 11, 1978) is extended from May 26, 1978, to June 16, 1978, to permit more detailed evaluation of the issues set forth in the notice. Although the extension is being granted primarily to receive comments on the legality of suspending or abolishing ceiling prices, interested parties are invited to comment in further detail on any of the issues which were raised during the hearings, or on any additional information of value to the subject of the Inquiry. Public hearings on the proposal were held in Houston, Tex., on May 22, 1978, and in Washington, D.C., on May 24-25, 1978.

DATE: June 16, 1978.

ADDRESS: Department of Energy, Public Hearing Management, Room 2310, 2000 M Street NW., Box SR, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert G. Gillette (Public Hearing Management), Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Stephen W. Hall (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 8222, Washington, D.C. 20461, 202-632-8494.

Samuel M. Bradley (Office of General Cousel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C., 20461, 202-566-9565.

Issued in Washington, D.C., June 2, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-15891 Filed 6-7-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17932]

AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Model SA 330 Puma Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require inspection and replacement or modification, as appropriate, of the yaw control lever bellcrank on certain Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA 330 Puma Helicopters. The AD is needed to prevent cracking of the bellcrank which could result in loss of control of the helicopter.

DATES: Comments must be received on or before: August 8, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17932, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletins may be obtained from: Societe Nationale Industrielle Aerospatiale, Division Helicopteres, Service Technique Apres-Vente, Boite Postale 13, 13722 Marignane, France.

Copies of the service bulletins are contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, 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.

It has been determined that the support bellcrank, P/N 330A.77.4011.01, of SNIAS Model SA 330 Puma helicopters is susceptible to cracking in the area of attachment to the yaw control lever. If uncorrected, such cracking could result in failure of the bellcrank and loss of yaw control. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require inspection and replacement or modification, as appropriate, of the bellcrank on SNIAS Model SA 330 Puma helicopters.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe,

Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

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:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (SNIAS). Applies to Model SA 330 Puma helicopters, S/N 1504 and below, certificated in all categories, having yaw control bellcranks P/N 330A.77.4011.01 that have been modified in accordance with SNIAS Modification AMS 07.10.226 but not modified in accordance with AMS 07.11.890.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the yaw control bellcrank, P/N 330A.77.4011.01, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, or prior to the accumulation of 1,200 hours total time in service, whichever occurs later, inspect the tubular section of the yaw control bellcrank, P/N 330A.77.4011.01, for cracks in accordance with Puma SA 330 Service Bulletin No. 05.50, dated March 22, 1977, or an FAA-approved equivalent.

(b) If during any inspection required by this AD, a cracked bellcrank is found, replace the bellcrank with a serviceable part of the same part number.

(c) After the initial inspection required by paragraph (a) of this AD, continue to inspect all yaw control bellcranks, and all replacements that have accumulated 1,200 or more hours total time in service, in accordance with paragraph (a) of this AD after the last flight of each day in which the helicopter is operated.

(d) The repetitive inspections required by paragraph (c) of this AD may be discontinued upon the incorporation of a serviceable bellcrank, P/N 330A.77.4011.01, that has been modified in accordance with Puma SA 330 Service Bulletin No. 67.10, dated March 22, 1977, or an FAA-approved equivalent.

NOTE.—The modification covered in Service Bulletin No. 67.10 corresponds to Puma Modification AMS 07.11.890.

(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 May 26, 1978.

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

[FR Doc. 78-15561 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 78-NW-13-AD]

AIRWORTHINESS DIRECTIVES

Hiller Aviation Model UH-12D and UH-12E Helicopters as Modified by Soloy Conversions, Limited STC Nos. SH177WE and SH178WE Respectively

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, if necessary, of P/N 560-2408 drive shaft assemblies installed in the Soloy/Hiller UH-12D/E helicopters. The proposed AD is necessary to require removal from service those drive shafts which were installed without having been internally cadmium plated. Internal corrosion of these unplated shafts could lead to shaft failure with resultant helicopter structural and control system damage.

DATES: Comments must be received on or before August 1, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-13-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Daniel I. Cheney, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, 206-767-2520.

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. Cummunications 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.

The FAA has determined that corrosion of the P/N 560-2408 engine-to-transmission drive shafts, which were installed without having been internally cadmium plated, could lead to shaft failure and resultant extensive helicopter structural and control system damage. Since this condition is likely to exist or develop on drive shafts of the same type design, the proposed AD would require inspection, modification and replacement as appropriate of all P/N 560-2408 drive shafts installed on Soloy/Hiller UH-12D and UH-12E helicopters.

DRAFTING INFORMATION

The principle authors of the document are Daniel I. Cheney, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

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

HILLER AVIATION: Applies to Model UH-12D and UH-12E helicopters which have been converted to turbine power in accordance with Soloy Conversions, Limited, STC Nos. SH177WE and SH178WE respectively, certificated in all categories. Compliance required as indicated unless already accomplished.

To reduce the possibility of drive shaft failure due to internal corrosion and subsequent helicopter structural and control system damage, accomplish the following:

A. Within the next 600 hours time in service, or 6 months calendar time, whichever occurs first after the effective date of this AD, perform the inspection and modification and/or replacement, as appropriate, of the Soloy P/N 560-2408 shaft in accordance with Soloy Conversions, Limited Service Bulletin 05-560 dated May 19, 1978, or later FAA approved revisions.

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

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

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

Issued in Seattle, Wash., on May 26, 1978.

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

[FR Doc. 78-15562 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 17937]

AIRWORTHINESS DIRECTIVES

Agusta Model A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require the installation of nuts of improved design on the tailboom attachment bolts of Costruzioni Aeronautiche Giovani Agusta Model A109A helicopters. The AD is prompted by the reported failure of a nut, which possibly could result in excessive deflection of the tailboom and in-flight contact with the main rotor blades.

DATE: Comments must be received on or before August 8, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 17937, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovani Agusta, Cascina Costa (Gallarate), Italy.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, 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 sumarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

There has been a report of the failure of a tailboom attachment nut, MS 21042-L6, that is installed on Agusta Model A109A helicopters. The failure of these nuts could result in excessive deflection of the tailboom and possible in-flight contact with the main rotor blades. Since this condition is likely to exist or develop on other Agusta Model A109A helicopters, the proposed AD would require replacement of the nut with an improved nut, 42-FLW-624.

Drafting Information

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

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:

Costruzioni Aeronautiche Giovani Agusta. Applies to Model A109A helicopters, certificated in all categories, serial No. 7135 and below.

Compliance is required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

To prevent possible failure of the tailboom attachment provisions, remove the nut, MS 21042-L6, the bolt, NAS 626-20, and washers, MS 20002-C6 and AN960-616, and replace with a new nut, 42-FLW-624, bolt, NAS 626-20, washer, MS 20002-C6, and, as needed, one or more washers, AN960-616 and AN960-616L, in accordance with Agusta Bollettino Tecnico No. 109-8, dated February 6, 1978, or an FAA-approved equivalent.

(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 11.85.)

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 May 31, 1978.

James M. Vines,
Acting Director,
Flight Standards Service.

[FR Doc.78-15874 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 17938]

AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault—Breguet Aviation Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require modification of the Freon air conditioning system electrical starting circuit on certain Avions Marcel Dassault-Breguet Aviation Falcon 10 airplanes. This AD is needed to prevent overheating of the Freon system compressor motor starting resistor. An overheated starting resistor could be an ignition source to flammable fluids or vapors which could be present in the vicinity of the resistor.

DATE: Comments must be received on or before August 8, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 17938, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Falcon Jet Corp., 90 Moonachie Avenue, Moonachie, N.J. 07074.

A copy of the service bulletin is contained in the rules docket, room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: 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 date specified above, 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 a significant number of Falcon 10 Freon system compressor motor starting resistors overheating and failing in service due to the demanding duty cycle of the compressor motor under certain conditions. The Freon system starting resistor is located in the airplane aft accessory compartment and under an overheat condition could provide an ignition source to flammable fluid or vapors in the event of a flammable fluid line or fitting leak. Since this resistor overheating condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require modification of the compressor motor starting circuit to automatically prevent overheat of the starting resistor.

DRAFTING INFORMATION

The principal authors of this document are P. A. Cormaci, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

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:

AVIONS MARCEL DASSAULT-BREGUET AVIATION (AMD-BA). Applies to Falcon 10 airplanes, certificated in all categories, serial Nos. 1 throught 111, except serial Nos. 22, 33, and 35.

Compliance is required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the possibility of a fire caused by the Freon air conditioning compressor motor starting resistor overheating, modify the compressor motor starting circuit in accordance with AMD-BA Service Bulletin F10-0162, dated, December 6, 1977, and Rev. 1, dated March 20, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(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 11.85.)

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 May 31, 1978.

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

[FR Doc. 78-15875 Filed 6-7-78; 8:45am]

[4910-13]

[14 CFR Part 39]

[Docket No. 17939]

AIRWORTHINESS DIRECTIVES

Agusta Model A109 and A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require inspections and replacement of the tail rotor drive shaft hanger bearing support bracket on Costruzioni Aeronautiche Giovanni Agusta Model A109 and A109A helicopters. The AD is needed because the affected bracket is subject to cracking which could result in the failure of the tail rotor.

DATE: Comments must be received on or before August 8, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 17939, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: 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 date specified above, 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.

It has been determined that the tail rotor drive shaft hanger bearing support, P/N 109-0370-02-1, on Agusta Model A109 and A109A helicopters is subject to cracking which could result in the failure of the tail rotor. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require repetitive inspections and replacement of the affected bracket on Agusta Model A109 and A109A helicopters.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

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:

Costruzioni Aeronautiche Giovanni Agusta. Applies to Model A109 and A109A helicopters, serial No. 7109 and below, certificated in all categories, incorporating tail rotor drive shaft hanger bearing support P/N 109-0370-02-1.

Compliance is required as indicated, unless already accomplished.

To prevent a possible tail rotor failure, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, and thereafter after the last flight of each day in which the helicopter is operated, inspect the tail rotor drive shaft hanger bearing support bracket, P/N 109-0370-02-1, for cracks in accordance with part I of the "Accomplishment" paragraph of Agusta Bollettino Tecnico No. 109-2, dated April 14, 1976, including Rev. A dated May 11, 1976, or an FAA-approved equivalent (hereinafter referred to as Service Bulletin).

(b) If a crack is found during an inspection required by paragraph (a) of this AD, before further flight, except as provided in paragraph (d) of this AD, replace the affected bracket with—

(1) A serviceable bracket of the same part number, and continue to inspect in accordance with paragraph (a) of this AD after the last flight of each day in which the helicopter is operated; or

(2) A new support bracket, P/N 109-0370-12-1, in accordance with Part II of the "Accomplishment" paragraph of the Service Bulletin.

(c) Within the next 100 hours time in service after the effective date of this AD, replace support bracket, P/N 109-0370-02-1 with a new bracket, P/N 109-0370-12-1, in accordance with part II of the "Accomplishment" paragraph of the Service Bulletin. The repetitive inspections required by paragraphs (a) and (b)(1) of this AD may be discontinued upon the installation of a support bracket, P/N 109-0370-12-1, in accordance with this AD.

(d) Helicopters may be flown in accordance with FAR 21.197 and 21.199 to a base where the required work can be performed.

(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 11.85.)

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 May 31, 1978.

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

[FR Doc. 78-15876 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-30]

CONTROL ZONE AND TRANSITION AREA: WILMINGTON, DEL.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed rulemaking.

SUMMARY: This notice proposes to alter the Wilmington, Del., Control Zone and Transition Area, over Greater Wilmington Airport and summit Airpark, Wilmington, Del. These alterations are necessary due to a revision to VOR RWY 9 instrument approach to Greater Wilmington Airport and other prescribed approach procedures for both airports. The change to the instrument approach procedures require the alteration of the controlled airspace to protect instrument aircraft utilizing the instrument approaches.

DATES: Comments must be received on or before July 10, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties 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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before July 10, 1978, will be considered before action is taken on the proposed amendment. The proposals 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, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

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 F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Wilmington, Del., Control Zone and Transition Area. The control zone will be altered by eliminating the presently designated easterly and westerly control zone extensions. The transition area alteration will result in an increase in the length of the westerly extension by 6 miles and an increase in the width of the extension from a total width of 7 miles to 10 miles. The easterly extension will be increased from 7 miles to 10 miles in total width.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Wilmington, Del., Control Zone and by inserting the following in lieu thereof:

Within a 6-mile radius of the center 39°40'42" N., 75°36'27" W. of Greater Wilmington Airport, Wilmington, Del.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Wilmington, Del., 700-foot floor transition area and by inserting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center 39°40'42" N., 75°36'27" W. of Greater Wilmington Airport, Wilmington, Del., extending clockwise from a 270° bearing to a 030° bearing from the airport; within a 10-mile radius of the center of Greater Wilmington Airport, extending clockwise from a 030° bearing to a 270° bearing from the airport; within 5 miles each side of the New Castle, Del., VORTAC 281° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles each side of the New Castle, Del., VORTAC 111° radial, extending from the VORTAC to 11 miles east of the VORTAC; within a 5-mile radius of the center 39°31'17" N., 75°43'17" W. of Summit Airpark Airport, Middletown, Del.; within 2.5 miles each side of a line bearing 345° from a point 39°23'36" N., 75°40'36" W., extending from said point to the 5-mile radius area centered on Summit Airpark Airport and within 3 miles each side of a 234° bearing from the Greater Wilmington Airport ILS RWY 1 LOM, extending from the Summit Airpark Airport 5-mile radius area to 13 miles southwest of the LOM.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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, New York, on May 15, 1978.

LOUIS J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-15745 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-22]

TRANSITION AREA: LAKE CHARLES, LA.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this action is a proposal to alter the Lake Charles, La. transition area. The intended effect of this action is to provide additional controlled airspace for aircraft executing an instrument approach

procedure to the McFillen Airpark, Lake Charles, La. The circumstance which created the need for this action was the development of a very high frequency omnidirectional range station (VOR) standard instrument approach procedure to the McFillen Airpark. Coincident with the alteration of the transition area, the airport status will be changed from VFR to IFR.

DATE: Comments must be received on or before July 10, 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:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (43 FR 440) of FAR Part 71, the description of Lake Charles, La., transition area reflects the controlled airspace designed for aircraft executing instrument approach procedures to the Lake Charles and East Lake Charles Airports. The VOR instrument approach procedure to the McFillen Airpark will require alteration of the transition area to provide the necessary additional controlled airspace for aircraft executing this approach procedure.

Comments Invited

Interested persons may submit such written data, views or arguments as they may desire. Commuications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101. All communications received on or before July 10, 1978 will be considered before action is taken on the proposed amendment. No public hearing is contemplanted 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 Lake Charles, La., transition area. The FAA believes this action will enhance IFR operations at the McFillen Airpark by providing additional controlled airspace for aircraft executing the instrument approach procedure established for the airpark. 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 John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) altering the Lake Charles, La., transition area with the addition of the following wording at the end of the transition area description:

* * *

and within a 4-mile radius of McFillen Airpark (latitude 30°08'10" N., longitude 93°10'58" W.).

(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)).)

(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 May 25, 1978.

Henry L. Newman,
Director, Southwest Region.

[FR Doc. 78-15747 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-15]

TRANSITION AREA, OGALLALA, NEBR.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Ogallala, Nebr. 1,200 foot transition area within the state of Colorado to provide controlled airspace for aircraft executing the new VOR standard instrument approach developed for the Searle Airport, Ogallala, Nebr.

DATE: Comments must be received on or before July 10, 1978.

ADDRESS: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Airspace Specialist, Operations, Procedures and Airspace Branch (ARM-537), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed ruelmaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communictions received 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 Regional Air Traffic Division Chief. Any data, views, or argu-

ments 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.

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 procedure.

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 Ogallala, Nebr. 1,200 foot transition within the state of Colorado. The present transition area is inadequate to contain the new VOR instrument approach to the Searle Airport, Ogallala, Nebr. It is proposed to make the transition area's alteration effective coincident with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of the Federal Aviation Regulations Part 71 (14 CFR Part 71) as follows:

By amending 71.181 so as to alter the following transition to read:

OGALLALA, NEBR.

* * * and that airspace within the state of Colorado extending upward from 1,200 feet above the surface within 9.5 miles south of Ogallala VOR 258 radial extending to 18.5 miles west.

DRAFTING INFORMATION

The principal authors of this document are Mr. Jospeh T. Taber, Air Traffic Division, and Mr. Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

The 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 Econcomic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colo. on May 23, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-15748 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-21]

TRANSITION AREA: BOISE CITY, OKLA.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Boise City, Okla., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Boise City Airport using the Thorp, Okla., navigational aid (NDB) to be located south of the airport.

DATES: Comments must be received on or before July 10, 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: 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 Boise City, Okla., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested parties 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 July 10, 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 designate a transition area at Boise City, Okla. The FAA believes this action will enhance IFR operations at the Boise City Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the Thorp NDB to be located south of 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 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 Boise City, Okla., transition area as follows:

BOISE CITY, OKLA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Boise City Airport, Boise City, Okla.; within 3.5 miles each side of a 225° bearing from the Thorp NDB (latitude 36°45'19" N., longitude 102°32'04" W.) extending from the 6-mile radius to 11.5 miles southwest 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 doument 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 May 25, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-15746 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-11]

SAGINAW, MICH.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Saginaw, Mich., to accomodate a new VOR/DME instrument approach procedure into the Browne Airport on the basis of a request from the Harry W. Browne Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to ensure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATE: Comments must be received on or before July 14, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-11, 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 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to ensure 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-11, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before June 26, 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 Saginaw, Mich. 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 Divison, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, 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 addition should be made to the existing Saginaw, Mich. transition area:

SAGINAW, MICH.

That airspace extending upward from 700' above the surface within a 5.5 mile radius of the Harry W. Browne Airport (latitude 43°25'58" N longitude 83°51'43" N), excluding that portion presently designated for the Clements Airport and the Tri-City Airport.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section, 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 May 25, 1978.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc. 78-15873 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 78-WE-7]

OCEANSIDE, CALIF.

Proposed Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The notice proposes to alter Restricted Area R-2533 by subdividing the area as R-2533A and R-2533B. The redesignation of R-2533 would permit better utilization of the airspace near Oceanside, Calif., Airport and allow the use of lower altitudes on V-208 and V-458.

DATES: Comments must be received on or before July 5, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-7, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

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.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, 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 Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before July 5, 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 Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Area R-2533. This alteration would subdivide R-2533 into R-2533A and R-2533B and the present boundary dimensions of R-2533 would remain the same. The redescription of the Restricted Area would permit the use of 2,000 feet MSL as the initial approach altitude to Oceanside Airport and permit en route aircraft to use 3,000 feet MSL on V-208 and V-458. Subpart B of Part 73 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 659).

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, 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 § 73.25 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 667) as follows:

R-2533 Oceanside, Calif., would be redescribed as follows:

R-2533A OCEANSIDE, CALIF.

Boundaries. Beginning at Lat. 33°20'00" N., Long. 117°30'00" W.; to Lat. 33°18'20" N., Long. 117°21'28" W.; to Lat. 33°17'30" N., Long. 117°16'40".; to Lat. 33°13'20" N., Long. 117°29'00" W.;

thence 3 nautical miles from and parallel to the shoreline to Lat. 33°19'20" N., Long. 117°35'05" W.;

thence to point of beginning.

Designated altitudes. Surface up to but not including 2000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, El Toro RATCF.

Using agency. Commanding General, Marine Corps Base (MCB), Camp Pendleton, Calif.

R-2533B Oceanside, Calif.

Boundaries. Beginning at Lat. 33°27'48" N., Long. 117°33'15" W.; to Lat. 33°18'20" N., Long. 117°21'48" W.; to Lat. 33°20'00" N., Long. 117°30'00" W.; to Lat. 33°19'20" N., Long. 117°35'05" W.;

thence 3 nautical miles from and parallel to the shoreline to Lat. 33°22'30" N., Long. 117°39'45" W.;

thence to point of beginning.

Designated altitudes. Surface to 2,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, El Toro RATCF.

Using agency. Commanding General, Marine Corps Base (MCB), Camp Pendleton, Calif.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transporation 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 Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 30, 1978.

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

[FR Doc. 78-15560 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 78-SO-20]

MANTEO, N.C.

Proposed Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to relocate Restricted Area R-5302 northward approximately 4 miles. This action would return airspace for public use and would widen the access corridor to the Manteo, N.C. Airport, thereby improving flight safety.

DATE: Comments must be received on or before July 10, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-20, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

Send comments on environmental aspects to: Captain D. C. Coleman, C. O. FACSFAC VACAPES, NAS Oceana, Va. 23460, telephone 804-435-2852.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), room 916, 800 Independence Aveune SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, 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 Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before July 10, 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 person.

AVAILABILITY OF NPRM

Any person may obtain a copy of the 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 Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would relocate Restricted Area R-5302 northward approximately four miles. This action would return to public use airspace west of Manteo, NC., Airport. The additional airspace would provide more maneuvering area for general aviation aircraft transitioning to/from the Manteo Airport. Currently, these aircraft must maneuver through a two-mile wide corridor between R-5302 and R-5314. The proposed action would increase this corridor width to six miles. The using agency (Fleet Area Control and Surveillance Facility (FACSFAC) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Comments on any land use problem can be addressed to Capatin D. C. Coleman, C. O. FACSFAC VACAPES, NAS Oceana, Va. 23460. Subpart B of Part 73 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 659).

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, 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 Part § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 697) as follows:

R-5302, Albemarle Sound, N.C., would be redescribed as follows:

R-5302 HARVEY POINT, N.C.

Boundaries. Beginning at Lat. 36°06'30" N., Long. 76°20'00" W.; to Lat. 36°05'25" N., Long. 76°17'00" W.; to Lat. 36°03'30" N., Long. 76°05'30" W.; to Lat. 36°00'00" N., Long. 76°05'30" W.; to Lat. 36°00'00" N., Long. 76°15'00" W.; to Lat. 36°00'30" N., Long. 76°20'00" W.; thence clockwise via a 3 NM arc centered at Lat. 36°03'30" N., Long. 76°20'00" W.; to point of beginning, excluding the airspace within R-5301A, B, or C, when either or all of these areas are activated.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. 1300Z to 0400Z.

Controlling agency. Federal Aviation Administration, Washington ARTC Center, Leesburg, Va.

Using agency. Fleet Area Control and Surveillance Facility (FACSFAC), NAS, Oceana, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 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 Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 31, 1978.

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

[FR Doc. 78-15758 Filed 6-7-78; 8:45 am]

[4910-13]

[14 CFR Part 75]

[Airspace Docket No. 78-RM-3]

BOULDER CITY, NEV.-FARMINGTON, N. MEX.

Proposed Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of Jet Route No. 110 from Boulder City, Nev., direct to Farmington, N. Mex., rather than via Tuba City, Ariz. This new route is presently used as a vector route for aircraft landing at Las Vegas, Nev. The present routing of J-110 would remain as J-64 from Farmington to Tuba City, and as J-76 from Tuba City to Boulder City. By designating the current vector route as J-110, the coordination and communication time required for its use would be reduced.

DATES: Comments must be received on or before July 10, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 78-RM-3, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

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.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, 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:

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, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before July 10, 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 rule making (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 Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would designate a new jet route segment by realigning J-110 from Boulder City direct to Farmington. This route is used as a vector route to help reduce traffic congestion caused by the combination of en route and terminal traffic in the Las Vegas, Nev., area. J-110 currently has dual designation with J-76 from Boulder City to Tuba City and with J-64 from Tuba City to Farmington. J-64 and J-76 would remain in their present positions in this area. The proposed action would reduce the time required for

communication and coordination required to use the direct route.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, 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 § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) as follows:

Under Jet Route No. 110, "Tuba City, Ariz.;" is deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 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 Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 31, 1978.

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

[FR Doc. 78-15759 Filed 6-7-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 909-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Revisions to Regulation 7, Open Burning, and Regulation 9, Dust and Odor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of revisions to Regulations 7 and 9 of the Massachusetts State Implementation Plan (SIP). Regulation 7, Open Burning, is revised to permit open burning of brush, cane, driftwood, and forestry debris under certain conditions for two months of the year. The presently approved SIP does not permit open burning of these materials. Regulation 9, Dust and Odor, is revised by adding a requirement that mechanized street sweeping equipment be equipped and operated with a suitable dust collection or suppression system.

DATES: Comments must be received on or before July 10, 1978.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, J.F.K. Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Mass. 02111. Comments should be submitted to the Regional Administrator, Region I, Environmental Portection Agency, Room 2203, J.F.K. Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

Deborah Ikehara, Air Branch, EPA Region I, Room 2113, J.F.K. Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted revisions to Regulations 7 and 9 of the State Implementation Plan (SIP). The proposed revisions are applicable to all Air Pollution Control Districts (APCD's) in the state.

Regulation 7, Open Burning, of the presently approved SIP prohibits open burning of any combustible material, except for certain purposes and under specific conditions. Permissible open burning includes that conducted for cooking purposes, for training or research in fire protection or prevention, and for combating or backfiring an existing fire; open burning associated with the normal pursuit of agriculture, with agricultural land clearing, and with disposal of fungus-infested elm wood; open burning related to the operation of blowtorches and welding torches; and that necessary for the disposal of combustible material for which no suitable alternative method of disposal is available. Any such burning is not to be conducted during periods of adverse meterological conditions. Where applicable, smoke minimizing starters must be used, and a properly executed permit must be obtained under the provisions of section 13, Chapter 48 of Massachusetts General Laws. Creation of nuisance conditions is prohibited.

The revision adds as another permitted activity to open burning of brush, cane, driftwood, and forestry debris. Such burning is limited to the period from March 1 to May 1 of each year in the Berkshire APCD and from January 15 to March 15 of each year in the other APCD's. Open burning of grass, hay, leaves, and stumps, however, is specifically prohibited by this provision, and no open burning of brush, cane, driftwood, and forestry debris will be permitted in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Chicopee, Everett, Fall River, Fitchburg, Holyoke, Lawrence, Lowell, Malden, Medford, New Bedford, Newton, Pittsfield, Sommerville, Springfield, Waltham, Watertown, West Springfield, and Worcester. The conditions applicable to presently permitted open burning activities will also apply to the new activity. In addition, open burning of the proposed materials must be conducted on land proximate to the place of generation, 75 feet from any dwelling, and between 10 a.m. and 4 p.m.

Finally, the revision adds a specific prohibition against conducting open burning at any refuse disposal facility. This provision is consistent with Regulation 13 of the Regulations for the Disposal of Solid Waste by Sanitary Landfill, effective April 21, 1971, as well as with recently proposed revision to the sanitary landfill regulations.

The conditions under which the proposed open burning must be conducted were developed by the Massachusetts Department as safeguards to minimize the impact of open burning on total suspended particulate (TSP) Levels. Since open burning of the proposed materials is prohibited in those areas with violations of the National Ambient Air Quality Standards (NAAQS) for TSP, the violations will not be exacerbated. The other conditions specified in the regulation are included to ensure adequate dispersion of particulate emissions and to prevent fire hazards and nuisance conditions.

Regulation 9, Dust and Odor, of the presently approved SIP prohibits air pollution resulting from dust and odor generating operations and from handling, transportation, or storage of materials. Reasonable measures are required to prevent airborne particulate matter from construction, use, repair, or demolition of buildings, roads, driveways or open areas.

The regulation is revised by adding a requirement that mechanized street sweeping equipment be equipped and operated with a suitable dust collection or suppression system. The proposed regulation specifies that the system be maintained in good operating condition.

The Massachusetts Department is proposing the revision to Regulation 9 on the basis of observations and special studies which show that street sweeping operations can have a significant adverse impact on local air quality. Although street sweeping is considered a potential control measure for reducing high TSP levels resulting from reentrained road dust, it can in fact contribute to high TSP levels and cause local nuisance conditions when

the dust control system with which virtually all of the mechanized street sweepers in the state are equipped, is not operated.

The Regional Administrator believes that the proposed revisions to Regulations 7 and 9 will not interfere with the attainment and maintenance of the NAAQS for TSP, and proposes that these revisions be approved as part of the Massachusetts SIP.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2) (A)-(H) and 110(a)(3)(A) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: May 26, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 15944 Filed 6-7-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 906-5]

VIRGINIA STATE IMPLEMENTATION PLAN

Proposed Revision

AGENCY: Environmental Protection Agency

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia submitted amendments to the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as a revision of the Virginia State Implementation Plan (SIP). The amendments consist of changes to Part II, Part V and Part VI of the Virginia Regulations for the Control and Abatement of Air Pollution.

DATE: Public comments must be received on or before July 10, 1978.

ADDRESSES: Copies of the proposed revision and accompanying support material are available for public inspection during normal business hours at the following locations: United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, Attention: Mr. Harold Frankford, phone 215-597-8392; Virginia State Air Pollution Control Board, Room 1106—Ninth Street Office Building, Richmond, Va. 23219, Attention: Mr. John Daniel, Jr. P.E.; and Public Information Reference Unit, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to: Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, Attention: AH013VA.

FOR FURTHER INFORMATION CONTACT:

Mr. George Bonina (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, phone 215-597-8173.

SUPPLEMENTARY INFORMATION: On August 31, 1977, the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Virginia air pollution control regulations and requested that they be reviewed and processed as a revision of the Virginia State Implementation Plan (SIP). The amendments consist of the following changes:

1. *Amendments to Part II (Permits—Stationary and Indirect Sources), Section 2.33.* The Commonwealth of Virginia requests that paragraph (h) of this section, previously proposed as a revision of the Virginia SIP (42 FR 16442), be further revised to allow permits to construct or modify stationary sources or indirect sources of air pollution to become invalid if: (1) Construction of a permitted source has not commenced within twenty-four (24) months of the permit's issuance, or (2) construction or modification is discontinued for a period of twelve (12) or more months. An additional provision to Section 2.33(h) proposed as a revision to the Virginia SIP would allow the Virginia State Air Pollution Control Board to extend a permit beyond 24 months upon a satisfactory showing that an extension is justified. The approved Virginia SIP contains no provisions under which a permit would be revoked or declared invalid.

In response to comments from the July 18, 1977 public hearing, as well as EPA comments, the Commonwealth has also submitted parameters for a "control strategy demonstration." These differ from the usual air quality analysis performed for regulatory SIP revisions. Rather, the "demonstration" consists of an assurance that for each permit request subject to the provisions of Section 2.33(h), the Commonwealth will require an air quality analysis according to certain stated criteria prior to the issuance or renewal of a permit. This procedure will ensure that construction or modification of a source will not interfere with attainment and maintenance of National Ambient Air Quality Standards.

2. *Amendments to Part V (New and Modified Sources).* Section 5.31 (Designated Standards of Performance) has been amended to adopt, by reference, EPA revisions of the current New Source Performance Standard for fossil-fuel fired steam generators (40 CFR Part 60), as well as EPA Performance Specifications Nos. 1 and 2 for monitoring emissions.

3. *Amendments to Part VI (Hazardous Air Pollutant Sources).* Section 6.11 (Designated Emission Standards) has been amended to adopt by reference an EPA revision (40 CFR Part 61) of the current hazardous air pollutant standard for asbestos.

The Commonwealth submitted proof that hearings regarding these amendments as required by 40 CFR 51.4 were held simultaneously on July 18, 1977 in Richmond, Abingdon, Radford, Lynchburg, Fredericksburg, Virginia Beach and Falls Church.

The Region III office of EPA has received fifty-two letters of opposition to the proposed amended change to Part II from citizens in the Hampton Roads Intrastate Air Quality Control Region. EPA is soliciting additional public comments on whether the amendments to the Virginia Regulations for the Control and Abatement of Air Pollution should be approved or disapproved as revisions of the Virginia SIP. All comments received on or before July 10, 1978 will be considered.

The Administrator's decision to approve or disapprove this proposed plan revision will further be based on whether these amendments meet the requirements of section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

All comments should be addressed to: Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, Attention: AH013VA.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: May 25, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-15967 Filed 6-7-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 908-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Massillon State Hospital in Massillon, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: United States Environmental Protection Agency (U.S. EPA) proposes to issue an administrative order to Massillon State Hospital. The order requires the hospital, a facility of the Ohio Department of Mental Health and Mental Retardation, to bring air emissions from its boiler house (the source) at Massillon, Ohio, into compliance with certain regulations contained in the federally approved Ohio implementation plan. Because the hospital is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments and requests for a public hearing must be received on or before July 10, 1978.

ADDRESSES: Comments and requests for a public hearing should be submitted to Mr. James O. McDonald, Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael G. Smith, Enforcement Attorney, at the above address or phone 312-353-2082.

SUPPLEMENTARY INFORMATION: The Massillon State Hospital, a facility of the Ohio Department of Mental Health and Mental Retardation, operates coal-fired boilers in a powerplant located at Massillon, Ohio.

The source is subject to the Ohio implementation plan regulation AP-3-11. This regulation governs the emission of particulate matter and is part of the federally approved State implementation plan. The order requires final compliance with this regulation by July 1, 1979, and the source has consented to the terms of the order.

This Agency believes that the proposed order satisfies the applicable requirements of section 113(d) of the Act. If the order is issued, source compliance with its terms would preclude further U.S. EPA enforcement against this source for violation of the regulation covered by the order while the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received on or before July 10, 1978, will be considered in determining whether U.S. EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. Final action on the order will be published in the FEDERAL REGISTER.

After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA.

A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days prior notice of the time and place of the hearing has been given in the FEDERAL REGISTER.

(Statutory authority: Sec. 113(d) (1), (2) and (4), of (42 U.S.C. 7413).)

Dated May 3, 1978.

GEORGE R. ALEXANDER, JR.,
Regional Administrator, U.S. Environmental Protection Agency, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

I. By adding section 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (2), and (4) of the Act.

[Order No. ——]

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Massillon State Hospital, Massillon, Ohio, Order No.——.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. Massillon State Hospital ("MSH") is a mental health facility located in Massillon, Stark County, Ohio, which is operated by the Ohio Department of Mental Health and Mental Retardation.

2. MSH owns and operates three (3) coal-fired boilers which provide all of the steam and heating requirements of the hospital. Such boilers are labelled as follows:

OEPA source No.	MSH source identification No.	Rated maximum capacity
B001	Boiler No. 3.	33×10^6 Btu (22,000 lbs steam/hr).
B002	Boiler No. 4.	Do.
B003	Boiler No. 5.	47×10^6 Btu (28,000 lbs steam-hr).

3. On November 15, 1976, the United States Environmental Protection Agency ("U.S. EPA") issued notice of violation EPA-5-77-A-10, pursuant to section 113(a)(1) of the Act, to MSH upon a finding that the sources were in violation of Ohio implementation plan regulation AP-3-11, which regulation is a part of the applicable Ohio implementation plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility, and confirmed by data submitted to Ohio Environmental Protection Agency ("Ohio EPA") and its local agency, the Air Pollution Control Division of the Canton City Health Department ("Canton"), which data was made available to U.S. EPA.

4. Said violation has extended beyond the 30th day after issuance to MSH of the November 15, 1976, notice of violation, and said sources are not now in compliance with Ohio implementation plan regulation AP-3-11.

5. Data available to U.S. EPA discloses further that the sources listed in finding two (2), supra, have been and currently are in violation of Ohio implementation plan regulation AP-3-07.

6. Ohio implementation plan regulation AP-3-11(A)(3) requires that the sources designated in finding two (2), supra, be aggregated together for purposes of determining the maximum allowable amount of particulate matter which may be emitted at any time from any one of the sources individually. That maximum allowable amount of particulate matter emissions from said sources is 0.19 lbs. per million Btu heat input.

7. Sources B001, B002, and B003 are the only currently available means by which MSH can meet its stem requirements. The sources are unable to immediately comply with AP-3-07 and AP-3-11.

8. The peak steam load requirement of MSH, which usually occurs during the winter heating season, is 50,000 pounds of steam per hour.

9. MSH has instituted a compliance program under which it will install particulate removal devices on sources B001, B002, and B003. In addition, MSH plans to upgrade or rebuild the stokers, forced draft fans, fire boxes, over-fire air systems, combustion control systems, and other items, of each source.

10. The compliance program described in paragraph 9 can be completed by or prior to July 1, 1979.

11. The compliance provisions specified in the following order are technically feasible and economically reasonable.

12. MSH has expressed its intent to utilize coal of a sufficiently low sulfur content to maintain its compliance with the federally promulgated sulfur dioxide regulations.

13. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the hospital, and on April 20, 1977, an enforcement conference was held.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, *It is hereby ordered:*

ORDER

1. That Massillon State Hospital ("MSH") shall comply with the Ohio implementation plan regulations by abating particulate emissions from the sources in accordance with the following schedule and compliance provisions on or before the date specified herein:

A. The maximum steam load shall be 50,000 lbs./hr. and shall be provided by the simultaneous operation of no more than two of the three sources.

B. Compliance with Ohio implementation plan regulations AP-3-07 and AP-3-11 shall be achieved by the installation of particulate removal devices on all three sources. The particulate removal devices shall be designed to attain and maintain compliance at all times regardless of the combination of sources utilized, and during all steam load conditions.

C. The emission restrictions for particulate matter from each of the sources listed in paragraph two (2) of the findings, supra, shall be based on the aggregated capacities of all three boilers and, pursuant to AP-3-11(A)(3), shall be 0.19 lbs./10^6 Btu heat input, which shall be met by each operating source at all times. MSH shall not operate any combination of sources in excess of 50,000 lbs./hr. steam production and shall report any violation of this limit, for whatever reason, within 72 hours of the occurrence to both the U.S. EPA and the Air Pollution Control Division of the Canton City Health Department, and shall provide the information requested relative to the violation.

D. The consulting engineer to MSH shall define in all bid specifications the coal analysis for all sources which will enable the sources to achieve and maintain compliance with all applicable regulations at all times and under all conditions.

E. Each source shall be provided as soon as possible with opacity monitors and recorders to provide continuous documentation of visible emission status, which documentation shall be provided by U.S. EPA and Canton monthly during the effective period of this order. This provision shall be complied with as soon as possible and is not contingent upon completion of, or compliance with any other provision of this order.

F. Each source shall be provided as soon as possible with oxygen monitors and recorders to provide the means to determine excess air and source efficiency. Once installed, the information therefrom shall be provided to U.S. EPA and Canton monthly during the effective period of this order. This provision shall be complied with as soon as possible and is not contingent upon completion of, or compliance with any other provisions of this order.

2. That each source shall be upgraded and rebuilt to provide at least the following:

A. Rebuilding of stokers, forced draft fans, and fire boxes.

B. Rebuilding over-fire air systems to provide optimum combustion.

C. Rebuilding combusion control systems by authorized manufacturer's service engineers to provide optimum combustion control.

3. That sources B001, B002, and B003, for all steam load requirements, shall be operated at levels and in combination that will not result in violations of AP-3-07. Compliance shall, where possible, be accomplished by using turndown ratios compatible with source design limits and sulfur dioxide dew points.

4. That compliance with AP-3-07, AP-3-11, and all other applicable laws and regulations shall be achieved as soon as is practicable in accordance with the following schedule and in no event later than the milestone deadline:

Milestone and Deadline

A. Complete engineering, completed.

B. Award bids, completed.

C. Submit detail plans and supporting data to U.S. EPA and Canton, completed.

D. Modify detail plans and supporting data and submit to U.S. EPA and Canton, as modified, as required.

E. Start construction, May 1, 1978.

F. Complete construction and testing, June 1, 1979.

G. Achieve final compliance, July 1, 1979.

The final compliance deadline of July 1, 1979, shall be compiled with by MSH regardless of the type of control strategy or particulate removal device or devices MSH elects to install, and regardless of the sequence of installation.

5. That the detail drawings and supporting data required to be submitted by order No. 4 shall contain as a minimum, and by way of example and not by way of exclusion, the following data:

A. *Boiler performance.* Thermal efficiency, gas flows, and steam demand (as recorded on available steam meter disks) which have occurred throughout the immediately preceding year, and other similar types and kinds of data;

B. *Exit gas Characteristics.* Temperature, volume of gas flowing, and size and concentration of particulates, and other similar types and kinds of data;

C. *Fuel quality.* Size, type, and quality of coal to be purchased and used, and other similar types and kinds of data. The analysis of the coal shall include but not be limited to the following data: 1. Sulfur content; 2. Btu content; 3. ash content; 4. moisture content; 5. size; 6. type; 7. where purchased from;

D. *Miscellaneous.* Location of I.D. fans, size and layout of breeching, and other similar types and kinds of data.

6. That MSH shall, in addition to any other requirements of this order, comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. *Emission monitoring.* (1) MSH shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack.

B. *Reporting requirements.* (1) No later than 5 days after any date for achievement of an incremental step or final compliance specified in this order, MSH shall notify U.S. EPA and Canton in writing of its compliance, or noncompliance and reasons therefor. Notification to U.S. EPA and Canton of any anticipated delay does not excuse the delay.

(2) On a quarterly basis, MSH shall report any excursions above the 20 percent opacity limitation set out in AP-3-07 to U.S. EPA and Canton. MSH shall keep on file all stack monitoring opacity data for a minimum of 3 years.

(3) All submittals and notifications to U.S. EPA pursuant to this order shall be made to James O. McDonald, Director, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

7. That MSH shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in paragraph one (1) of the order), and are necessary to avoid an imminent and substantial endangerment to the health of persons;

A. MSH shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the sources on a day-to-day basis during the interim period preceding final compliance.

8. That nothing herein shall affect the responsibility of MSH to comply with any other State, local, or Federal regulations.

9. That MSH is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, MSH will be formally notified, pursuant to section 120(b)(3) of the Act and any regulations promulgated thereunder, of its noncompliance. The giving of this notice shall not be construed as authorizing noncompliance with the deadlines in order No. 4.

10. That this order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with Ohio implementation plan regulation AP-3-11 no longer exists.

11. That violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio implementation plan regulations AP-3-07 and AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

12. That MSH shall comply with the requirements of the Ohio implementation plan, and particularly regulations AP-3-07 and AP-3-11, during the term of this order insofar as it is able to do so (as determined by the Administrator).

13. If MSH desires to operate the sources at a steam load of greater than 50,000 pounds of steam per hour MSH shall apply for and obtain prior to doing so a permit to install from the Ohio Enivornmental Protection Agency in accordance with Ohio im-

plementation plan regulation OAC 3745-31-02. Included in such application shall be the results of a stack test demonstrating that the sources operated at the increased load level are in compliance with Ohio implementation plan regulations AP-3-07 and AP-3-11 (a particulate emission rate of 0.19 pounds per million Btu heat input).

14. A stack test shall be required to demonstrate compliance of the boilers with all applicable emission requirements. The design of the system shall include the installation of sampling ports at locations approved by U.S. EPA and by the Air Pollution Control Division of the Canton City Health Department. It shall be the responsibility of MSH to provide safe access and sampling platforms at the sampling ports for all stack emission tests. It shall also be the responsibility of MSH top request and schedule with Canton and "intent-to-test" conference at least 30 days prior to testing to confirm applicable testing procedures and to establish the location and dimensions of the sampling platform.

15. That MSH shall at all times take appropriate and reasonable steps, including good operating and maintenance practice, to maintain compliance with these findings and orders and to minimize any adverse impact of the sources on the ambient air, to the extent possible, until final, full compliance can be achieved. Regular, scheduled maintenance shall be made on all boilers during the interim period of noncompliance as well as after compliance has been achieved.

16. That during the period for which these orders are in effect MSH shall use the best practicable system or systems of emission reduction available including modifications to operating procedures, use of turn down ratios to achieve compliance with AP-3-07, and regular, scheduled maintenance of the sources to maximize efficiency.

17. That this order shall terminate on July 1, 1979, or on the date before or thereafter, as the case may be, upon which the sources achieve full compliance with AP-3-07 and AP-3-11 and all provisions of this order. MSH shall apply for and receive from Ohio EPA a permit to operate for each source and the operation of the sources after the termination of this order shall be in accordance with permits to operate issued by the Director of Ohio EPA pursuant to section 3704.03(G), Ohio Revised Code, and applicable regulations.

18. That this order is effective upon promulgation in the FEDERAL REGISTER.

Dated: ——————.

——————,
Deputy Administrator,
U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

Massillon State Hospital hereby waives notification and opportunity to confer, pursuant to section 113 of the Clean Air Act, as to violation of Ohio implementation plan regulation AP-3-07. Additionally, Massillon State Hospital, by the duly authorized undersigned, hereby consents to the provisions of this order and waives any and all rights under any provision of law to challenge this order.

Dated: ——————.

——————
(Signature of authorized representative of Massillon State Hospital.)

——————.
(Printed name of MSH authorized representative.)

[FR Doc. 78-15972 Filed 6-7-78; 8:45 am]

[1505-01]

[40 CFR Part 180]

[FRL 897-7; PP 8E2030/P77]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Methomyl

Correction

In FR Doc 78-13633 appearing on page 21700 in the issue of Friday, May 19, 1978, in column three, § 180.253 *Methomyl; tolerances for residues,* in the table, in the entry for "Vegetables * * *," the part per million now reading "0.2(M)" should read "0.2(N)."

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 63, 64]

[CC Docket Nos. 78-95 and 78-96]

REGULATORY POLICIES CONCERNING PROVISION OF DOMESTIC PUBLIC MESSAGE SERVICES BY ENTITIES OTHER THAN THE WESTERN UNION TELEGRAPH CO.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action here extends the time for filing comments and reply comments in a proceeding addressing regulatory policies concerning provision of public message telegraph services by entities other than the Western Union Telegraph Co.

DATES: Comments may now be filed on or before June 15, 1978, and reply comments may now be filed on or before July 17, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Common Carrier Bureau, 202-632-9342.

OPINION AND ORDER

Adopted: May 25, 1978.

Released: May 31, 1978.

In the matter of Graphnet Systems, Inc., application to participate in the hinterland delivery of international communications messages, CC Docket No. 78-95, File No. W-P-C-1430; regulatory policies concerning the provision of domestic public message services by entities other than the Western Union Telegraph Co. and proposed amendments to Parts 63 and 64 of the Commission's rules, CC Docket No. 78-96; 43 FR 14080, April 4, 1978.

1. Comments in this proceeding are due June 1, 1978, with replies to be filed by July 3, 1978. By motion filed May 3, 1978, the Western Union Telegraph Co. requested that these dates be extended, respectively, to July 17 and August 18, 1978 (approximately 45 days).

2. In support of its request, Western Union states that it has engaged an economic consultant to provide the analyses invited in this proceeding, and this expert, a professor of economics, must fit such effort into existing end-of-term commitments. In addition, Western Union refers to its pending application for review of the Common Carrier Bureau's acceptance (under delegated authority) of Graphnet's tariffs for outbound handling of international communications, and asks that this proceeding be delayed pending the Commission's action on the application. In essence, Western Union believes that the scope of this proceeding will be controlled by action on the application for review.[1]

3. By opposition filed May 15, 1978, Graphnet Systems, Inc., opposes Western Union's request. Graphnet notes that certain of the matters at issue in this proceeding (those in Docket No. CC 78-95) have been pending before the Commission in one form or another for nearly 2 years, to Graphnet's detriment, and that further delay will increase the financial burdens on Graphnet. Moreover, Graphnet claims that Western Union, in essence, is only trying to delay this proceeding by claiming to prepare new economic analyses, but since Western Union's earlier filings on the issues herein "purported to represent Western Union's in-house analysis of the impact and consequences of granting the authorization Graphnet has requested," formulation of new comments on such issues does not require extensive new analysis and reflection. Finally, Graphnet responds to Western Union's suggestion that this proceeding be delayed pending Commission action on the application for review by noting that the application

[1] Western Union appears to assume that a ruling on its application for review will occur during the 45-day extension requested herein. It does not ask for an open-ended extension of time pending disposition.

itself does not change the Bureau's ruling, unless and until it is acted on by the Commission, and that until such time there is no legal uncertainty about the scope of this proceeding.

4. In reply, filed May 16, 1978, Western Union argues that while Graphnet would claim that Western Union's previously submitted economic analyses were adequate, and that not much time is required to resubmit them in this proceeding, the fact of the Commission's initiation of the comprehensive inquiry herein obviously demonstrates that such analyses were not sufficient for informed decisionmaking. In addition, Western Union again states its belief that this proceeding should be delayed pending action on its application for review, and it responds to Graphnet by noting that action under delegated authority is not the equivalent of a Commission decision for all purposes.[2]

5. This proceeding was initiated by Graphnet's application for authority to participate with the international record carriers in the hinterland delivery of international communications by transmitting such communications outside the international carriers' gateways. In setting the issues of this proceeding, the Commission has inquired into the appropriate public record message structure and has solicited comments on fundamental questions relating to the appropriate scope, if any, of a continued monopoly on domestic public message telegraph service, an area which only indirectly was addressed in previous submissions on Graphnet's application. Thus, it cannot fairly be argued that Western Union has already submitted or prepared the type of analyses now requested.

6. Our consideration of the pleadings leads us to conclude that some accommodation of Western Union is warranted. However, in view of the significance of the proceeding and its history, a lengthy 45-day extension cannot be granted. We believe that a 2-week extension of time should allow Western Union reasonable time to avail itself of its university-based economic consultant without undue prejudice to Graphnet.

7. Accordingly, pursuant to authority delegated under § 0.303(c) of the Commission's rules, 47 CFR 0.303(c), Western Union's motion for extension of time is granted: *And it is hereby ordered*, That the dates specified in the "Memorandum Opinion and Order and Notice of Inquiry and Proposed Rulemaking" in this consolidated proceeding, FCC 78-184, released March 28, 1978, are hereby extended as follows: Comments may be filed on or before June 15, 1978, and reply comments may be filed on or before July 17, 1978.[3]

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc. 78-15882 Filed 6-7-78; 8:45 am]

[2]In this regard, Western Union cites § 1.115(k) of the Commission's rules, which restates the statutory requirement of such an application as a condition precedent to judicial review.

[3]The motion is therefore granted solely on the first of Western Union's stated grounds, and Western Union's alternative basis—pendency of its application for review—is rejected. We fail to see how Commission action on the application would change the issues of this proceeding, except possibly to expand them, in which case additional comments might be solicited.

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-162; RM-3080]

FM BROADCAST STATION IN TEHACHAPI, CALIF.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a class A FM channel to Tehachapi, Calif. Petitioner, Dorothy Collings, states that the proposed assignment could bring a first full-time local aural broadcast service to Tehachapi.

DATES: Comments must be received on or before July 31, 1978, and reply comments on or before August 21, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 1, 1978.

Released: June 5, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations, (Tehachapi, Calif.).

1. *Petitioner, proposal, comments.* (a) Notice of proposed rulemaking is given concerning amendment of the FM table of assignments (sec. 73.202(b) of the Commission's rules) as concerns Tehachapi, Calif.

(b) Petition for rulemaking[1] was filed on behalf of Dorothy Collings ("petitioner"), seeking the assignment of FM channel 276A to Techachapi, Calif. No responses to the petition were filed.

(c) Petitioner states that she will file an application for authority to construct an FM Broadcast station in Tehachapi, if the channel is assigned.

2. *Community data.* (a) *Location.* Tehachapi is located in Kern County, approximately 121 kilometers (75 miles) north of Los Angeles and 58 kilometers (36 miles) southeast of Bakersfield, Calif.

(b) *Population.* Tehachapi—4,211; Kern County—329,162.[2]

(c) *Local aural broadcast service.* There is no local aural broadcast service in Tehachapi.

(d) *Economic data.* Petitioner states that the estimated population of Tehachapi in 1977 was 4,700 with a tentative master plan for Tehachapi calling for a planned population of 17,000 by 1995. We are told that Tehachapi is an attraction for tourists and a community for people who desire living in a high mountain area. Petitioner notes that the major employers in the Tehachapi area include the Monolith Portland Cement Co., California Portland Cement Co., Nunes Turfgrass, Inc., and the California State Correctional Institution. In support of her petition, petitioner submitted information with respect to the form of government, education, churches, medical and recreational facilities, and transportation.

3. Channel 276A may be assigned to Tehachapi, Calif., in compliance with the minimum mileage separation requirements. However, before the channel assignment could be adopted, the Mexican Government must give its concurrence because the community is located within 320 kilometers (199 miles) of the United States-Mexican border.

4. In light of the above information and the fact that the proposed FM channel assignment would provide Tehachapi with its first local aural broadcast service, the Commission believes it appropriate to propose the amendment of the FM table of assignments, sec. 73.202(b) of the rules, as follows:

City and Channel No.
Tehachapi, Calif., present: —; proposed: 276A.

5. Authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 31, 1978, and reply comments on or before August 21, 1978.

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

[1]Public notice of the petition was given on March 29, 1978, report No. 1111.

[2]Population figures are taken from the 1970 U.S. Census.

APPENDIX

1. Pursuant to authority found in sec. 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and sec. 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, sec. 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sec. 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-15881 Filed 6-7-78 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-52; RM-2808]

TELEVISION BROADCAST STATIONS IN WASHINGTON, D.C., WALDORF, MD., FAIRFAX AND FRONT ROYAL, VA.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning changes in television assignments in Washington, D.C., Waldorf, Md., Fairfax and Front Royal, Va. Petitioner, Central Virginia Educational Television Corp., states the additional time is needed in order to prepare a reply to the filed comments.

DATE: Reply comments must be received on or before June 12, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 30, 1978.

Released: June 1, 1978.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Washington, D.C., Waldorf, Md., Fairfax and Front Royal, Va.) (43 FR 17508, April 25, 1978).

1. On February 8, 1978, the Commission adopted a notice of proposed rulemaking, 43 FR 7330, concerning the above-entitled proceeding. The present date for filing comments has expired and the date for filing reply comments is presently May 30, 1978.

2. On May 19, 1978, Central Virginia Educational Television Corp. ("CVETC") filed a timely request seeking an extension of time for filing reply comments to and including June 12, 1978. CVETC states that in view of the number of parties who filed comments and the length of their submissions, additional time is needed in which to prepare a reply.

3. We are of the view that the public interest would be served by this extension so that the Central Virginia Education Television Corp. may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly, *It is ordered,* That the date for filing reply comments in BC Docket No. 78-52 is extended to and including June 12, 1978.

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

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

[FR Doc. 78-15880 Filed 6-7-78; 8:45 am]

[6712-01]

[47 CFR Parts 81 and 83]

[SS Docket No. 78-153; FCC 78-327]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Making Frequency 156.875 MHz Available for Exclusive Use for Communications to and From Pilots

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing to make the frequency 156.875 MHz available for exclusive use for communications to and from pilots. We are taking this action because of the numerous complaints by pilots concerning the problem that exist with interference during critical communications between pilots on vessels and other support personnel. This rulemaking, if adopted, will provide a frequency exclusively for communications by and to pilots and, as a result, substantially improve the reliability of communications during the movement and docking of vessels.

DATES: Comments must be received on or before June 22, 1978, and reply comments on or before June 29, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special

Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1978.

Released: May 30, 1978.

By the Commission:

1. Notice of Proposed Rulemaking is hereby given in the above-captioned matter.

2. In this rulemaking the Commission is proposing to make the frequency 156.875 MHz available exclusively to pilots for communications relating to the movement and docking of vessels. In addition the authorized power on this frequency for a coast station will be restricted to 1 watt under normal conditions and not to exceed 10 watts under any circumstances. Vessels will be permitted the use of more than 1 watt power only in an emergency.

3. The Commission is proposing this rulemaking because of the severe problems that exist in major port areas for communications between pilots on vessels and tugboats or other support personnel involved in the guidance of deep draft vessels into their docks. The severity of this problem has been brought to the attention of the Commission by letters and visits to the Commission's field offices from pilots looking for a solution to this problem. Their concern is that a 900 foot supertanker can take as much as six miles to stop, and obliterated communications could involve a disastrous collision with other vessels or docking facilities. Information received indicates that several "near misses" have occurred and if a collision should occur there would be, at a minimum, wide-spread oil pollution, property damage and loss of life. These communications concerning docking maneuvers are conducted primarily by VHF "walkie-talkies" from the bridge of the vessel to various tugs assisting the vessel. Because of the low power of these transmitters, a high powered transmitter being used some distance away can, and often does, cause harmful interference to communications between pilots and other support personnel.

4. We propose to amend sections 81.356, 83.351 and 83.359 of the Commission's rules to make the frequency 156.875 MHz available for pilots, for communications relating exclusively to the movement and docking of vessels.

5. The proposed amendments to the Commission's rules as set forth in the attached Appendix, are issued pursuant to the authority contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended.

6. Because of the nature of this matter and its direct relationship to the safety of life and property the Commission has determined that it is in the public interest to allow a shortened time of 20 days for comments and 7 days for reply comments. Therefore, pursuant to the applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before June 22, 1978, and reply comments on or before June 29, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended to read as follows:

1. In § 81.7, paragraph (e) is added to read as follows:

§ 81.7 Operational.

* * * * *

(e) *Pilots.* Federal pilots required by 46 U.S.C. 364, state pilots required by individual states under the authority of 46 U.S.C. 211 and Registered pilots required by 46 U.S.C. 216 shall be considered pilots for the purposes of this part.

* * * * *

2. In § 81.356, paragraph (a) table under "Port Operations" is amended, and (b)(3) is added to read as follows:

§ 81.356 Assignable frequencies in the band 156-162 MHz.

(a) * * *

Port Operations				
* * *	* * *	* * *	* * *	* * *
74	156.725	156.725	Do	
77	156.875	156.875	Do	3
* * *	* * *	* * *	* * *	* * *

* * * * *

(b) * * *

(3) Use of this frequency is limited exclusively for communications to and from pilots, as defined in section 81.7 of this chapter, concerning the movement and docking of vessels. Primarily, ship to ship. On a secondary basis, available for coast to ship for communications to and from pilots. Under normal operating conditions a power not to exceed 1 watt shall be used and under no circumstances may the power exceed 10 watts.

* * * * *

3. In § 83.6, paragraph (h) is added to read as follows:

§ 83.6 Operational.

* * * * *

(h) *Pilots.* Federal pilots required by 46 U.S.C. 364, state pilots required by individual states under the authority of 46 U.S.C. 211 and Registered pilots required by 46 U.S.C. 216 shall be considered pilots for the purposes of this part.

* * * * *

4. In § 83.351, paragraph (a) table is amended and (b)(64) is added to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of Use	
	Section	Limitations
* * *	* * *	* * *
(MHz)		
* * *	* * *	* * *
156.850	83.359	40, 41, 48, 57
156.875	83.359	40, 41, 45, 64
* * *	* * *	* * *

(b) * * *

(64) Use of this frequency is limited exclusively for communications to and from pilots, as defined in section 83.6 of this chapter, concerning the movement and docking of vessels. Primarily, ship to ship. On a secondary basis, available for ship to coast for communications to and from pilots. Power used on this frequency shall not exceed 1 watt except under emergency conditions.

* * * * *

5. In § 83.359, table under "Port Operations" and under "Commercial" is amended to read as follows:

§ 83.359 Frequencies in the band 156-162 MHz available for assignment.

Channel designator	Frequency (MHz) Ship	Frequency (MHz) Coast	Points of Communication
Port Operations			
* * *	* * *	* * *	* * *
74	156.725	156.725	Do
77	156.875	156.875	Do
* * *	* * *	* * *	* * *

Commercial			
* * *	* * *	* * *	* * *
11	156.550	156.550	Do
18	156.900	156.900	Do
* * *	* * *	* * *	* * *

[FR Doc.78-15765 Filed 6-7-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 179]

[Docket No. HM-144; Notice No. 78-8]

SPECIFICATION FOR PRESSURE TANK CAR TANKS: COMPLIANCE REPORTING

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (the Bureau) proposes to issue an amendment to the Department's Hazardous Materials Regulations requiring owners of DOT Specification 112 and 114 pressure tank cars to provide to the Bureau a listing of those cars bearing the owner's reporting mark and the plans of the owner to retrofit them with safety devices. In addition, the rule would require quarterly reporting concerning the efforts of the owner to meet established compliance deadlines and provide a definition of the term "tank car owner." The purpose of the proposed rule is to monitor the compliance of tank car owners with regulatory deadlines.

DATE: Comment by July 10, 1978.

ADDRESS: Comments to: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 202590. It is requested that five copies of all comments be submitted.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-2748.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau published on September 15, 1977, a final rule establishing additional safety requirements for DOT Specification 112 and 114 tank cars (42 FR 46306). The requirements included improved couplers, tank head protction and thermal protection. Tank car owners were afforded a 4-year period to complete the application of required protective systems to cars built prior to January 1, 1978. On May 11, 1978, the Bureau published a notice of proposed rulemaking (NPRM) to shorten the period allowed for retrofit of these cars. 43 FR 20250. This rulemaking is proposed as a means of facilitating the implementation of the proposed retrofit program.

Information received at a Federal Railroad Administration (FRA) special safety inquiry of April 7, 1978, indicated that a substantial shortening of the retrofit period was possible but would intensify both logistical and car availability problems. The "logistical" problems described by witnessses at the safety inquiry relate to the diversion of cars from their normal service in a controlled, incremental fashinon to assure the full utilization of retrofit plant capacity. Problems of car availability will be directly impacted by the success of the tank car companies and private car shops in scheduling a phased retrofit of the fleet.

The Bureau is hopeful that tank car owners will take adequate measures to assure the phased completion of the retrofit without creating short-term critical shortages of 112 and 114 cars. The tank cars constitute a substantial portion of existing pressure tank car capacity for the transportation of certain essential fuels, fertilizers, and industrial chemicals. Due to the high demand for such equipment for use in transportation and as temporary storage, it is expected that tank car owners will have to make careful plans to assure completion of the program by the proposed regulatory deadlines.

Neglect by a tank car owner or owners to establish an adequate pace of retrofit could result in a failure to meet regulatory deadlines. Since it is the policy of the Bureau not to grant exemptions from the regulatory deadlines, it is possible that serious shortages of cars could exist on one or more of the regulatory deadlines as a result of an accumulation of unequipped cars which would be prohibited from use in transportation. It will, therefore, be necessary for the FRA, which is responsible for enforcing the tank car regulations, to monitor closely the manner in which tank owners comply with the regulatory deadlines. In the event it appears that any tank car owner has failed to establish a program leading to the timely completion of the retrofit tasks, FRA may find it necessary to institute compliance order proceedings under 49 CFR Part 209 (42 FR 56742; October 28, 1977) or take other, appropriate legal action.

The reporting rule proposed in this notice will provide the FRA with the information necessary to carry out its enforcement mission. In the judgment of the Bureau, the information requested does not go beyond the basic kind of data which tank car owners would have to develop in the normal course of business to facilitate compliance with the substantitive regulations. Any cost directly attributable to the reporting requirement would, therefore, be limited to preparation of correspondence.

The proposed rule would not require the use of any standard form. Reporting requirements would lapse after completion of the retrofit process and submission of a final report.

FRA has estimated that fewer than 100 tank car owners would be required to submit reports under the rule. A separate amendment to the regulations would define tank car owner to mean a person whose reporting mark appears on the car. The definition will assure that the individual or business which is responsible for the control and maintenance of the car is also responsible for seeing that the car is equipped with the required safety devices.

Section 179.105-9. The Bureau proposes to establish basic reporting requirements under a new section 179.105-9. The section would require four basic kinds of reports.

Initial report. Paragraph (a) would require each tank car owner to make an initial report to FRA not later than September 30, 1978, providing specific information concerning the type of retrofit package which will be employed, and describing the progress already made to comply with the retrofit schedule.

Quarterly report. Paragraph (b) would require each tank car owner to provide a quarterly update of the progress made in applying head protection, thermal protection, and improved couplers.

Final report. Paragraph (c) would require each tank car owner to certify in a final compliance report, the completion of the retrofit program.

Report on change in status. Paragraph (d) would require the reporting, in connection with the quarterly submission, of any material event bearing on the responsibility of any person with respect to the accomplishment of the retrofit tasks. The purpose of this provision is to assure that responsibility for compliance can be fixed on the appropriate person and to provide an explanation for any irregularities caused by the transfer or destruction of any cars.

Section 179.105-1(d). The Bureau proposes to define "tank car owner," as that term is used in connection with requirements for specification 112 and 114 tank cars, to mean any person whose assigned reporting mark appears on the tank car. The reporting mark system is used in the railroad industry as a basis for identifying effective responsibility for and control of rolling stock. For practical compliance purposes, then, the "tank car owner" described by the proposed definition is also the person who "marks, main-

tains, reconditions, repairs, or tests" a tank car within the meaning of section 105 of the Hazardous Materials Transportation Act (49 U.S.C. 1804).

Primary drafters of this document are William F. Black, Office of Safety, and Grady Cothen, Jr., Office of Chief Counsel, Federal Railroad Administration.

In consideration of the foregoing, Part 179 of Title 49, Code of Federal Regulations would be amended as follows:

In § 179.105, paragraph (d) would be added in § 179.105-1 and a new § 179.105-9 would be added to read as follows:

§ 179.105 Special requirements for specifications 112 and 114 tank cars.

§ 179.105-1 General.

(d) As used in this section 179.105, "tank car owner" means a person whose reporting mark appears on any specification 112 or 114 tank car.

§ 179.105-9 Compliance reporting.

(a) By September 30, 1978, but not earlier than September 1, 1978, each tank car owner shall report to the Associate Administrator for Safety, FRA (Attention: RRS-25), the following information concerning specification 112 and 114 pressure tank cars bearing the owner's reporting mark:

(1) The total number of such cars and a list of applicable reporting marks (by consecutive series, where appropriate);

(2) A declaration of intent concerning the number of cars scheduled to be equipped to each of the respective specifications subject to this section (i.e., 112A/114A, 112S/114S, 112T/114T, 112J/114J and the disposition of any remaining 112/114 cars;

(3) A description of steps being taken to comply with § 179.105-3 (previously built cars), including—

(i) The number of cars scheduled to be equipped to specifications 112S/114S and 112T/114T, respectively, which (1) have been equipped with a tank head puncture resistance system meeting the requirements of § 179.105-5; and (2) remain to be equipped with a tank head puncture resistance system;

(ii) The number of cars scheduled to be equipped to specification 112T/114T which (1) have been equipped with a thermal protection system that meets the requirements of § 179.105-4; and (2) remain to be equipped with a thermal protection system;

(iii) The number of cars scheduled to be equipped to specification 112J/114J which (1) have been equipped with the thermal protection system and tank head protection system required by §§ 179.105-4 and 179.105-5; and (2) remain to be equipped to specification 112J/114J.

(iv) The number of cars which have been equipped with a coupler restraint system meeting the requirements of § 179.105-6 and remain to be equipped with such a system.

(b) By the last day of the calendar month following the end of each quarter, each tank car owner shall submit to the Associate Administrator for Safety, Federal Railroad Administration (Attention: RRS-25), a progress report updating the information required to be submitted by paragraphs (a)(2) and (a)(3) of this section. The first report shall be submitted by January 31, 1979.

(c) When a tank car owner has equipped all 112 and 114 cars built prior to January 1, 1978, with the devices required by § 179.105 for the type of service in which the cars are to be utilized, the tank car owner shall certify in a final compliance report to the Associate Administrator for Safety, Federal Railroad Administration (Attention: RRS-25), that all 112 and 114 tank cars are properly equipped. Following the submission of that certificate, no further reports shall be required under paragraph (b) of this section, unless the tank car owner subsequently acquires additional cars requiring the application of devices required by § 179.105.

(d) Each tank car owner, including any person attaining to such status at any time prior to the last date on which protective devices are required to be applied by § 179.105-3, shall include in the quarterly report required by paragraph (b) of this section a listing by reporting mark of all 112 and 114 tank cars acquired, transferred, or destroyed during the quarter, specifying the action taken with respect to each car. In the case of cars newly acquired, the quarterly report shall also provide the information required by paragraph (a) (2), (3) of this section.

(45 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act.

(49 U.S.C. 4321 et seq.)

Issued in Washington, D.C., on June 2, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.78-15871 Filed 6-7-78; 8:45 am]

[1505-01]

[49 CFR Part 191]

[Docket No. OPS-49; Notice 1]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: REPORTS OF LEAKS

Leak Reporting Requirements

Correction

In FR Doc. 78-15532, appearing at page 24478 in the issue of Monday, June 5, 1978, pages 24490 through 24493 should have appeared as reprinted below in accordance with the following note from page 24479:

NOTE.—The proposed forms shown in this notice are printed in black and white, and, to aid interested persons in identifying which part will be blue on the final form, solid vertical bars have been added to the left margin of Form RSPA-3. Also, for this Notice, the forms are divided into four pages each; however, the final forms will be printed one page each, 21 inches long. It is important to note that besides distribution companies, liquefied petroleum gas system operators and master meter system operators with less than 2,500 services would be able to take advantage of this proposed change.

Form RSFA-3 (XX-78)
SUPERSEDES FORM DOT F 7100.1-1

NOTICE: This report is required by 49 CFR Part 191. Failure to report can result in a civil penalty not to exceed $1,000 for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed $200,000 as provided in 49 U.S.C. 1678

Form Approved: OMB No. 04-RXXXX

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

ANNUAL REPORT FOR CALENDAR YEAR 19___
GAS PIPELINE DISTRIBUTION SYSTEM

GENERAL INSTRUCTIONS (Please read before completing form)

1. Submit one completed copy of this form for the preceding calendar year to the addressee given in 49 CFR, Part 191, Section 191.7 so that it is received by the Materials Transportation Bureau not later than February 15th. Be sure that all applicable parts (Parts I through XII) are completed and report is signed. *Operators with 2,500 services or more should complete all parts. Operators with less than 2,500 services should complete ONLY the items printed in BLUE INK.*
2. Each operator may submit either a separate report for each State in which its pipeline facilities are located or a consolidated multi-State report. The address of the operator should be that address where information regarding THIS REPORT can be obtained.
3. When necessary data are not available estimates may be reported and so noted (Est.). Describe the method used to determine estimates in Item A, Part XII. Avoid use of "Unknown".
4. If a part does not apply, enter "N/A". Each item in an applicable part should be completed. All figures are to be reported as whole numbers. DO NOT USE DECIMALS OR FRACTIONS. Decimals or fractions should be rounded to the nearest whole number. If a given entry figure contains more digits than indicated by the number of spaces, place the numbers in the block regardless of the number of spaces.
5. Specific instructions for completing this form are contained in Form RSPA-3A.
6. If additional information is needed to complete this form telephone the Department of Transportation, Materials Transportation Bureau, Area Code 202, 426-3046, Monday through Friday, 8:30 A.M. to 5:00 P.M., Eastern Time.

PART I — OPERATOR INFORMATION (Show Principal Company Office)

A. NAME OF OPERATOR	B. OPERATOR CODE (1 2 3 4 5)	C. NUMBER & STREET	
DRAFT			
D. CITY	E. COUNTY	F. STATE	G. ZIP CODE
H. LIST STATES IN WHICH SYSTEM IS LOCATED (Two-letter abbreviation)	I. IF DISTRIBUTION SYSTEM IS LPG OR MASTER METER SYSTEM (Check one box) 1 ☐ LIQUIFIED PETROLEUM GAS SYSTEM 2 ☐ MASTER METER SYSTEM		

PART II — FOR MATERIALS TRANSPORTATION BUREAU USE ONLY

A. LOCATION CODE	STATE (1 2)	CITY (3 4 5)	COUNTY (6 7 8)	B. MTB CODE (1 2 3 4 5 6 7 8 9)	C. OPERATOR CLASSIFICATION (1 2 3 4)

PART III — MAINS AND SERVICES ADDED, RETIRED, OR REPLACED DURING YEAR

A. DESCRIPTION OF SYSTEM	ADDED: NEW INSTALLATION (a)	ADDED: AQUISITION (b)	ADDED: REINSTATEMENT (c)	RETIRED (Not replaced) (d)	REPLACED (e)	B. ESTIMATE AVERAGE LENGTH OF A SERVICE LINE → FEET
1. MILES OF MAINS						
2. NUMBER OF SERVICES						

PART IV — MILES OF MAINS AND NUMBER OF SERVICES IN SYSTEM AT END OF YEAR BY DECADE

PIPE		DECADE: PRIOR TO 1930 (a)	1930 THRU 1939 (b)	1940 THRU 1949 (c)	1950 THRU 1959 (d)	1960 THRU 1969 (e)	1/1/70 TO 12/31 OF REPORTING YEAR (f)	SYSTEM TOTAL (g)
A. TOTAL INSTALLED BY ORIGINAL INSTALLATION DATE	1. MAINS							
	2. SERVICES							
B. COATED AND NOT CATHODICALLY PROTECTED METALLIC PIPE BY COATING DATE	1. MAINS							
	2. SERVICES							

Form RSPA-3

C. BARE AND NOT CATHODICALLY PROTECTED METALLIC PIPE BY INSTALLATION DATE	1. MAINS								
	2. SERVICES								
D. COATED AND CATHODICALLY PROTECTED METALLIC PIPE BY CATHODIC PROTECTION DATE	1. MAINS								
	2. SERVICES								
E. BARE AND CATHODICALLY PROTECTED METALLIC PIPE BY CATHODIC PROTECTION DATE	1. MAINS								
	2. SERVICES								
F. PLASTIC PIPE BY ORIGINAL INSTALLATION DATE	1. MAINS								
	2. SERVICES								

PART V NUMBER OF LEAKS REPAIRED IN MAINS AND SERVICES DURING YEAR BY PART AND BY CAUSE

** Construction equipment and blasting*
*** Component wear/deterioration*

PART WHICH LEAKED			CAUSE OF LEAK: CORROSION (1)	OUTSIDE FORCE DAMAGE: * (2)	OUTSIDE FORCE DAMAGE: NATURAL CAUSES (3)	CONSTRUCTION DEFECT (4)	MATERIAL FAILURE (5)	** (6)	OTHER (7)	SYSTEM TOTAL (8)
A. BODY OF PIPE	1. STEEL	a. MAINS								
		b. SERVICES								
	2. COPPER	a. MAINS								
		b. SERVICES								
	3. CAST IRON	a. MAINS								
		b. SERVICES								
	4. DUCTILE IRON	a. MAINS								
		b. SERVICES								
	5. POLYETHYLENE	a. MAINS								
		b. SERVICES								
	6. POLYVINYL CHLORIDE (PVC)	a. MAINS								
		b. SERVICES								
	7. THERMOSETTING PLASTIC	a. MAINS								
		b. SERVICES								
	8. OTHER PLASTIC (Specify)	a. MAINS								
		b. SERVICES								
	9. OTHER MATERIAL (Specify)	a. MAINS								
		b. SERVICES								
B. SEAM	1. SPIRAL OR LONGITUDINAL	a. MAINS								
		b. SERVICES								
C. JOINT	1. GAS GIRTH WELD	a. MAINS								
		b. SERVICES								
	2. ARC GIRTH WELD	a. MAINS								
		b. SERVICES								
	3. PLASTIC FUSION, ADHESIVE OR SOLVENT	a. MAINS								
		b. SERVICES								
	4. MECHANICAL JOINT	a. MAINS								
		b. SERVICES								
	5. BELL AND SPIGOT	a. MAINS								
		b. SERVICES								
	6. THREADED JOINT	a. MAINS								
		b. SERVICES								
D. COMPONENT	1. FITTING	a. MAINS								
		b. SERVICES								
	2. VALVE	a. MAINS								
		b. SERVICES								
	3. TAP FITTING	a. MAINS								
		b. SERVICES								
	4. REGULATOR	a. MAINS								
		b. SERVICES								
	5. METER	a. MAINS								
		b. SERVICES								
	6. OTHER (Specify)	a. MAINS								
		b. SERVICES								
E. SYSTEM TOTAL		a. MAINS								
		b. SERVICES								

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Please Continue on Reverse

Form RSPA-3 Page 3

PART VI	NUMBER OF LEAKS REPAIRED IN MAINS AND SERVICES DURING YEAR BY CAUSE AND DECADE OF INSTALLATION								
CAUSE OF LEAK	1. MAINS 2. SERVICES	DECADE							TOTAL NO. OF LEAKS LISTED WHICH OCCURRED ON FEDERAL LANDS
		PRIOR TO 1930 (a)	1930 THRU 1939 (b)	1940 THRU 1949 (c)	1950 THRU 1959 (d)	1960 THRU 1969 (e)	1/1/70 TO 12/31 OF REPORTING YEAR (f)	SYSTEM TOTAL (g)	(h)
A. CORROSION	1, M								
	2, S								
B. CONSTRUCTION EQUIPMENT & BLASTING (Outside Force Damage)	1, M								
	2, S								
C. NATURAL CAUSES (Outside Force Damage)	1, M								
	2, S								
D. CONSTRUCTION DEFECT	1, M								
	2, S								
E. MATERIAL FAILURE	1, M								
	2, S								
F. COMPONENT WEAR/ DETERIORATION	1, M								
	2, S								
G. OTHER (Specify)	1, M								
	2, S								
H. SYSTEM TOTAL	1, M								
	2, S								
I. GRAND TOTAL NUMBER OF LEAKS ON FEDERAL LANDS	1. MAINS →								
	2. SERVICES →								

PART VII	MILES OF MAINS IN SYSTEM AT END OF YEAR BY MATERIAL AND NOMINAL SIZE						
MATERIAL	NOMINAL DIAMETER						
	1" OR LESS (1)	OVER 1" THRU 2" (2)	OVER 2" THRU 4" (3)	OVER 4" THRU 6" (4)	8" (5)	OVER 8" (6)	SYSTEM TOTAL (7)
A. STEEL							
B. COPPER							
C. CAST IRON							
D. DUCTILE IRON							
E. POLYETHYLENE							
F. POLYVINYL CHLORIDE (PVC)							
G. THERMOSETTING PLASTIC							
H. OTHER PLASTIC (Specify)							
I. OTHER MATERIAL (Specify)							
J. SYSTEM TOTAL							

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PART VIII	NUMBER OF SERVICES IN SYSTEM AT END OF YEAR BY MATERIAL AND NOMINAL SIZE				
MATERIAL	NOMINAL DIAMETER				
	½" OR LESS (1)	OVER ½" THRU 1" (2)	OVER 1" THRU 2" (3)	OVER 2" (4)	SYSTEM TOTAL (5)
A. STEEL					
B. COPPER					
C. CAST IRON					
D. DUCTILE IRON					

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E. POLYETHYLENE					
F. POLYVINYL CHLORIDE (PVC)					
G. THERMOSETTING PLASTIC					
H. OTHER PLASTIC (Specify)					
I. OTHER MATERIAL (Specify)					
J. SYSTEM TOTAL					

PART IX SYSTEM LEAKS SCHEDULED FOR REPAIR

TOTAL NUMBER OF KNOWN SYSTEM LEAKS AT END OF YEAR SCHEDULED FOR REPAIR. (As indicated from a surface exam). . . . . [ ]

PART X PERCENT OF UNACCOUNTED FOR GAS

UNACCOUNTED FOR GAS AS A PERCENT OF TOTAL INPUT FOR YEAR ENDING JUNE 30 OF REPORTING YEAR . . . . . [ ] %

PART XI TOTAL PERSONAL INJURIES OR PROPERTY DAMAGE RESULTING FROM ESCAPE OF GAS DURING YEAR

* Injured means non-fatal injuries requiring hospitalization.	NUMBER OF FATALITIES	NUMBER OF PERSONS INJURED *
A. EMPLOYEE(S) OF OPERATOR	1.	2.
B. EMPLOYEE(S) OF OPERATOR'S CONTRACTOR	1.	2.
C. EMPLOYEE(S) OF/OR OUTSIDE PARTY CAUSING DAMAGE	1.	2.
D. MEMBER(S) OF THE PUBLIC	1.	2.

E. NUMBER OF FIRES AND EXPLOSIONS

1. FIRES CAUSED DIRECTLY OR INDIRECTLY BY LEAKS	NO.
2. EXPLOSIONS CAUSED DIRECTLY OR INDIRECTLY BY LEAKS	NO.

F. SYSTEM DAMAGE AND REPAIR COSTS

1. ESTIMATED COST FOR PROPERTY DAMAGE AND REPAIR OF LEAKS TO OPERATOR	$
2. COST OF SETTLEMENT FOR ALL CLAIMS DURING YEAR FOR PROPERTY DAMAGE AND PERSONAL INJURIES	$

PART XII ADDITIONAL DATA

A. FOR CONTINUATION OF EXPLANATION OF ITEMS ABOVE. (If more space is needed, continue on a separate sheet, identify with name of operator, and attach to this sheet.)

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REPORTING OFFICIAL

B. CERTIFICATION: I certify that all the statements and answers given on this form and all attachments hereto are complete, correct, and true to the best of my knowledge.

TYPED OR PRINTED NAME AND TITLE	SIGNATURE	TELEPHONE NUMBER (Include Area Code)	REPORTING DATE

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Part 393]

AIR BRAKE SYSTEMS—STANDARD NO. 121

[Docket No. 75-16; Notice 20]

Trailer "No Lockup" Proposal—Extended Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of extension of comment period.

SUMMARY: This notice announces extension of the period for comment on an outstanding NHTSA proposal to suspend the "no lockup" safety braking performance requirement contained in Standard No. 121, Air Brake Systems, as it applies to trailers. After publication of the proposal March 9, 1978 (43 FR 9626), the U. S. Court of Appeals for the Ninth Circuit remanded portions of the standard to NHTSA for further proceedings. Following this, the public hearing on the NHTSA proposal was canceled so that the court's order could be studied. The order has been stayed and is still under study. For this reason, NHTSA hereby extends indefinitely the June 7, 1978 comment period originally established for the outstanding proposal. When study of the issues raised by the court's decision is completed, NHTSA will take appropriate action on the proposal.

It is noted that three petitions for extension of this comment period were received by NHTSA and placed in the appropriate rulemaking docket, but they do not form the basis for the extended comment period.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2153.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on June 2, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-15869 Filed 6-7-78; 8:45 am]

[4910-59]

[49 CFR Part 531]

[Docket No. LVM 77-03; Notice 2]

PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Proposed Decision To Grant Exemption

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Proposed decision to grant exemption from average fuel economy standards.

SUMMARY: This notice is being issued in response to a petition by Checker Motors Corp. (Checker) requesting that it be exempted from the generally applicable average fuel economy standard of 18 miles per gallon (mpg) for 1978 model year passenger automobiles and that a lower, alternative standard be established for it. This notice proposes that the requested exemption be granted and that an alternative standard of 17.6 mpg be established for Checker.

DATE: Comment closing date: July 10, 1978.

ADDRESS: Comments on this notice must refer to Docket LVM 77-03 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9384.

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the National Highway Traffic Safety Administration (NHTSA) establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactures less than 10,000 passenger automobiles worldwide in the model year for which the exemption is sought ("the affected model year") and which manufactured less than 10,000 passenger automobiles worldwide in the second model year before the affected model year. In determining maximum feasible average fuel economy the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal Motor Vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

To implement section 502(c), NHTSA issued Part 525, exemptions from average fuel economy standards (42 FR 38374; July 28, 1977). Part 525 prescibes the contents of exemption petitions and sets forth the procedures for processing those petitions. After receipt of a complete petition, the agency publishes a notice of receipt which summarizes the petition and invites comments on it. Subsequently, the agency publishes a proposed decision to grant or deny the petition and provides a further opportunity for comment. Finally, the agency publishes a final decision to grant or deny the peitition.

Checker originally filed a petition in August 1977 for exemption from the generally applicable standards for 1978 model year passenger automobiles, and a petition for exemption from the generally applicable standards for the 1979 and 1980 model years in September 1977. By letter of September 30, 1977, the agency informed Checker that its petition was incomplete and identified the additional information needed by the agency. Checker submitted further information in a letter dated October 13, 1977. This letter essentially completed Checker's petition for exemption.

Accordingly, NHTSA issued a notice announcing the receipt of a petition for exemption. (42 FR 64169; December 22, 1977). That notice summarized the Checker petition and invited public comment on it.

Only one comment on the notice of receipt was submitted. The commenter urged that Checker be exempted "in the name of common sense."

This proposed decision relates only to Checker's request for exemption in the 1978 model year. The analysis of Checker's maximum feasible average fuel economy for the 1978 model year is relatively simple compared to the analyses for the 1979 and the 1980 model years. The agency finds that it is in the public interest to issue a proposed decision for model year 1978 so that a final decision can be made on that model year alone, without considering the more complex question of the 1979 and 1980 model years.

Requested alternative standard. Checker requested that its alternative standard for 1978 be set at 16.8 mpg, the same level of average fuel economy as it achieved in the 1977 model

year. Checker's request was premised on the assumption that its four base levels would have the same fuel economy as they had in 1977. A base level is a classification of automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine and transmission type (e.g., manual, automatic, or semiautomatic). This description of a base level is a simplification of the Environmental Protection Agency's definition of the term, which can be found at 40 CFR 600.002-77(a)(23). Since there were no technical changes to these base levels, Checker planned to carry over its emissions certification from the 1977 model year. When a certification is carried over from one year to the next, no further testing is conducted, and the fuel economy values are identical to the previous model year's

During the period since the agency issued its notice of receipt, it has learned that Checker's original assumption was invalid. The Environmental Protection Agency (EPA) instituted, beginning in this model year, a new test procedure (known as the SHED test) for hydrocarbon emissions from sources other than the exhaust. Accordingly, that agency required manufacturers to retest and recertify their vehicles for the 1978 model year. When the Checker vehicles were retested, the following results were obtained:

COMBINED FUEL ECONOMY LEVEL

Base level	1977	1978
6 cylinder (49 States)	18.2	18.5
6 cylinder (California)	15.1	16.9
8 cylinder (49 States)	15.4	17.8
8 cylinder (California)	13.9	12.8

The result of these changes has been to raise Checker's 1978 average fuel economy 0.8 mpg to a level of 17.6 mpg. This analysis uses 17.6 mpg as a basis for determining Checker's maximum feasible average fuel economy for model year 1978.

Technological feasibility and economic practicability. In considering whether Checker could improve its average fuel economy for model year 1978, the agency examined the same methods for improving average fuel economy that it examined in establishing average fuel economy standards for model year 1981-1984 passenger automobiles (42 FR 33534; June 30, 1977) and for model year 1980-1981 light trucks (43 FR 11995; March 23, 1978). These methods were weight reduction, aerodynamic improvements, engine efficiency improvements, engine accessory efficiency improvements, alternative engines, turbochargers, automatic transmission improvements, improved lubricants, reduced rolling resistance, engine displacement or drive ratio reductions, and mix shifts.

NHTSA's examination of these methods in this proceeding was significantly less detailed than in those earlier proceedings since there is almost no leadtime now for making running changes to the model year 1978 Checkers. There will be even less leadtime when the final decision on the exemption petition is issued.

To use most of these methods, Checker would have to discard components it has already made or purchased (Checker purchases its engines, transmissions, and emission control systems from General Motors) and obtain new ones. NHTSA has no information regarding Checker's ability to produce or purchase and incorporate the new components before the end of the model year. Even if these problems could be surmounted, Checker would be potentially faced with probably having to write off completely the discarded components and raise the prices on its cars to recover the loss. The price increases could be of sufficient magnitude to place the Checker at a significant disadvantage in the marketplace.

In addition to these substantial uncertainties and the very short leadtime, there is the possibility that changes to the Checker's components to improve fuel economy could create a need to certify the Checkers for compliance with the model year 1978 emissions standards again. Depending on the type and magnitude of change, the recertification could entail rerunning the 50,000-mile durability test and the 4,000-mile test. Certification testing is ordinarily done for Checker by General Motors as a part of selling Checker its drivetrain. If Checker were able to persuade General Motors to retest the automobile, there could still be serious problems of time and cost for Checker. It would take at least 60 days to complete the testing if both tests were necessary. Until the automobiles were recertified, Checker would have to choose between: (1) producing its automobiles with the changes and running the risk that the automobiles would not be certified and therefore could not be sold, (2) not producing any automobiles until certification was granted, thus potentially causing serious financial problems for Checker, or (3) continuing to produce Checkers as currently certified. Regardless of which course was selected, only a small portion of the entire Checker fleet would have the changes and thus have improved fuel economy. The first and second course would involve a high degree of financial risk for a small company like Checker. Both could lead to serious disruptions of its cash flow. The third course would not involve that type of financial risk, but also would produce the least fuel economy benefits. Indeed, none of the courses would produce much of a fuel economy benefit since only a small portion of the entire Checker fleet would have the changes and thus have improved fuel economy.

Finally, mix shifts were considered. Most of Checker's 1978 production has been either built or ordered at this point, so the potential fuel economy improvements that would be achieved are slight. The base levels with 8-cylinder engines comprise about 15 percent of Checker's total production for the 1978 model year. Further, Checker already produces and sells as many 6-cylinder versions of its automobiles as the market demands. Therefore, any decrease in the production of 8-cylinder Checker automobiles could probably not be offset by an increase in the production and role of 6-cylinder models. This measure would decrease Checker's cash flow and profits and yield only marginal fuel economy benefits. Thus, it is judged not to be economically practicable.

Based on the foregoing considerations, the NHTSA concludes that running changes to improve the fuel economy of Checker's 1978 model year passenger automobiles are not technologically feasible and economically practicable.

The effect of other Federal motor vehicle standards. Checker stated that it did not believe that there would be any significant fuel economy effects on its 1978 automobiles from applicable motor vehicle standards. Accordingly, this proposed decision assumes that there will be no fuel economy penalty caused by the other Federal standards.

The need of the Nation to conserve energy. The daily extra U.S. demand for petroleum that will result from Checker achieving an average fuel economy level of 17.6 mpg rather than the generally applicable level of 18 mph is estimated to average 17.8 barrels per day over the life of the model year 1978 Checkers. To give a perspective on this number, the fuel consumed by passenger automobiles in the United States is about 5 million barrels each day. For all purposes, the United States currently consumes about 17 million barrels of petroleum each day. The 17.8 extra barrels per day are tentatively judged to have a negligible effect on the Nation's energy needs.

Selection of the type of alternative standard. The Act permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers,

with a spearate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

The NHTSA believes that it is appropriate to establish a separate standard for Checker. The analyses of the petitions submitted by other low volume manufacturers has not been completed, so the agency cannot practicably use the second or third approches described in the preceding paragraph.

Proposed alternative standard. Based on its tentative conculsions that it is not technologically feasible and economically practicable for Checker to improve the fuel economy of the model year 1978 automobiles remaining to be produced, that other Federal vehicle standards have not adversely affected achievable fuel economy, that the national effort to conserve energy will be negligibly affected by the granting of requested exemption and alternative standard, the agency has tentatively decided that the maximum feasible average fuel economy for Checker for model year 1978 is 17.6 mpg. Therefore, the agency proposes to exempt Checker from the generally applicable standard of 18 mpg and to establish an alternative standard of 17.6 mpg for Checker for model year 1978.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by adding § 531.5(b)(3) to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) * * *

(2) * * *

(3) Checker Motors Corp.:

Model year:	*Average fuel economy standard (miles per gallon)*
1978	17.6

Persons are invited to submit comments on this proposed decision. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

All comments received before the colse of business on the comment closing date indicated at the beginning of this proposal will be considered, and will be available for public inspection in the docket both before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978.)

The program official and attorney principally responsible for the development of this proposed regulation are Douglas Pritchard and Stephen Kratzke, respectively.

Issued on June 2, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-15811 Filed 6-7-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405 and 449]

NEW DIRECTIONS FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

Notice of Public Meetings

AGENCY: Health Care Financing Administration, HEW.

ACTION: Notice of public meetings.

SUMMARY: Current regulations specify in detail the standards a facility must meet to participate in the Medicare and Medicaid programs. These regulations have been in effect for over 4 years. There is a need to simplify regulations to focus on patient care, to control the cost of care, and to achieve more effective compliance with the standards. This Notice announces a series of public meetings to discuss new directions on standards for, and survey and certification of, skilled nursing facilities (SNF's) and intermediate care facilities (ICF's). We need widespread participation of interested and knowledgeable individuals, public and private groups and organizations, and State and local government agencies in these meetings.

DATES: See supplementary information below for dates and locations.

ADDRESS: Submit written comments to: Janice M. Caldwell, Dr. P.H., Division of Long Term Care, Room 12A52, Health Standards and Quality Bureau, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Janice M. Caldwell, 301-443-3346.

SUPPLEMENTARY INFORMATION: With respect to standards, there are several options under consideration. One is to retain present standards but make minor modifications to provide a more significant focus on patient care. Another is major revision to place more emphasis on the quality of care and services provided to patients and less emphasis on the facility's policies, procedures, capacity and capability. A third option would be to develop a single set of standards pertaining to administration, life safety, physical environment, disaster planning, licensure, health care services, staffing, policies, records, and related requirements for both SNF's and ICF's. Standards applicable only to a SNF or to an ICF would be specifically identified.

In regard to survey and certification of SNF's and ICF's, two options are under consideration. One is to retain current survey and certification procedures with little change, but seek statutory authority to extend the duration of provider agreements from the present 12 months to 24 months or longer. The other option is to revise the present survey procedures to require the facility to perform a self-survey and to submit a plan of correction. The State survey agency would conduct a survey to verify the self-survey submitted by the facility.

We would like to consider other options proposed by the public. Your participation at this early stage, particularly if you would be affected by the proposed changes, will help us (1) determine whether we are on the right track; (2) determine the most effective combination of available options; and (3) identify specific problem areas.

We are especially interested in your comments and suggestions on the following issues:

1. What minimum qualifications should be established for professional personnel who work in or with a certified skilled nursing or intermediate care facility?

It is our view that such individuals should be registered, licensed, or certified by the State, as applicable, and should be graduates of a State-approved program or of an institution of higher learning in a program approved by a recognized national accrediting body.

2. Should medications be administered by unlicensed and untrained personnel (often called medication aides)? Should medication aides be required to satisfactorily complete a State-approved training program? If trained medication aides are to be permitted, which agency or body in the State should approve the training program and provide overall supervision?

We believe that only State licensed personnel should be permitted to administer medications. The Nurse Practice Acts of States that do not prohibit the use of medication aides are silent as to their qualifications.

3. Does the Medical Direction requirement ensure that patients receive adequate and appropriate medical and other services on a timely basis? If not, how can the requirement be improved to be made more effective?

It is our view that the Medical Director, in performing his responsibilities, should personally visit patient care floors and make regular reviews of patients and their records.

4. In order to obtain adequate physician supervision of SNF patients, should we continue to require physicians to visit their patients every 30 days for the first 90 days and no less often than every 60 days thereafter?

We think it would be sufficient if patients are seen at least quarterly and more often when warranted by their condition.

5. Should physician extenders (including both nurse practitioners and physicians' assistants) be utilized in SNF's and/or ICF's?

In our view, there is a role for the physician extender in these facilities.

6. Should SNF's and/or ICF's be required to provide or make arrangements for Respiratory Services for the provision of inhalation therapy?

If this requirement were imposed, what controls would be necessary to assure, for instance, that services are appropriate to the needs of the patient; that the therapists are trained and qualified; and that the equipment is clean and in proper operating condition? If you do not favor imposing this requirement, give your reasons.

7. Should the facility be permitted to use nursing staff manpower pools?

If you favor use of pools, please express your opinion on the circumstances under which the facility should be permitted to use the pools; the controls needed, if any, to prevent the facility from over-use of the pools; and the level of permanent nursing staff the facility should be required to maintain. If you do not favor use of pools, please explain why.

8. Should the Secretary seek statutory authority to specify which edition of the Life Safety Code issued by the National Fire Protection Association should apply to currently certified SNF's and to SNF's initially applying for participation in Medicare or Medicaid?

Congress has mandated that the 23rd edition of the Life Safety Code be applied. As new editions are issued, which edition should be applied in order to assure proper safeguards against hazardous conditions in nursing homes without having to wait for Congress to amend the statute?

You can participate by (1) requesting copies of the proposed options and other related materials; (2) testifying

at the public meetings; and/or (3) submitting written comments.

SCHEDULE OF MEETINGS

Date: Tuesday, June 27 and 28. Time: 9 a.m.—Speaker registration; 10 a.m.—meeting begins. Place: Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, Md. 20857.

Date: Tuesday, July 11, 12, and 13. Time: 9 a.m.—Speaker registration; 10 a.m.—meeting begins. Place: Federal Building, 219 South Dearborn, Chicago, Ill.

Date: Tuesday, July 18, 19, and 20. Time: 9 a.m.—Speaker registration; 10 a.m.—meeting begins. Place: HEW-North Building, Auditorium, 300 Independence Avenue SW., Washington, D.C.

Date: Tuesday, July 25, 26, and 27. Time: 9 a.m.—Speaker registration; 10 a.m.—meeting begins. Place: Atlanta, Ga. Contact: Mr. Isom Herron, DHEW, Marietta Tower, Suite 502A, 404-221-2115.

Date: Tuesday, August 1, 2, and 3. Time: 9 a.m.—Speaker registration; 10 a.m.—meeting begins. Place: San Francisco Department of Health, Room 300, 101 Grove Street, San Francisco, Calif.

AGENDA FOR MEETINGS

The first 2 days are scheduled for discussion of health standards and certification. The second day will begin at 9 a.m. with participants who could not be scheduled for the first day.

The third day is solely for discussion of Life Safety Code and related areas with participants scheduled to begin at 10 a.m. The hour from 9 to 10 a.m. is reserved for registration of individuals electing to attend only the third day.

If you wish to speak, please submit your comments, in writing, and register prior to the meeting by calling the Division of Long Term Care at 301-443-2420 in Rockville, Md. We will give priority to those who register in advance, but you may also register on the first day of the meeting between 9 and 10 a.m.

Participants will be limited to 15 minutes for oral presentation but additional information may be included in the written comments.

An organization will be permitted to make an oral presentation at only one of the five meetings.

You may request a list of specific issues and options from Janice M. Caldwell, Dr. P.H., at the address indicated above.

Notice of the place for the meeting will be included in your packet of materials, but you may also call the HEW Regional Office a few days before the scheduled day.

We will consider all written comments received up to 30 days after the date of the last public meeting in developing new directions. Since we must carefully review and assess them, we would appreciate having three copies. However, a lesser number of copies will in no way affect the consideration we give them.

Comments will be available for public inspection at the Division of Long Term Care at the address given above, on week days during regular business hours after the public meetings.

Dated: June 6, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-16077 Filed 6-7-78; 12:27 pm]

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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A615]

KENTUCKY

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Kentucky Counties as a result of tornadoes May 12, 1978, with related storm damage, including flooding:

Christian and Trigg.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Julian M. Carroll that such designation be made.

Applications for emergency loans must be received by this Department no later than November 22, 1978, for physical losses and May 29, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 1st day of June 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15860 Filed 6-7-78; 8:45 am]

[3410-07]

[Notice of Designation No. A616]

SOUTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Harding County, S. Dak., as a result of snowstorms and extreme unseasonably cold weather November 15, 1977, through March 28, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Richard F. Kneip that such designation be made.

Applications for emergency loans must be received by this Department no later than November 22, 1978, for physical losses and May 29, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 1st day of June 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15861 Filed 6-7-78; 8:45 am]

[3410-07]

[Notice of Designation No. A618]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought June 15, 1977, through April 21, 1978, in Kerr County; drought June 1, 1977, through May 1, 1978, in Webb County; and drought September 30, 1977, through May 1, 1978, in Winkler County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than November 22, 1978, for physical losses and May 29, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 1st day of June, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15862 Filed 6-7-78; 8:45 am]

[3410-11]

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to the Inventory List

Notice is hereby given of amendment to the inventory of roadless and undeveloped areas within the National Forests and Grasslands, as published in the FEDERAL REGISTER, Friday, November 18, 1977, pages 59690-59715, and amended Tuesday, February 14, 1978, pages 6291-6292.

The inventory is subject to adjustments from time to time as corrected data becomes available, as areas are modified or areas are added or deleted from the list. The amendments are listed by State and National Forest in the same order as the original list.

State: Alaska

Chugach NF:

Delete 10002, Kenai Lake, 263,000 acres.

Add 10002, Boston Bar, 54,000 acres and 10004, Kenai Lake, 209,000 acres.

(The two added areas had previously been combined into one area, but will be considered as discrete units.)

Change 10007, Harriman Fiord, to 86,000 acres.

Change 10008, Golden, to 135,000 acres.

Change 10010, Columbia Glacier, to 17,000 acres.

Change 10011, Nellie Juan, to 33,500 acres.

(These four areas' acreages changed to reflect the Administration position endorsing the Nellie Juan and College Fiord Wildernesses.)

Tongass NF:

Delete 10022, stikine Roadless Area, 2,008,651.

Delete 10023, Chatham Roadless Area, 6,181,661.

Delete 10024, Ketchican Roadless Area, 5,309,688.
Add the following:

Number	Name	Acreage
2.0	Denver Glacier	20000
3.0	Skagway	4337
4.0	Kasidaya Creek	13244
5.0	Taiya	7726
6.0	Wishbone Glacier	25347
7.0	Mount Bagot	23922
8.0	Dayebas Creek	11630
9.0	Meade Glacier	52756
10.0	Yeldagalga Creek	23299
11.0	Sinclair Mountain	26177
12.0	Berners River	40308
13.0	Lace River	73932
14.0	Antler River	13000
15.0	Gilkey River	32552
16.0	Berners Bay	17893
17.0	Sawmill Creek	5379
18.0	West Sinclair	9858
19.0	Kakuhan	9014
20.0	Comet	9662
21.0	Gilkey Glacier	11150
22.0	Taku Glacier	215471
23.0	Canyon Creek	19086
24.0	Cowee Creek	6137
26.0	Herbert-Eagle	29990
28.0	Montana Creek	9854
29.0	Mendenhall	3648
30.0	Nugget Creek	10420
31.0	Ptarmigan Glacier	14722
36.0	Inner Point	4030
37.0	McDonough Peak	4911
38.0	Rhine Creek	3814
39.0	Carlson Creek	16701
40.0	Annex Lake	4243
41.0	Taku Inlet	32565
42.0	Lake Dorothy	10878
43.0	Turner Lake	32869
44.0	Davidson Creek	21776
45.0	Glory Lake	6830
46.0	Taku River	103173
47.0	Mount Swineford	41257
48.0	Wright Glacier	25571
49.0	Boundary Creek	23114
50.0	Long Lake	19600
51.0	Slocum Inlet	15987
53.0	Limestone Inlet	10275
55.0	Port Snettisham	22572
56.0	Meigs Peak	12294
57.0	Gilbert Bay	29145
58.0	Speel Arm	17172
59.0	Lower Speel River	19999
60.0	Upper Speel River	92514
61.0	Whiting River	141999
62.0	Tracy Arm	238583
63.0	Sand Spit	12280
64.0	Williams Cove	9270
65.0	Sundum Glacier	41001
66.0	Sanford Cove	14175
67.0	Endicott Arm	167291
68.0	Sand Bay	8156
69.0	Dry Bay	12498
70.0	Pt. Windham	8675
71.0	Windham Bay	17208
72.0	Windham Creek	7233
73.0	Sunset Island	4801
74.0	Libby Creek	8662
75.0	Hobart Bay	21210
76.0	Chuck River	43559
77.0	Hobart Creek	23150
78.0	Houghton Lakes	47406
79.0	Salt Chuck	42688
80.0	Alice Lake	6957
81.0	Pt. Hot	5079
82.0	Negro Creek	12212
83.0	Port Houghton	10363
84.0	Sandborn Canal	17024
85.0	Five Fingers	6435
86.0	Fanshaw	8440
87.0	Cat	14521
88.0	Tangent	3667
89.0	Bay Point	17344
90.0	Faragut	28300
91.0	Glory	34597
92.0	Gray	31754
94.0	Sullivan Island	3985
95.0	Sullivan Mountain	8843
96.0	S. Davisdon Glacier	8575
97.0	West Sullivan	6447
98.0	Sullivan Delta	25469
99.0	Pt. Can	13374
100.0	North Endicott	8218
101.0	Mount Young	6613
102.0	Upper Endicott River	36361
103.0	103 Creek	9210
104.0	South Endicott	19041
105.0	Lower Endicott River	23409
106.0	Upper St. James	19674
107.0	William Henry Bay	7418
108.0	Pt. Danger	3359
109.0	Boat Harbor	1882
111.0	St. James Bay	21010
112.0	Nun Mountain	21989
113.0	Lynn Sisters	16241
114.0	No Name Basin	21514
115.0	Earth Station	9038
116.0	Couverden Lake	8319
117.0	Couverden Island	9934
118.0	Ansley Creek	13393
119.0	Humpy Creek	22485
120.0	Porpoise Island	11745
121.0	Excursion Inlet	9481
124.0	Shelter Island	6162
125.0	Barlow Cove	13723
126.0	Funter Bay	8413
127.0	Caim Station	4957
128.0	Hawk Inlet	14319
129.0	Lone Mountain	10530
130.0	Horse Island	4388
131.0	Fowler Creek	5876
132.0	Young Bay	6495
133.0	Eagle Peak	18173
134.0	Slink Creek	6387
135.0	Oliver Inlet	5017
136.0	Doty cove	11158
137.0	South Island	10955
138.0	Washburn Peak	25445
139.0	Pt. Hugh	14717
140.0	Dorn Island	9485
141.0	Winning Cove	12816
142.0	Fool Inlet	16967
143.0	King Salmon Bay	27903
144.0	Green Creek	17225
145.0	North Wheeler	22849
146.0	Wheeler Creek	18629
147.0	Pt. Hepburn	4174
148.0	Lake Kathleen	15302
149.0	Ward Creek	29001
150.0	Lake Florence	21984
151.0	Windfall Harbor	19042
152.0	Swan Cove	40823
153.0	Tiedeman Island	10398
154.0	West Tiedeman	9277
155.0	Buck Island	14479
156.0	Mole Harbor	24420
157.0	Hasselborg Lake	62344
158.0	Fishery Creek	39627
159.0	Marble Bluffs	8899
160.0	Parker Point	12063
161.0	Thayer Creek	13064
162.0	Thayer Lake	25374
163.0	Mitchell Bay	7402
164.0	Kootznahoo Head	1452
165.0	Angoon	10836
166.0	Kanalku Bay	15294
167.0	Yellow Bear Mountain	13611
168.0	Pleasant Bay	10339
169.0	Seymour Entrance	6855
170.0	Gambier Bay	69076
171.0	Hood Bay	27000
172.0	Chaik Bay	22615
173.0	Whitewater Bay	19524
174.0	Pt. Caution	3566
175.0	Wilson Cove	22688
176.0	Pt. Gardner	9303
177.0	Tyee	13942
178.0	Carrol Island	2546
179.0	Herring Bay	12980
180.0	Eliza Harbor	37634
181.0	Little Pybus Bay	11436
182.0	Pybus Bay	41513
183.0	Square Point	9713
184.0	The Brothers	1711
185.0	Pleasant Island	8804
186.0	Lemesurier Island	6723
187.0	Elfin Cove	10697
188.0	Mount Althrop	8040
189.0	Port Althrop	15181
190.0	Idaho Inlet	53395
191.0	Gull Cove	6132
192.0	Goose Island	12836
194.0	Loon Lakes	8935
195.0	Pt. Adolphus	4498
196.0	Chicken Creek	15564
197.0	Eagle Point	3004
198.0	Flynn Cove	4323
200.0	Humpback Creek	11076
202.0	Port Frederick	8324
203.0	Seagull Creek	10946
204.0	Game Creek	34570
205.0	Gartina Creek	10754
207.0	Spasski Creek	12058
208.0	First No. 2	6613
209.0	Suntaheen Creek	13198
210.0	False Bay	12610
211.0	Pt. Augusta	4688
212.0	Gypsum Creek	13330
213.0	Iyoukeen Peninsula	3831
214.0	Seal Creek	6853
215.0	Freshwater Bay	23143
222.0	Sand Station	6115
224.0	Tenakee Inlet	26658
225.0	Little Goose Flats	18244
226.0	Goose Flats	23798
227.0	Hub Station	3854
228.0	Long Bay	18659
229.0	Seal Bay	18584
231.0	Saltery Bay	13887
232.0	Crab Bay	5738
233.0	South Crab Bay	2628
235.0	Kadashan River	33641
237.0	Trap Bay	6446
238.0	South Passage	9946
240.0	Little Basket Bay	9390
246.0	Broad Island	17145
247.0	Finger Mountain	15918
248.0	916 Lake	9700
249.0	Lisianski River	19521
250.0	Phonograph Creek	11589
251.0	Pelican	5751
252.0	Tarn Mountain	9124
253.0	Mite Cove	10350
254.0	Surge Bay	17588
255.0	Takanis Bay	14156
256.0	Tankanis Lake	2257
257.0	Bohemia Basin	3980
258.0	Lisianski Strait	11944
259.0	Stag Bay	14859
260.0	Apex-El Nido	8573
261.0	Steelhead River	9726
262.0	Lisianski Ridge	8844
263.0	Goulding Lakes	14328
264.0	Goon Dip Mountain	11480
265.0	Goulding Harbor	10998
266.0	Lake Elfendahl	7604
267.0	White Sulpur Springs	2124
268.0	Middle Island	4114
269.0	Myriad Islands	11645
270.0	Khaz Peninsula	19507
271.0	Kimshan Cove	16745
272.0	Black Bay	18961
273.0	Rust Lake	7108
274.0	Ford Arm	16907
275.0	Cobol	14618
276.0	Flat Creek	8352
277.0	Goloi Island	5938
278.0	Suloia Bay	9847
279.0	Rapids Point	7637
280.0	Deep Bay	17612
281.0	shk Bay	16628
282.0	Fick Cove	7820
283.0	Patterson Bay	23016
284.0	Granite Creek	11823
285.0	South Arm	5035
286.0	Moser Island	5847
287.0	Fish Bay	31158
288.0	Range Creek	6964
289.0	Nixon Shoal	7754
290.0	Cozian Reef	2899
294.0	Saook Bay	17883
295.0	Lake Eva	12100
296.0	Portage Arm	4034
297.0	Catherine Island	7856
298.0	Middle Arm	21277
299.0	Annahootz Mountain	13926
302.0	Neva Strait	21367
304.0	Sinitsin Bay	3385
305.0	Sealion Cove	9317
306.0	Gilmer Bay	6962
308.0	Mount Edgecumbe	52882
309.0	Krestof Sound	2258
310.0	Gavanski Island	5112
313.0	Katlian River	3007
314.0	Glacial River	34938
315.0	Kelp Bay	8366

Number	Name	Acreage
316.0	Kasnyku Bay	12560
317.0	Takatz Bay	14161
318.0	Blue Lake	19034
320.0	Aleutkina Bay	7611
322.0	Deep Inlet	7619
323.0	Salmon Lake	7545
324.0	Green Lake	18445
325.0	Bear Cove	3761
326.0	Warm Springs Bay	27652
327.0	Cascade Bay	22298
328.0	Nelson Bay	19907
329.0	Red Bluff Bay	31728
330.0	Falls Lake	6124
331.0	Hoggatt Bay	9884
332.0	Gut Bay	23157
333.0	Brentwood Lake	17048
334.0	Deep Cove	11075
336.0	Port Herbert	10969
337.0	Port Walter	11984
338.0	Port Lucy	9485
339.0	Port Alexander	13297
340.0	Puffin Bay	7370
341.0	Branch Bay	22880
342.0	Redfish Bay	13199
343.0	Snipe Bay	11454
344.0	Plotnikof Lake	30574
345.0	Sandy Bay	18847
346.0	Whale Bay	70352
347.0	Necker Bay	40359
348.0	Crawfish Inlet	56580
349.0	Big Bay	9037
350.0	Redoubt Lake	22732
351.0	Biorka Island	8442
352.0	Orange Glacier	50070
353.0	Nunatak Fiord	39045
354.0	Hidden Glacier	30330
355.0	Black Tit	30731
356.0	Russell Fiord	57344
357.0	Calahonda Creek	16241
358.0	Aquadulce Creek	8190
359.0	Logan Bluffs	9025
360.0	Logan Beach	14260
361.0	Chicago Harbor	10513
362.0	Dank Forest	1430
364.0	Old Situk	4632
365.0	Lower Russell Fiord	9866
366.0	Situk River	6238
368.0	Khantaak Island	1388
372.0	Arhnklin River	63338
373.0	Dark Forest	7016
374.0	Moser Creek	19637
375.0	Miller Creek	7742
376.0	Pike Lakes	1907
377.0	Dangerous River	7074
378.0	Harlequin Lake	2750
379.0	Italio River	40655
380.0	Italio Beach	5051
381.0	Akwe Beach	5051
382.0	Triangle Lake	27391
383.0	Cliff Mountain	4166
384.0	Italio Lake	8890
385.0	Akwe Lake	18229
386.0	Ustay Flats	7352
387.0	Ustay River	12800
388.0	Cannery Creek	6901
389.0	Tanis Mesa	26667
390.0	Rodman Pass	5138
391.0	Tanis Lake	17735
392.0	Upper Alsek River	13664
393.0	Canyon Glacier	10771
394.0	Brabazon Gate	10460
395.0	Alsek Rapids	5515
396.0	Bear Island	14948
397.0	Doame Beach	2399
398.0	Keku	11061
400.0	Security	14020
401.0	Washington	13863
402.0	Rowan	7848
403.0	Pillar	28227
404.0	Pile Driver	8805
405.0	Elena	23027
406.0	Explorer	7232
407.0	Tebenkof	25464
408.0	Malmsevry	18170
409.0	Bear	18231
410.0	Table	12829
411.0	Kell	15315
412.0	McArthur	8906
413.0	Affleck	8891
414.0	Amelius	16191
415.0	Beauchlerc	24251
416.0	Alvin	17989
417.0	No Name	12535
418.0	Lagoon	10766
422.0	Turn	15239
424.0	Bohemia	57132
425.0	Cathedral	13916
426.0	Hamilton	31646
427.0	Big John	32743
428.0	Rocky Pass	49555
429.0	Irish	53531
430.0	Lovelace	14544
431.0	Barrie	22238
432.0	Totem	43213
433.0	Douglas	14091
434.0	Kah Sheets	22484
435.0	Castle Island	32814
436.0	Castle River	21031
438.0	Indian	27620
440.0	Towers	25965
441.0	Salt Chuck	22684
442.0	Portage	4507
445.0	Petersburg	27277
446.0	Sokol	11208
448.0	Woewodski	20944
449.0	Frederick	6835
455.0	Vank	4218
462.0	Chicagof	16915
463.0	Kunk	10215
464.0	Anita	18847
465.0	Quite	9245
466.0	Steamer	17323
467.0	Mosman	25573
468.0	Burnett	22406
469.0	Olive	6015
470.0	Zimovia	9859
471.0	Menefee	19049
472.0	McHenry	23333
473.0	Onslow	29062
474.0	Canoe	20020
475.0	Wrangell	4558
476.0	Eastern	7689
477.0	Nemo	3112
479.0	Thomas	21141
481.0	Baird	12249
482.0	Dena	14214
483.0	Jefferson	10829
484.0	Spurt	11782
485.0	Scenery	17928
486.0	Swan	14099
487.0	Thomas	10113
488.0	Patterson	17593
489.0	Muddy	19715
490.0	Horn	9815
491.0	Le Conte	55315
492.0	Wilkes	23052
493.0	Stikine	26403
494.0	Shakes	22985
495.0	Ketili	49896
496.0	Farm	11563
497.0	Cottonwood	15066
498.0	Andrew	29293
499.0	Goat	10938
500.0	Kikane	21159
501.0	Garnet	25609
502.0	Virginia	29601
503.0	Berg	46005
504.0	Madan	14128
505.0	Blake	26021
506.0	Aaron	20496
507.0	Cone	128736
508.0	Oerns	13110
509.0	Marten	14830
510.0	Campbell	26918
511.0	Harding	45303
512.0	White	31786
513.0	North Fork	40171
514.0	Bradfield	15031
515.0	Cloud	42494
516.0	Glacier	55743
517.0	East Fork	11741
518.0	Tyee	15087
519.0	Eagle	43783
520.0	Hoya	18417
521.0	Canal	7514
522.0	Anan	37331
523.0	Warde	5389
524.0	Frosty	18185
525.0	Sunny	17909
528.0	Mt. Calder	4616
529.0	Alder	7725
530.0	Buster	5217
533.0	Red Lake	9948
534.0	Salmon Bay	17726
541.0	Shipley	12213
547.0	Davidson Inlet	6350
548.0	Holbrook Mtn	4826
549.0	Sarheen	11960
553.0	Mable Creek	7474
554.0	Sarkar	32438
562.0	Cone Bay	5304
563.0	Derrumba	4531
564.0	Coronation Island	19122
565.0	Warren Island	11353
566.0	Maurelle	4424
567.0	Noyes	24651
568.0	Lulu	18517
569.0	Baker	31946
582.0	Baird Peak	4110
591.0	Nossuk	8662
592.0	St. Phillip	14454
593.0	Sombrero	16590
594.0	Shinaku	22652
595.0	Steelhead	15076
596.0	Control	3183
597.0	Goose Creek	6231
600.0	Windfall HBR	186
601.0	Kasaan	338
602.0	Streets Island	4691
603.0	Grindall	744
604.0	Cliffs	2863
605.0	North Creek	5544
606.0	Anderson	12133
607.0	Salmon Lake	14850
608.0	McGillivery	6144
609.0	Klawock Mtn	7090
613.0	Old Frank's	17175
614.0	Saltery Cove	7261
615.0	Trollers Cove	9638
616.0	Clover Lake	5992
617.0	Clover Bay	13997
618.0	McKenzie	17249
619.0	Polk	9620
620.0	Dog Salmon	23068
623.0	St. Nicholas	8713
625.0	Trocadero	15026
626.0	Palisade	6488
627.0	Pt. Polocano	4687
628.0	Pt. Amagura	10514
630.0	Port Estrella	2739
631.0	Shelikof	16721
632.0	Soda Bay	28268
633.0	Cabras	3445
634.0	Santa Cruz	11624
635.0	Port Refugio	9118
636.0	Arena Cove	8616
637.0	Meares	6110
638.0	Tlevak	2834
639.0	Bob's Bay	6756
640.0	Diver Bay	4827
641.0	Foul Bay	3232
642.0	Manhattan	5411
643.0	Sakie	3031
644.0	Fisherman Cove	1766
645.0	Coco Harbor	4194
646.0	Devil Lake	4337
647.0	Welcome	3193
648.0	Waterfall Bay	7734
649.0	High Point	366
650.0	Rose Inlet	715
651.0	Gold Harbor	5197
653.0	Gooseneck	4859
654.0	Grace Harbor	223
655.0	Ritter Point	1286
656.0	Pat Bazan	4345
659.0	Essowah	11175
660.0	Pond Bay	3798
661.0	Security Cove	2654
662.0	Kaigani	3342
663.0	Datzkoo	3954
664.0	Liscome Bay	3293
665.0	Wolk	2589
666.0	McLead Bay	3459
667.0	Cape Muzon	1476
670.0	Jackson	16478
671.0	Dunbar	14026
672.0	Hydaburg	9987
673.0	Hetta	5394
677.0	Dora Bay	4608
680.0	Windy Point	6775
681.0	Dolomi	13106
682.0	North Moira	17083
683.0	Myrtle	7776
684.0	Dickman Bay	23858
685.0	Nutkwa	17134
686.0	Nutkwa Creek	16853
687.0	Klakas	31033
688.0	Hassiah	8731
689.0	Kassa	10917

Number	Name	Acreage
690.0	Ruth Bay	3233
691.0	West Moira	9670
692.0	Bokan	23471
693.0	Egg	5106
694.0	Ingraham	6244
695.0	Hidden Bay	4797
696.0	Hunter Bay	15866
697.0	Tah Bay	5212
698.0	Hessa Lake	13395
699.0	Kendrick	14657
700.0	Short Arm	4154
701.0	McClean	10379
702.0	Stone Rock	9322
703.0	Cape Chacon	2060
704.0	Nichols Bay	17338
705.0	Brownson	8400
706.0	Hessa Inlet	17892
707.0	Barrier Islands	2002
708.0	Meyers Chuck	5080
709.0	Union Bay	14061
710.0	Cannery Creek	5735
711.0	No Name	1389
712.0	Rainbow	5811
713.0	Caamano	9108
714.0	Bond	5650
715.0	Smugglers	13669
716.0	Helm Bay	16127
717.0	Granite Creek	10397
718.0	Vixen Lake	12176
719.0	Port Stewart	21502
720.0	Vixen Inlet	23990
721.0	Emerald	7879
722.0	Spacious Bay	31491
724.0	Ves Bay	42566
725.0	Snipe	6927
726.0	Bailey	15381
727.0	Reflection	9736
728.0	Short Bay	14419
729.0	Anchor Pass	8973
730.0	Hag	11954
731.0	Bell	19202
734.0	Orchard	32341
735.0	Hassler	5029
739.0	Traitors	9702
740.0	Francis Cove	3297
741.0	Loring	3679
742.0	Naha	31926
743.0	Moser	10934
745.0	Swan	22150
747.0	Salt Lagoon	13233
748.0	George Inlet	19502
751.0	Ketchikan Lakes	6631
754.0	Fish Creek	20699
755.0	Gokachin	13364
757.0	Thorne Arm	11147
758.0	Carroll Point	11903
759.0	Moth Bay	7718
760.0	Lucky	12453
761.0	Vallenar	5110
762.0	Dall Ridge	8944
763.0	Bostwick	13960
764.0	Blank Inlet	3666
765.0	Dall Road	4803
766.0	Percy	2285
767.0	Duke Island	39914
768.0	Mary Island	5111
769.0	Alava	13582
770.0	Narrow Pass	11443
771.0	Princess	15845
772.0	Wasp	4932
773.0	Ella	12815
774.0	Sargent Bay	6534
775.0	Manzanita	24358
776.0	Grace	19741
777.0	Snip Island	9248
778.0	Portage Cove	31173
779.0	Jot	15792
780.0	High Lakes	14840
781.0	Claude	22425
782.0	Lower Grant	11420
783.0	Grant Creek	40692
784.0	Eulachun	13939
785.0	Spur Mtn.	18628
786.0	Unuk	71864
787.0	Blue	50610
788.0	Upper Unuk	22592
789.0	Lake Creek	38832
790.0	Klahini	39609
791.0	Fitzgibbon	12876
792.0	Saks	25797
793.0	Lower Chickamin	75979
794.0	Leduc Lake	43840
795.0	Leduc River	105544
796.0	Upper Chickamin	99866
797.0	South Fork Chickamin	84554
798.0	Walker Lake	53798
799.0	Walker Cove	35447
800.0	Manzoni	16617
801.0	Nooya	13985
802.0	Rudyard	32507
803.0	Punchbowl	17113
804.0	Texas Creek	12568
805.0	Thumb	19335
806.0	Hyder	16547
807.0	Soule	48925
808.0	Mt. Hayford	53279
809.0	Adam	28777
810.0	Slab Pt.	16217
811.0	Halleck	32643
812.0	Steep Point	13390
813.0	Rousseau	25319
814.0	Turn Point	10923
815.0	Blossom River	42957
816.0	Upper Wilson	28382
817.0	Wilson Lake	33368
818.0	Lower Wilson	13856
819.0	Wilson Arm	9051
820.0	Checats	12652
821.0	Winstanely	14104
822.0	Pt. Trollop	11900
823.0	Bart Creek	7270
824.0	Carp	15992
825.0	Smeaton	12844
826.0	Bakewell	27422
827.0	Badger Lake	5045
828.0	Badger Bay	8767
829.0	N. Quadra Mtn.	18820
830.0	Behm Mtn.	11669
831.0	Sykes	17255
832.0	Slate	5559
833.0	Vixen	18679
834.0	Mink Bay	10527
835.0	Humpback	21101
836.0	Hugh Smith	11717
837.0	Martin Arm	37344
838.0	Marten River	62425
839.0	Peabody	28717
840.0	Quadra	34693
841.0	Lower Keta	10872
842.0	Upper Keta	49391
843.0	Tombstone	27798
844.0	Camp Point	10922
845.0	Halibut Creek	12008
846.0	Halibut Bay	22975
847.0	Fools Point	9801
848.0	Reef Lake	10511
849.0	Dome	9086
850.0	Hidden Inlet	21403
851.0	Gap Mtn.	7117
852.0	Hidden Lake	6300
853.0	Fillmore	18631
854.0	Getukti	7048
855.0	Loaf	23018
856.0	Cone Mtn	14215
857.0	Willard	16820
858.0	Nakat	30089
859.0	Very Inlet	33739
860.0	Kah Shakes	12009
861.0	Cape Fox	22266
862.0	Harry	16630
863.0	Sitkan	4617
864.1	Clover Pass	5477
864.2	Clover Pass	5932
865.0	Grand Islands	800
866.0	Stripe Mtn.	2119
867.0	West Wilson	9776

(This reflects the breakdown of three roadless areas into 720 value comparison units considered in the Tongass Land Management Plan process. The total acreage of the 720 units is less than that of the three previously listed areas largely due to recent State and Native selections and some adjustment due to better acreage computations. The 720 units contain 12,682,585 acres).

State: Alabama

NF in Alabama:
Change 8067, Shinbone Creek, to 3,213 acres.
Change 8215, Adams Gap, to 6,267 acres.
(These reflect dropping of 1,000 acres of private lands and 150 acres of National Forest land from the inventory; also, acreage recomputation. The private lands surrounding the 150 acres of NF land are in agricultural use and include some dwellings.)

State: Arizona

Coconino NF:
Change 3045, Wet Beaver, to 9890 acres.
(To include 80 acres which meet inventory criteria.)

Coronado NF:
Add 3201, Dragoon Mountains, 33,140 acres.
(To include in evaluation process an area which is borderline as to whether it meets inventory criteria.)
Add 3901, Galiuro Additions, 55,120 acres.
(To consider an area previously endorsed as part of the endangered American Wilderness legislation, but was dropped by Congress prior to passage. Congress directed that all such areas be included in RARE II.)

State: California

Shasta-Trinity NF:
Change 5079, Orleans Mtn., to 62,900 acres.
Change 5807, Lake Eleanor, to 14,300 acres.
(To include lands judged to meet inventory criteria.)

Stanislaus NF:
Change 55662, Cherry Creek Addition, 6,100 acres.
(To include the residual of the Emigrant Basin P.A. which Congress directed to be considered with the Hoover Extension.)

State: Colorado

Grand Mesa-Uncompahgre-Gunnison NF:
Change 2180, Elk Mountains-Collegiate, to 151,460 acres.
(Recalculation of acreage.)

Roosevelt-Arapaho NF:
Change 2140, Jacque Peak, to 11,090 acres.
Change 2141, Tenmile, to 28,200 acres.
Change 2142, Red Peak, to 5,630 acres.
(To reflect recomputation of acreages.)
Change 2113, Williams Peak AM, to 17,230 acres.
Add 2360, Williams Peak West, 8,960 acres.
(To reflect that these are two separate areas previously combined in error.)

Routt NF:
Add 2256, Front Range, 25,070 acres.
(Area was erroneously listed under San Isabel-Pike N.F.)
Add 2097, Sugarloaf DE, 48,543 acres.
Add 2098, Nipple Creek DD, 62,100 acres.
Add 2099, Elkhorn Mountain DC, 15,240 acres.
(To reflect decision regarding Bears Ears LMP appeal.)

San Isabel-Pike NF:
Delete 2256, Front Range, 25,070 acres.
(Now listed under Routt NE.)
Change 2254, Green Mountain, to 11,290 acres.
Change 2255, Rampart West, to 30,130 acres.
Change 2343, Farnum, to 7,030 acres.
(To reflect recalculation of acreages.)

White River NF:
Change 2140, Jacque Peak, to 3,740 acres.
Change 2155, Sweetwater, to 14,470 acres.
Change 2156, Hunns Peak, to 13,570 acres.
Change 2159, Burro Mountain, to 13,100 acres.
Change 2160, White River, to 34,550 acres.

Change 2163, North Elk, to 20,150 acres.
Change 2168, Grizzly Creek, to 42,900 acres.
Change 2180, Elk Mountains-Collegiate, to 141,580 acres.
Change 2334, Big Beaver Basin, to 7,020 acres.
Change 2162, Skinny Fish, to 2,260 acres.
(To reflect recalculation of acreages.)
Delete 2178, Hunter-Fryingpan, 67,000 acres.
(Congress designated this wilderness.)

State: Georgia

Chattahoochee-Oconee NF:
Change 8027, Blood Mountain, to 11,125 acres.
Change 8145, Board Camp, to 3,880 acres.
(To remove developed private lands and interspersed NF lands, which were inventoried in error.)

State: Idaho

Challis NF:
Change 4066, Sulphur, to 336,955 acres.
Change 4201, Pioneer Mountains, to 58,368 acres.
(To reflect recalculation of acreages.)

Clearwater NF:
Change 1307, N. Lochsa Slope, to 35,900 acres.
Change 1841, Rackcliff Gedney, to 33,600 acres.
(To reflect allocation of land to nonwilderness uses by completed land management plan.)

Nezperce NF:
Change 1921, Gospel Hump, to 2,260 acres.
(To reflect recalculation of acreages.)

State: Illinois

Shawnee NF:
Change 9098, Panther Den, to 1,204 acres.
Change 9099, Burke Branch, to 7,335 acres.
Change 9100, Garden of the Gods, to 4,781 acres.
Change 9101, Ripple Hollow, to 4,357 acres.
Change 9102, Murray Bluff, to 5,124 acres.
Change 9103, Burden Falls, to 3,658 acres.
(Reflects recalculation of acreages.)

State: Indiana

Hoosier NF:
Add 9340, Grubb Ridge, 6,380 acres.
Add 9341, Cope Hollow, 3,529 acres.
Add 9342, Mogan Ridge Wild Turkey Management Area, 7,000 acres.
(Includes areas found to meet inventory criteria.)

State: Kentucky

Daniel Boone NF:
Change 8038, Troublesome to 2,943 acres.
(Eliminates acreage outside NF boundary.)

State: Louisiana

Kisatchie NF:
Add 8121, Saline Bayou, 6,479 acres.
(Includes area found to meet inventory criteria.)

State: Michigan

Hiawatha NF:
Change 9198, Round Island, to 378 acres.
(Reflects recalculation of acreage.)

State: Minnesota

Superior NF:
Change 9132, Little Indian Sioux, to 1,029 acres.
Change 9133, Moose Portage III, to 1,018 acres.
(Reflects recalculation of acreages.)

State: Missouri

Mark Twain NF:
Change 9220, Devils Backbone, to 6,950 acres.

State: Montana

Beaverhead NF:
Delete 1003, Beaver Lake, 29,800 acres.
Delete 1004, Saginaw Creek, 26,200 acres.
Delete 1005, Tash Peak, 71,900 acres.
Delete 1009, Call Mountain, 9,200 acres.
Delete 1010, Cattle Gulch, 19,700 acres.
Delete 1011, Fleecer, 16,800 acres.
Delete 1012, Granulated Mountain, 14,700 acres.
Delete 1015, Bear Creek, 8,900 acres.
Delete 1016, McKenzie Canyon, 34,500 acres.
Delete 1017, Sourdough Peak, 14,800 acres.
Delete 1018, Timber Butte, 5,400 acres.
Delete 1019, Dixon Mountain, 3,700 acres.
Delete 1020, Four Eyes Canyon, 7,500 acres.
Delete 1021, Sheep Mountain, 31,700 acres.
Delete 1022, Crockett Lake, 6,700 acres.
Delete 1023, Cherry Lakes, 14,700 acres.
Delete 1024, Vigilante, 16,300 acres.
Delete 1025, Snowcrest Mountain, 99,800 acres.
Delete 1026, Black Butte, 38,600 acres.
Delete 1027, Bighorn Mountain, 51,300 acres.
Delete 1028, Lone Butte, 13,900 acres.
Delete 1029, Freezeout Mountain, 99,100 acres.
Delete 1942, Anderson Mountain, 30,600 acres.
Delete 1944, Goat Mountain, 11,800 acres.
(To drop areas allocated to nonwilderness uses by the Beaverhead Land Management Plan.)
Change 1001, North Big Hole, to 42,100 acres.
Change 1006, West Pioneer, to 148,150 acres.
Change 1008, East Pioneer, to 94,091 acres.
Change 1943, West Big Hole, to 111,286 acres.
Change 1945, Italian Peak, to 40,136 acres.
(To drop from the inventory portions of the areas allocated to nonwilderness by the Beaverhead Land Management Plan.)

Custer NF:
Change 1363, Red Lodge-Hellroaring, to 28,280 acres.
Change 1366, Fishtail-Saddleback, to 20,360 acres.
Change 1371, North Absoraka, to 21,420 acres.
Change 1913, Rock Creek, to 400 acres.
(Reflects modification caused by designation of parts of the areas as Beartooth Wilderness.)

Deerlodge NF:
Delete 1011, Fleecer, 21,020 acres.
(Drops area allocated to nonwilderness by Beaverhead Land Management Plan.)
Change 1421, Sapphires, to 56,715 acres.
Delete 1423, Emerine, 17,000 acres.
Delete 1425, North Carp, 8,320 acres.
Delete 1426, Upper East Fork, 7,750 acres.
(Reflects adjustments due to area allocations for nonwilderness by the Upper Rock Creek Land Management Plan.)

Kootenai NF:
Delete 1667, Richards Mountain, 14,215 acres.
Delete 1679, Boundary Mountain, 3,072 acres.
Delete 1680, Warex, 2,304 acres.
(Areas dropped from inventory because they have been allocated to nonwilderness by a completed land management plan.)
Change 1670, Cabinet Face West, to 11,816 acres.
(Due to recalculation of acreage.)

Lolo NF:
Delete 1786, Teepee-Spring Creek, 30,300 acres.
(Area dropped from inventory because it is allocated to nonwilderness by a completed land management plan.)

State: New Hampshire

White Mountain NF:
Change 9062, Carr Mountain, to 17,200 acres.
Change 9064, Wild River, to 46,262 acres.
Change 9066, Pemigewasset, to 74,610 acres.
Change 9067, Sandwich Ridge, to 34,084 acres.
Change 9068, Great Gulf Ext., to 15,383 acres.
Change 9069, Presidential-Dry R. Ext., to 21,011 acres.
Change 9072, Kinsman Mountain, to 8,420 acres.
Change 9073, Cherry Mountain, to 9,272 acres.
Change 9074, Dartmouth Range, to 10,142 acres.
Change 9075, Mt. Wolf-Gordon Pond, to 12,379 acres.
Change 9076, Jobildunk, to 4,920 acres.
Change 9077, Kersarge, to 4,374 acres.
(Reflects recalculation of acreages.)

State: New Mexico

Carson NF:
Change 3999, Osier Mesa, to 6,300 acres.
(Includes area found to meet inventory criteria.)

Cibola NF:
Change 3006, Scott Mesa, to 39,300 acres.
(Includes area found to meet inventory criteria.)

Gila NF:
Change 3162, Cont. to Black and Aldo Wld., to 130,325 acres.
(To include several areas found to meet inventory criteria.)

Santa Fe NF:
Add 3009, Canadian River, 4,025 acres.
(Includes area found to meet inventory criteria.)

State: North Carolina

NF in North Carolina:
Add 8026, Overflow, 3,200 acres.
(Includes area found to meet inventory criteria.)

State: South Dakota

Nebraska NF:
Change 2011, Cheyenne River, to 8,090 acres.
(Reflects recalculation of acreage.)

State: Tennessee

Cherokee NF:
Change 8036, Jennings Creek, to 14,700 acres.
(Includes area found to meet inventory criteria.)

State: Utah

Fishlake NF:
Change 4305, Hilgard Mountain, to 33,700 acres.
(Reflects recalculation of acreage.)

State: West Virginia

Monogahela NF:
Add 9332, McGowan Mountain, 11,392 acres.
Add 9333, Dry Fork, 845 acres.
Add 9334, Glady Fork, 2,995 Acres.
(Includes area found to meet inventory criteria.)

State: Wisconsin

Chequamegon NF:
Change 9012, Round Lake Study Area, to 3,720 acres.
Change 9154, St. Peters Dome, to 4,422 acres.
Change 9157, Chase Creek, to 6,730 acres.
Change 9159, Thornapple, to 9,664 acres.
Change 9161, Gates Lake, to 5,309 acres.
Change 9162, Moose, to 6,643 acres.
Change 9164, Tea Lake, to 5,972 acres.
Change 9166, East Torch, to 5,220 acres.
(Reflects recalculation of acreages.)

State: Wyoming

Shoshone NF:
Change 2058, DuNoir, to 28,600 acres.
(Adds area to conform with preliminary land management plan provisions.)
Delete 2912, Beartooth, 43,300 acres.
(Area has been endorsed by the Administration as wilderness.)

The supplemental list on page 59716 of the November 18, 1977, FEDERAL REGISTER, is further amended as follows:

Change Kentucky, 039, Clifty, to 13,700 acres.
(Excludes area found to not meet inventory criteria.)
Change Montana, YAG, Allan Mountain, to 111,300 acres.
(Reflects recalculation of acreage.)
Change Montana, LAQ, McGregor-Thompson, Lolo National Forest, to 76,000 acres.
(Corrects typographical error.)
Add Oregon—Salmon-Huckleberry, 60,600 acres.
(Includes area found to meet inventory criteria.)

REXFORD A. RESLER,
Associate Chief.

[FR Doc. 78-15753 Filed 6-7-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-6-9; Docket 32423]

ALASKA AIRLINES, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

On April 13, 1978, Alaska Airlines applied to modify its certificate of public convenience and necessity for route 124, to change the two-stop restriction in the Fairbanks-Juneau market to one-stop.[1] It also filed a petition for an order to show cause why its certificate for that route should not be so amended.

On April 19, 1978, Alaska amended its application to request that we similarly modify its certificate of public convenience and necessity for route 138, to permit one-stop service in the Fairbanks-Juneau market.[2] Alaska also filed an amended petition for an order to show cause. Currently Alaska operates its Fairbanks-Juneau service by means of a connecting flight at Anchorage.

In support of its application, Alaska states that it carries over 95 percent of the traffic in the market[3] by operating a one-stop connecting service via Anchorage. Alaska further contends that authorization of one-stop single plane service via Anchorage would benefit the traveling public by ridding it of the necessity of changing planes and transferring baggage at Anchorage; it would save an estimated $4 per passenger in handling and reservations expenses; and there will be no measurable competitive impact on Wien, the carrier for whose benefit the two-stop restriction was imposed.

Wien Air Alaska filed an answer in general opposition to the petition, contending that Alaska has failed to demonstrate that any substantial number of Fairbanks-Juneau passengers would be accommodated by the proposed certificate amendment, and that Alaska's estimated net savings are speculative.

Wien proposes a compromise under which it supports the issuance of a temporary exemption order authorizing Alaska to provide one-stop single plane Fairbanks-Juneau service until 60 days after final Board decision in the *West Coast-Alaska Investigation*, Docket 30170, and the *Southeast Alaska Service Investigation*, Docket 31570. In support of this proposal, Wien asserts that it provides one-stop Fairbanks-Juneau service via Whitehorse and is seeking an extension of its system from Juneau to Ketchikan and Seattle in the *Southeast* investigation. It further asserts that, if awarded the authority it seeks, it may provide more frequent service and attract more Fairbanks-Juneau traffic; if these events occur, Wien argues, Alaska's proposal will significantly harm its operations.

On April 21, 1978, Alaska moved to file an otherwise unauthorized reply to Wien's answer, contending that Wien's line of reasoning is purely speculative.

We tentatively conclude, on the basis of the tentative findings below, that the public convenience and necessity require our alteration of Alaska's certificates for routes 124 and 138 from two-stop restrictions in the Fairbanks-Juneau market to one-stop; that the application presents no questions of fact or law requiring an oral evidentiary hearing; and that all interested persons should be directed to show cause why the Board's tentative findings and conclusions should not be made final.[4] Since Alaska has indicated that its proposal will not result in any substantial increase in air carrier operations, we also tentatively find and conclude that the proposed action will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The proposed amendments to Routes 124 and 138 are consistent with our policy of eliminating or modifying certificate restrictions in the absence of an affirmative showing that their continuance is required.[5] The authority requested involves no new stations or equipment for Alaska, will permit it more scheduling and operating flexibility, and will improve service and economic performance. Further, by eliminating the necessity of changing planes and transferring baggage, the new authority will benefit the traveling public. Under these circumstances, the modification of the two-stop restriction is presumptively in the public interest and is required by the public convenience and necessity.

Wien has not demonstrated that this modification will impair adequacy of service to any point or have a substantial adverse impact on it or any other carrier. Indeed, Wien admits in its answer that the competitive implications of the Alaska proposals are not now significant. Although Wien currently holds nonstop Fairbanks-Juneau authority, its inability to garner sufficient back-up traffic has forced it to provide a one-stop service via Whitehorse. With this service, Wien carries an insignificant portion

[1] Condition (4), route 124 reads, "The holder shall schedule service to a minimum of two intermediate points between Juneau, and Anchorage or Fairbanks, Alaska."

[2] Condition (7), route 138 reads, "The holder shall serve at least two intermediate points on flights between Juneau and Fairbanks, Alaska."

[3] Alaska alleges that it derived this figure from a flight coupon survey it conducted that showed the annual traffic in the market to be 18,900. Alaska states that this survey was necessary because its Fairbanks-Juneau service is provided only on a connecting flight basis, via Anchorage, and it maintains only on-flight origin and destination data.

[4] We further find that Alaska Airlines is a citizen of the United States within the meaning of the Federal Aviation Act of 1958, as amended, and is fit, willing, and able properly to perform the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[5] Order 78-3-42, March 9, 1978.

of the total Fairbanks-Juneau traveling public.

Wien's argument that it might gain new authority which might enable it to become a significant competitor in the Fairbanks-Juneau market, which in turn might create a situation under which modification of Alaska's restriction would so harm it as to lead us to decline to make the change, is clearly too speculative to warrant a grant of only a temporary exemption to Alaska. Wien has failed to persuade us that we should not propose to grant the full relief Alaska seeks.

Accordingly, *it is ordered*, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amend the certificates of public convenience and necessity of Alaska Airlines, Inc., for routes 124 and 138 to change its two-stop restrictions to one-stop restrictions in the Fairbanks-Juneau market;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth in this order shall, within 30 days of the date of service of this order, file with the Board and serve upon all persons referred to in paragraph 6 a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to such objections shall be filed 10 days thereafter; [6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections, together with any answers timely filed, before 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. The motion of Alaska Airlines for leave to file an otherwise unauthorized document be granted; and

6. This order shall be served on all persons listed in the service list attached to the petition of Alaska Airlines, Inc., for an order to show cause.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15939 Filed 6-7-78; 8:45 am]

[6] Since provision is made for filing of objections, no petitions for reconsideration of this order will be entertained.

[7] All Members concurred.

[6320-01]

[Order 78-5-186; Docket 30815]

BRANIFF AIRWAYS, INC.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of May 1978.

On April 28, 1977, Braniff Airways, Inc., filed an application in docket 30815 to amend its certificate for route 153 to add Manaus, Brazil, as an additional terminal point beyond the intermediate point Bogota, Colombia.[1] On February 23, 1978, Braniff filed a petition requesting the Board to issue an order to show cause why its certificate for route 153 should not be amended as requested.[2]

The route schedue of the air transport agreement between the United States and Brazil authorizes U.S.-flag service at Manaus via points in Middle America and in countries on the North and East Coasts of South America. While both Braniff and Pan American are certificated to serve Brazil via routes authorized under the agreement, neither has been certificated to serve Manaus. The Brazilian flag carrier, Varig, provides once a week single-plane service between Manaus and Miami and Los Angeles.[3]

In support of its application, Braniff states that the proposed amendment will not result in increased operations to the United States since it only seeks to extend part of its present route 153 beyond Bogota, Colombia, to a new terminal point in Brazil. Braniff initially proposes to extend its twice-weekly Miami-Bogota flights to Manaus and would thus provide New York with its first single-plane service to Manaus. The proposal would also provide San Francisco with its first single-carrier service to Manaus. Braniff forecasts it will carry 30,800 Manaus passengers in the year ending June 30, 1979, resulting in passenger revenues of $3.1 million (exhibits BI-304 and 302).[4] On a fully allocated basis the carrier estimates an operating profit of $642,000 and a profit after return and taxes of $338,000 (exhibit BI-401).

Answers in support of Braniff's petition were filed by Dade County, Fla., and the Greater Miami Traffic Association; the city of New orleans and the Chamber of Commerce of the New Orleans Area; and the State of Louisiana. There have been no answers filed in opposition to Braniff's petition.

In view of the foregoing and all facts of record, we have decided to issue an order to show cause why Braniff's certificate for route 153 should not be amended to add Manaus, Brazil, as a terminal point beyond the intermediate point Bogota, Colombia. The air transport agreement between the United States and Brazil authorizes the services of United States carriers at Manaus via points in Middle America and in countries on the north and east coasts of South America. The only current service between the United States and Manaus is operated by the Brazilian-flag carrier, Varig, and we see no reason why Braniff's request to compete in this market should not be granted. While the carrier's methodology in estimating the traffic potential at Manaus is based on the sparsest of data, which the carrier recognizes, we do not believe this should be a basis for preempting Braniff's judgment in proposing to enter and develop a new market. Finally, no party has objected to Braniff's petition.

Therefore, we tentatively find and conclude that it is in the public interest to amend the certificate of public convenience and necessity of Braniff Airways, Inc., for route 153 to engage in overseas and foreign air transportation with respect to persons, property, and mail contained in the specimen form of certificate attached, and:

1. That the public interest requires that the exercise of the privileges granted by such amended certificate shall be subject to the terms, conditions, and limitations contained in the specimen form of certificate attached to this order and to such other reasonable terms, conditions, and limitations required by the public interest as from time to time may be prescribed by the Board;

2. That Braniff Airways, Inc., is fit, willing, and able properly to perform the above-described overseas and foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

3. That the amendment of the certificate of Braniff Airways, Inc., for route 153 is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of

[1] Route 153 is divided into three segments which consist of coterminal points in the United States with authority to South America over various routings via the intermediate point Bogota, Colombia.

[2] Concurrently filed with the petition was an amendment to the application which incorporated Braniff's most recent change to route 153. Order 77-9-63 added Dallas/Fort Worth as a coterminal point on segment 1 of route 153.

[3] Varig serves Los Angeles via Sao Paulo-Rio de Janeiro-Manaus-Panama City; and Miami via Sao Paulo-Rio de Janeiro-Brasilia-Manaus-Caracas. (OAG, March 1978.)

[4] Braniff bases its traffic forecast on its own historical experience in South America and on the on-board data provided by Varig to the International Civil Aviation Organization (ICAO). Exhibits BI-306 through BI-309.

1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in § 313.4(a)(1) of the Board's regulations;[5]

4. That an oral hearing is not required in the public interest;

5. That the authority to serve Manaus, Brazil, on segments 1, 2, and 3 shall be permissive; and

6. That, except to the extent granted, the application of Braniff Airways, Inc., in docket 30815 should be denied.

It is therefore ordered, that: 1. All interested persons are directed to show cause why the Board should not make final its tentative findings and conclusions, and why an amended certificate of public convenience and necessity in the form of the attached specimen certificate should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Braniff Airways, Inc.;

2. Any interested person having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the certificate shall, within 15 days after service of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised by the objector before further action is taken by the Board. The Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth in the order, if it determines that there are no factual issues present that warrant the holding of an oral hearing;[6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which: (1) shall make final the Board's tentative findings and conclusions set forth in this order; and (2) subject to the approval of the President, shall issue an amended certificate to the applicant in the specimen form attached; and

5. This order shall be served upon Pan American World Airways, Inc.; the Office of Aviation of the Louisiana Department of Transportation; the Greater Miami, Fla., Traffic Association; and the Chamber of Commerce of New Orleans, La., and the New Orleans Aviation Board.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 153

BRANIFF AIRWAYS, INC.

is authorized subject to the provisions set forth in Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under it to engage in overseas and foreign air transportation with respect to persons, property and mail, as follows:

1. Between the coterminal points Dallas/Fort Worth and Houston, Tex., and New Orleans, La., the intermediate points Havana, Cuba; Balboa, Canal Zone-Panama City, Panama; Bogota, Colombia, and

(a) Beyond Bogota, the terminal point Manaus, Brazil.

(b) Beyond Bogota, the intermediate points Cali, Colombia; Quito; and Guayaquil, Ecuador; Lima, Peru; and La Paz, Bolivia, and

(i) Beyond La Paz, the intermediate point Asuncion, Paraguay, and (1) beyond Asuncion, the intermediate point Sao Paulo, Brazil, and the terminal point Rio de Janeiro, Brazil, and (2) beyond Asuncion, the terminal point Buenos Aires, Argentina.

(ii) Beyond La Paz, the intermediate point Santiago, Chile, and the terminal point Buenos Aires, Argentina.

2. Between the coterminal points New York, N.Y.-Newark, N.J.; Washington, D.C. (to be served through Dulles International Airport); and Miami, Fla., the intermediate points Balboa, Canal Zone-Panama City, Panama; Bogota, Colombia; and

(a) Beyond Bogota, the terminal point Manaus, Brazil.

(b) Beyond Bogota, the intermediate points Cali, Colombia; Quito and Guayaquil, Ecuador; Lima, Peru; and La Paz, Bolivia, and beyond La Paz, as described in 1(b)(i) and 1(b)(ii) above.

3. Between the coterminal points San Francisco and Los Angeles, Calif., the intermediate point Bogota, Colombia; and

(a) Beyond Bogota, the terminal point Manaus, Brazil.

(b) Beyond Bogota, the intermediate points Cali, Colombia; Quito and Guayaquil, Ecuador; Lima, Peru; and La Paz, Bolivia, and beyond La Paz, as described in 1(b)(i) and 1(b)(ii) above.

The service authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements and to any orders of the Board for the purpose of requiring compliance with them.

(2) The holder shall render service to the points named, except as provided, or as temporary suspensions of service may be authorized by the Board; and may begin or terminate or begin and terminate, trips at points short of terminal points.

(3) The holder may continue to serve regularly any point named through the airport last regularly used to serve such point prior to the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may in addition regularly serve the points named through any convenient airport and may operate nonstop service between any two points not consecutively named.

(4) The exercise of the authority granted shall be subject to the carrier first obtaining from the appropriate foreign government such operating rights as may be necessary.

(5) Flights scheduled to serve Havana, Cuba, shall originate at a point in the United States and terminate at a point in South America, or originate at a point in South America and terminate at a point in the United States.

(6) The holder shall not serve Havana, Cuba, on flights serving New Orleans, La.

(7) Flights serving Rio de Janeiro or Sao Paulo, Brazil, shall also serve an intermediate point south of Panama.

(8) The holder may grant stopover privileges at any coterminal point in the United States to passengers moving between any of these points, on the one hand, and any overseas or foreign point named here, on the other.

(9) The authority to serve Dallas/Fort Worth on segment 1 shall be permissive.

(10) The authority to serve Manaus, Brazil, on segments 1, 2, and 3 shall be permissive.

The exercise of the privileges granted by this certificate shall be subject to the conditions set forth in appendix A to orders 75-10-65/66, and any amendments or revisions that the Board may find required by the public convenience and necessity.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on ————. The continuing effectiveness of the authority to serve Manaus, Brazil, as described shall be subject to timely payment by the holder of such license fee as may be appropriate under rules to be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate, and to affix the Board's Seal, on the —— day of ————.

————,
Secretary.

Issuance of this certificate to the holder approved ———— by the President of the United States on ———— in Order ————.

[FR Doc. 78-15934 Filed 6-7-78; 8:45 am]

[5]Our conclusions are based on the proposed amendment not resulting in any change in the level of service at any U.S. point. Thus, our action will not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969. Moreover, the implementation of the proposed authority will not result in the near-term consumption of 10 million gallons of fuel.

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

[7]All members concurred.

[6320-01]

[Order 78-6-15, Docket 25280, Agreement CAB 24967 R-4, Docket 30332, Agreement CAB 27149 R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Free and Reduced Fares for Cargo Sales Agents; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of June, 1978.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various U.S. and foreign member air carriers of the Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the Ninth Meeting of the IATA Cargo Agency Committee held in Singapore, November 8-11, 1977, and has been designated Agreement CAB 27149.

This agreement amends two resolutions governing reduced fares for U.S.- and non-U.S.-based cargo agents and revalidates, with one amendment, a third resolution permitting a 75-percent discount for IATA cargo agents attending IATA/FIATA meetings on joint training programs.[1] The first two resolutions are amended to clarify the reduced-fare eligibility requirements for agents who change jobs from one IATA cargo agency to another. The agreement also updates the descriptions, set forth in these two resolutions, of the various surcharges that apply in the computation of the reduced fare price to include "weekend," "stopover" and "peak" surchanges. The third resolution is changed to place in the hands of the IATA Agency Administrator the responsibility for certifying that individuals attending joint IATA/FIATA meetings are official FIATA representatives.

[1] Federation Internationale des Associations de Transitaires et Assimiles (International Federation of Forwarding Agents).

We will approve the agreement. The amendments to the first two resolutions match those made to corresponding resolutions governing reduced fares for passenger agents which we approved by Order 77-6-150, June 29, 1977. The amendment to the third appears to reflect sound administrative practice, and it will be approved.

In the past, we have accorded more liberal free and reduced-fare transportation privileges to U.S.-based IATA passenger agents than we have to cargo agents. This difference in treatment was premised on the need of passenger agents to be familiar with airline services, tourist attractions, accommodations, and other services at foreign destinations in order to enhance their ability to market air transportation. The Board's historical position has been that cargo agents, on the other hand, do not have such a need in order to promote and market cargo air transportation effectively. For that reason, we have disapproved several IATA Resolutions which offered free and reduced-fare transportation for U.S.-based IATA cargo agents for the purpose of attending carrier-sponsored educational and training courses and meetings on joint training programs.[2] Reduced fare travel for these agents has been limited to two 75-percent discount tickets per agent per year plus additional 75-percent discount tickets up to a maximum of 40 under a productivity feature providing 4 extra tickets to agents for each 100 percent or fraction thereof by which their commissionable international sales exceed the average for their country.

We do not deny that reduced-rate travel to educational courses and meetings on joint training programs may be warranted to the extent they improve customer service and enhance sales of cargo air transportation. In the past we have felt that travel for these purposes could be accommodated within the existing 75-percent discount allowance. We have reviewed that policy and have decided to extend the policy of leaving free or reduced-fare transportation issues to the carriers in the first instance, which we adopted in Order 76-8-118, August 20, 1976, with respect to passenger agents. We believe that carriers are in the best position to make the judgments whether particular educational, training, or other free or reduced-fare transportation programs are warranted and they should be responsible for those judgments. Accordingly, we will approve inclusion of U.S.-based cargo agents in Resolution 203i, which provides 75-percent discount tickets to IATA cargo agents attending IATA/FIATA meetings on joint training programs, and Resolution 203e, incorporated in Agreement CAB 24967, R-4, which deals with free transportation for educational and training programs. Our approval of these two resolutions should not be taken as a lessening of our interest in the volume of free or reduced-fare transportation accorded agents and our approval will be subject to the same conditions and reporting requirements imposed on the passenger agent resolutions.[3]

The Board, pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

[2] Because foreign-based IATA cargo agents operate under different laws which make their activities more the concern of their respective governments, and, to a lesser extent, because of the practical difficulties of enforcement of any disapproval in connection with these agents, we have approved participation in these programs by foreign-based cargo agents.

[3] In the case of free or reduced-fare transportation to attend group educational or training courses, these conditions stipulate that approval is neither an exemption from the tariff provisions under section 403 of the Act, nor a determination as to whether a violation of section 404 of the Act would result, and require an application for approval to be made under section 223.8 of the Board's Economic Regulations. In the case of reduced fare transportation to attend joint meetings these conditions require submission of reports giving date, location, and purpose of the meeting, a list of those in attendance and the national organization they represent, and routings and carriers used by all U.S.-based agents in attendance.

1. It is not found that the following resolutions are adverse to the public interest or in violation of the Act, provided that approval is subject to conditions previously imposed by the Board:

Agreement CAB 27149	IATA No.	Title	Application
R-1	203a	Reduced Fares for Cargo Agents (U.S.A. Only) (Amending).	1;2;3;1/2;2/3;3/1;1/2/3
R-2	203c	do	1;2;3;1/2;2/3;3/1;1/2/3

2. It is not found that the following resolution is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions stated below which supersede those placed on Resolution 203i by the Board in Order 76-3-160, dated March 25, 1976:

Agreement CAB 27149	IATA No.	Title	Application
R-3	203i	Reduced Fares for IATA Cargo Agents Attending Official IATA/FIATA Meetings on Joint Training Program (Revalidating and Amending).	1;2;3;1/2;2/3;3/1;1/2/3

The U.S. carrier members of IATA shall, within 30 days after the completion of any joint IATA/FIATA meeting contemplated by Resolution 203i, file with the Board's Docket Section two copies of a report of such meeting containing the following information:

1. Dates and location of meeting;
2. Purpose of the meeting;
3. List of agents in attendance and the national association which they represent; and
4. Routings and carriers utilized by all United States-based agents in attendance, together with dates of travel, from actual origin to destination and return.

3. It is not found that Resolution 203e, incorporated in Agreement CAB 24967, R-4, is adverse to the public interest or in violation of the Act insofar as it applies to U.S.-based cargo agents, provided that approval is subject to conditions imposed by the Board on that Resolution's application to foreign-based cargo agents.

Accordingly, it is ordered that:

1. Those portions of Agreement CAB 27149 set forth in finding paragraph one above be approved, subject to conditions previously imposed by the Board;
2. That portion of Agreement CAB 27149 set forth in finding paragraph two above be approved, subject to the conditions imposed therein; and
3. Resolution 203e, incorporated in Agreement CAB 24967, R-4, be approved insofar as it applies to U.S.-based cargo agents, subject to the same conditions imposed by the Board on that Resolutions's application to foreign-based cargo agents.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15935 Filed 6-7-78; 8:45 am]

[6320-01]

[Order 78-6-17; Docket 32715]

COMPAGNIE NATIONALE AIR FRANCE

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of June, 1978.

By tariff revisions[1] filed for effect June 1, 1978, Compagnie Nationale Air France (Air France) proposes to extend availability of its special "midweek" fares, currently in effect between New York and Paris, from Chicago, Houston and Los Angeles to Paris (See appendix). Like the New York-Paris midweek fare, the proposed fares would be available only on flights departing the United States and France during specified periods on certain days of the week, are priced about 50 percent below the normal economy fare, and are subject to a 14/45-day minimum/maximum stay validity, a $50 cancellation penalty, and a maximum capacity limitation of 40 percent of economy-class seats on each flight. Unlike the current midweek fare, however, the proposed fares would be applicable only to U.S.-originating travel.

Pan American World Airways, Inc. (Pan American), has filed a complaint requesting suspension and investigation of the fares. It argues that: the Government of France has denied Pan American approval to resume its suspended service to France from the U.S. west coast via London, with a change of gauge at London; the Board, by Order 78-5-45, May 9, 1978, has concluded that the French action is contrary to the U.S.-France bilateral agreement; France is denying Pan American the right to compete fairly in the marketplace; the U.S. authorities should encourage France to honor its bilateral commitment by not allowing Air France to gain an unfair competitive advantage (i.e., by the instant filing) until the dispute is settled; while the Board may be reluctant to suspend low fares because they benefit consumers, suspension of the instant filing will, in fact, produce such benefits by pressuring France to allow Pan American to again offer its currently suspended operations to the public, and the Board suspended a similar low-fare filing in comparable circumstances, Order 78-5-52.

In answer to the complaint, Air France states that: there are neither statutory nor regulatory grounds for suspension or investigation; the sole reason for such action is "retaliation for a perceived wrong"; Air France's filing is completely different from the case cited by Pan American; the midweek fares are not remotely connected with the change of gauge issue; and "escalation of the * * * bilateral problem, suggested here by Pan American, is beyond reason."

The Board has decided to dismiss the complaint.

Pan American has not taken issue with the merits of the fares and the dispute over Pan American's operating rights can best be settled at the governmental level. Suspending Air France's filing would only needlessly broaden the scope of the present dispute while depriving the public of the immediate benefits of these new low fares.

Accordingly, it is ordered that:

The complaint of Pan American World Airways, Inc., in Docket 32715 is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15936 Filed 6-7-78; 8:45 am]

[6320-01]

[Docket 30938]

PACIFIC COMMON FARES INVESTIGATION

Notice of Hearing

Notice is hereby given that a hearing in the above-entitled proceeding shall take place on July 18, 1978, at 10 a.m. (local time), in Hearing Room 1003 A, Universal North Building, 1875 Connecticut Avenue, Washington, D.C., before the undersigned.

Dated at Washington, D.C., June 2, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-15937 Filed 6-7-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ATLANTIC SEA HERRING

Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Public Hearing.

SUMMARY: The New England Fishery Management Council announces a public hearing on the Draft Envirinmental Impact Statement for the Atlantic Sea Herring Fishery Management Plan.

DATE: The hearing will be held on June 27, 1978, at 7 p.m.

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[4] All members concurred.

[1] Revisions to Tariff CAB No. 44, issued by Air Tariffs Corp., Agent.

[2] All Members concurred.

ADDRESS: The hearing will be held at the Holiday Inn, junction of Routes 1 and 128, Peabody, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Spencer Apollonio, Executive Director, New England Fishery Mangagment Council, Peabody, Mass. 01960, telephone: 617-535-5450.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council is preparing a fishery management plan on the Atlantic sea herring (Clupea harengus) fishery. Hearings are being held to receive public comments on the plan and the suggested management measures relating to the herring fishery in the fishery conservation zone established under the Fishery Conservation and Management Act of 1976. An additional hearing will be held at the time and place noted above.

Signed at Washington, D.C. this 2d day of June 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 15813 Filed 6-7-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix, as amended, notice is hereby given of (1) a joint meeting of the North Pacific Fishery Management Council, established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP), both established under section 302(g) of the Act; and (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on July 26, 1978. The SSC will meet in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 9 a.m., to discuss and review their report to the Council. The AP will meet in the Easter Island Room of the Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska, beginning at 9 a.m., to discuss and prepare their report to the Council.

The Council and its SSC and AP will meet jointly on Thursday and Friday, July 27-28, 1978, in the Foredeck Room of the Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m., and adjourn at approximately 5 p.m. The meetings may be extended or shortened depending upon progress on the agenda. The proposed agenda is as follows:

JULY 27

Proposed Agenda: (1) Executive Director's Report and other Council administrative business; (2) Reports from Scientific and Statistical Committee and Advisory Panel; (3) Progress Report and update from the Council's Drafting Management Planning Teams; (4) Closed 2-hour session (1:30 p.m. to 3:30 p.m.) to discuss properly classified material on the status of international negotiations affecting fishery stocks in the North Pacific Ocean; (5) Period for public comment; (6) Review of foreign fishing activities.

JULY 28

(1) Discussion of management plans: Commercial Troll Fisheries Off the Coast of Alaska; Bering Sea Clam Fishery; King Crab; Bering Sea Groundfish Fishery; Tanner Crab Off Alaska 1978; Gulf of Alaska Groundfish Fishery During 1978; and (2) Other Council business.

The SSC and AP meetings will be open to the public, as will all but the early afternoon of the first day of the Council meeting. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510; telephone 907-274-4563.

A closed session of the Council is planned for the early afternoon of the first day, July 27, 1978, from 1:30 p.m. to 3:30 p.m. to hear and discuss Department of State security classified material on international negotiations affecting fishery stocks in the North Pacific Ocean. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on May 25, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: June 2, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-15878 Filed 6-7-78; 8:45 am]

[3510-22]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

The Scientific and Statistical Committee of the Western Pacific Fishery Management Council, established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet on June 27 and 28, 1978, at the King Kamehameha Hotel in Kailua-Kona, Hawaii. The meeting starts at 9 a.m., on June 27, and will adjourn about 4 p.m., on June 28.

Proposed Agenda: (1) Review of first draft of a billfish management plan; (2) Review of final drafts of spiny lobster and precious coral management plans; (3) Report of contractor on survey of regional fishery data needs; and (4) Other fishery management business.

Meeting is open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone 808-523-1368.

Dated: June 2, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-15877 Filed 6-7-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent applica-

tion number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324

Patent application 861,083: Improved Tapered Hole Capacitive Probe; filed Dec. 15, 1977.

Patent application 865,270: Roll Attitude Feedback Selector for Use with Aircraft Control Augmentation Systems; filed Dec. 28, 1977.

Patent application 871,066: High Power Pre-TR Switch; filed Jan. 29, 1978.

Patent application 871,069: Bimetallic Lightweight Platelet Injector; filed Jan. 20, 1978.

Patent application 872,193: All-Aluminum Transverse Platelet Injector; filed Jan. 25, 1978.

Patent application 872,203: Wideband Waveguide Lens; filed Jan. 25, 1978.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent application 873,466: High Shear Strength Adhesive for Bonding Nylon to Nylon: filed Jan. 30, 1978.

Patent application 873,572: Preparation of Highly Active Copper-Silica Catalysts; filed Jan. 30, 1978.

Patent 4,073,747: Regeneration of Spent Activated Carbon with Formaldehyde; filed Dec. 13, 1976, patented Feb. 14, 1978; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, NATIONAL INSTITUTES OF HEALTH, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent application 853,490: Synthesis and Antitumor Activity of 2,4,5,-Tri-Substituted-Pyrrolo(2,3-d)-Pyrimidine Nucleosides; filed Nov. 21, 1977.

Patent application 855,018: Esters of Aromatic Sulfonic Acids; filed Nov. 22, 1977.

Patent application 855,384: Fiber Optic pH Probe; filed Nov. 28, 1977.

Patent application 855,397: Dye Fixation by Copolymerization; filed Nov. 28, 1977.

Patent application 856,172: Flow-Through Coil Planet Centrifuges with Adjustable Rotation/Revolution of Column; filed Nov. 30, 1977.

Patent 4,028,410: Process of Preparing 1,3-Bis(2-Chloroethyl)-1-Nitrosourea; filed Nov. 13, 1974, patented June 7, 1977; not available NTIS.

Patent 4,058,602: Synthesis, Structure, and Antitumor Activity of 5,6-Dihydro-5-Azacytidine, filed Aug. 9, 1976, patented Nov. 15, 1977; not available NTIS.

Patent 4,067,070 Prosthetic Joint Lock and Cable Mechanism; filed Nov. 3, 1976, patented Jan. 10, 1978; not available NTIS.

Patent 4,068,310 Display Enhancement Technique for Video Moving Trace Display; filed July 22, 1976, patented Jan. 10, 1978; not available NTIS.

Patent 4,071,768 X-Ray Apparatus with Rotationally Symmetric Gaussian-Like Focal Spot; filed June 23, 1977, patented Jan. 31, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 789,393: Blip Scan Analyzer; filed Apr. 21, 1977.

Patent application 818,180: Digital Sidelobe Canceller; filed July 22, 1977.

Patent application 828,710: Flexible Housing, In-Line Electronic; filed Aug. 29, 1977.

Patent application 844,563: Millimeter Wave MIC Diplexer; filed Oct. 25, 1977.

Patent application 844,688: Endothermic Approach for Desensitizing Explosive Ordnance; filed Oct. 25, 1977.

Patent application 850,313: Remote Target Hit Monitoring System; filed Nov. 10, 1977.

Patent application 852,186: Solid State Data Recorder; filed Nov. 16, 1977.

Patent application 854,446: Multiple Memory Adaptive MTI; filed Nov. 23, 1977.

Patent application 854,455: Analog-to-Digital Converter; filed Nov. 23, 1977.

Patent application 855,099: Adjustable Dynamic Face Seal; filed Nov. 25, 1977.

Patent application 857,951: Method of Inhibiting Nitrocellulose Rocket Propellants; filed Dec. 6, 1977.

Patent application 858,771: Electronically Controlled Surface-Acoustic-Phase Shifter; filed Dec. 8, 1977.

Patent application 858,779: Electronic Thermostat; filed Dec. 5, 1977.

Patent application 862,311: Picosecond Pulse Generator Utilizing a Josephson Junction; filed Dec. 20, 1977.

Patent application 863,638: Multiplex-Data Bus Modulator/Demodulator; filed Dec. 22, 1977.

Patent application 865,752: A Specific Gravity Equalizer System; filed Dec. 29, 1977.

Patent application 867,550: Drugless Eye Examination System, filed Jan. 6, 1978.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 856,460: Electrochemical Data Signal Process and Display; filed Nov. 30, 1977.

Patent application 858,762: Filtering technique Based on High-Frequency Plant Modeling for High-Gain Control; filed Dec. 8, 1977.

Patent application 861,390: High Performance Ammonium Nitrate Propellant; filed Dec. 16, 1977.

Patent application 861,396: A Versatile LDV Burst Simulator; filed Dec. 16, 1977.

Patent application 862,880: Alkali-Metal Silicate Binders and Methods of Manufacture; filed Dec. 21, 1977.

Patent application 863,024: System for Near Real-Time Crustal Deformation Monitoring; filed Dec. 21, 1977.

Patent application 868,249: Voltage Feed Through Apparatus Having Reduced Partial Discharge; filed Jan. 10, 1978.

Patent 3,229,905: Ruler for Making Navigational Computations; filed Dec. 18, 1961, patented Jan. 18, 1966; not available NTIS.

Patent 3,306,134: Wabble Gear Drive Mechanism; Filed Apr. 24, 1964, patented Feb. 28, 1967; not available NTIS.

Patent 3,423,627: Particle Parameter Analyzing System; filed Jan. 28, 1966, patented Jan 21, 1969; not available NTIS.

Patent 3,475,675: Transformer Regulated Self-Stabilizing Chopper; filed Sept. 22, 1967, patented Oct. 28, 1969; not available NTIS.

Patent 3,543,839: Multi-Chamber Controllable Heat Pipe; filed May 14, 1969, patented Dec. 1, 1970; not available NTIS.

Patent 3,573,504: Temperature Compensated Current Source; filed Jan 16, 1968, patented Apr. 6, 1971; not available NTIS.

Patent 3,641,470: Pressure Transducer; filed Sept. 18, 1969, patented Feb. 8, 1972; not available NTIS.

Patent 3,769,544: Purging Means and Method for Xenon Arc Lamps; filed June 19, 1972, patented Oct. 30, 1973; not available NTIS.

Patent 3,882,417: Gas Ion Laser Construction for Electrically Isolating the Pressure Gauge Thereof; filed Sept. 10, 1973, patented May 6, 1975; not available NTIS.

Patent 4,063,981: Method of Making a Composite Sandwich Lattice Structure; filed May 20, 1977, patented Dec. 20, 1977; not available NTIS.

Patent 4,064,566: Method of Adhering Bone to a Rigid Substrate Using a Graphite Fiber Reinforced Bone Cement; filed Apr. 6, 1976, patented Dec. 27, 1977; not available NTIS.

Patent 4,064,642: Walking Boot Assembly; filed Dec. 23, 1976, patented Dec. 27, 1977; not available NTIS.

Patent 4,065,202: Projection System for Display of Parallax and Perspective; filed Nov. 6, 1975, patented Dec. 27, 1977; not available NTIS.

Patent 4,065,340: Composite Lamination Method; filed Apr. 28, 1977, patented Dec. 27, 1977; not available NTIS.

Patent 4,065,345; Polymide Adhesives; filed Oct. 22, 1976, patented Dec. 27, 1977; not available NTIS.

Patent 4,067,015: System and Method for Tracking a Signal Source; filed July 11, 1975, patented Jan. 3, 1978; not available NTIS.

Patent 4,067,043: Optical Conversion Method; filed Jan. 21, 1976, patented Jan. 3, 1978; not available NTIS.

Patent 4,067,742: Thermal Shock and Erosion Resistant Tantalum Carbide Ceramic Material; filed Apr. 1, 1976, patented Jan. 10, 1978; not available NTIS.

Patent 4,068,469: Variable Thrust Nozzle for Quiet Turbofan Engine and Method of Operating Same; filed May 29, 1975, patented Jan. 17, 1978; not available NTIS.

Patent 4,068,470: Gas Turbine Engine with Convertible Accessories; filed Nov. 8, 1974, patented Jan. 17, 1978; not available NTIS.

Patent 4,069,028: Magnetic Heat Pumping; filed Nov. 30, 1968, patented Jan. 17, 1978; not available NTIS.

Patent 4,069,212: Flame Retardant Spandex Type Polyurathanes; filed Feb. 13, 1976, patented Jan. 17, 1978; not available NTIS.

Patent 4,069,478: Binary to Binary Coded Decimal Converter; filed Nov. 12, 1975, patented Jan. 17, 1978; not available NTIS.

[FR Doc. 78-15846 Filed 6-7-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

ALABAMA-TENNESSEE NATURAL GAS CO. ET AL.

Order Instituting Proceedings, Establishing Procedures and Providing for Hearings to Evaluate the Impact of Natural Gas Shortages of Interstate Pipeline Companies

MAY 31, 1978.

In the matter of Alabama-Tennessee Natural Gas Co., Algonquin Gas Transmission Co., Arkansas-Louisiana Gas Co., Cities Service Gas Co., Colorado Interstate Gas Co., Columbia Gas Transmission Corp., Consolidated Gas Supply Corp., East Tennessee Natural Gas Co., Eastern Shore Natural Gas Co., El Paso Natural Gas Co., Equitable Gas Co., Florida Gas Transmission Co., Michigan-Wisconsin Pipe Line Co., Midwestern Gas Transmission Co., Mississippi River Transmission Co., National Fuel Gas Supply Corp., Natural Gas Pipeline Co. of America, Northern Natural Gas Co., Northwest Pipeline Corp., Panhandle Eastern Pipe Line Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co., Tennessee Natural Gas Lines, Inc., Texas Eastern Transmission Corp., Texas Gas Transmission Corp., Transcontinental Gas Pipe Line Corp., Transwestern Pipeline Co., Trunkline Gas Co., United Gas Pipe Line Co., Docket Nos. TC78-5, TC78-6, TC78-7, TC78-8, TC78-9, TC78-10, TC78-11, TC78-12, TC78-13, TC78-14, TC78-15, TC78-16, TC78-17, TC78-18, TC78-19, TC78-20, TC78-21, TC78-22, TC78-23, TC78-24, TC78-25, TC78-26, TC78-27, TC78-28, TC78-29, TC78-30, TC78-31, TC78-32, TC78-33.

The purpose of this order is to initiate proceedings to accumulate factual information which will provide the Commission, the natural gas industry and the general public with an overview of the projected impact of curtailment by natural gas pipelines during the 1978-79 winter season. Data will be required in the form of testimony and exhibits from the pipelines listed in the above-styled proceedings relating to anticipated gas supply, storage operation and inventory, emergency purchases, requirements, levels of curtailment and impact of curtailment on ultimate consumers. These proceedings will be similar to the impact hearings held prior to past winter seasons by the Federal Power Commission.[1] The hearings are necessary to insure that the Commission receives the best information available on gas supplies and potential adverse curtailment impacts prior to the 1978-79 winter season in order to be able to exercise its mandate under the Natural Gas Act to insure adequate natural gas service.

The Commission will require that each respondent pipeline named in this order present written testimony through a responsible company official relative to its FERC Form No. 16 filed in April 1978, and other matters noted herein.This testimony should contain a detailed description of the Form No. 16 filing and should specifically provide the following information:

(1) Total gas supply projections with: (a) A detailed breakdown of deliveries from the major sources of supply that are projected to decrease from the actual level of last year on a monthly basis for the period between April 1, 1978, through March 31, 1979, and of the deliveries from the major sources of supply that are projected to increase from the actual level of last year; (b) all pertinent facts and assumptions with respect to an anticipated new supply by month (April 1, 1978, through March 31, 1979) including reasons for stated date of attachment; (c) projected emergency purchases or transportation of emergency supplies by month for the latter period. Indicate pipeline company policy of making such purchases, i.e., for system supply or direct assignment, to specific customers; (d) status of ongoing storage injections; (e) projected, total, working gas inventory anticipated in storage at beginning of heating season (November 1, 1978), and maximum working gas capacity; (f) method of making supply projections and any contingency factors in such projections;

(2) Scheduled storage withdrawals: (a) During the months of November 1978 through March 1979: (i) under normal weather conditions, (ii) under uniform temperature conditions of 10 percent colder than normal for each month November 1978 through March 1979, and (iii) under a hypothetical winter with temperature conditions of 10 percent colder than normal during November 1978 and March 1979, and 20 percent colder than normal for December 1978 and January and February 1979[2] broken down by pipeline system withdrawals and customer withdrawals when necessary, and (b) provide appropriate systemwide anticipated storage withdrawal curves v. temperature, and a description of the pipelines storage operation plan governing storage gas withdrawal and injections, (c) provide a detailed description for each month (November-March) of scheduled storage operations including a description of how early winter withdrawals affect later deliverability from storage; and a description of the pipeline's contingency plans for meeting colder-than-normal winter weather later in the season: (i) describe how additional curtailment of sales is used each month to control storage withdrawals or plans to make 60-day emergency purchases.

(3) (a) The derivation of requirements used in the form No. 16 and a full explanation of any change in requirements from the 1977 form 16; (b) a statement of requirements for each month of the 1978-79 winter heating season (November 1978 through March 1979) assuming colder than normal temperatures as specified in (2)(a) (ii) and (iii) above.

(4) An explanation of the computation of curtailments and a study showing for each month of the 1978-79 winter heating season assuming normal weather and assuming colder than normal temperatures as specified in (2)(a) (ii) and (iii) above: (a) the systemwide aggregate curtailment; (b) systemwide curtailment as a percent of priority of service and (c) system wide curtailment as a percent of total requirements.

(5) A discussion of problem situations which occurred during the 1977-78 winter and a description of what steps have been taken to avoid such problems in the impending winter season. Also compare such winter with possible occurrences during the type of winter as specified in (2)(a) (ii) and (iii) above.

The Commission will further require that the captioned pipelines made parties to the above-styled proceedings distribute copies of this order to their distribution company customers and direct industrial customers.[3] Concurrently therewith, the pipelines are to request that these customers provide to them a list of their customers that may be forced to shut down this winter because they lack either a supply of alternate fuel or alternate fuel equipment to off-set projected natural gas curtailments on a normal and "colder than normal winter period" as specified in (2)(a) (ii) and (iii) above.

The following data shall be supplied where industrial shut down is indicated:

[1] See Commission orders in *Alabama-Tennessee Natural Gas Co.* in Docket No. RP76-116 issued on July 20, 1976, and *Alabama-Tennessee Natural Gas Co.* in Docket No. RP77-65 issued on May 11, 1977.

[2] The colder than normal basis should be computed on the assumption of an increase in average monthly degree-day deficiency of the suggested percent in excess of historical normal as computed by the Department of Commerce. While the extreme conditions of a 20 percent colder than normal winter may not occur during the coming winter season, it is important that we develop a contingency plan in the event it might happen; such conditions were encountered during the months of December, January, and February of the past 2 years.

[3] Respondent pipelines that are the customers of other pipelines named as respondents herein need file this data only in their own docket if one exists.

(1) The amount of additional gas supply needed for each distributor or direct industrial customers to avoid plant shutdown during each month of the 1978–79 winter period, including appropriate supporting data from distributors based on the needs of each commercial or industrial consumer that may be forced to shut down due to curtailment this winter. Indicate the approximate number of days of shutdown for each consumer on the basis of colder than normal weather as described above.

(2) For each distributor and consumer faced with the prospect of plant shutdown, list all self-help measures which have been undertaken to date, and other self-help measures which are planned to avoid shutdown, including actions by State authorities.

(3) List for each pipeline and distributor with projected shutdown problems, all existing and proposed contingency plans to mitigate effects of plant shutdown next winter.

The distribution customers that must be called upon to provide the information requested herein should file this data with their respective jurisdictional pipeline suppliers on or before June 30, 1978. The Commission will require that the pipelines file their reports, predicated upon this information and the testimony related thereto with the Commission by July 14, 1978. The reports submitted by the respondent pipelines are to both analyze and collate the data referred to and should be more than a mere accumulation of the mass data collected. If the filings by the pipelines are fashioned as requested, the task of assessing and providing an appropriate overview of the curtailment impact this winter by the Commission will be expedited. In the event that a distributor fails to provide the requested information, the Commission may be required to conclude that commercial and industrial customers served by such distributor will not have fuel deficiency problems that may force them to shut down during the impending winter months. The respondent pipelines to these proceedings shall provide the corresponding information requested from the distributors for their own direct industrial customers.

In the event that hearings are convened with respect to particular pipelines, it is the purpose of this Commission to assure that the reports and other data presented at the hearing that we have required in this order are properly incorporated into the formal hearing record. This will facilitate the task of the Commission staff who in turn will be charged with the task of making and tendering its own report predicated upon the data obtained subsequent to the conclusion of the last hearing that may be conducted in these proceedings. No useful purpose will be served by requiring that strict evidentiary and procedural rules be followed that might tend to either delay the proceedings or preclude the introduction of the data called for herein by the Commission into the hearing record. It would also not serve the purposes of the Commission to permit any hearing that may be conducted in conjunction with these proceedings to linger needlessly, or encompass issues contained within ongoing curtailment dockets.

The Commission recognizes that the possibility of convening of hearings within a short time period is an undertaking which will cause our Staff and other parties scheduling difficulties. We shall therefore provide that any hearings that are to be conducted with respect to the respondent pipelines are to be held during July and early August 1978 and we shall direct that any hearings required to be held with respect to these proceedings be scheduled by the Chief Administrative Law Judge during those months. In order to provide that scheduling flexibility be assured with a minimization of effort we shall provide that the Secretary may by notice reschedule any proceeding set for hearing in the event that any difficulties with data or pipeline reports submitted can be eliminated between the submission date and hearing date.

Since the focus of these hearings is directed toward the accumulation of data which is wholly factual by nature, we shall forego the filing of briefs normally contemplated by the Commission. Instead we shall call upon our staff and the other parties to file with the Commission by September 18, 1978, summary memoranda in which the data presented in these proceedings is analyzed and in which any party may be free to tender any comments that he feels warranted in light of the facts and data developed in such hearing.

In light of the fact that there may exist certain common elements of interest between the above-styled proceedings and the curtailment proceedings that are currently in various stages of determination relative to the aforementioned pipelines, we shall automatically permit any party permitted to intervene in such proceedings the right to intervene and to have all the rights of a party in the corresponding pipeline proceeding instituted herein.[4] Appropriate provision will be made for other persons interested or desiring to intervene in the above-styled proceedings.

The Economic Regulatory Administration (ERA) and the Energy Information Administration (EIA)[5] are invited to fully participate and are requested to provide for the record in these proceedings State and regional information relative to alternate fuel availability for the forthcoming winter-heating season. State energy agencies and State public service commissions are also requested to participate and to provide information relating to: (1) the lack of alternate fuel capabilities of end-users in areas subject to their jurisdiction, and; (2) local conservation measures that are either di-

[4] The curtailment proceedings relating to the 29 pipelines named in the caption of this order are as follows:

Alabama-Tennessee Natural Gas Co., Docket No. RP74-42.

Arkansas-Louisiana Gas Co., Docket No. RP71-122.

Cities Service Gas Co., Docket No. RP75-62.

Columbia Gas Transmission Corp., Docket No. RP72-89.

East Tennessee Natural Gas Co., Docket No. RP75-28.

Eastern Shore Natural Gas Co., Docket Nos. RP71-121, and RP72-21.

El Paso Natural Gas Co., Docket No. RP72-6.

Northwest Pipeline Corp., Docket No. RP74-49.

Panhandle Eastern Pipe Line Co., Docket No. RP71-119.

Tennessee Natural Gas Lines, Inc., Docket No. RP74-54.

Texas Eastern Transmission Corp., Docket Nos. RP71-130, RP72-58.

Texas Gas Transmission Corp., Docket No. RP72-64.

Transcontinental Gas Pipe Line Corp., Docket No. RP72-99.

Transwestern Pipeline Co., Docket No. RP73-101.

Trunkline Gas Co., Docket No. RP71-100.

United Gas Pipe Line Co., Docket Nos. RP71-29, RP71-120.

Algonquin Gas Transmission Co., Docket Nos. RP71-131 et al.

Equitable Gas Co., Docket No. (none assigned).

Colorado Interstate Gas Co., Docket No. RP72-122.

Consolidated Gas Supply Corp., Docket No. RP77-29.

Florida Gas Transmission Co., Docket Nos. RP71-128, RP75-79.

Michigan Wisconsin Pipe Line Co., Docket No. RP76-50.

Midwestern Gas Transmission Co., Docket Nos. RP74-29, RP74-69.

Mississippi River Commission Corp., Docket No. RP73-6.

National Fuel Gas Supply Corp., Docket No. RP74-100.

Natural Gas Pipeline Co. of America, Docket No. RP70-42.

Northern Natural Gas Co., Docket Nos. RP74-102, and RP76-52.

Southern Natural Gas Co., Docket Nos. RP72-74, and RP74-6.

Tennessee Gas Pipeline Co., Docket No. RP74-24.

[5] Economic Regulatory Administration and Energy Information Administrative of the Department of Energy (the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (August 4, 1977)). Even though the convening of these proceedings is for the purpose of providing a vehicle to enable the Commission to acquire the data it needs to fulfill its obligation under the Natural Gas Act to assure adequate gas service, it will also utilize data not called for herein, available from components of the DOE, thereby avoiding any duplication of efforts in collecting information required to analyze adverse curtailment impact projected for the forthcoming winter.

rected or coordinated by them to offset the impact of the natural gas shortage; (3) problem situations of which they are aware. All others, including interested Federal and State agencies are also invited to participate in these proceedings.

The Commission finds: (1) It is in the public interest and consistent with the purposes of the Natural Gas Act to schedule hearings in certain of the proceedings hereinabove named, for the purpose of determining the impact of projected curtailments of natural gas deliveries over the 1978–79 winter-heating season.

(2) It is in the public interest to allow all persons permitted to intervene in the corresponding pipeline curtailment proceedings set forth in the text of this order permission to intervene in the corresponding proceeding instituted by this order.

The Commission orders: (A) Pursuant to the authority conferred upon the Commission under the Natural Gas Act, particularly secs. 4, 5, 7, 14, and 15 hearings shall be scheduled to be held as provided in ordering paragraph (B) hereof in the above-styled proceedings in order to determine the impact of projected curtailment for the 1978–1979 winter heating season.

(B) The hearing provided for in ordering paragraph (A) shall be convened at such times and places as provided for in a notice to be issued by the Secretary after receipt of a recommendation made by the General Counsel and the Director of the Office of Pipeline and Producer Regulation after consultation on this matter with the Chief Administrative Law Judge. The Commission contemplates that in a number of instances, formal hearings may not be necessary and the Secretary shall be so advised by the General Counsel after consultation with OPPR, and in such event, no hearing will be convened by the Secretary. In formulating the hearing schedule to be undertaken by the General Counsel and the Director of the Office of Pipeline and Producer Regulation, manpower resources and work schedule demands of the Office of Administrative Law Judges will be given full consideration.

(C) An administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside over the hearings that will be scheduled in the above-styled proceedings noted above in ordering paragraphs (A) and (B) and shall prescribe relevant procedural matters not herein provided and assure the development of an adequate record with the incorporation therein of the information sought and requested by the Commission in the text of this order.

(D) Each of the respondent pipelines designated in this order shall provide on a best efforts basis, the information called for in the body of this order no later than July 14, 1978. All parties to the instant proceedings are hereby requested and all customers of the respective pipeline companies are hereby urged to provide their pipeline suppliers with the necessary information by June 30, 1978, to enable the pipelines to comply with this order. Copies of the aforementioned data shall be served, upon the appropriate state regulatory bodies.

(E) An analysis in memorandum form of the information obtained in these proceedings shall be presented to the Commission by the Commission staff and other interested parties desiring to submit such memorandum or comments to the Commission by September 18, 1978.

(F) All parties previously granted intervention in the curtailment proceedings set forth in the text of this order are permitted to intervene in and participate in the corresponding pipeline proceeding that has been instituted by this order subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene in the aforementioned curtailment proceedings, *and provided, further,* That the admission of such intervenors shall not be construed by the Commission that subject interveners might be aggrieved because of any order or orders issued by the Commission in these proceedings.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15821 Filed 6-7-78; 8:45 am]

[6740-02]

[Project Nos. 2284 and 2834]

CENTRAL MAINE POWER CO.

Application for New License for Constructed Project and Amendment of License

JUNE 2, 1978.

Take notice that applications were filed with the Federal Energy Regulatory Commission by the Central Maine Power Co. (correspondence to: Charles E. Monty, Senior Vice President, Engineering and Production, Central Maine Power Co., Edision Drive, Augusta, Maine 04336; and copy to: Seward B. Brewster, General Counsel, same address): (1) on January 11, 1978, for the proposed Brunswick hydroelectric project, FERC No. 2834, and (2) on May 8, 1978, for amendment to the license for the existing Brunswick-Topsham project No. 2284, on the Androscoggin River in the towns of Brunswick (Cumberland County) and Topsham (Sagadahoc County), Maine. The proposed Brunswick project No. 2834 would be built at the site of the existing licensed 2.3 MW Brunswick-Topsham project, FERC No. 2284. In view of the extensive redevelopment proposed, applicant is requesting a new 50-year license for project No. 2834.

Project No. 2284 consists of: *Brunswick*—A lower dam comprised of two timber crib overflow sections and a short concrete masonry nonoverflow section connecting to the powerhouse on the right bank; a reservoir, with an area of about 12 acres and normal water surface at elevation 17.4 feet (USGS) contained within the river banks; a powerhouse containing four 483-horsepower turbines connected to three 375-kilowatt generators and one 348-kilowatt generator; step-up transformers; and appurtenant facilities;

Topsham—An upper dam comprised of two concrete and one timber crib sections; two intake sections, one on each shore; a reservoir, with an area of about 300 acres and normal water surface at elevation 39 feet (USGS), extending upstream about 4½ miles; an enclosed concrete flume extending from the left bank intake to a powerhouse containing three 400-horsepower turbines each connected to a 300-kilowatt generator; an overhead circuit to a nonproject substation; semiautomatic control equipment; step-up transformer; and appurtenant facilities.

Applicant requests that the license for project No. 2284 be amended by changing the expiration date of the license from December 31, 1993, to five (5) months after issuance of the new license for project No. 2834 to allow continued operation of the existing project during initial construction stages of project No. 2834.

Project No. 2284 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

The applicant has calculated that the estimated net investment would amount to $496,576 as of December 31, 1977. The applicant estimated severance damages as of December 31, 1977, would amount to $175,000. The taxes paid by the applicant for 1977 amounted to $38,190.48.

Existing project facilities licensed under project No. 2284 to be retained in the redevelopment for project No. 2834 consist of: (1) the wood crib dam located between Shad Island and Topsham (the wood crib dam is to be reduced in height to 14.2 feet msl and used as a fish barrier. The remaining portion of the lower dam extending between Shad Island and Brunswick and the integral powerhouse are to be removed); and (2) an existing 3-foot high, 20-foot long concrete fish barrier weir across Granny Hole stream.

New project facilities to be constructed as part of project No. 2834 would consist of: (1) a concrete dam 35

feet high and 605 feet long in the same location as, and replacing, the existing upper dam and powerhouse; (2) a reservoir having a surface area of 300 acres at a normal water surface elevation of 39.4 feet msl and extending 4.5 miles upstream; (3) a powerhouse and intake structure integral with the dam, located adjacent to the Brunswick shoreline, containing a single turbine and generator having an installed capacity of 12 MW; (4) a fishway adjacent to the new powerhouse; (5) a 21-foot high fish barrier wall between the new dam and Shad Island; and (6) appurtenant facilities. The total cost of the project is estimated at $13,500,000.

The applicant proposed to designate lands in the project area for future recreational use when esthetic and water quality conditions improve. Some fishing by boat will continue to be practical from an existing municipal boat launching ramp located 0.4 mile below the U.S. Highway 201 Bridge.

Applicant intends to use all of the power developed at the project in the applicant's distribution system for sale to its customers.

Any person desiring to be heard or to make any protest with reference to said application should 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). All such petitions or protests should be filed on or before July 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15819 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-19, RP78-20]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

Order Accepting for Filing and Permitting To Become Effective Revised Tariff Sheets and Rejecting Revised Tariff Sheets Without Prejudice

MAY 31, 1978.

On May 1, 1978, Columbia Gulf Transmission Co. (Columbia Gulf) in Docket No. RP78-19 and Columbia Gas Transmission Corp. (Columbia) in Docket No. RP78-20 tendered for filing certain revised tariff sheets shown in the Appendix to this order and moved that these be made effective subject to refund on June 1, 1978 in substitution for the tariff sheets reflecting general rate increases that were previously accepted for filing and suspended for five months until June 1, 1978. For the reasons discussed below, Columbia Gulf's proposed tariff sheets will be accepted for filing and permitted to become effective on June 1, 1978. Columbia's proposed tariff sheets will be rejected without prejudice to the submission of further revised tariff sheets, in compliance with the terms of this order, to be effective on June 1, 1978.

The original tariff sheets were tendered in these dockets on November 30, 1977. They reflect general rate increases of approximately $94.0 million for Columbia and $9.1 million for Columbia Gulf, above the rates in settlement agreements in Docket Nos. RP76-94 and RP76-95 that were approved by letter order issued March 16, 1978. By order issued December 30, 1977, in Docket Nos. RP78-19 and RP78-20, these dockets were consolidated and the proposed rate increases were suspended for five months, until June 1, 1978, subject to certain conditions concerning the anticipated commencement of deliveries of revaporized LNG to Columbia by Columbia LNG Corp. Pursuant to that order, on March 30, 1978, Columbia filed "interim rates" to be effective from commencement of LNG deliveries through May 31, 1978.[1] By letter order of April 28, 1978, these rates were accepted and permitted to become effective, subject to refund and several conditions including a requirement that the originally suspended rates in Docket Nos. RP78-19 and RP78-20 be adjusted to exclude the costs of any facilities not certificated and placed in service by the end of the test period, April 30, 1978.

In compliance with that condition, Columbia Gulf has tendered revised tariff sheets reflecting the exclusion of costs attributable to facilities that were not in service by April 30, 1978. There are no other adjustments. Accordingly, Columbia Gulf's revised tariff sheets will be accepted for filing and permitted to become effective, subject to refund, on June 1, 1978.

The revised tariff sheets tendered on Columbia on May 1, 1978, also reflect the exclusion of costs attributable to facilities that were not in service on April 30, 1978. There are a number of other adjustments in the filing affecting the rates now under suspension. These include: (1) decreases in gas purchase and transportation costs attributable to transportation arrangements that were not in effect by the end of the test period; (2) elimination of costs attributable to Columbia's Crawford Storage Field, approximately $5.5 million, that were included in the originally proposed rates but will now be recovered under a separate rate schedule permitted by the order issued April 10, 1978, in Docket No. CP77-636 and included in the revised tariff sheets tendered on May 1, 1978 (First Revised Sheet No. 16A); (3) a reduction of the advance payments included in rate base by $21.0 million to reflect the estimated balance at the end of the test period; and (4) a reduction in the "new gas" cost of service of approximately $1.4 million that reflects the exclusion of facilities not in service during the test period and a reallocation of indirect costs based on the overall adjustments to the cost of service.

Columbia has also revised the suspended rates to include the rate increases under its Purchased Gas Adjustment (PGA) provision that have been accepted during the current suspension period and are now being collected subject to refund in Docket No. RP73-65 (PGA78-1, et seq.), as well as a surcharge of 0.12 cents per Mcf for research, development and demonstration (RD&D) Funding to the Gas Research Institute (GRI) resulting from Opinion No. 11 issued March 31, 1978 in Docket No. RP77-14. Most important, Columbia has reduced by 50 Bcf the test period sales level used in designing the proposed rates, from 1007 Bcf to 957 Bcf. Through this reduction to the sales level in its filing of May 1, 1978, Columbia proposes an increase over the original filing of approximately 0.18 cents per Mcf in the average unit cost of all sales.

Columbia's revised tariff sheets will be rejected and its motion to make those sheets effective will be denied. Section 154.66(b) of the Regulations provides that changes in tariffs under suspension may not be made except by "special permission" of the Commission for "good cause shown". We decline to grant Columbia special permission to decrease the original sales level and thus increase the suspended rates as expressed on an average unit cost basis. Columbia claims that the proposed reduction in estimated sales is directly associated with the failure to place certain facilities in service and to finalize certain gas transportation arrangements by the end of the test period. However, Columbia has not demonstrated that this asserted deficiency will not be offset by the substitution of supplies from other sources.

Unlike the other proposed adjustments, which are revisions of the costs of service and can be ascertained with

[1] The Commission has been advised that deliveries of regasified LNG to Columbia began on May 20, 1978.

some precision at the particular date on which the nine month test period ends, the appropriate sales volume level should reflect the best single estimate of total deliveries from all sources of supply over the twelve months following the end of the test period. We note that Columbia's most recent Form No. 16 report, filed on May 1, 1978, shows the availability of significant additional supplies that were not included in Columbia's sales estimates used in the design of the originally proposed or currently revised rates.

Our rejection of these tariff sheets is without prejudice to the resubmission of revised tariff sheets, to be effective June 1, 1978, which are based on the cost of service as revised in the filing of May 1, 1978, and on the sales volume level included in Columbia's original filing of November 30, 1977. These revised tariff sheets may reflect the several PGA rate increases that become effective during this suspension period and the GRI funding surcharge, upon condition that Columbia comply with the terms of any future orders concerning the applicable PGA rate increases and the GRI surcharge. Finally, we reiterate that Columbia shall comply with the conditions already stated in the letter order of April 28, 1978 in these dockets, that the suspended rates in Docket No. RP78-20 be revised to exclude all costs related to revaporized LNG supply, if by June 1, 1978, deliveries of LNG by Columbia LNG do not commence and continue on a regularly scheduled basis.

The Commission finds: (1) Good cause has been shown to grant special permission to Columbia Gulf to revise the tariff sheets that it filed in these dockets on November 30, 1978, and to permit the revised tariff sheets filed by Columbia Gulf on May 1, 1978, to become effective, subject to refund, on June 1, 1978.

(2) It is necessary and proper in the public interest and in carrying out the provisions, of the Natural Gas Act and the Commission's regulations that the revised tariff sheets filed by Columbia in these dockets on May 1, 1978, be rejected without prejudice to the resubmission of revised tariff sheets in compliance with the orders in these dockets.

The Commission orders: (A) The revised tariff sheets filed by Columbia Gulf in these dockets on May 1, 1978, are hereby accepted for filing in substitution for the tariff sheets originally filed by Columbia Gulf on November 30, 1978, and are hereby permitted to become effective, subject to refund, on June 1, 1978.

(B) The revised tariff sheets filed by Columbia on May 1, 1978, are hereby rejected and Columbia's motion to make effective is hereby denied.

(C) Rejection of Columbia's revised tariff sheet is without prejudice to the resubmission of revised tariff sheets, to become effective, subject to refund, on June 1, 1978, that are based on the cost of service in the revised filing of May 1, 1978, and on the sales level in the original filing of November 30, 1977, and that comply with the conditions stated in the orders in these dockets.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX—TARIFF SHEETS FILED MAY 1, 1978

BY COLUMBIA GULF—DOCKET NO. RP78-19

Original Volume No. 1

Substitute Twenty-Fourth Revised Sheet No. 7.

Original Volume No. 2

Substitute Fifth Revised Sheet No. 72.
Substitute Fifth Revised Sheet No. 73.
Substitute Second Revised Sheet No. 92.
Substitute Second Revised Sheet No. 93.
Substitute Second Revised Sheet No. 126.
Substitute Third Revised Sheet No. 145.
Substitute Third Revised Sheet No. 146.
Substitute Second Revised Sheet No. 256.
Substitute Second Revised Sheet No. 263.
Substitute First Revised Sheet No. 278.
Substitute First Revised Sheet No. 320.
Substitute First Revised Sheet No. 337.
Substitute First Revised Sheet No. 338.
Substitute First Revised Sheet No. 386.
Substitute First Revised Sheet No. 387.
Substitute First Revised Sheet No. 417.
Substitute First Revised Sheet No. 440.
Substitute First Revised Sheet No. 493.

BY COLUMBIA—DOCKET NO. RP78-20

Original Volume No. 1

Forty-Fourth Revised No. 16.
First Revised Sheet No. 16A.

[FR Doc. 78-15820 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CI78-621]

DIXEL RESOURCES INC.

Petition for Declaratory Order or Alternative Relief

MAY 31, 1978.

On April 6, 1978, Dixel Resources Inc. (Dixel) filed a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure requesting issuance of an order by the Commission declaring that Dixel is free from Commission jurisdiction and is able to sell natural gas from certain acreage in Jackson County, Tex. in the intrastate market without fear of possible violation of the Natural Gas Act.

Dixel stated that in 1952, the Atlantic Refining Co. (Atlantic) leased from H. E. Neuhaus, et al., approximately 4,692 acres in the Lavaca and Jackson Counties, Tex. for the purpose of exploring for and developing the oil and natural gas reserves thereunder. From 1952 until 1975, Atlantic completed only one well on the subject acreage from which natural gas was sold to Texas Eastern Transmission Corp. (Texas Eastern) by contract dated March 1, 1956. A certificate of public convenience and necessity was issued by the Federal Power Commission (FPC) in Docket No. G-10739, authorizing Atlantic to sell such gas in interstate commerce under its FPC Gas Rate Schedule No. 160. The single well which Atlantic was able to complete produced from the Wilcox formation at a depth of approximately 9,000 feet on a portion of the lease in Lavaca County. No other wells were completed on the remaining acreage.

Dixel further states that in 1973, W. H. Borchers, *et al.*, succeeded to the interests of H. E. Neuhaus, *et al.*, in the subject acreage and sought to have the Atlantic Ritchfield Co. (ARCO), Atlantic's successor-in-interest, develop the previously nonproducing acreage or to release that portion of the 4,692 acres on which ARCO had failed to discover and develop any gas reserves. On May 21, 1975, Atlantic released its leasehold interest in 4,052 acres. Thereafter, on February 2, 1976, Texas Eastern executed with ARCO an amendment to their gas purchase contract to reflect the release of the unproductive 4,052 acres. On September 10, 1976, upon expiration of the 20-year gas purchase contract with Texas Eastern, ARCO entered into a renewal contract covering its interest in the retained 640 acre tract.

Finally, Dixel stated that on August 21, 1975, Dixel leased from W. H. Borchers, *et al.* 640 acres in Jackson County, Tex., which was part of the 4,052 acres released by ARCO on May 21, 1975. Dixel proposes to sell natural gas from three wells drilled into previously undiscovered reservoirs at depth of approximately 4,500 feet. In reliance upon the decision rendered by the United States Court of Appeals for the Tenth Circuit in *Billy J. McCombs, et al.* v. *FERC*, No. 75-1829, issued February 9, 1978, and the decision rendered by the United States Court of Appeals for the Fifth Circuit in *Southland Royalty Co., et al.* v. *FPC*, Nos. 75-3373, *et al.*, issued December 13, 1976, Dixel now proposes to sell the gas from the released 640 acre tract to LoVaca Gathering Co. However, Dixel seeks Commission assurances that it will not be in violation of Section 7(b) of the Natural Gas Act by making such a sale in the intrastate market. In the alternative, Dixel asks that the Commission permit the sale in the intrastate market, subject to payback of volumes by Dixel, pending a final decision by the United States Supreme

Court in either the *McCombs* or *Southland* cases. A second suggested alternative would be for the Commission to order the sale of gas to Texas Eastern, subject to payback by Texas Eastern if either the *McCombs* or *Southland* decisions is upheld.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15822 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-19 and ER78-81 (Phase I)

FLORIDA POWER & LIGHT CO.

Order Providing Status Report on Expedited Proceeding and Giving Notice of Intention To Act

JUNE 1, 1978.

By order of December 30, 1977, the Commission, inter alia, accepted for filing, suspended for the full five months statutory period, and set for expedited and consolidated hearing and decision (1) in docket No. ER78-19 the availability clauses of Florida Power & Light Co.'s (FP&L) full (SR-2) and partial (PR) requirements wholesale rates first filed by FP&L on October 14, 1977, and (2) in docket No. ER78-81 FP&L's December 1, 1977, notice of cancellation of firm partial requirements service to the city of Homestead, Fla. In ordering paragraph (L) of that order, the Commission provided that a "decision on these issues should be rendered prior to the expiration of the suspensions," that being by June 1, 1978. The Commission set this expedited course "due to the potential anticompetitive impact of FP&L's purportedly restrictive availability provisions." (Id., at 6.)

The Presiding Administrative Law Judge and the parties thereafter embarked upon an expedited schedule which entailed the following procedural steps: hearings from March 15 through 28, 1978; initial briefs on April 7, 1978; reply briefs on April 12, 1978; initial decision on April 21, 1978; briefs on exceptions on May 8, 1978; and briefs opposing exceptions on May 12, 1978.

The magnitude of the record certified to the Commission is beyond the Commission's contemplation as of its December 30, 1977, hearing order, supra, and makes it difficult, if not impossible, for the Commission to render a comprehensive and well-reasoned decision by June 1, 1978. In light of the seriousness of the allegations of anticompetitive impact raised by Staff and FP&L's wholesale customers, the public interest would not be well served by a decision truncated to meet the previously set June 1, 1978, date. This is especially true because at the moment it does not appear that irreparable harm would result from our final order not being issued by June 1, 1978. Nevertheless, we herein state our intention to complete our deliberation in this consolidated proceeding as soon as possible and to issue a final decision in the very near future.

Serious allegations of anticompetitive intent and effect have been raised on this record. Without ruling on the merits at this time, we do urge FP&L to refrain from implementing the availability provisions of the SR-2 and PR tariffs pending a final Commission decision. Since we are committed to giving this case precedence in order to render a decision very soon after June 1, 1978, FP&L would not be prejudiced by such a voluntary act which would avoid the need for remedial action if the Commission were ultimately to rule that the availability provisions are unjust, unreasonable or unduly discriminatory. This same Commission request for restraint on the part of FP&L also applies to the related notice of cancellation of service to Homestead. Even though it presently appears that Homestead's existing generation capacity and other sources of bulk power supply would obviate the possibility of actual service interruption to Homestead's retail customers in the event FP&L exercised cancellation on June 1, 1978, the Commission would stand ready to immediately seek from the Department of Energy the exercise of the emergency interconnection authority under section 202(c) of the Federal Power Act if service interruption becomes even a possibility. Such an eventuality could best be avoided if FP&L voluntarily refrains from cancelling PR service to Homestead on June 1.

The Commission finds and orders: The previously stated schedule for a final Commission decision by June 1, 1978, is no longer feasible, but it is the Commission intention to issue a final decision as soon after June 1, 1978, as is possible, consistent with the tenets of reasoned decisionmaking.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15823 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. ER77-531]

ILLINOIS POWER CO.

Order Granting Rehearing

JUNE 2, 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 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 section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of 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 February 28, 1978, the Illinois Power Co. (hereinafter referred to as IP or Company) filed with the Commission a document entitled Motion for an Order Granting Leave To Collect a Rate Level Different From That Provided in a Filed Rate Schedule. In support thereof, IP indicated that on July 29, 1977, it tendered for filing a proposed rate increase applicable to the village of Ladd, the city of Oglesby, and the Cedar Point Light & Water Co. By order issued September 23, 1977, the Commission accepted the proposed rates for filing and suspended their effectiveness for 5 months, until March 1, 1978.

The Company stated that after a settlement conference held on Febru-

ary 8, 1978, it forwarded an offer of settlement to the customers involved in this proceeding "to resolve the differences that exist between the parties." IP proposed to charge the customers the amount that it would recover under its settlement offer pending a resolution of the issues by settlement or decision by the Commission. The settlement rate reduced the Company's filed rate increase from $176,479 to $83,864.

By order issued March 30, 1978, the Commission granted IP's motion. The Commission stated, "Allowing IP's requested rates to become effective subject to refund will significantly reduce the magnitude of the proposed increase to apply to the customers in this proceeding." However, the Commission's acceptance of IP's motion was predicated on its construction of the motion as one for authority to substitute IP's proposed settlement rates for the rates it initially filed on July 29, 1977 ($176,479). The Commission accepted the $83,864 rate for filing and suspended it for one day to become effective March 1, 1978, subject to refund. IP was directed to file with the Commission within 15 days of the issuance of the order, a revised rate schedule reflecting the reduction in the proposed increase.

On April 14, 1978, the Company filed its petition for rehearing of the Commission's March 30, 1978, order alleging that:

(1) The Commission misconstrued Illinois Power's filing as a motion for authority to substitute its proposed electric rate schedules containing a lower rate for the rate schedules it initially filed, and

(2) The Commission misconstrued Illinois Power's filing as a unilateral reduction of its requested rate increase.

IP argues that its motion was not intended to nor in fact requested authority to substitute a new rate schedule for its originally filed rate schedule. It maintains that its motion was narrowly drawn to request only that authority contemplated by § 35.1(e) which provides:

No public utility shall, directly or indirectly, demand, charge, collect or receive any rate, charge or compensation for or in connection with electric service subject to the jurisdiction of the Commission, or impose any classification, practice, rule, regulation or contract with respect thereto, which is different from that provided in a rate schedule required to be on file with the Commission *unless otherwise specifically provided by order of the Commission* for good cause shown. (Emphasis added by IP.)

The Company avers that its motion was intended to encourage settlement, not to unilaterally reduce the rate increase originally requested. It states that it did not believe that it was desirable to require the customers to pay more than the settlement rate, only to refund the excess, with interest, after settlement was reached. IP maintains that a unilateral filing of a reduced rate request would remove the customers' incentive to settle; they would have nothing to lose by continued litigation.

IP requests that the Commission modify its Order of March 30, 1978, in one of the following ways:

(1) Withdraw the order to file a new rate schedule, reinstate Illinois Power's original rate increase request, and grant only the limited authority to collect a rate different from that provided in a filed rate schedule pursuant to § 35.1(e);

(2) If the request for an order pursuant to § 35.1(e) is denied and the order to file a new rate schedule is allowed to stand, Illinois Power requests that its original rate increase request be reinstated, and that the Commission affirm that its Order does not require the waiver of any issues or the filing of a new direct case; or

(3) If the Commission denies the relief requested in paragraphs (1) and (2), Illinois Power requests that its motion be treated as withdrawn with the effect that the rates filed July 29, 1977, would be effective on and after March 1, 1978.

On May 12, 1978, the Commission isued an order granting rehearing for further consideration to afford additional time for consideration of the issues raised in IP's filing.

As a general proposition, the party drafting a document has the burden of making its intentions known by clear and unambiguous language. For instance, with respect to contracts, a noted authority states:

Since one who speaks or writes can by exactness of expression more easily prevent mistakes in meaning, than one with whom he is dealing, doubts arising from ambiguity of language are resolved in favor of the latter. Williston On Contracts, Third Edition, Section 621, 1961 edition.

While the Company has filed a motion for Commission approval rather than a contract, that principle applies with equal force here. The Company has the burden of expressing itself clearly in order for the Commission to afford the contemplated relief.

In its motion filed on February 28, 1978, the Company requested that the Commission allow it to collect a rate lower than the rate level filed in this proceeding pending a resolution of this case either by Commission approved settlement or by final order ruling upon the issues. While one may assume that the Company implicitly reserved the right to argue for the full $176,479 if a settlement is not realized, IP's motion does not specifically make such reservation. Furthermore, it is clear that IP's motion contemplates its reduced rates remaining in effect even if a settlement does not eventuate. The rates are to be effective pending a resolution of this case either by Commission approved settlement or by final order ruling upon the issues. In the context of an adjudicated rate proceeding at this Commission, a final order does not issue until the Commission has had an opportunity to review the Presiding Administrative Law Judge's initial decision.

The Company states that if its proposed settlement rate becomes a new upper limit to its rate increase request, the municipalities will have nothing to lose by continued litigation. It is not clear that the Commission's actions remove the incentive for the municipal customers to settle. They would still be faced with the decision of weighing the litigation costs of proceeding to hearing on the merits against the acceptance of the profferred substitute (settlement) rates.

However, the Commission's action with respect to IP's motion is not premised on any misconstruction of language or misapprehension of intent. On the contrary, it evinces a Commission policy that refuses to endorse a procedure that invites abuse of Commission process. Companies would be encouraged to file inordinantly high rate increases, seek Commission authority to collect a lesser amount, and retain the ability to argue for the full amount if a settlement does not eventuate. Approval of such a procedure would generate coercive pressure for customers to settle.[1]

In order to remove the specter of coercion, the Commission granted IP's motion but required it to file a revised rate schedule to reflect the reduction in rates and held that the lesser amount would constitute the Company's requested rate increase in this docket. If IP's motion had clearly and unequivocally reserved (for it) the right to seek the full $176,479, the Commission would have denied it.

The Company, the moving party, had an adequate opportunity to clearly and cogently articulate its position. Apparently IP determined that it could reasonably satisfy its revenue requirements with respect to the customers affected herein, with a rate increase of $83,864, based on estimated usage of the customers for the twelve months ending September 30, 1978 (Period II). Otherwise, it is unlikely that it would have requested Commission authority to collect that amount in lieu of the $176,479 it could legally collect.

On the basis of what was before it, the Commission, acting reasonably and in good faith, granted the relief that it could afford consonant with its authority under the Federal Power Act and its outstanding obligation to the public interest.

[1] This does not constitute Commission prejudgment of IP's initially filed rate increase, it merely illustrates the precedential effect of Commission approval of such a procedure.

The Commission, based on IP's allegation that its intent was not to file a substitute rate, will grant rehearing in this proceeding and deem the Company's motion withdrawn. The Company's statement of intent contained in its petition for rehearing removes any ambiguity that may have existed with respect to the contemplated effect of its motion. Consequently, the rates initially filed by IP on July 29, 1977, are effective as of March 1, 1978, subject to refund.

The Commission finds: Good cause exists to grant IP's petition for rehearing.

The Commission orders: (A) IP's petition for rehearing is hereby granted.

(B) IP's rates submitted for filing on July 29, 1977, are hereby deemed effective as of March 1, 1978, subject to refund.

(C) IP's motion is hereby deemed withdrawn.

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

By the Commission. Chairman Curtis, dissenting, filed a separate statement appended hereto.

KENNETH F. PLUMB,
Secretary.

Curtis, Chairman, dissenting:

JUNE 2, 1978.

Whether the applicant was unclear in its original motion filed February 28, 1978, or whether the Commission, in its March 30, 1978 order, misconstrued that motion, is largely irrelevant to the unhappy result reached by the Commission today in requiring the applicant to reinstate its originally filed rate. With applicant's wishes clearly stated in its instant petition, it seems to me that the Commission missed an opportunity to benefit everyone involved, from the ultimate ratepayer to the applicant.

By denying applicant its requested authority to collect a rate lower than that filed, the commission requires the customers of applicant to pay for services rendered at a rate more than twice what was proposed.

Although the Commission's action today is directed at a problem of serious interest to all of us, that is, the risk that regulated companies subject to our jurisdiction may be encouraged to file rate increase requests far in excess of reasonableness, I believe there probably are much better avenues open to us for dealing with that problem.

The rate that applicant proposes to collect is, apparently, the same rate applicant has proposed to its customers in a settlement agreement. The Commission majority, by its order today, raises the specter that to permit this is to aid the applicant in somehow coercing customers to accept a settlement with the threat that, if the proposed settlement is not accepted, applicant will request reinstatement of the originally-requested rate to which they are entitled in any event. In light of our statutory inhibitions from preventing the applicant from collecting what may be an unreasonable rate, I fail to understand how this Commission performs its mission to protect the public interest by refusing to permit them to collect a lower rate. It seems to me that the Commission majority reaches a result just the opposite of what it intends.

By requiring applicant to collect more than twice the rate it wishes to collect, the Commission places on applicant's customers, and the ultimate ratepayers, a coercive burden of paying what may be unjust and unreasonable rates albeit rates that are subject to refund at interest. It is significant, at least to me, in this regard that, despite notice of applicant's petition for reheearing or modification, there have been no protests or interventions filed by applicant's customers who are presumably observing the proceedings in this docket.

It should be mentioned, too, that, in addition to requiring the ultimate ratepayers to pay at a rate more than twice what applicant now proposes, the majority prohibits applicant from removing whatever cloud may be hanging, during the pendency of this docket, over the revenues which are subject to return to the customers with interest. To the extent that cloud may affect applicant's ability to finance, the majority's order creates a further unhapy result.

I agree with the majority's decision to grant applicant's petition for rehearing but would have modified our March 30, 1978 order, by permitting applicant to reinstate their original rate request and granting to it only limited authority to collect a rate different from that provided in a filed rate schedule pursuant to section 35.1(e).

CHARLES B. CURTIS,
Chairman.

[FR Doc. 78-15824 Filed 6-7-78; 8:45 am]

[6740-02]

[Project No. 2207]

MOSINEE PAPER CORP.

Application for Use of Project Lands and Waters

JUNE 2, 1978.

Public notice is hereby given that an application was filed on January 30, 1978, under the Federal Power Act, 16 U.S.C. 791a-825r, by the Mosinee Paper Corp. (licensee) (correspondence to: James L. Kimerling, Vice President-General Manager, Mosinee Paper Corp., Pulp and Paper Division, Mosinee, Wis. 54455; Lon E. Roberts, Ruder, Ware, Michler & Forester, S.C., P.O. Box 1244, Wausau, Wis. 54401) for use of project lands and water at project No. 2207 known as the Mosinee project. The project is located on the Wisconsin River in Marathon County, Wis.

The licensee seeks Commission approval of use of project lands and waters by Wisconsin Public Service Corp. (WPSC) for the construction and operation of a 300-MW steam electric generating facility to be known as the Weston generating station unit 3. The facility would be constructed adjacent to an existing two-unit coal-fired plant with a capacity of 210 MW.

WPSC proposes to buy in fee simple 96.84 acres of land over which the licensee has flowage easements and are within the project boundary. These lands are described as governement lots 4 and 5, sec. 3, T. 27 N., R. 7 E, town of Kronewetter, Marathon County, Wis.

WPSC proposes to withdraw water from the Wisconsin river to provide makeup water for the facility's closed cycle condenser cooling system. The blowdown water would be returned to the river. The estimated maximum monthly consumptive use of water from the river would be 5.3 cfs. A storm sewer and overflow from the secondary ash settling ponds would also discharge into the river.

The intake structure would be a conventional surface intake about 31 feet wide and 64 feet long with two pumpwells about 37 feet deep. Total capacity of the structure would be 20,000 gpm. A rockfilled ice break extending about 16 feet into the river would be placed on the upstream side of the intake structure.

The river discharge facilities would include: (1) one 30-inch storm sewer; (2) one 8-inch blowdown pipe; and (3) two 30-inch secondary settling pond overflow pipes. Each pipe would be submerged and extend betweeen 14 and 19 feet into the river and would discharge perpendicular to river flow. The estimated discharge from the blowdown pipe would be about 345 gpm and the average outflow from the secondary ash basin would be about 18,000 gpm.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1978, file with the Federal Energy Regulatory Commision, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15825 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CP78-334]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 31, 1978.

Take notice that on May 15, 1978, National Fuel Gas Supply Corp. (ap-

plicant), 10 Lafayette Square, Buffalo, N.Y. 14203, filed in Docket No. CP78-334 and application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing applicant to acquire certain other facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon through transferring by sale to National Fuel Gas Distribution Corp. (Distribution) certain jurisdictional pipeline segments and associated regulator, measuring and dispatching stations, a building, and certain land rights, which actually serve distribution functions rather than supply functions, it is said. The name and location of each jurisdictional facility proposed to be abandoned is included in the appendix attached hereto.

Applicant states that the consideration to be received by it for properties abandoned by transfer to Distribution would be equal in value to the original cost of such properties net of applicable accumulated reserves and deferred taxes at the date of transfer and would consist of (a) property to be acquired by applicant from Distribution, (b) assumption by Distribution of indebtedness of applicant to the parent company, National Fuel Gas Co., equal to the net book value of property transferred to Distribution less the net book value of property acquired by applicant, in each case reduced by applicable deferred taxes. It is said that on the basis of September 30, 1977, data, such net book value of property to be acquired by Applicant would be $481,967.25, and indebtedness assumed by Distribution would be $2,475,773.37.

In addition, applicant proposes to abandon in place jurisdictional facilities consisting of a booster station and two pipelines segments because the facilities have insignificant salvage value, and their removal could cause adverse environmental impacts; abandonment of the booster station would be effectuated by dismantling and disposing of it as scrap, it is said.

Furthermore, applicant proposes to acquire and operate certain pipeline segments and associated regulator and measuring stations now owned by Distribution which actually serve supply functions rather than distribution functions, it is indicated. Applicant states that the consideration for the property to be acquired by it from Distribution would be a portion of the property to be abandoned and transferred by applicant to Distribution, each valued at original cost net of applicable accumulated reserves and deferred taxes at the date of transfer.

Applicant states that the abandonments and acquisitions proposed herein are necessary to effectuate further the realignment approved by the Federal Power Commission on May 10 and July 10, 1974, in Docket Nos. CP73-294 and CP74-211, and that most of the properties to be abandoned and acquired by applicant serve functions inconsistent with their present ownership.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under 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 applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX

Facility*	Proposed transfer			Reason for transfer	
	Distribution corporation to supply corporation	Supply corporation to distribution corporation	Supply corporation to abandon	Oversight at reorganization	Change of use
1		X			X
2		X	X		X
3	X			X	
4	X				X
5		X		X	
6		X			X
7	X			X	
8		X			X
9		X		X	
10		X			X
11		X		X	
12		X			
13		X			
14	X				
15	X				
16	X				
17	X				X
18	X			X	
19	X				X
20	X			X	
21	X			X	
22	X				X
23	X				X
24		X		X	
25		X		X	
26		X			

APPENDIX —Continued

Facility*	Proposed transfer			Reason for transfer	
	Distribution corporation to supply corporation	Supply corporation to distribution corporation	Supply corporation to abandon	Oversight at reorganization	Change of use
27			X		X
28		X			
29		X			
30			X		
31		X		X	
32		X		X	
33		X			
34		X			
35		X			
36		X		X	

*See facility name and location in appendix.

FACILITY NAME AND LOCATION

(1) Arcade warehouse, garage, office building with land rights, Peter Boldt Road and Route 98, Arcade, N.Y.

(2) Ensminger booster station, Ensminger Road, town of Tonawanda, N.Y., on line YM-7 between Semet-Solvay and Vicksburg station.

(3) Various short sections of pipe at Mineral Springs works, 365 Mineral Spring Road, town of West Seneca, N.Y.

(4) Line YM-3, Seneca Street and Southside Parkway to Mineral Spring works, Buffalo, N.Y.

(5) Line H, line I, line R, line U, regulator stations RS 4 CG, RS 6 CG, CRS 27T, MS 894 CG, RS 8 CG, RS 9 CG—town of Kiantone, RS IT—town of Clymer; RS 2 CG, RS 6 CG, RS 7 CG, RS 3 CG, RS 4 CG, RS 5 CG—town of Busti; RS 5T, MS 898 CG, MS 899 CG—town of Elliott; the part of lines H, I, R, and U located in New York State. Various regulator stations off of these lines in New York State.

(6) Line KM-4, Mineral Spring works to Bailey and Elk Streets, town of West Seneca and city of Buffalo, N.Y.

(7) Part of line G, line K to regulator station MN RM IT, town of Mansfield, N.Y.

(8) Line BM-55 (part), regulator station MN RM 3T to valve No. 10, town of Mansfield, N.Y.

(9) Line 12-3 (part), all that part of line 12-3 located in the town of Wirt, N.Y., from town of Clarksville to end of line.

(10) Line YM-7, Semet-Solvay to Vicksburg dispatching station, town of Tonawanda, N.Y.

(11) District regulator station WS RM 11D, Flohr Avenue, town of West Seneca, N.Y.

(12) Vicksburg dispatching station, 2295 Sheridan Drive, town of Tonawanda, N.Y.

(13) Line UM-2 and regulator station TN RM 41X, line UM-2 from Ashland refinery to Vicksburg dispatching station, regulator station TN RM 41X at the Ashland end of line UM-2.

(14) Line Q, various townships, Warren and Forest Counties; runs from Queens station, Hickory Township, Forest County, to station T No. 1145, Brokenstraw Township, Warren County, Pa.

(15) Distribution line from Q-M96 to line 2, Brokenstraw Township, Warren County, Pa.; Distribution Corp. line running from line Q to line Q M96.

(16) Line Q-M96, Brokenstraw Township, Warren County, Pa.; runs from lines D and L to a Distribution Corp. line that is being transferred to Supply Corp.

(17) 8-inch and 10-inch Distribution line (formerly part of line S) Mercer County, Pa., running from the present Western terminus of NFG Supply Co. line S and Supply Co. station T-654 westerly to a valve setting near Supply Co. line NM-50 and then ties into an 8-inch Distribution Corp. line.

(18) Portion of line Q (former Pennsylvania Gas Co.), Union Township, Erie County, Pa., runs from TGP line to RMPS-1-CG, which is a measuring and control station for gas purchase from TPG at Union City connection.

(19) Distribution line from station 18 to building housing water well No. 2, Eldred Township, Pa., Jefferson County, Distribution Corp. line running from station 18 to service building housing water well No. 2, Supply Corp.

(20) Station T-426, Wayne Township, Crawford County, Pa., regulator station tied into TGP line and feeding as to H-M-2.

(21) Station T-573, Cranberry Township, Venango County, Pa., station running from TGP Co. line to S-M77.

(22) Line T-M211, Paint Township, Clarion County, Pa., runs from a dead end to Supply Corp. line T-3 and an emergency connection to Distribution Corp. line T-M2.

(23) Line P-1, Northeast Township, Erie County, Pa.; runs from well lines of local producer to line P, Supply Corp.

(24) Line C (part) plus various measuring and regulating stations assigned to this line; portion of line to be transferred starts at outlet of station T-No. 263 in Lewis Run Boro, Pa., and proceeds in northerly direction to end of line at Maloney Farm in Bradford, Pa.

(25) Line H-202, begins at tie with line H-M 190 in Beaver, Pa., ends at station T-No. 698 in Conneaut Township, Pa.

(26) Line H-M 175 (part), at the Pennsylvania-Ohio State line and extends in southwesterly direction to valve No. 3900 on the east side of Ohio Route 7 in Hartford, Ohio.

(27) Line H-M 175 (part), west side of valve No. 3900, and extends westerly to end of line all in Hartford, Ohio.

(28) Miola compressor station, Paint Township, Clarion County, Pa.

(29) Line R (part), plus various measuring and regulating stations assigned to this line, borough of Ridgway and extends westerly to valve No. 3312 near the Ridgway water works in Ridgway Township, Elk County, Pa.

(30) Line R (part), west side of valve No. 3312 in Ridgway Township and extends in a westerly direction to tie with station T-No. 442 in Spring Creek Township, Elk County, Pa.

(31) Line R-M 18, plus measuring and regulating station assigned to line, begins at southern end of NFG Supply Corp. line R-13 in Ridgway, Pa., and proceeds in southerly direction to tie directly into 3-inch distribution line in Horton, Pa.

(32) Line R-W 5157, begins at Supply Corp. well 5157 in Horton, Pa., and proceeds in an easterly direction to its tie with line R-M 18 in Ridgway, Pa.

(33) Line T-M 214, plus various measuring and regulating stations assigned to line begins at Ohio-Pennsylvania State line and proceeds in north-westerly direction through Williamsfield and Andover, Ohio, to the end of line south of village of Andover, Ohio.

(34) Line Z-44, plus various measuring stations assigned to this line beginning at connection with Kewanee Oil Co. and proceeds in northerly direction to end of line at station T-No. 917, all within the State of Pennsylvania.

(35) Line Z-65, plus various measuring stations assigned to this line, begins at purchase point with Felmont Oil Corp. in Sandy, Pa., and proceeds in easterly direction to its connection with line Z-44.

(36) Various well and gathering lines, measuring stations, and measuring station structures, western portion of Erie County, Pa.

[FR Doc. 78-15705 Filed 6-7-78; 8:45 am]

[6740-02]

[Project No. 2844]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASH.

Application for Preliminary Permit

JUNE 2, 1978.

Public notice is hereby given that an application for preliminary permit was filed on March 28, 1978, under the Federal Power Act, 16 U.S.C. 791a-825r, by Public Utility District No. 1 of Chelan County, Wash. (applicant) (correspondence to: Mr. Howard C. Elmore, Manager, P.U.D. No. 1 of Chelan County, 327 North Wenatchee Avenue, Wenatchee, Wash. 98801), for the proposed Tumwater hydroelectric project designated as project No. 2844. The project would be located on the Wenatchee River in Chelan County near Leavenworth, Wash.

The proposed project would consist of the existing Tumwater Dam to be used as a diversion structure, the existing intake structure at the dam, a new steel penstock about 1,400 feet long, a new powerhouse with an installed capacity of 4,000 kW, and a new tailrace channel extending about 400 feet downstream from the powerhouse. A new bridge across the Wenatchee River would provide access to the powerhouse. This development was previously licensed as project No. 572. The power from the project would be used by the applicant to meet its future load requirements.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15826 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CP76-521]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

MAY 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 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 May 18, 1978, Texas Gas Transmission Corp. (Petitioner), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP76-521 a petition to amend the order of December 22, 1976 (56 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for the transportation of natural gas for The Anaconda Co., Aluminum Division (Anaconda), for an additional two-year period, 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 December 22, 1976, Petitioner was authorized to transport, on an interruptible basis, and deliver volumes of natural gas to Louisville Gas and Electric Co. (Louisville), for ultimate delivery by Louisville to the Mill Products, Rolling Plant of Anaconda, which plant is located in Louisville, Ky. Petitioner indicates that the natural gas which it presently transports for Anaconda is produced from certain leasehold interests presently owned or controlled by Par Oil Corp. (Par) in the Athens Field, Claiborne Parish, La. Anaconda's gas purchase contract expires by its own terms on June 30, 1978, it is said.

Pursuant to a transportation service agreement dated April 13, 1978 between Petitioner and Anaconda, Petitioner proposes to transport gas for Anaconda for an extended two-year term, commencing July 1, 1978, which gas would be supplied by the American Producing Division of Atlantic Richfield Co. (Atlantic Richfield) under an intercompany-transfer arrangement. It is indicated that Anaconda is a wholly-owned subsidiary of Atlantic Richfield Co. It is stated that the subject gas would be produced from the Katy Field, located in Waller, Harris and Fort Bend Counties, Tex.

It is indicated that such volumes of gas would be delivered to Petitioner for the account of Anaconda by Transcontinental Gas Pipe Line Corp. (Transco) at an existing point of exchange between Petitioner and Transco, located near Mamou, Evangeline Parish, La., or at other mutually agreeable existing points of exchange between Petitioner and Transco. Petitioner states that it would simultaneously redeliver the volumes of natural gas received from Transco up to 240 Mcf per day to its existing point or points of delivery with Louisville, for ultimate delivery by Louisville to Anaconda's Louisville, Ky., plant. In no event would Petitioner be obligated to deliver on any day an aggregate amount of more than 239,706 Mcf of natural gas at 14 psia through all points of delivery of Petitioner to Louisville.

Petitioner indicates that it would retain 10.34 percent of the volumes received for transportation as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Petitioner would be made, i.e., Zone 4. Petitioner states that it would also collect an initial charge of 30.36 cents per Mcf for all volumes of natural gas delivered to Louisville for Anaconda's account.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 20, 1978, file with the Federal Energy Regultory 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15827 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CP76-522]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

MAY 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 activited 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 May 17, 1978, Texas Gas Transmission Corp. (Petitioner), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP76-522 a petition to amend the order of December 22, 1976 (56 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for the transportation of natural gas for The Anaconda Co., Aluminum Division (Anaconda) for an additional two-year period, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of December 22, 1976 (56 FPC —), Petitioner was authorized to transport, on an interruptible basis, and deliver volumes of natural gas to Louisville Gas and Electric Co. (Louisville), for ultimate delivery by Louisville to the Packaging, Laminating Plant of Anaconda, which plant is located in Louisville, Ky. It is stated that the gas which Petitioner is presently transporting for Anaconda is produced from certain leasehold interest presently owned or controlled by Par Oil Corp. (Par) in the Athens Field, Claiborne Parish, La. Anaconda's Gas Purchase Contract with Par expires by its own terms on June 30, 1978, it is said.

Pursuant to an agreement dated April 13, 1978, between Petitioner and Anaconda, Petitioner proposes to continue to transport gas for Anaconda for an additional 2-year term, commencing July 1, 1978, which gas would be supplied by the American Producing Division of Atlantic Richfield Co. (Atlantic Richfield) under an intercompany transfer arrangement. Anaconda is a wholly-owned subsidiary of Atlantic Richfield. The subject gas would be produced from the Katy Field, located in Waller, Harris and Fort Bend Counties, Tex.

It is stated that the gas would be delivered to Petitioner for Anaconda's account by Transcontinental Gas Pipe Line Corp. (Transco) at an existing point of exchange between Petitioner and Transco, located near Mamou, Evangeline Parish, La., or at other mutually agreeable existing points of exchange between Petitioner and Transco. Petitioner states that it would simultaneously redeliver the gas received from Transco up to 155 Mcf per day to its existing point or points of delivery with Louisville, for ultimate delivery by Louisville to Anaconda's Louisville, Ky., plant. In no event would Petitioner be obligated to deliver on any day an aggregate amount of more than 239,706 Mcf of natural gas at 14.73 psia through all points of delivery of Petitioner to Louisville.

Petitioner states that it would retain 10.34 percent of the volumes received for transportation as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Petitioner would be made, i.e., Zone 4. Petitioner further states that it would collect an initial charge of 30.36 cents per Mcf for all volumes of natural gas delivered to Louisville for the account of Anaconda.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15828 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CP76-257]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

MAY 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 functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

Take notice that on May 17, 1978, Texas Gas Transmission Corp. (Petitioner), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP76-257 a petition to amend the order of May 24, 1976 (55 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for the transportation of natural gas for the Anaconda Co., Aluminum Division (Anaconda), for an additional 2-year period, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of May 24, 1976, Petitioner was authorized to transport, on an interruptible basis, and deliver a volume of natural gas up to 3,840 Mcf per day to Terre Haute Gas Corp. (Terre Haute), for the account of Anaconda, for 2 years, which transportation service commenced July 1, 1976. The proposed volumes which Petitioner is presently transporting for Anaconda are produced from certain leasehold interest presently owned or controlled by Par Oil Corp. in the Athens Field, Claiborne Parish, La., it is stated.

By this petition, Petitioner requests authorization to extend the existing transportation authorization for an additional 2-year period, pursuant to a transportation service agreement dated April 13, 1978, between Petitioner and Anaconda. The volumes of gas proposed to be transported for the additional term would be supplied by the American Producing Division of Atlantic Richfield Co. (Atlantic Richfield) under an intercompany-transfer arrangement, which volumes of gas would be produced from the Katy Field, located in Waller, Harris, and Ft. Bend Counties, Tex., it is stated.

Anaconda is a wholly owned subsidiary of Atlantic Richfield.

It is indicated that the subject gas would be delivered to Petitioner for Anaconda's account by Transcontinental Gas Pipe Line Corp. (Transco) at an existing point of exchange between Texas Gas and Transco, located near Mamou, Evangeline Parish, La., or at other mutually agreeable existing points of exchange between Petitioner and Transco. Petitioner states that it would simultaneously redeliver the volumes of natural gas received from Transco up to 3,840 Mcf per day at 14.73 psia to its existing point or points of delivery with Terre Haute, for ultimate delivery by Terre Haute to Anaconda's Terre Haute, Ind., plant.

Petitioner indicates that it would retain 8.68 percent of the volumes received for transportation as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Petitioner would be made, i.e., Zone 3. Petitioner states that it would also collect an initial charge of 27.63 cents per Mcf for all volumes of natural gas delivered to Terre Haute for the account of Anaconda.

Any person desiring to be heard or to make any protests with reference to said petition to amend should on or before June 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 of 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15829 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket No. CP76-122]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

MAY 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 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 May 19, 1978, transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP76-122 a petition to amend the order of January 13, 1977 (57 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for an additional delivery point for the delivery of gas to United Gas Pipe Line Co. (United), 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 order of January 13, 1977, Petitioner was authorized to transport pursuant to a transportation agreement dated February 15, 1976, between the two companies up to 196,640 Mcf of natural gas per day for United from a point of receipt on Petitioner's TG Line (a segment of its Southwest Louisiana Gathering System) near Johnson's Bayou, Cameron Parish, La., to a point of redelivery on the TG line, near Starks, Calcasieu Parish, La., where Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), interconnects with Petitioner's facilities, and to construct and operate the necessary side tap and piping manifolds at the points of receipt and redelivery.

The petition states that in related certificates, Petitioner was authorized in Docket No. CP76-471 to construct and operate compression and metering facilities at the Starks redelivery point to Tennessee, and that Tennessee was authorized in Docket No. CP77-108 to transport and redeliver gas received at Starks at several interconnections between the two systems in Louisiana and Mississippi. The subject gas which would be transported for United under the foregoing authorizations would be produced in the High Island Area, offshore Texas, and West Cameron Area, offshore Louisiana, and initially transported for United's account through the facilities of the High Island Offshore System (HIOS) and the U-T Offshore System (U-TOS) to the point of receipt on Petitioner's TG Line at Johnson's Bayou, where U-TOS connects with Petitioner's system, it is said. It is indicated that deliveries of United's gas through HIOS and U-TOS to Petitioner's TG Line are expected to begin around May 22, 1978. Petitioner states that United has advised that the initial deliveries of gas which Petitioner would receive at Johnson's Bayou for transportation cannot be delivered efficiently to Tennessee at the Starks connection because the compression facilities which United has installed at the redelivery connection pursuant to the authorization granted in Docket No. CP76-471 have been designed to handle higher rates of flow than the projected level of initial deliveries.

Petitioner indicates that it and United have amended their transportation agreement dated February 15, 1976, by an amendment dated April 27, 1978, in order to provide for the additional delivery point in Victoria County, Tex., at an existing interconnection between the two systems for the redelivery of United's gas on a best efforts basis by Petitioner. It is stated that the additional delivery point can be utilized in rendering the transportation service in the future in the event that United's compression facilities at the primary delivery point at Starks should require repairs or overhaul.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-

vene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-15830 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket Nos. CP78-317, CP78-94]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Pipeline Application

MAY 23, 1978.

Take notice that on May 5, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-317 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operations of 0.85 miles of 6⅝" pipeline extending from a platform in Vermilion 218 to a point on the existing Blue Water System. Alternatively, Tennessee requests in Docket No. CP78-94 waiver of § 157.7(b)(1)(i).

Tennessee states that granting of the requested certificate will enable Tennessee to receive additional deliverability from previously committed reserves. Tennessee also states that granting Tennessee's alternate request for waiver will relieve Tennessee of the time and expense of preparing several other relatively minor certificate applications and will also relieve the Commission and its staff of the burden of processing Tennessee's request for a certificate for these facilities at Vermilion 218 as well as such other minor applications.

Further, Tennessee says that the proposed construction for the facilities at Vermilion 218 is expected to cost about $930,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 14, 1978, should 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). 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. 78-15832 Filed 6-7-78; 8:45 am]

[6740-02]

[Docket Nos. G-9547, et al.]

UNITED GAS PIPELINE CO., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

MAY 31, 1978.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 16, 1978. Copies of the respective filing are on file with the Commission and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX

Date filed	Docket No.	Company	Type filing
Sept. 26, 1977	G-9547, et al.	United Gas Pipeline Co	Plan.
Dec. 6, 1977	RP75-108	Natural Gas Pipeline Co. of America	Report.
Do	RP76-106	...do	Do.
May 12, 1978	AR70-1	West Texas Gathering Co	Plan.
May 15, 1978	RP72-157	Consolidated Gas Supply Corp	Do.
May 19, 1978	RP76-15	Algonquin Gas Transmission Co	Report.
Do	RP73-112, et al.	...do	Do.
May 24, 1978	AR70-1	El Paso Natural Gas Co	Do.

[FR Doc. 78-15835 Filed 6-7-78; 8:45 am]

[6740-02]

VALLEY GAS TRANSMISSION, INC.

[Docket No. CP78-344]

Notice of Application

JUNE 1, 1978.

Take notice that on May 22, 1978, Valley Gas Transmission, Inc. (Applicant), 3430 Entex Building, Houston, Tex. 77002, filed in Docket No. CP78-344 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing 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 and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its 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 coextensive 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.

The application states that the total cost of the proposed facilities would not exceed $500,000, and the total cost of a single project would not exceed $200,000, which cost would be financed from internally generated funds or short-term financing.

Applicant states that it recognizes that the proposed budget-type authorization for the construction of gas-purchase facilities has an estimated total cost in excess of the amounts specified in subparagraph (1) of

§ 157.7(b) of the Commission's Regulation. Consequently, pursuant to subparagraph (2) of § 157.7(b) of the Commission's Regulations, Applicant requests waiver of the provision of subparagraph (1) so as to allow for the total cost in excess of the amounts specified in subparagraph (1). Applicant further states that such waiver should be granted due to the small size of Applicant's gas plant. A limitation of budget authority to 2 percent of gas plant would effectively deny Applicant an opportunity to connect new gas supplies except on an individual certificate basis, it is asserted. Applicant indicates that such waiver is necessary due to the essential gathering nature of Applicant's operations and the necessity for Applicant to be able to attach reserves without extensive delays.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15831 Filed 6-7-78; 8:45 am]

[3128-01]

Office of Special Counsel for Compliance

[Case No. 63DR00111]

TEXACO INC.

Consent Order

I. INTRODUCTION

Pursuant to 10 CFR Section 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Texaco Inc. (Texaco) and the DOE on May 30, 1978. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Texaco Inc. produces, refines, and markets crude oil and petroleum products subject to DOE regulations. In its sales of motor gasoline and distillates to Ryder Systems, Inc., Texaco consistently treated Ryder as a separate class of purchaser at each location from which it purchased product and calculated its May 15, 1973, prices charged in transactions with that class by using prices quoted in a June 26, 1973 quotation, rather than employing prices charged in transactions with Ryder on or before May 15, 1973. The Special Counsel has determined that Texaco's use of prices charged by it to Ryder insofar as they were calculated on the basis of the June 26, 1973 quotation and not on the basis of prices charged to Ryder in transactions on or before May 15, 1973, resulted in Texaco's receiving revenues in excess of those permitted by applicable CLC, FEA, and DOE regulations.

In resolution of the issue raised, DOE and Texaco executed a Consent Order on May 30, 1978, the significant terms of which are as follows:

(1) Effective January 17, 1977, Texaco began using prices actually charged Ryder in transactions on or before May 15, 1973 to determine current maximum lawful selling prices to Ryder Truck Rental, Inc. and Complete Auto Transit, the subsidiaries of Ryder Systems, Inc. directly affected by this Order.

(2) Texaco shall, within the 24 month period following the effective date of this Consent Order, refund to Ryder Truck Rental, Inc. and Complete Auto Transit, the sum of $2,101,584.26 plus interest, for excess revenues received during the period September 8, 1973 through January 16, 1977. Interest will be computed at a rate of 6 percent from September 8, 1973 through June 30, 1975; 9 percent from July 1, 1975 through January 31, 1976, 7 percent from February 1, 1976 through January 31, 1978; and 6 percent from February 1, 1978 through the date of the refund by Texaco.

(3) Texaco shall have the option of making any monthly payment to Ryder Truck Rental, Inc. and Complete Auto Transit either by check or by credit memorandum, however, if in any month the amount of Ryder Truck Rental's or Complete Auto Transit's purchases are less than the credit given by Texaco in that month, Texaco shall, within 25 days after the close of such month, make a cash payment equal to the amount of credit not used.

(4) Each refund, whether by check or by credit memorandum, shall be accompanied by a statement which (a) discloses the principal amount of overcharge and the amount of the interest included in the payment; (b) states that the refund is made pursuant to a Consent Order; and (c) states that with respect to each particular product, Ryder is required under 10 CFR Part 212, Subpart F, to treat as a reduction in its product costs that portion of the payment which equals the portion of that product purchased from Texaco between September 8, 1973 and January 16, 1977, that Ryder sold to customers the connection with vehicle rentals, where the vehicle rental fees included the price of fuel actually used by the customer as a distinct item.

(5) The provisions of 10 CFR Section 205.199J including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment in writing to Mr. Bill Eaton, Branch Manager, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Avenue, Houston, Tex. 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 713-226-5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Texaco Consent Order." All commments received by 4:30 p.m. c.d.t., on or before July 8, 1978 will be considered by the DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR Section 205.9(f).

Issued in Washington, D.C. June 5, 1978.

PAUL L. BLOOM,
Special Counsel for Compliance.

[FR Doc. 78-15889 Filed 6-7-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 908-3, OPP-180192]

CLEMSON UNIVERSITY AND INDIANA STATE CHEMIST AND SEED COMMISSIONER

Issuance of Specific Exemptions To Use Terramycin To Control Bacterial spot on Peaches

The Environmental Protection Agency (EPA) has granted specific exemptions to the Office of Indiana State Chemist and Seed Commissioner and the Division of Regulatory and Public Service Programs, College of Agricultural Sciences, Clemson University (hereafter referred to as "Indiana" and "South Carolina") to use terramycin to control bacterial spot. A maximum of 18,300 pounds of terramycin formulation will be applied on 1,200 acres of peaches in Indiana and 144,720 pounds of terramycin formulation will be applied on 10,720 acres of peaches in South Carolina. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Both South Carolina and Indiana requested approval to use Myco Shield Agricultural Terramycin (containing calcium complex of oxytetracycline) on bacterial spot which is caused by the bacterial plant pathogen *Xanthomonas pruni. X. pruni* infects leaves, fruit, and tender growing shoots. Severely infected leaves turn yellow and drop. On sensitive fruit varieties, a few lesions result in severe defoliation; on tolerant varieties, however, many more lesions are required for severe defoliation. Fruit size reduction and tree weakening result from heavy defoliation. Infected fruit develop cracks or checks, lesions, or a mottled appearance—features that render the fruit unacceptable to the fruit market.

Infections of the current season's growth result in two types of cankers: summer cankers are lesions apparent during the year of infection and are located between nodes; spring cankers are lesions that result from fall infections but are unapparent until the following spring and are found at the buds of nodes. Overwintering occurs in spring cankers. When canker development is resumed in the spring, however, bacteria ooze from the lesions and are carried on water droplets for further infection of young leaves, fruit, or shoots. It appears that moisture such as in fog or dew is important in the dissemination process; hard driving rains are more effective than gentle rains in initiating new infections. Secondary spread continues whenever these environmental conditions are present. The disease becomes severe if moist weather conditions persist through June and July; disease spread and development are reduced in extended periods of hot, dry weather as was experienced during the 1977 growing season.

Indiana stated that in the past, a bordeaux mix and a dodine-captan tank mix have been used as treatment alternatives. The bordeaux mix is applied during dormancy and reduces the amount of primary inoculum; it provides a temporary initial suppression, but fails to control the disease and supportive summer treatment must be supplied. The dodine-captan mix also only provides a suppressive effect. Furthermore, Indiana feels that the phytotoxic effects of dodine-captan during hot weather are as injurious as defoliation from the disease. According to Indiana, many growers have abandoned efforts to suppress the disease with these techniques. Currently, the primary control used is to plant resistant fruit tree varieties; however, it will be several years before all susceptible varieties are replaced.

South Carolina stated that the currently registered fungicides—copper hydroxide, dodine, and basic zinc sulfate—are ineffective for adequate control of bacterial spot. Zinc sulfate, for instance, has been used commercially for more than 30 years, but has provided poor protection under severe disease conditions; in addition, this product is incompatible with benomyl, which is commonly applied to peaches for control of other diseases such as brown rot, scab, and powdery mildew. Copper hydroxide is not recommended for use in South Carolina because it causes phytotoxicity under southeastern environmental conditions.

Indiana and South Carolina each proposed to use the product Myco Shield Agricultural Terramycin, manufactured by Pfizer Chemical Division, at the rate of 11.33 ounces of formulation per 100 gallons water by ground spray application. A maximum of 8-9 applications will be made by growers in each State.

In Indiana, there are about 1,200 acres of commercial peach crop. During previous years, 15 percent to 30 percent of the fruit from varieties susceptible to bacterial spot was discarded because it was unacceptable to the fresh fruit market. The use of terramycin may prevent losses of about $100,000 from reduced fruit crop yield and an estimated $1,500,000 from long-term effects resulting from tree loss.

In South Carolina, there are about 26,528 acres of peach crop valued at 35-40 million dollars. It is estimated that bacteria spot could cause about 5-8 million dollars loss. The use of terramycin to prevent bacterial spot may reduce losses to $500,000.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of bacterial spot has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control bacterial spot in Indiana and South Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if bacterial spot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Indiana has been granted a specific exemption to use the pesticide noted above until August 15, 1978; South Carolina has been granted a specific exemption to use the same pesticide until August 31, 1978, to the extent and in the manner set forth in the applications. The specific exemptions will be conducted in accordance with the following conditions:

1. Myco Shield Agricultural Terramycin (calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Applications may be made weekly, depending on weather conditions, at a rate of 150 ppm active ingredient (calcium complex of oxygetracycline) per 100 gallons water (11.33 ounces terramycin) per 100 gallons water yields 150 ppm a.i.). Spray solution may be applied to point of run-off of approximately three (3) gallons per fully grown tree on a basis of 80 trees per acre. Dilute spray shall not exceed 500 gallons per acre;

3. In Indiana, a maximum of 18,300 pounds of terramycin formulation may be applied. In South Carolina, a maximum of 144,720 pounds of terramycin may be applied;

4. Applications shall begin at shuck split and continue until August 15, 1978 in Indiana and until August 31, 1978 in South Carolina; a maximum of 8-9 applications may be made;

5. Applications shall be made by growers with ground spray equipment on 1,200 acres of commercial peach crop located throughout Indiana, but primarily in the Wabash Valley and the northern lake areas; applications shall also be made by growers with ground spray equipment on 10,720 acres of peach crop located throughout South Carolina;

6. Indiana and South Carolina shall notify the distributors of this material that records of the sale shall be kept and made available; these records shall include the name and address of

the purchaser, and the quantity of material purchased;

7. Indiana and South Carolina personnel shall make all recommendations of terramycin applications in their respective States based on past history of disease incidence in a locality, weather conditions, and observation of disease symptoms in an area; they shall also inform growers about dosages, application techniques, and other program criteria;

8. There shall be a 21-day pre-harvest interval;

9. Workers shall not enter orchards after terramycin application until foliage has dried;

10. A residue level of oxytetracycline not exceeding 0.1 ppm has been evaluated as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action.

11. All label precautions shall be followed;

12. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1978;

13. EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program; and

14. Indiana and South Carolina shall be responsible for insuring that all the provisions of these specific exemptions are followed.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: June 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15333 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 908-6; OPP-180183]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control Fire Blight on Pears

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "applicant") to use terramycin (calcium complex of oxytetracycline) on up to 37,000 acres of pear crop to control fire blight, which is caused by the bacterial plant pathogen *Erwinia amylovora*. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the applicant, initial infections of fire blight usually occur during the bloom period; however, postharvest infections through wounds frequently occur. Applicant stated that the severe and prolonged rainstorms that occurred in California this winter are a sharp contrast to the drought that prevailed in California for the previous 2 years, and as a result, conditions are favorable to the development of earlier and more intense outbreaks of fire blight than occurred in 1977. Once fire blight has developed in a pear orchard, several years may be required for the orchard to regain a productive status; according to the applicant, large sections of established trees may be lost from production and, in many cases, whole trees are lost. Applicant stated that during the 1977 pear season, a year during which weather conditions were unfavorable for disease development, pear growers incurred a loss of $800,000 in pear value because of russeting that resulted from copper spray and rendered the fruit unacceptable to the fresh fruit market; $600,000 loss from increased labor costs that resulted from blight cutting; and $500,000 loss of trees killed and limbs lost to fire blight.

According to the applicant, for the last few years, streptomycin has been used to control fire blight; however, some strains of *Erwinia amylovora*, the causative agent, have developed streptomycin resistance in many areas of California. Growers have resorted to copper sprays as an alternative but results have been erratic. Other alternatives used by growers are to cut out infected tree limbs and to replace entire trees that have died; both these processes are time consuming and expensive. Therefore, the applicant proposed to use a maximum of 120,000 pounds of terramycin (calcium complex of oxytetracycline).

After reviewing the application and other available information, EPA has determined that: (a) A pest outbreak of fire blight on pears has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control fire blight in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fire blight is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until September 1, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Application shall be made at a rate of 200 ppm active ingredient in 50-100 gallons water/acre/application (½ pounds terramycin formulation in 50 gallons of water yields 200 ppm active ingredient);

3. All applications of terramycin shall be made by ground equipment;

4. A maximum of 12 applications of terramycin shall be made from prebloom to September 1, 1978, by commercial pest control applicators or by growers;

5. A maximum of 37,000 acres of pear crop may be treated;

6. A permit from the county agricultural agent shall be required prior to application;

7. County Agricultural Commissioners or personnel under their supervision shall make all recommendations of terramycin application based on past history of disease in a particular area, weather conditions favorable to disease development, and personal observations of disease in pear orchards;

8. There shall be a 60-day preharvest interval;

9. There may be a maximum of 120,000 pounds of terramycin applied;

10. Workers shall not enter orchards after terramycin application until the foliage is dry, and shall wear protective clothing while making applications;

11. A residue level of the calcium complex of oxytetracycline not exceeding 0.1 ppm in or on pears has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. The California Department of Agriculture shall notify the distributors of this material that records of the sale shall be kept and made available to that Department. These records shall include the name and address of the purchaser, and the quantity of material purchased;

13. All label precautions shall be followed;

14. A final report shall be submitted to EPA by December 31, 1978, summarizing the results of this program;

15. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program;

16. The applicant shall be responsible for insuring that all provisions of this specific exemption are followed; and

17. The applicant will coordinate an epidemiological study with the California Department of Health to determine any possible adverse effects to agricultural workers.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15858 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 908-7; OPP-180193]

DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption to Use Goal (RH-2915) To Control Witchweed in North Carolina and South Carolina

The Environmental Protection Agency (EPA) has granted a specific exemption to the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to as "USDA") to use Goal 2E (RH-2915) on 10,000 acres of corn in a witchweed eradication program in 30 counties in North Carolina and South Carolina. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summery of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the USDA, witchweed is an annual chlorophyll-producing, seed-bearing, semiparasitic plant that affects corn, sorghum, sugarcane, and more than 60 other species of the grass family in this country. A single witchweed plant may produce up to 500,000 microscopic seeds. The pest was initially identified in 1956 in North and South Carolina, and threatens corn, sorghum, and sugarcane crops having an estimated annual value of more than $16 billion in the United States.

Experience has demonstrated that if heavy infestations of witchweed are uncontrolled, complete corn crop failure can result. If witchweed were allowed to spread, research data indicate that annual corn crop losses would approach 50 percent. According to USDA, the spread of witchweed in the United States could cost farmers about $675 million in annual cost plus an estimated 10 percent yield loss.

According to the applicant, paraquat and 2,4-D are registered for witchweed control in corn; however, although these herbicides are effective when applied postemergence, they fail to provide residual control. Because Goal 2E (RH-2915) (2-Chloro-1-(3-ethoxy-4-nitrophenyl)-4-(trifluoromethyl)benzene) provides preemergence control of witchweed, the first application can be made in May or June, postemergent to the corn but preemergent to the witchweed. A second application, if necessary, would be made in July or August. The applicant has stated that two applications of Goal will control the pest throughout the season and that continuous seasonal control is essential for eradication. Eradication efforts of previous years may be lost if viable seeds reinfest the area.

The applicant proposed to use a maximum of 15,000 pounds active ingredient on a maximum of 10,000 acres of corn located in 30 contiguous counties in North Carolina and South Carolina. The total amount applied will not exceed 2 pounds a.i./acre/year.

After reviewing the application and other available information, EPA has determined that (a) A pest outbreak of witchweed has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control witchweed in North and South Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the witchweed is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Goal 2E (RH-2915), manufactured by Rohmn & Haas, is authorized;

2. A maximum of two applications may be made as a directed ground spray (pressure not to exceed 25 lbs/sq. inch). The first application shall be made in May or June, postemergence for corn and preemergence for witchweed, at a rate of ¾ to 1 pound a.i./20 gallons water/acre. The second application may be made in July or August at a rate of ½ to 1 pound a.i./20 gallons water/acre. The total quantity applied shall not exceed 2 pounds a.i./acre/year;

3. A maximum of 15,000 pounds active ingredient may be applied;

4. A maximum of 10,000 acres of corn located in 30 contiguous counties in North and South Carolina may be treated;

5. Treatments shall be made by personnel of the USDA plant protection and quarantine programs (PPQ) or by State-certified commercial applicators under the supervision of qualified PPQ officers. Monitoring will be conducted under the direction of PPQ personnel in accordance with plans to determine the environmental impact of the program and to obtain crop residue data. The results of the monitoring program shall be submitted to EPA;

6. A residue level of RH-2915 not exceeding 0.05 ppm in or on corn has been evaluated as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. Treated corn containing RH-2915 residues in excess of 0.05 ppm, as indicated by the monitoring program, shall not be marketed;

8. A label restriction shall prohibit the feeding or grazing of treated corn forage or fodder to livestock;

9. All label restrictions and precautions shall be observed;

10. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program; and

11. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1978.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136 et seq.).)

Dated: June 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15856 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 908-4; OPP-180191]

MARYLAND DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control Bacterial Spot on Peaches, Nectarines, and Plums

The Environmental Protection Agency (EPA) has granted a specific exemption to the Maryland Department of Agriculture (hereafter known as the "Applicant") to use a maximum of 10,500 pounds of Terramycin formulation to control bacterial spot on peaches, nectarines, and plums involving approximately 1,000 acres in Maryland. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166 which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application

on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, bacterial spot is caused by the bacterium *X. pruni;* bacterial spot affects leaves, fruit, and tender growing shoots. Wet weather conditions, especially hard driving rains, encourage further development of the initial inoculum. According to the Applicant, growers consider bacterial spot a very destructive disease. If infection occurs early in the season, constant defoliation causes the trees to lose vigor and the result is reduced crop yield and smaller fruit. Infected fruit develop cracks and a mottled appearance; both of these render the fruit unmarketable. The Applicant also stated that crop yields from infected orchards tend to be smaller during the subsequent years. If defoliation occurs early in the fall, the trees may resume growth and succumb to winter injury. The Applicant stated that bacterial spot symptoms usually appear early in June in Maryland.

According to the Applicant, registered pesticides have been ineffective in controlling bacterial spot in Maryland. Cyprex-captan mixes were not efficacious; copper hydroxide demonstrated phytoxicity; zinc sulfate was incompatible with other pesticides and only partially effective when used alone.

The Applicant stated that the annual peach, nectarine, and plum crop yield in Maryland is approximately 500,000 bushels. One-fifth (⅕) of this crop is of the susceptible varieties. The Applicant estimated that damage to susceptible varieties by bacterial spot may be approximately 5 to 25 percent; the economic loss for peaches valued at $6 per bushel would range from $30,000 to $150,000 annually.

The Applicant proposed to use the product Myco Shield Agricultural Terramycin (calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, at the rate of one-half (½) pound Terramycin formulation per 100 gallons of water per application by ground spray with a maximum of 300 gallons of spray per acre. There will be a maximum of 7 applications which will be made by growers.

EPA has determined that, under heavy inoculum pressure, Terramycin would be needed to prevent large scale losses of peaches, nectarines, and plums infected with bacterial spot. The use of this pesticide for this exemption is not expected to have any adverse effects on either man or the environment. A residue level not exceeding 0.1 ppm has been determined by EPA to be adequate to protect the public health.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of bacterial spot on peaches, nectarines, and plums has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control the bacterial spot in Maryland; (c) there are no alternative means of control, taking into account the efficacy and hazards; (d) significant economic problems may result if the bacterial spot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Application shall be by ground spray at a rate of one-half (½) pound Terramycin formulation per 100 gallons water with a maximum of 300 gallons spray per acre. (½ pound Terramycin formulation per 100 gallons water yields 100 ppm active ingredient);

3. A maximum of seven (7) applications of Terramycin may be made;

4. The duration of the application period will be from June 1, until August 15, 1978;

5. A maximum of 1,000 acres of peach, nectarine, and plum crop may be treated in Maryland;

6. Application of Terramycin shall be made by growers;

7. Workers shall not enter orchards after Terramycin application until the foliage is dry;

8. There shall be a 21-day preharvest interval;

9. A maximum of 10,500 pounds of Terramycin formulation may be applied;

10. An Extension Plant Pathologist, Cooperative Extension Service, University of Maryland, and personnel under his supervision shall make all initial recommendations of Terramycin application based on past history of disease in the locality, observation of disease symptoms in the orchard, and weather conditions. County agricultural agents shall assist in monitoring the program. A newsletter and agricultural bulletin shall be promulgated informing growers about program criteria;

11. The Applicant shall be responsible for insuring that all the provisions of this exemption are followed. He shall notify the distributor that records of the sale of this material shall be kept and made available. These records shall include the name and address of the purchaser and the quantity of material purchased;

12. A residue level of the calcium complex of oxytetracycline not exceeding 0.1 ppm in or on peaches, nectarines, and plums has been evaluated as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. All label precautions shall be followed;

14. A final report shall be submitted to EPA by December 31, 1978, summarizing the results of this program; and

15. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.).)

Dated: June 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15857 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 908-5; OPP-180184]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control Fire Blight on Pears

The Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use terramycin (calcium complex of oxytetracycline) on up to 9,000 acres of pear crop in the areas east of the crest of the Cascade Mountains in the State of Washington to control fire blight. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, initial infections of fire blight generally occur during the blossom period. This problem can be exacerbated, however, because some varieties of pears may bloom several times per season. Moreover, post-harvest infections, probably through wounds, frequently occur. Consequently, spring and post-harvest treatments are sometimes necessary to control the disease.

The Applicant stated that, depending on weather conditions, fire blight may occur on only a small portion or on almost the entire 20,000 acres of pear crop. Streptomycin has been used to control fire blight. Since 1973, however, streptomycin-resistant bacteria have developed in the State of Washington; currently about 30 percent of the State's pear crop is known to be infected by streptomycin-resistant bacteria. Epidemic proportions were reached in 1977 on this acreage and there is a high probability of a severe outbreak in 1978, according to the Applicant.

Because of the development of streptomycin resistance in the causative bacterial plant pathogen, *Erwinia amylovora*, growers have resorted to copper sprays as an alternative but results have been erratic; under certain weather conditions copper may russet the fruit and make it unacceptable for he fresh fruit market. Another alternative that has been used is cutting out the infected portions of the trees. This method is expensive not only because of the labor cost involved in the cutting process, but also because of the severe reductions in fruit yield that may occur for several subsequent years. Therefore, the Applicant proposed to use a maximum of 72,000 pounds of a terramycin formulation.

During the 1977 pear season, the Applicant reported, growers incurred losses valued at $600,000 as a result of fire blight on about 6,000 acreas of pear crop. The Applicant anticipated that failure to control the disease will extend the loss to subsequent years because of the infectious nature of the disease, and that the economic loss will be even greater due to the cost of replacing dead or dying trees and cutting out infected wood.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fire blight on pears has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control fire blight in Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fire blight is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Hyco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Application shall be made by ground spray at a rate of 200 ppm active ingredient (calcium complex of oxytetracycline) in 50–100 gallons water/acre/application (1 pound terramycin formulation in 100 gallons water yields a concentration of 200 ppm);

3. Depending on weather conditions and "rat-tail" bloom, 0–5 pre-harvest applications and 1–3 post harvest applications may be made;

4. Applications of terramycin shall be made in those areas east of the Cascade Mountains where streptomycin resistance is known to have occurred as determined by Washington State University plant pathologists. The application area shall not exceed 9,000 acres;

5. Applications may be made from blossom time until 60 days prior to harvest. Whenever necessary, postharvest applications may be made following final picking until October 15, 1978, depending on the first frost;

6. Licensed commercial or State-certified private applicators shall make all terramycin applications;

7. A Plant Pathologist at the Washington State University Fruit Research Center and personnel under his supervision shall make all recommendations of terramycin application based on past history of disease in a locality, development of streptomycin resistance, and weather conditions conducive to fire blight development;

8. There may be a maximum of 72,000 pounds of terramycin formulation applied;

9. There shall be a 60-day pre-harvest interval;

10. Workers shall not enter orchards after terramycin application until foliage is dry;

11. A residue level on or in pears of the calcium complex of oxytetracycline not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. The Applicant shall notify the distributor of this material that records of the sale of this material shall be kept and made available to that Department. These records shall include the name and address of the purchaser, and the quantity of material purchased;

13. All label precautions shall be followed;

14. The EPA shall be informed immediately of any adverse effects to man and the environment resulting from this program;

15. The Applicant shall be responsible for insuring that all provisions of this specific exemption are followed; and

16. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1978.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15859 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 909-1]

TOXIC SUBSTANCES CONTROL

Second Report by TSCA Interagency Testing Committee; Extension of Comment Period; Availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: This Notice extends the comment period from July 21, 1978 to October 1, 1978, and announces the availability by August 1, 1978 of the dossiers.

SUMMARY: On April 19, 1978, EPA published a notice in the FEDERAL REGISTER inviting all interested persons to submit comments no later than July 21, 1978 on the Second Report by the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC).

Also in the April 19, 1978 FEDERAL REGISTER notice EPA announced that dossiers for specific chemicals used in developing the Second Report should be transmitted to EPA within a few weeks.

The TSCA Interagency Testing Committee has informed EPA that the dossiers on the eight newly designated entries to the Section 4(e) Priority List are still being reviewed and will not be transmitted to EPA for an additional few weeks. Accordingly, this notice extends the deadline for comments on the Second ITC report from July 21 to October 1, 1978. Written comments shall bear the identifying notation OTS 04004 and should be submitted to the U.S. Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C. 20460, Attention: Joan Urquhart. All written comments will be available for public inspection in Room 623 East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

EPA expects the dossiers to be available before August 1, 1978. Single copies of the volume containing the eight dossiers may be obtained from the Industry Assistance Office, OTS (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, or by telephoning the toll free number 800-424-9065. In Washington, D.C., call 554-1404. Additional copies will be available from the National Technical Information Serv-

ice (NTIS), Springfield, Va. 22161. The NTIS document reference number will be available from the toll-free number.

Dated: June 2, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-15855 Filed 6-7-78; 8:45 am]

[6560-01]

[FRL 906-2]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Proposed Policy for Utilization of Minority Construction Contractors

On November 2, 1977, 42 FR 57339, the Environmental Protection Agency's (EPA) plan to institute a policy for using minority construction contractors in award of subagreements and contracts awarded under EPA grants for construction of treatment works was announced in the FEDERAL REGISTER. The notice invited comments on the proposed policy and advised that all comments would be carefully considered before issuing a final policy. Following the notice, EPA convened an intra-agency task force to review and analyze all comments received. After a thorough study of all materials, the task force concluded that a more extensive minority business enterprise effort was needed. As a result, a number of changes, including establishment of a program providing for goals for minority business participation in contracting under EPA grants, were recommended by the task force.

On March 27, 1978, the President announced two important initiatives to increase the role of minority businesses in our economy. The first instructed that direct and indirect Federal purchases from minority firms be tripled by the end of fiscal year 1979. The second asked all Federal agencies to include goals for minority business participation in their contract and grant-in-aid programs.

On April 13, 1978, the Administrator and Deputy Administrator of the Environmental Protection Agency adopted the recommendations of the intra-agency task force and the directed revision of the previously published proposed policy for utilization of minority construction contractors to reflect the recommendations of the task force and the directions of the President. Accordingly, the proposed policy for utilization of minority construction contractors published on November 2, 1977, has been rewritten to provide for a more expansive program and notice is hereby given that the Environmental Protection Agency proposes to institute the following revised policy for use of minority construction contractors. Agency requirements will be incorporated in Appendix C-2 to Part 35, Subpart E to Title 40, Code of Federal Regulations. Appropriate amendment will be made to § 35.936-7 of Title 40, Code of Federal Regulations.

INTRODUCTION

In implementing 40 CFR 35.936-7, the Environmental Protection Agency plans to institute a policy in cooperation with construction contractor associations to increase the opportunity for minority business enterprises to participate for the award of subagreements and contracts awarded under EPA grants for construction treatment works. The policy is intended to implement, in part, Agency and Federal Government policy requiring positive efforts, including goals and timetables for participation, by recipients of Federal grant assistance to utilize minority-owned business sources of supplies and services, allowing these minority sources the maximum feasible opportunity to compete for contracts and subagreements to be performed utilizing Federal grant funds.

MINORITY BUSINESS

SCOPE

The following policies, procedures, and contract clauses apply to the participation of minority business in the award of subagreements and contracts awarded under EPA grants for construction of treatment works.

DEFINITIONS

Minority business enterprise. A business at least 50 percent of which is owned and controlled by minority group members, or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned and controlled by minority group members.

Minority group members. Black Americans, Hispanic Americans, Asian Americans, American Indians, American Eskimos, and American Aleuts.

STATEMENT OF POLICY

The purpose of this policy is to increase the opportunity for minority business enterprises such as construction and supply firms to obtain subagreements and contracts awarded under EPA grants for construction of publicly owned treatment works. Notwithstanding the fact that a bidder may have the capability to complete the total project with its own workforce and without the use of subcontractors, each bidder will still be required to take positive efforts to subcontract to minority firms a share of the work consistent with these goals. On all step 3 construction grant projects, all applicants/grantees, prime contractors, and any other entity receiving Federal funds which involve the project are expected to promote this purpose. Applicants/grantees, and prime contractors will be required, when deemed necessary, to demonstrate to EPA Regional Office of Civil Rights the steps taken to satisfy the purpose of this policy.

RESPONSIBILITIES OF PARTICIPANTS

ENVIRONMENTAL PROTECTION AGENCY—HEADQUARTERS

1. The Director of the Office of Civil Rights shall be the agency Director for Minority Business Enterprise for Grants.

2. A minority business enterprise program for grants shall be established in the Office of Civil Rights and shall work in coordination with the Office of Water Program Operations to implement the Agency program.

3. The Director of the Office of Civil Rights shall designate a special assistant to serve as Minority Business Enterprise Officer for Grants.

4. The Minority Business Enterprise Officer for Grants, working in conjunction with the Office of Water Program Operations, shall develop and promulgate procedures and guidance in implementation of this policy and shall provide technical assistance and direction to Regional Minority Business Enterprise Officers for Grants in implementation of the program.

ENVIRONMENTAL PROTECTION AGENCY—REGIONS

1. The Regional Directors of Civil Rights shall be the Regional Minority Business Enterprise Officers for Grants.

2. Each Regional Director of Civil Rights shall establish a minority business enterprise program for grants in the Civil Rights Office, and shall work in coordination with the Water Division Director to implement the Agency program.

3. The Regional Director of Civil Rights in cooperation with the Water Division Director shall be responsible for administering the regional minority business enterprise program for grants in the regions.

ELEMENTS OF THE MINORITY BUSINESS ENTERPRISE PROGRAM FOR GRANTS

The program, at a minimum, shall provide for the following:

1. For internal administrative purposes, each region shall set an overall regional goal at least annually for minority business enterprise participation in contracts and subcontracts under the construction grant program it administers. This regional goal, expressed as a percent of the total dollar amount of all contracts approved, shall reflect the region's estimate of overall minority business enterprise participation attainable in the region as a whole, given the available and po-

tentially available minority business enterprise resources. As the program progresses and more experience is gained under it, the number of available and potentially available minority business enterprises will probably increase. To the extent that this occurs, regional goals shall be increased, but not more frequently than once in any twelve month period.

2. Each Regional Director of Civil Rights with the Regional Water Division Director shall prepare a plan for attaining the regional goal and submit it for approval and adoption by the Regional Administrator.

3. Upon approval and adoption of a regional plan for attaining a regional goal for minority business enterprise participation for a particular year, the Regional Administrator shall promulgate the plan in the region with specific directions to affected programs for its accomplishment.

4. The regional plan shall specify and assign program responsibilities and include timetables for accomplishment and internal periodic reporting requirements to ensure conformance with the timetables. The details of each regional plan shall be discretionary with each region, tailored to the particular circumstances of the region.

5. Each Regional Director of Civil Rights, in coordination with the Regional Water Division Director shall develop minority business enterprise participation goals for regional construction grant projects. The goals shall be furnished to construction grantees for use in connection with construction contracts and subcontracts awarded under the grants. The goals should reflect known circumstances and conditions at the time of the solicitation for bids, as an attempt to match project work with available, qualified minority business enterprises, but also should be high enough to encourage the purposes of this policy.

6. Each Regional Director of Civil Rights should encourage applicants/grantees to set their own goals for minority business enterprise participation, and these goals should be accepted in lieu of regional goals where consistent with the purpose of this policy. If an applicant/grantee fails to set goals for the work to be done on the EPA-assisted project, or sets goals which are unreasonably low in the opinion of the Regional Director of Civil Rights, the Regional Director of Civil Rights shall set goals which shall be used on the project.

7. Each region shall monitor applicant/grantees and contractors performance under this policy. In this connection, the region shall: (a) Notify States and grantees by letter of EPA's minority business enterprise requirements for Step 3 construction grants; (b) make sure that applicants/grantees include the appropriate Use of Minority Business Enterprise Clause, with goals percentages included, where required, in all solicitations for bids for construction contracts under their grants; (c) make sure that the appropriate Use of Minority Business Enterprise Clause is included in all construction contracts proposed for award by applicants/grantees and, as applicable, that the goal percentage has been included and agreed to by the prospective contractor; (d) review all proposed contract awards to evaluate the sufficiency of the positive efforts taken or proposed to be taken by the prospective contractor to satisfy the requirements of the appropriate Use of Minority Business Enterprise Clause; (e) where the preaward evaluation of a prospective contractor's positive efforts to satisfy the appropriate Use of Minority Business Enterprise Clause discloses the efforts to be insufficient, the Regional Civil Rights Director shall inform the grantee of this fact, citing what actions must be taken by the prospective contractor to correct the deficiency, and also advising the grantee that approval of the proposed contract award shall be withheld until corrective action satisfactory to the Regional Civil Rights Director has been taken; (f) review and determine the adequacy of the positive efforts of a contractor within the framework of the contractor's undertakings on award of the contract. Where such review discloses failure on the part of the contractor to take the required positive efforts, the Regional Civil Rights Director shall inform the grantee as to what actions must be taken to correct the deficiency, that failure on the part of the contractor to take the requisite corrective action, or explain to the satisfaction of the Regional Civil Rights Director why the corrective action cannot be taken, could lead to initiating of proceedings for imposition of sanctions which, among other things, could include witholding of grant payments; and, (g) report to Headquarters quarterly on the status of the regional program, including contracts awarded to minority firms.

Role of Grantees and Others in the MBE Program

APPLICANT/GRANTEE

Applicants/grantees will be expected to take positive steps to afford fair opportunities for minority prime and subcontractors to participate in the award of contracts and subagreements awarded under EPA grants for construction of treatment works, such as: (a) Making available plans and specifications to minority contractors in sufficient time for review; (b) allowing sufficient bidding time so as to facilitate the participation of minority construction contractors; (c) notifying the minority construction contractors' associations within the general bidding area of the specific nature of the contracts about to be bid and the location of the bid opening; (d) including the information set out in the model Use of Minority Business Enterprise Clause in all bid specifications, making certain that the correct percentage goal figure, where required, is included in all specifications and requests for bids; (e) making available, upon request, a list of the plan holders of record for EPA construction grant projects; (f) upon request of the plan holders of record, provide a source list of minority construction contractors and suppliers; (g) informing all prospective bidders of the EPA policy concerning the utilization of minority firms during any prebid conferences; (h) show to EPA Regional Civil Rights Offices, when requested, procedures which will be adopted to comply with this policy; and, (i) keep EPA Regional Offices informed of all contract awards or changes in plans for award of approved proposed contracts.

PRIME CONTRACTORS

All prime contractors on EPA construction grant projects are expected to make the following efforts to promote the use of minority-owned firms to the maximum extent practical on the project: (a) Extend opportunities for joint arrangements or subcontracting and purchasing to minority-owned firms; (b) implement the Use of Minority Business Enterprise Clause; and, (c) take affirmative steps to ensure compliance with the EPA regulations. These steps will include, but are not limited to: (1) Compiling and submitting to the grantee and regional office a list of minority construction contractors to be utilized through joint arrangement or subcontracting; (2) preparing a list of minority contractors contacted, awards made to minority-owned firms, and setting forth specific efforts made to identify and award contracts to such firms; and, (3) if minority-owned firms will not be used, furnishing the grantee and the EPA Regional Civil Rights Director reasons why; (d) require subcontractors under the contract to comply with the provisions of the contract and the affirmative steps included in (c); (e) maintain records showing procedures which have been adopted to comply with EPA policy; and, (f) keep EPA regional offices informed of all subcontracts awarded or changes in plans to award previously reported proposed subcontracts.

CONSTRUCTION CONTRACTOR ASSOCIATIONS

As their part in this program, the participating construction contractor associations are expected to: (a) An-

nounce and publicize the policy to their memberships; (b) encourage subcontracting and joint arrangements with minority construction contractors; (c) compile, update, and provide to their members and EPA a register of minority construction contractors; (d) notify their membership of the specific nature of the contracts about to be bid; and, (e) maintain liaison with the nearest EPA Regional Civil Rights Office.

MINORITY-OWNED FIRMS

Minority-owned firms are expected to: (a) Become involved in the State and local project bid process; (b) register with minority and/or other construction contractors' associations; (c) be responsive to solicitations for bids; and, (d) maintain liaison with the nearest EPA Regional Civil Rights Office.

MINORITY BUSINESS SUBCONTRACTING PROGRAM

Contracts between $10,000 and $300,000. The following clause is intended as an example for inclusion in invitations for bids and resultant contracts between $10,000 and $300,000.

USE OF MINORITY BUSINESS ENTERPRISE CLAUSE

1. It is the policy of the Government that minority business shall have the maximum practicable opportunity to participate in the performance of contracts performed under Federal grant-in-aid programs.

2. The contractor agrees to use its best efforts to carry out this policy through award of subcontracts to minority business enterprises to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business" means a business at least 50 percent of which is owned and controlled by minority group members, or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned and controlled by minority group members. For the purposes of this definition, minority group members are Black Americans, Hispanic Americans, Asian Americans, American Indians, American Eskimos, and American Aleuts.

Contractors may rely on written representations by a subcontractor regarding its status as a minority business, in lieu of an independent investigation.

3. The contractor shall cooperate with the EPA Regional Civil Rights Director in any studies and surveys of the contractor's minority business procedures and practices that the EPA Regional Civil Rights Director may from time-to-time conduct.

4. The contractor shall maintain records showing: (a) awards to minority businesses; and, (b) specific efforts to identify and award contracts to minority businesses.

5. The contractor shall submit periodic reports of subcontracting to known minority businesses in such form and manner and at such time (not more oftern than quarterly) as the EPA Regional Civil Rights Director may prescribe.

Contracts over $300,000. The following clause is intended as an example for inclusion in invitations for bids and resultant contracts over $300,000.

USE OF MINORITY BUSINESS ENTERPRISE CLAUSE

1. It is the policy of the Government that minority businesses shall have the maximum practicable opportunity to participate in the performance of contracts performed under Federal grant-in-aid programs.

2. The contractor agrees to use its best efforts to carry out this policy through award of subcontracts to minority business enterprises to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business" means a business at least 50 percent of which is owned and controlled by minority group members, or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned and controlled by minority group members. For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, Asian Americans, American Indians, American Eskimos, and American Aleuts.

Contractors may rely on written representations by a subcontractor regarding its status as a minority business, in lieu of an independent investigation.

3. The contractor agrees that it will make good faith efforts to subcontract at least——(to be filled in by each region) percent of the total value of this contract to minority businesses. Failure to reach this percentage and to demonstrate good faith efforts to attain this percentage may lead to rejection of bids on the withholding of grant payments. For the purposes of this program, the term "subcontract" includes all construction, modification, supplies and materials, and service work contracted for by the prime contractor in the prosection of the work under this contract. Although it is not made a requirement herein for EPA approval of a contract that a bidder in fact meet or exceed these goals in its contracting, it is a requirement for contract approval that a bidder objectively demonstrate to the grantee and to the EPA Regional Civil Rights Director that it has exerted positive efforts to meet these goals. Notwithstanding the fact that a bidder may have the capability to complete the total project with its own workforce and without the use of subcontractors, each bidder will still be required to take positive efforts to subcontract to minority firms a share of the work consistent with the goals. These requirements are also applicable to bidders who are themselves minority-owned enterprises.

4. The contractor shall appoint a liaison officer who will administer the contractor's minority business enterprise program.

5. The contractor shall cooperate with the EPA Regional Civil Rights Director in any studies and surveys of the contractor's minority business procedures and practices that the EPA Regional Civil Rights Director may from time-to-time conduct.

6. The contractor shall maintain records showing: (a) awards to minority businesses; and, (b) specific efforts to identify and award subcontracts to minority businesses.

7. The contractor shall submit periodic reports of subcontracting to known minority businesses in such form and manner and at such time (not more often than quarterly) as the EPA Regional Civil Rights Director may prescribe.

COMMENTS

Interested persons are invited to comment on this proposed policy.

All comments received will be carefully considered prior to the issuance of a final policy. Comments must be submitted in triplicate on or before July 24, 1978, to the Director, Office of Civil Rights (A-105), Environmental Protection Agency, Washington, D.C. 20460.

Comments will be retained on file at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C., and may be inspected workdays between 8 a.m., and 4:30 p m., at that location.

For further information contact: Mr. Edgar J. Jenkins, Office of Civil Rights (A-105), Washington, D.C. 20460, 202-755-0540.

Dated: May 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-15887 Filed 6-7-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-150, 78-151]

DAVID L. DAVIS

Designating Application for Hearing on Stated Issues; Designation Order and Order To Show Cause

Adopted: May 12, 1978.

Released: May 19, 1978.

In the matter of revocation of license of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-150, licensee of Station KRJ-7555 in the Citizens Band Radio Service; application for Amateur Radio Novice Class License of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-151.

The Chief, Safety and Special Radio Services Bureau, has under consideration the license for Citizens Band radio station KRJ-7555. Also under consideration is the above-captioned application for an Amateur Radio Novice Class License, filed by David L. Davis on December 21, 1977.

David L. Davis is the licensee of Citizens Band radio station KRJ-7555, granted on July 9, 1976, for a five year term.

It appears, That on September 8, 1977, Davis' station transmitted radio communications on the frequency 27.585 MHz, which is not authorized for use in the Citizens Band but is in the band of frequencies allocated to the United States Government, in wilful violation of § 95.455(a) of the Commission's rules.

It further appears, That the radio transmissions on September 8, 1977, were not identified by Commission assigned call sign at the beginning and end of each transmission or series of transmissions, in wilful violation of § 95.471(c) of the Commission's rules.

It further appears, That on September 10, 1977, David L. Davis, the licensee of Citizens Band radio station KRJ-7555, failed to make his radio station available for inspection upon the request of authorized Commission personnel, in wilful violation of § 95.521 of the Commission's rules.

The alleged violations on September 8 and 10, 1977, were the subject of an Official Notice of Violation (Form 793) mailed to Davis on October 12, 1977.

It further appears, That Davis' conduct described herein raises substantial questions regarding his qualifications to remain a licensee of the Commission and is grounds for revocation of his Citizens Band station license.

It further appears, That, in view of Davis' conduct, the Commission cannot make the determination required by Section 307(a) of the Communications Act that grant of his Amateur Novice Class application would serve the public interest, and that a hearing is necessary.

Accordingly, it is ordered, Pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, that David L. Davis show cause why the license for Citizens Band radio station KRJ-7555 should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place before an Administrative Law Judge, to be specified by a subsequent order.

It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's rules, that Davis' applicaion for Amateur Radio Novice Class License is designated for hearing, at a time and place to be specified by subsequent Order upon the following issues:

(1) To determine whether David L. Davis operated radio transmitting equipment in violation of §§ 95.455(a), 95.471(c) and/or § 95.521 of the Commission's rules.

(2) To determine whether David L. Davis refused to allow inspection of his station in wilful violation of § 95.521 of the Commission's rules.

(3) To determine, in light of the facts adduced under issue (1) whether Davis possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the Amateur Radio Notice Class application of David L. Davis.

It is further ordered, That, in order to obtain a hearing on the revocation matter and/or on his application, Davis, in person or by attorney, shall within thirty 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 the foregoing paragraph.[1] Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice.

It is further ordered, Pursuant to the provisions of § 1.227 of the Commission's rules, that the proceedings on the above-stated matters are consolidated for hearing.

It is further ordered, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau,

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

SECRETARY,
Federal Communications Commission, Washington, D.C. 20554.

In the matter of revocation of license of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-150, licensee of Station KRJ-7555 in the Citizens Band Radio Service; application for Amateur Radio Novice Class License of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-151.

RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE WHY CITIZENS BAND RADIO STATION LICENSE KRJ-7555 SHOULD NOT BE REVOKED

In response to the above-mentioned Order to Show Cause, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in the above-entitled matter:

See Page 2

☐ 1. Respondent will appear and present evidence at the hearing.
☐ 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.
☐ 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.*

Respectfully submitted,

Date: ————1978.

DAVID L. DAVIS,
Respondent.

Section 1.91 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the Order to Show Cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the Order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of his request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for a written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the Order to Show Cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission. Thereupon, the matter normally will be handled by the Chief, Safety and Special Radio Services Bureau, under applicable delegations of authority, who will make a determination, on the basis of all information available, including statements filed by the respondent, respondent's past violation record, etc., whether a revocation order should be issued or whether the matter should be dismissed.

SECRETARY,
Federal Communications Commission, Washington, D.C. 20554.

[1] The twenty day time period specified in Section 1.221(c) of the Rules is waived.

*If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations; (2) the reasons, if any, why you believe that your radio station license should not be revoked.

In the matter of revocation of license of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-150, License of Station KRJ-7555 in the Citizens Band Radio Service; application for Amateur Radio Novice Class License of David L. Davis, 6025 East 6th Street, Anchorage, Alaska 99504, SS Docket No. 78-151.

RESPONDENT'S REPLY TO THE ORDER DESIGNATING AMATEUR RADIO NOVICE CLASS APPLICATION FOR HEARING

In response to the above-mentioned order, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in the above-entitled matter:

☐ 1. Respondent will appear on the date fixed for the hearing and present evidence on the issues specified in the order of designation.

☐ 2. Respondent will not present evidence on the issues specified in the order of designation and understands that, as a result, his application will be dismissed with prejudice.

Respectfully submitted,

Date: ————1978.

DAVID L. DAVIS,
Respondent.

[FR Doc. 78-15879 Filed 6-7-78; 8:45 am]

[6712-01]

[Report No. 1124]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 31, 1978.

Docket or RM No.	Rule No.	Subject	Date received
19528		Proposals for new or revised classses of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS).	
		Filed by Vincent Galiogly, attorney for GTE Service Corp. and its affiliated domestic telephone operating companies.	May 19, 1978.
		Filed by Donald J. Mulvihill and R. Bruce Dickson, attorneys for Continental Telephone Corp.	Do.
		Filed by Donald E. Guinn, assistant vice president and Edward L. Friedman, Robert M. Ralls, and J. Richard Teel, attorneys for the Bell System companies.	Do.
		Filed by Theodore D. Frank, Richard R. Standel, and Paul de Jongh, attorneys for Northern Telecom, Inc..	Do.
21182	Part 68	Amendment of pt. 68 of the Commission's rules (Telephone Equipment Registration) to specify standards for and means of connection of telephone equipment to lamp and/or annunciator functions of systems.	
		Filed by Victor J. Toth and Terry G. Mahn, attorneys for Teltronics Division of Brand-Rex Co.	Do.
		Filed by Donald E. Guinn, assistant vice president and Edward L. Friedman, Robert M. Ralls, and J. Richard Teel, attorneys for American Telephone & Telegraph Co.	Do.
		Filed by Tedson J. Meyers and Michael W. Faber, attorneys for Bunker Ramo Corp.	Do.
21135		The simplification of the licensing and call sign assignment systems for stations in the amateur radio service.	
		Filed by Stephen A. Ballo (KN3TFM)	May 18, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before June 23, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-15883 Filed 6-7-78; 8:45 am]

[6712-01]

OPPOSITIONS TO PETITIONS FOR RECONSIDERATION IN DOCKET NO. 19528

JUNE 5, 1978.

Public notice was given of three petitions for reconsideration of the Third Report and Order in Docket No. 19528 on May 23, 1978, and this notice was repeated in 43 FR 23759, June 1, 1978.

Public notice was given of five additional petitions for reconsideration of the Third Report and Order in Docket No. 19528 on May 31, 1978, and it is anticipated that this notice will appear in the FEDERAL REGISTER on June 8, 1978.

Since § 1.429(f) of the Commission's Rules requires that oppositions to petitions for reconsideration be filed within 15 days after public notice of these petitions is given in the FEDERAL REGISTER, there is some question as to whether the 15-day period should run from June 1 or June 8, 1978. To prevent confusion, oppositions will be accepted within 15 days of the *latter* of the two FEDERAL REGISTER publications to allow for comprehensive filings which address all of the filed petitions for reconsideration.

FEDERAL COMMUNCATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16021 Filed 6-7-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

BankAmerica Corp.

Proposed Continuation of Lending Activities Through FinanceAmerica Commercial Corp. and Commencement of Servicing, Leasing, and Credit Insurance Agency Activities Through FinanceAmerica Commercial Corp.

BankAmerica Corp., San Francisco, Calif, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b), for permission to continue to engage, through a subsidiary known as FinanceAmerica Commercial Corp. ("FACC"), Allentown, Pa., in inventory and accounts receivable, financing, lease financing, equipment financing, insurance premium financing, making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies, making loans secured by real and personal property, and purchasing retail installment sales contracts. It appears such activities were commenced by FACC in September 1974, without the prior approval of the Board, in apparent violation of the Act and the Board's Regulation Y.

The application also proposes the commencement by FACC of the activities: servicing loans, participating in loans and other extensions of credit, leasing real and personal property, and offering credit-related life, accident and disability and property insurance in connection with extensions of credit made or acquired by FACC. Notice of the application was published on March 31, 1978, or various dates in April 1978, in 97 newspapers circulated in areas in which FACC solicits or plans to solicit business. The activities in which FACC engages and proposes to engage appear to have

been specified by the Board in § 225.4(a) of Regulation Y as permissable for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 30, 1978.

Board of Governors of the Federal Reserve System, June 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-15852 Filed 6-7-78; 8:45 am]

[6210-01]

MOLINE MANUFACTURING CO.

Formation of Bank Holding Company

Moline Manufacturing Co., Moline, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.68 percent of the voting shares of Southeast National Bank of Moline, Moline, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Moline Manufacturing Co., Moline, Ill., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to continue to engage in the activities of leasing real and personal property on a one-time basis. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Notice of the application was published on May 24, 1978, in the Daily Dispatch, a newspaper circulated in Moline, Ill.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration, of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 3, 1978.

Board of Governors of the Federal Reserve System, June 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-15853 Filed 6-7-78; 8:45 am]

[6210-01]

RIVER OAKS BANCORP, INC.

Formation of Bank Holding Company

River Oaks Bancorp, Inc., Calumet City, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.4 percent of the voting shares of River Oaks Bank and Trust Co., Calumet City, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 29, 1978.

Board of Governors of the Federal Reserve System, June 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-15854 Filed 6-7-78; 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 June 2, 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 CAB request are invited from all interested persons, organizations, public interest groups, and affected business. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 26, 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.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of revisions of Form 251, Report of Passengers Denied Confirmed Space, caused by an amendment to Part 250 of the Board's Economic Regulations (Priority Rules, Denied Boarding Compensation Tariffs, and Reports of Unaccommodated Passengers) which (1) suspends indefinitely the requirement to file CAB Form 250, Report of Unaccommodated Passengers: (2) expands the requirements to file CAB Form 251 to include foreign air carriers serving the United States; and (3) makes various editorial changes to CAB Form 251. These reporting requirements are mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates respondents will be 124 certificated and foreign route air carriers and that reporting burden will average 2 hours per monthly report.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc. 78-15943 Filed 6-7-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA; CHIEF, BRANCH OF RECORDS AND DATA MANAGEMENT

Redelegation of Authority by State Director

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR Part 3833, as follows:

(1) Accept and record instruments meeting recording requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods; and

(4) Reject filings and void claims located on lands not available for mineral location on dates of location.

This delegation is effective June 1, 1978.

JOHN E. BIRCH,
Acting State Director.

Approved: May 26, 1978.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc. 78-15815 Filed 6-7-78; 8:45 am]

[4310-84]

INTERAGENCY GEOTHERMAL STREAMLINING TASK FORCE

Public Meetings

The schedule of public meetings for the Interagency Geothermal Streamlining Task Force, announce May 24, 1978 (FEDERAL REGISTER, Volume 43, No. 101, page 22247) has been changed as follows: The June 23, 1978, meeting in Room 128, Salt Palace, Salt Lake City, Utah, has been postponed until June 28, 1978, to begin at 1 p.m. The meeting will be held in the Salt Palace. The room will be posted on the date of the meeting.

WINSTON B. SHORT,
Chairman, Interagency Geothermal Streamlining Task Force.

JUNE 5, 1978.

[FR Doc. 78-15864 Filed 6-7-78; 8:45 am]

[4310-84]

ROSWELL DISTRICT GRAZING ADVISORY BOARD MEETING

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Roswell District Grazing Advisory Board will be held on July 13, 1978, at 10 a.m., in the Berrendo Room of the Roswell Inn at 1815 North Main, Roswell, N. Mex.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) the expenditure of range betterment funds for range improvements; (3) a review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) election of officers; and (5) discussion of the Board's future involvement in the allotment management plan program.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:30 and 3:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, by July 7, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

JAMES H. O'CONNOR,
District Manager.

MAY 30, 1978.

[FR Doc. 78-15847 Filed 6-7-78; 8:45 am]

[4310-84]

[W-63863]

WYOMING

Application

MAY 30, 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, WYOMING

T. 39 N., R. 90 W.,
Sec. 29, E½SW¼ and SW¼SW¼;
Sec. 32, W½NW¼ and NE ¼SW¼.

The proposed pipeline will transport natural gas from the Lester No. 1-32 well located in the NW¼ of section 32, to a point of connection with an existing pipeline located in the SW¼ of section 29, all within T. 39 N., R. 90 W., Fremont 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.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15848 Filed 6-7-78; 8:45 am]

[4310-84]

[W-63522]

WYOMING

Application

MAY 26, 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 Colorado Interstate Gas Co. of Colorado Springs, Colo., has 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, WYOMING

T. 39 N., 90 W.,
Sec. 29, SW¼NE¼, SE¼NW¼, NE¼SW¼ and NW¼SE¼.

The proposed pipeline will transport natural gas from the State No. 1-16 Well located in the NE¼ of section 16, T. 39 N., R. 90 W., to a point of connection with an existing pipeline located in the S½ of section 29, T. 39 N., R. 90 W. in Fremont 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, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15850 Filed 6-7-78; 8:45 am]

[4310-84]

[W-63854]

WYOMING

Application

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C.

185) Western Oil Transportation Co., Inc., of Casper, Wyo. filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDAN, WYOMING

T. 44 N., R. 77 W.
Sec. 22, SW¼SE¼.

The pipeline is a proposed addition to a gathering system in Johnson 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. 78-15849 Filed 6-7-78; 8:45 am]

[4310-31]

Geological Survey

NATIONAL OUTER CONTINENTAL SHELF ORDER NO. 5

Failure and Inventory Reporting System; Requirement

The purpose of this Notice is to advise the public of this Geological Survey's intent to include in National OCS Order No. 5 a requirement for operators of production platforms in the OCS to submit certain data in accordance with a previously announced safety device Failure and Inventory Reporting System (FIRS).

By Notices in the FEDERAL REGISTER dated April 12, 1976, and May 13, 1976, the Geological Survey solicited comments on this proposed system. At the time those Notices were prepared, they were directed only toward those operators of production platforms located in the Gulf of Mexico OCS. Since the advent of the National OCS Order concept, the Geological Survey considers it desirable to include other OCS Areas. The impact of this change is extremely minimal since there are presently over 2,200 production platforms in the Gulf of Mexico OCS and only 7 in all other OCS Areas. It is anticipated that the aforementioned National OCS Order will be published in the FEDERAL REGISTER in June 1978.

Comments on the proposed FIRS were received from approximately 20 commenters. The majority of the commenters questioned the need for such a program. A few commented on some of the data items required for submission on the proposed forms. The discussion of these two broad categories of comments follows:

NEED FOR FIRS

Equipment failure and human error contributed to nearly 100,000 barrels of oil being discharged into the Outer Continental Shelf (OCS) waters since 1970. To help prevent such incidents, safety devices are installed on OCS production platforms to protect against abnormal conditions such as overpressure, underpressure, high or low liquid levels, etc. However, since 1970, over 100 accidents and/or pollution incidents directly related to malfunctioning safety devices have occurred. To perform its duties effectively concerning the prevention of waste and the conservation of natural resources in the OCS, it is essential that the Geological Survey conduct a program to assess the reliability of safety devices and to take action to assure the improvement of such devices.

The Geological Survey is also currently instituting a standards and quality assurance program for which performance or design standards for various safety devices will be prepared. The FIRS will provide the basis for such a program. In addition, the FIRS will provide for the rapid and positive exchange of failure data so that problems experienced by one operator can be avoided by others and so that major or recurring problems which require research and development effort for resolution can be identified. Without the FIRS program, it is unlikely that consistent progress will be made toward the improvement of equipment needed if the number of accidents, amount of pollution, or volume of production lost is to be reduced to a minimum.

The petroleum industry has an excellent safety record considering the amount of drilling and the magnitude of production operations. However, as long as accidents, fires, and pollution events occur, the Geological Survey must continue to investigate operating procedures and strengthen its regulatory controls over these procedures in a manner that will promote improvement of this record.

DATA ITEMS IN PROPOSED FORMS

After receipt and review of the public comments submitted relating to data items listed in the proposed forms, the Geological Survey undertook a pilot program to assess the validity of the data requirements on the proposed forms and to verify the clarity of the instruction booklet which had been prepared to aid the users in filling out the forms. The pilot program was carried out with the cooperation of several offshore operators who gathered inventory and failure data on various production platforms utilizing the proposed forms and instruction booklet. The pilot program provided a valuable exchange of viewpoint and ideas which resulted in modified forms and instruction booklets mutually acceptable to the U.S. Geological Survey and the representatives of the offshore oil and gas industry.

FORM APPROVAL

The Office of Mangement and Budget has approved the forms which will be used for the FIRS. The Geological Survey numbers assigned to the inventory form and the failure reporting form are 9-1994 and 9-1995 respectively.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-15817 Filed 6-7-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-406-2, TA-406-3, and TA-406-4]

CLOTHESPINS FROM THE PEOPLE'S REPUBLIC OF CHINA, THE POLISH PEOPLE'S REPUBLIC, AND THE SOCIALIST REPUBLIC OF ROMANIA

Time and Place of Portland, Maine, Hearing

Notice is hereby given that the public hearing in connection with the above-noted investigations scheduled for Portland, Maine, will be held beginning at 9:30 a.m., e.d.t., Thursday, June 22, 1978, in the Oxford Room of the downtown Holiday Inn, 888 Spring Street, Portland.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, June 15, 1978. Notice of the investigations and public hearing was published in the FEDERAL REGISTER of May 22, 1978 (43 FR 21952).

By order of the Commission.

Issued: June 5, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-15941 Filed 6-7-78; 8:45 am]

[7020-02]

[AA1921-182]

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM INDIA

Investigation and Hearing

Having received advice from the Department of the Treasury on May 25, 1978, that steel wire strand from India

is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on June 2, 1978, instituted investigation No. AA1921-182 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "steel wire strand" was defined as steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the Tariff Schedules of the United States Annotated (TSUSA).

Hearing. A public hearing in connection with the investigation will be held on Tuesday, July 18, 1978, in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 9:30 a.m., e.d.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 210(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, July 13, 1978.

By order of the Commission.

Issued: June 5, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-15942 Filed 6-7-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-23]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Highway Accident Report.—The National Transportation Safety Board announces the availability of its formal investigation report on the collision of a Ford sedan with a Midas Mini Motor Home on U.S. Route 69 near McAlester, Oklahoma, July 14, 1977. The report, No. NTSB-HAR-78-2, was officially released May 26.

The car, traveling south, went out of control on wet pavement, crossed the centerline sideways and collided with the northbound motor home. All six persons in the sedan were killed; the driver and right front passenger in the motor home were killed and the six other passengers of the motor home were injured.

The Safety Board determined that the probable cause of this accident was a combination of the low skid resistance of the wet road surface and the lax operating maintenance by the owner of the sedan which permitted the use of an unsafe tire and the imbalanced capability of the brake system. A factor contributing to the accident was the driver's unfamiliarity with the mechanical condition of the sedan. Contributing to the severity of the injuries were the failure of the front seat occupants of the motor home to wear the available seatbelts, and the failure of the door latch assembly.

As a result of its investigation of this accident, earlier this year the Safety Board issued five safety recommendations. Three recommendations to help prevent slippery-highway accidents—recommendations H-77-35 through 37— were issued on January 10 to the Oklahoma Department of Transportation. Recommendations H-78-15 and 16, which called for improved testing of motor vehicle latch doors, were issued March 22, to the National Highway Traffic Safety Administration. These recommendations were reported in the FEDERAL REGISTER at the time of issuance.

On May 1 the Safety Board issued these three additional recommendations in connection with the McAlester accident investigation:

To the State of Oklahoma Department of Transportation—

Have its skid trailer calibrated at a Federal Highway Administration test center as soon as possible and inform the Safety Board when the calibration is completed. (H-78-17)

To the Motor Vehicle Manufacturers Association of the United States, Inc.—

Inform its members of the details of the unwanted actuation of the door latch and encourage them to consider ways to prevent such failures in the manufacture of future door-latch assemblies. (H-78-18)

To the Federal Highway Administration—

Develop expeditiously procedures to determine the skid resistant characteristics of newly constructed and resurfaced roadways before they are opened to the public. (H-78-19)

Recommendation H-78-18 is designated "Class I, Urgent Action." Recommendations H-78-17 and H-78-19 are designated "Class II, Priority Action."

Aviation Safety Recommendations.—On May 23, 1977, a "Zuni" high performance racing glider, manufactured by Aero Tek, crashed when its wings separated in flight at Moriarity, New Mexico. The wings failed at their attachment fittings under a high positive overload during a "racing porpoise" maneuver.

On July 31, 1977, another Zuni prototype glider was heavily damaged when it ground looped while on tow for takeoff, and in January 1978 near Genoa, Nevada, still another Zuni prototype glider was involved in an incident when the pilot experienced 1½ seconds of aileron flutter, pitching oscillations accompanied by veritcal accelerations, and wing flutter. Inspection of the glider revealed delaminations in the wing. The wing and control surfaces had been constructed of fiberglas.

These three gliders were being operated under experimental airworthiness certificates for the purposes of "racing and exhibition" and were restricted by the limitations of 14 CFR 91.42.

The Board's accident experience in connection with high-performance fiberglas gliders has prompted concern in several areas including structures, vibration and flutter, and stability and control. The Board states that the lack of a unified set of specific requirements relating to glider design is probably a primary factor in explaining why the Zuni was not type certificated in a standard category at the outset. As a result of its investigation of these cases, the Board on June 1 recommended that the Federal Aviation Administration:

Issue, as soon as possible, comprehensive regulations for the design and construction of gliders which reflect the current state of the art and are consistent with the regulatory requirements for other types of aircraft. (A-78-35)

Amend current regulations to prevent issuance of experimental certificates for the purposes of exhibition and/or air racing to purchasers of newly manufactured production aircraft. (A-78-36)

Both recommendations are "Class II," for priority action.

Marine Safety Recommendations.—On November 10, 1975, the Great Lakes bulk cargo vessel *SS Edmund Fitzgerald,* with 29 crewmen and fully loaded with taconite pellets, sank in eastern Lake Superior approximately 17 miles from the entrance to Whitefish Bay, Michigan. The ship, en route from Superior, Wisconsin, to Detroit, Michigan, was proceeding at a reduced speed in a severe storm. No distress call was heard and no survivors or bodies were located, although the vessel's two inflatable liferafts, several personal flotation devices, and other debris were found. Analysis of evidence developed during investigation of this accident indicated that topside damage to ballast tanks and its tunnel and significant amounts of water entered the cargo hold of the *Fitzgerald* through nonweathertight hatch covers.

Because the annual inspections of Great Lakes bulk cargo vessels were in progress, the Safety Board submitted four recommendations to the Coast Guard on March 23, 1978, previously

reported in the FEDERAL REGISTER. As a result of the investigation of the accident, 19 additional recommendations were issued on June 1:

To the U.S. Coast Guard:

Determine if reduction in the minimum freeboard requirements for Great Lakes vessels permitted by the 1969, 1971, and 1973 amendments to 46 CFR Part 45 increases the potential for vessel flooding because the designs of weathertight closures are not adequate and report the findings. (M-78-16)

Initiate a design study to improve the current weathertight hatch cover and clamp designs used on Great Lakes bulk cargo vessels with a view toward requiring a more effective means of closure of such fittings. (M-78-17)

Insure that the masters of Great Lakes bulk cargo vessels have the loading information required by 46 CFR 45.105, including the proper sequences for simultaneous loading and deballasting or unloading ballasting. (M-78-18)

Require that the masters of all Great Lakes cargo vessels that are not required by 46 CFR 45.105 to have loading information be provided with such information, including the proper sequence for simultaneous loading and deballasting or unloading and ballasting. (M-78-19)

Require that a Great Lakes cargo vessel meet a minimum level of subdivision and damage stability to prevent the foundering of the vessel because of flooding through one hatch or flooding because of damage in a limited area of the vessel. (M-78-20)

Require a means of detecting water in the cargo holds of a Great Lakes vessel so that her master will have an early indication of flooding and can take any necessary corrective action. (M-78-21)

Amend 46 CFR 56.50-50 to require an effective bilge pumping system on Great Lakes bulk vessel so that if the vessel has trim by the bow and is listing, water can be removed from any portion of the cargo hold. (M-78-22)

Require instruments in the wheelhouse to detect changes in both trim and heel on Great Lakes bulk cargo vessels so that changes in trim and heel caused by the presence of water or a change in cargo configuration can be detected. (M-78-23)

Require that the information supplied to the master of Great Lakes cargo vessels on loading and stability also include information on the vessel's ability to survive flooding (e.g., trim and heel results after assumed damage) so that the master can take appropriate corrective action or formulate timely plans to effect crew evacuation. (M-78-24)

Require that Great Lakes vessels have emergency position indicating radio beacons (EPIRB's) so that vessels lost or in serious danger can be located rapidly and accurately. (M-78-25)

Determine, in conjunction with the American Bureau of Shipping, the limiting sea state applicable to the design of Great Lakes bulk cargo vessels including freeboard and longitudinal strength, and report the findings. (M-78-26)

Prohibit the navigation of Great Lakes vessels in wind and wave conditions which exceed the limiting sea state used for vessel design. (M-78-27)

Determine, in conjunction with the American Bureau of Shipping, the design criteria used to determine the structural adequacy of hatch covers and report the findings. Evaluate the design criteria and impose more stringent standards if indicated. (M-78-28)

Require that all Great Lakes bulk cargo vessels have a fathometer. (M-78-29)

Increase the surface search and rescue capability on the Great Lakes during severe weather periods. (M-78-30)

To the American Bureau of Shipping:

Determine, in conjunction with the U.S. Coast Guard, the limiting sea state applicable to the design of Great Lakes bulk cargo vessels including freeboard and longitudinal strength. (M-78-31)

Determine, in conjunction with the U.S. Coast Guard, the design criteria uses to determine the structural adequacy of hatch covers. (M-78-32)

To the National Oceanic an Atmospheric Administration:

Revise Lake Survey Chart No. 9 showing the areas between Michipicoten Island and Caribou Island in Lake Superior to reflect the findings of the survey performed by the Canadian Hydrographic Service. (M-78-33)

Evaluate the current methods of forecasting wave heights on the Great Lakes to determine if these methods accurately predict actual wave heights. (M-78-34)

All of the above recommendations are designated "Class II, Priority Action."

Railroad Safety Recommendations.—Last October 8, Southern Railway Company passenger train No. 1, The Crescent, entered a crossover from the main track into the Spencer Yard at Spencer, North Carolina, and sideswiped freight cars which were being assembled as train No. 152 on an adjacent yard track. Four locomotive units and five cars of The Crescent and seven cars of train No. 152 were derailed. Twenty-six persons received minor injuries and damage was estimated at $250,000.

The Safety Board's investigation indicated that signal 330.7, which governed the signal block in which the crossover was located, displayed a clear (green) aspect for The Crescent. The track circuit controlling the signal's aspect was not shunted when the north end of the crossover was lined for the yard. The improperly lined crossover would not have caused the accident if the signal system had not failed. However, because of improper operating practices and the failure of the back-up system, which was the automatic signal system, the accident occurred.

As a result of investigation of this accident, the Safety Board on May 31 issued the following recommendations:

To the Federal Railroad Administration:

Require that the track shunt circuit imposed by contact closure in a circuit controller be phased out as soon as practicable and a series break-type circuit, which will satisfy the requirements of the FRA's Rules, Standards, and Instructions, be used in place thereof. (R-78-23)

To the Southern Railway Company:

Revise its operating rules to insure that they state as specifically as possible the action that is intended, and to enforce those rules pertaining to the operation of switches and the reporting of malfunctions of the signal system. (R-78-24)

Both are Class II recommendations, for priority action.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-75-84.—Letter of May 2 from the Federal Aviation Administration is in response to the recommendation which would require air carriers to comply with 14 CFR 121.417(c)(4) by using accurate and realistic equipment and procedures simulating emergency conditions, including opening exits in emergencies, and require that during each flight attendant's initial and recurrent training he operate emergency exits which duplicate the forces encountered and actions necessary when such exits are opened in the emergency mode.

FAA reports that Order 8430.6A, Air Carrier Operations Inspector's Handbook, Change 103, was issued March 1, 1976, and contains Air Carrier Operations Bulletin No. 76-1. This bulletin interprets FAR 121.417 and specifies the requirements to be incorporated into air carrier emergency training programs. A copy of the bulletin is attached to FAA's letter.

A-77-40.—FAA's letter of April 28 addresses the recommendation which urged a comprehensive inspection of each air carrier's procedures under 14 CFR Part 103 and 14 CFR 121.433(a), specifically with regard to receiving, palletizing, consolidating, and aircraft loading, and related training.

FAA reports that a comprehensive evaluation of FAA and air carrier programs was completed on July 11, 1974, concerning effectiveness of FAA enforcement of regulations pertaining to transportation of hazardous materials. As a result, FAA's Hazardous Materials Program was revised and FAA Order 8000.34A, Transportation of Hazardous Materials, was issued on November 26, 1976. Change 1, containing objectives and policy guidelines for FAA inspectors, was added on August 3, 1977. A copy of FAA Order 8000.34A including Change 1 is attached to the response.

Marine

M-74-36.—Letter of May 3 from the U.S. Coast Guard is in further response to the recommendation calling for use of all available means of communications, including Citizens Band radio, in situations where a more rapid rescue could be provided. The recommendation was issued as a result of the loss of numerous vessels during heavy weather in the vicinity of

Chetco River, Oregon, August 16, 1972.

Coast Guard states that Commandant Instruction 16126.1, dated March 20, 1978, discusses the use and monitoring of Citizens Band radio traffic by selected U.S. Coast Guard shore units. These shore units are listed on an enclosure to the Instruction, a copy of which is provided with the response.

Pipeline

The Research and Special Programs Administration (RSPA) of the U.S. Department of Transportation on April 3 provided a detailed status report on the implementation of 15 pipeline safety recommendations issued by the Safety Board during the 1971-1973 period. The report is in response to the Board's inquiry of November 4, 1977, concerning these recommendations:

P-71-7.—This recommendation, resulting from the September 9, 1969, accident at Houston, Texas, called for a review of methods used by pipeline operators to protect existing transmission lines against accidental overpressuring upon the failure of pressure control equipment. The review was to be made in conjunction with the States.

RSPA reports that this review was included in a contract study, "Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failure Due to Overpressure." It has been reviewed by the Office of Pipeline Safety Operations (OPSO) which is now developing proposals for new regulations to include requirements for overpressure and automatic controls on both liquid and gas pipelines. The proposals for liquid lines will be published in FY 78, but the schedules for proposals on gas pipeline regulation has not been determined.

P-72-34.—Based on the October 4, 1971, accident in Richland Hills, Texas, this recommendation asked for amendment of 49 CFR Part 192 to include a section based on review of the suitability of threaded galvanized pipe, or pipe coated with other dissimilar metals, for the transportation of natural and other gas. RSPA reports that OPSO initiated a contract study to appraise the seriousness of certain types of environmentally induced cracking problems in pipelines. Hydrogen embrittlement is one of the problems addressed by the study which was begun in July 1976 and completed in January 1978. Further action on this recommendation depends on OPSO's evaluation of the contractor's report.

P-72-40 through 43.—These recommendations, resulting from the March 24, 1972, accident at Annandale, Virginia, called for amending 49 CFR Part 192 to require: (1) onsite identification of all valves on high-pressure distribution systems; (2) each pipeline operator to prepare preplanned shutdown procedures so that any section of a high-pressure distribution system can be shut down in an emergency; (3) each operator to maintain a log which shows the receipt and handling of each leak or emergency report received; and (4) each pipeline operator to have on duty a sufficient number of dispatching personnel to effectively coordinate emergency situations.

In response, RSPA states that clarification of the emergency procedures required by § 192.615, Clarification, was made through OPSO's Amendment No. 192-24, "Emergency plans," to 49 CFR Part 192, issued March 31, 1976. The new paragraph 192.615(a)(6) requires each operator to have written procedures for emergency shutdown and pressure reduction in any section of its system necessary to minimize hazard to life and property. Further, RSPA states that recommendations P-72-42 and 43 were considered when revisions to § 192.615 were developed. New § 192.615 requires each operator to establish written procedures for ". . . receiving, identifying, and classifying notices of events which require immediate response by the operator . . . ," ". . . adequate means of communication . . . ," ". . . prompt and effective response . . . ," ". . . train appropriate operating personnel . . . ," ". . . verify that training is effective . . . ," and ". . . establish . . . liaison with appropriate . . . public officials . . . ."

P-72-63.—This recommendation resulted from the October 4, 1972, Fort Worth, Texas, accident. RSPA reports that, as called for by this recommendation, OPSO initiated a contract study, "Pipeline Industry's Practices Using Plastic Pipe in Gas Pipeline Facilities and the Resulting Safety Factors." The study included an evaluation of plastic pipe joining procedures, methods of quality control, and nondestructive testing techniques. As a result of this study, analysis of OPSO's accident reports, and Safety Board recommendations, OPSO is now preparing a notice of proposed rulemaking relative to plastic pipe joining procedures and qualifications of procedures and joiners.

P-73-2 and 4.—These recommendations, resulting from the accident at Lake City, Minnesota, October 30, 1972, asked for (1) a study of fail-safe devices to stop the flow of gas from ruptured lines and possible amendment of 49 CFR Part 192 to require the installation of such devices at appropriate locations in gas distribution systems, and (2) amendment of 49 CFR 192.181(a) to include requirements clearly expressing the intent of OPSO concerning the number and the location of emergency valves in high-pressure gas distribution systems and which treat the need for keys in the hands of local authorities.

RSPA reports that OPSO's recently completed contract study (DOT-OS-30008) relative to rapid shutdown of failed facilities included a section on fail-safe devices, such as proposed in P-73-2. RSPA states that since such devices may have safety potential and favorable cost/benefit ratio for certain service lines, this proposal will be considered for inclusion in the FY-79 regulatory program.

With reference to P-73-4, RSPA does not feel that specific requirements could be developed to adequately apply to all operations. However, new § 192.615, Emergency plans (Amendment 192-24) reinforces the requirements of § 192.181, Distribution line valves, by requiring the operator to establish written procedures for "emergency shutdown and pressure reduction . . . to minimize hazards to life or property . . .," to have ". . . adequate means of communication . . .," to ". . . verify appropriate operating personnel . . .," and to ". . . verify that training is effective. . . ." RSPA does not believe it appropriate to provide for shutdown of emergency valves by other than operator personnel.

P-73-12 and 13.—These recommendations—to amend 49 CFR Parts 192 and 195 to require each pipeline operator to establish a program for preventing excavation-type damage to its underground facilities, and to revise methods of summarizing reports of individual gas pipeline leaks and failures to show clearly those accidents resulting from excavation activities—were issued in connection with the Safety Board's 1973 special study "Prevention of Damage to Pipelines."

RSPA note with reference to P-73-12 that for an effective damage prevention program, all utilities and all excavation contractors must participate, and, since OPSO only has jurisdiction over pipeline operators, such a program must be established by an agency with authority over all utilities and excavation contractors, such as a State or local jurisdiction. RSPA reports that on March 27, 1975, OPSO amended the requirements for § 192.707, Line markers for mains and transmission lines, which amendment (192-20) clarified and increased the marking requirements for gas pipelines. Similar requirements will be proposed for liquid pipelines. Also, in June 1977, OPSO wrote to all State Governors proposing a "Model Underground Utility Damage Prevention Act" to assist State legislatures in developing underground utility damage prevention legislation or in determining whether current laws can be more effective.

Concerning P-73-13, RSPA states that OPSO is addressing the problem

though its public speaking engagements, operator's seminars, and training sessions for State agency personnel. Also, OPSO has a contract study, "Study and Evaluate the Effectiveness of Programs for the Prevention of Damage to Pipelines by Outside Forces," completed December 31, 1977. Further action to prevent damage by outside forces may be developed after evaluating the report, RSPA stated.

P-73-29 and 30.—These recommendations, resulting from the May 14, 1972, accident at Hearne, Texas, called for (1) reviewing the Hazardous Materials Regulations Board proposals in Docket HM-6 and accident records of uncoated, unprotected, or partially protected pipelines, and, based on results of that review undertake rulemaking to provide for either periodic hydrostatic retesting of these pipelines or progressive reduction in their operating pressures based upon the effects of continuing corrosion, or both; and (2) amending 49 CFR 195.408, Communications, to describe more fully the type of information required for safe operation of pipelines and the conditions under which this information should be transmitted remotely.

RSPA notes that OPSO had previously reviewed the comments to HM-6 and found no substantial data to support any rule change. A contract study, "Transportation of Highly Volatile, Toxic, or Corrosive Liquids by Pipeline," was completed in February 1976. The data are now being used to develop proposed rules for Part 195, relating to qualification of operating pressure by pressure test, testing procedures, operating, maintenance, and emergency procedures (which include communications), valve spacing, overpressure and remote control, and operating stress level. These proposed rules will recognize the different hazards and operating conditions that exist for pipelines transporting highly volatile, toxic, or corrosive liquids.

P-73-37 and 38.—The August 31, 1972, accident at Atlanta, Georgia, prompted these recommendations: To (1) improve accident-reporting requirements to obtain a better understanding of the causes of failures of cast-iron mains; and (2) determine, in cooperation with State regulatory agencies, the degree of nationwide compliance with 49 CFR 192.615 regarding written emergency procedures, and take enforcement action accordingly.

RSPA reports concerning P-73-37 that following completion of a contract study to analyze the reported statistics and reporting procedures and to recommend appropriate revisions, OPSO developed new reporting forms to provide data necessary to more clearly identify the causes of all types of accidents, including those caused from excavation damage and from cast-iron mains. Revisions to the reporting forms will be proposed.

With reference to P-73-38, RSPA states that amended § 192.615, Emergency plans, published on March 31, 1976, did not become applicable until October 1, 1976, to allow operators, sufficient lead time to revise existing emergency plans and associated personnel training, and it is too soon to determine the degree of nationwide compliance. However, RSPA states that OPSO is monitoring actively and appropriate corrective actions are being taken.

RAILROAD

R-77-14 through 17.—On April 18, the Chicago Transit Authority (CTA) provided a report supplementary to its January 20, 1978, report on actions taken to implement these recommendations. The recommendations resulted from the February 4, 1977, collision of two CTA trains on the Chicago, Illinois, elevated rail structure.

In answer to R-77-14, which asked CTA to provide a systematic review of its operating rules so that all employees will have a clear understanding of such rules and of any changes, and insure employee compliance with the rules, CTA states that instruction materials setting forth certain standard operating procedures for signals have been rewritten and promulgated, related documents being Transportation Department bulletin G1-78; Standard Operating Procedures M-1-100, ATC signal system; and Standard Operating Procedures M-1-101, Signal aspects and indications.

With reference to R-77-15, asking that CTA discontinue the automatic display and control function of the flashing red cab signal and its associated flashing yellow 15 mph on the speedometer, CTA states that arc-shaped segments of the circle of light of the GRS-dial type aspect display unit (installed on about 140 cars) as supplied have a yellowish color cast when illuminated. Procurement of uncolored segments has been arranged, a sample installation has been placed under test in regular service, and arrangements are being made to change out all the others, according to CTA.

Regarding R-77-16 which recommended operating trains on an absolute block, and if necessary to enter an occupied block in emergency, provide procedures that will insure safe operation, CTA on January 20 stated that the rapid transit rule book (rule R6.4) now specifies absolute block operation replacing permissive operation at signals displaying stop indication. Procedures for operation into an occupied block have been appropriately revised and strengthened. No additional comments are provided in the April 18 report.

In answer to R-77-17, which asked CTA to consider an operating employee's complete service record when judging the employee's operating capabilities, CTA provides a copy of a letter initiating arbitration on the issue of access to past records pursuant to amended contract between CTA and the unions which represent the operating employees.

CTA states that progress in implementing this action is documented by these Transportation Department bulletins: S334-77, effective July 21, 1977, covering Lake Branch; S514-77, effective January 23, 1978, covering Dan Ryan Branch, and S92-78, effective April 4, 1978, covering Englewood/Jackson Park/Howard Branch.

R-77-40.—Amtrak on March 27 responded to this recommendation, which resulted from investigation of the December 15, 1976, collision of an Amtrak passenger train, having an SDP-40F type locomotive unit, with an oil-laden tractor-cargo tank semitrailer near Marland, Oklahoma. The recommendation asked Amtrak to strengthen and improve its locomotive units' operating compartments so that they effectively resist impact forces and deter entry of flammable liquids into locomotive cabs.

In response, Amtrak notes that beginning with the General Electric Company P30CH units, all Amtrak locomotive specifications have prohibited the use of locomotive nose doors and cab designs which included inside access to headlights, number boards and strobe lights. The use of nonbreakable windshields and side window glazing is required to eliminate any entry holes in the front of the locomotive through which flammable liquids could enter. Amtrak P30CH units, Electro-Motive F40PH and F40PH(R) units meet these requirements.

Amtrak states that the EMD SDP40F is of an older design which included nose doors and inside access to number boards. Although Amtrak has a program to convert 30 to 40 of its remaining SDP40F's to the F40PH(R) configuration, a program will be started to seal the nose doors and weld them shut in the remaining SDP40F's as they go through periodic overhaul.

NOTE.—The above notice summarizes Safety Board documents recently released and recommendation response letters received. Single copies of the Highway Accident Report and the recommendation letters in their entirety are available to the general public without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction.

All requests to the Board for copies must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

JUNE 5, 1978.

[FR Doc. 78-15933 Filed 6-7-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 16, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Questionnaires on Welded Stainless Steel Pipe and Tubing, single-time, 1 Producer's questionnaire, C. Louis Kincannon, 395-3211.

ENVIRONMENTAL PROTECTION AGENCY

Chlorofluorocarbons Annual Report, annually, 70 chemical firms, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, Survey of Registration and Voting Questionnaire, RAV 1-3 and RAV-5, single-time, households in 955 selected jurisdictions, Office of Federal Statistical Policy and Standards, 673-7961.

DEPARTMENT OF ENERGY

Reductions in Natural Gas Requirements Due to Fuel Switching, EIA-52, single-time, 1,515 natural gas distributors, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Expanded MEDIHC Quarterly Statistical Report, Quarterly, State MEDIHC programs, Office of Federal Statistical Policy and Standards, 673-7961.

National Center for Education Statistics, Survey of Characteristics of Noncollegiate Postsecondary Students, NCES-2389, single-time, 6,600 Students enrolled in postsecondary Vocational Education Schools, Office of Federal Statistical Policy and Standards, 673-7961.

VETERANS ADMINISTRATION, CONSULTATION-EDUCATION QUESTIONNAIRE, 10-63(689), SINGLE-TIME, 300 WHVAH ALCOHOLISM PROGRAMS, CAYWOOD, D., 395-3443.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Nutrition Education and Training Program (Regs), FNS-42, quarterly, State Agencies and FNS Regional Offices, 280 responses, 1,008 hours, Human Resources Division, 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administraton:

Application to be Selected as Payee, SSA-11-F6, on occasion, persons wanting to be substituted as rep payee for a minor or incompetent beneficiary, 500,000 responses, 83,333 hours, Human Resources Division, Marsha Traynham, 395-3532.

Application for Child's Insurance Benefits, SSA-4-F6, on occasion, completed by or on behalf of a child under age 18 or age 18 and over who is disabled, 575,000 responses, 95,833 hours, Human Resources Division, Marsha Traynham, 395-3532.

Application for Wife's or Husband's Insurance Benefits, SSA-2-F6, on occasion, completed by or on behalf of applicants for wife's or husband's benefits under title II benefits, 400,000 responses, 66,667 hours, Human Resources Division, Marsha Traynham, 395-3532.

Certificate of Applicant for Benefits on Behalf of Another, SSA-780, on occasion, relative or other person having an interest in a beneficiary's welfare, 450,000 responses, 60,000 hours, Marsha Traynham, 395-3773.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Statement of Physical Ability for Light Duty Work, SF 177, on occasion, 140,000 responses, 23,333 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service:

Application for Authorization of Distributor's Product—Chemicals used in Meat and Poultry Processing Plants, MP 28, on occasion, 3,253 responses, 813 hours, Clearance Office, 395-3772.

Application for Authorization of New Product—Chemicals Used in Meat and Poultry Processing Plants, MP 26, on occasion, 3,353 responses, 838 hours, Clearance Office, 395-3772.

Application for Authorization of Amended Product—Chemicals used in Meat and Poultry Processing Plants, MP 27, on occasion, 1,288 responses, 215 hours, Clearance Office, 395-3772.

DEPARTMENT OF COMMERCE

Maritime Administration, Maintenance and Repair Cumulative Summary Transactions Under Accounting Instruction, No. 5, MA-140, MA-770, on occasion, 800 responses, 1,600 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Voluntary Statement to Explain Irregularity, SSA-1760, on occasion, 5,000 responses, 1,600 hours, Marsha Traynham, 395-3773.

Certificate of Responsibility for Welfare and Care of Child Not In Applicants Custody, SSA-781, Annually, Application For Benefits on Behalf of a Child Not In Their Custody, 14,000 responses, 2,333 hours, Marsha Traynham, 395-3773.

Railroad Employment Questionnaire, SSA-671, on occasion, 175,000 responses, 14,583 hours, Marsha Traynham, 395-3773.

Statement of Claimant or Other Person, SSA795, on occasion, 537,600 responses, 139,600 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Previous Participation Certificate, FHA 2530, on occasion, 7,600 responses, 7,600 hours, Caywood, D. P., 395-3443.

Community Planning and Development:

Project Cost Estimate and Financing Plan, HUD 6200, on occasion, local public agency, 1,100 responses, 17,600 hours, Caywood, D. P., 395-3443.

Annual Report on Relocation and Real Property Acquisition Activities, HUD 7083, annually Local Government and Public Agencies with HUD Programs, 4,000 responses, 12,000 hours, Caywood, D. P. 395-3443.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Drivers Daily Log, MCS-139.139A, on occasion, Strasser, A., 395-6132.

VETERANS ADMINISTRATION

Employment Assistance Questionnaire (Vietnam Era Service-Connected Disabled Veterans), 20-8672K, on occasion, Caywood, D., 395-3443.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Monthly Farm-Raised Processed Catfish Report, NOAA 88-45, Monthly, clearance office, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing, Title I Property Improvement Financial, FHA-142, on occasion, Human Resources Division, Caywood, D., 395-3532.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-15914 Filed 6-7-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

REALLOCATION OF SPECIALTY STEEL QUOTAS

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Shortfall Reallocation for Specialty Steel Quotas.

SUMMARY: The Special Representative for Trade Negotiations hereby reallocates shortfalls of certain specialty steel quota categories as set forth below. This action modifies certain quota quantities for the second restraint period, June 14, 1977–June 13, 1978. Quota quantities are reduced for certain suppliers who are not likely to export the quantity of steel which would fill the quotas assigned to them. The quota quantities for other suppliers who are able to supply additional steel are increased.

EFFECTIVE DATES: The reallocations which result in a reduction of a quota quantity shall be effective June 8, 1978. Reallocations which increase a quota quantity shall be effective on the second day following the date of publication of this notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Karen Alleman, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506, 202-395-7203.

SUPPLEMENTARY INFORMATION: Pursuant to subparagraph (c) of headnote 2 subpart 2 of the Appendix to the Tariff Schedules of the United States (TSUS), the Special Representative is authorized to modify the quota quantities to reallocate shortfalls as defined by subparagraph (c). The Special Representative has determined that shortfalls are likely to occur in items 923.22 and 923.26, TSUS, in the second restraint period (June 14, 1977–June 13, 1978) as follows:

Item	Article	Supplier	Shortfall (in short tons)
923.22	Bar	Canada	245
		Column 2 countries *.	2
923.26	Alloy tool steel.	Column 2 countries *.	6

* Column 2 countries are listed in General Headnote 3(e), TSUS.

Accordingly, subpart A, part 2, of the Appendix to the TSUS is amended to substitute new quota quantities for the second restraint period (June 14, 1977–June 13, 1978) for articles provided for in items 923.22 and 923.26, TSUS, as set forth below:

A. For item 923.22 (bar):

1. By changing the quota quantity for the European Economic Community from "2,600" to "2,675";

2. By changing the quota quantity for Canada from "1,600" to "1,355";

3. By changing the quota quantity for other countries entitled to the rate of duty in rates of duty column numbered 1 from "5,200" to "5,370";

4. By changing the quota quantity for other countries from "2" to "none".

B. For item 923.26 (alloy tool steel):

1. By changing the quota quantity for other countries entitled to the rate of duty in rates of duty column numbered 1 from "1,378" to "1,384";

2. By changing the quota quantity for other countries from "6" to "none".

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-16146 Filed 6-7-78; 11:43 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. R78-1; Order No. 202]

POSTAL RATE AND FEE INCREASES, 1978

Order Granting Petitions For Intervention, Allowing Participation, Designating Presiding Officer and Officer of the Commission, Fixing Date for a Prehearing Conference, and Establishing Procedures

JUNE 1, 1978.

The United States Postal Service filed with the Postal Rate Commission a request for a recommended decision on a surcharge for nonstandard mail on April 25, 1978. The Commission issued a notice to that effect on April 27, 1978. The notice was published in the FEDERAL REGISTER on May 4, 1978 (43 FR 19308-09). The notice announced the docketing of the Postal Service's request as R78-1 and directed persons who wished to participate in docket No. R78-1 to file, on or before May 24, 1978, petitions for leave to intervene or requests to be heard as a limited participator. The notice also invited persons who wished to express their views, but did not wish to become a party or limited participator, to file comments (39 CFR §§ 3001.19-.20).

I. INTERVENTION

Four persons have petitioned to intervene in Docket No. R78-1, and three persons have requested to be heard as limited participators. These persons are listed in attachment A. In order to advise these persons of their status at the earliest possible date and to establish an initial service list for this docket, we have decided to rule on the petitions at this time, subject to reconsideration on the basis of any answers which may be filed.

The persons listed in attachment A either are users of the mails or have otherwise demonstrated an interest in Docket No. R78-1. Accordingly, the requests for participation will be granted, subject to reconsideration as noted above.

Pursuant to § 55 of the rules of practice (39 CFR 3001.55) the service will be required to serve copies of its request and its prepared direct evidence upon the persons identified in attachment A and upon the Officer of the Commission.[1] Where service upon more than one representative has been requested in the petition to intervene or request to be heard as a limited participator, the service will be required to serve only the first two named representatives in the petition. See §§ 12 (c) and (d) of the rules of practice (39 CFR §§ 3001.12(c)-(d)).

II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice (39 CFR 3001.30(b)), the Commission will conduct all prehearing conferences and hearings en banc. Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings (39 CFR 3001.5(e), 3001.23). An initial prehearing conference will be held on June 15, 1978, and, thereafter, on such further dates as may be designated by the presiding officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public (see 39 U.S.C. 3624(a)) in this proceeding will be Stephen L. Sharfman. During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in nor advise as to any Commission decision in the case. See 39 CFR 3001.8. The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC

[1] We call the attention of the participants to the service's request for a waiver of compliance with certain rules of practice. Each participant who so desires shall file an answer within 10 days of the date of this order.

shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by § 10(c) of the rules of practice (39 CFR 3001.10(c)).

IV. Procedures for Expedition

The Postal Reorganization Act provides that the Commission is to render its recommended decision within 10 months after receiving a request for change in rates of postage (39 U.S.C. 3624(c)(1)). In order to expedite the proceedings and still be consistent with procedural fairness, we are issuing a proposed schedule of procedural stages.

All participants should give careful consideration to expediting this proceeding and should review the proposed schedule. See attachment B. As indicated, we tentatively plan to close the record in these proceedings by November 10, 1978. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore by prepared to adhere to a briefing schedule consonant with this policy. See attachment B.

V. Prehearing Conference Statements

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before June 13, 1978, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)
2. A statement of the participant's tentative position on each of the proposed issues.
3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.
4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.
5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.[2]

The Commission orders: (A) Each of the petitions identified in attachment A to this order is hereby permitted to intervene or to become a limited participator in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators permitted by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators, and *Provided, further,* That the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) The Postal Service shall serve copies of its request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(D) The Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(E) A prehearing conference in this proceeding will be held on June 15, 1978, commencing at 9:30 a.m., in the Postal Rate Commission hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268. The conference will be held for the purposes specified in § 24 of the Commission's rules of practice (39 CFR 3001.24) and in this order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in docket No. R78-1. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(F) Stephen L. Sharfman is hereby designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(G) The participants have 10 days from the date of this order in which to file answers to the service's request for a waiver of compliance with certain rules of practice.

By the Commission.

David F. Harris,
Secretary.

Attachment A.—*Persons filing petitions to intervene*

Association of American Publishers
Envelope Manufacturers Association
National Association of Greeting Card Publishers
J. C. Penney Company, Inc.

PERSONS FILING REQUESTS TO BECOME LIMITED PARTICIPATORS

American Retail Federation
National Industrial Traffic League
Photo Marketing Association International

Attachment B.—*Tentative hearing schedule for proceedings—docket R78-1*

Date	*Procedural stage*
June 15, 1978	Prehearing conference.
July 19, 1978	Completion of all discovery directed to the Postal Service.
Aug. 14, 1978	Filing of the case-in-chief of each participant (including that of OOC).
Sept. 6, 1978	Beginning of hearings, i.e., cross-examination of the Postal Service's case-in-chief.
Sept. 13, 1978	Completion of evidentiary hearings as to the Service's case-in-chief.
Sept. 15, 1978	Completion of all discovery directed to the intervenors.
Sept. 25, 1978	Beginning of evidentiary hearings as to the case-in-chief of each participant.
Oct. 6, 1978	Completion of the evidentiary hearings as to the case-in-chief of each participant.
Oct. 18, 1978	Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)
Oct. 30, 1978	Beginning of evidentiary hearings on rebuttal evidence.
Nov. 10, 1978	Close of evidentiary record.
Dec. 1, 1978	Initial briefs filed.
Dec. 11, 1978	Reply briefs filed.
Dec. 19, 1978	Oral argument (if requested).

[FR Doc 78-15841 Filed 6-7-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20557; 70-5390]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Proposed Guarantee of First Mortgage Bonds and Notes of Nonaffiliated Coal Supplier and Extension of Short-Term Borrowing Authorization

May 26, 1978.

Notice is hereby given that Ohio Edison Co. ("Ohio Edison"), an electric utility company and a registered holding company, and its electric utility subsidiary company Pennsylvania Power Co. ("Penn Power") have filed with this Commission a post-effective amendment to their application-declaration previously filed in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, and 12(b) of the Act as applicable to the proposed

[2] We note that OOC has already begun informal discovery. See Letter from Stephen L. Sharfman to Harold J. Hughes, May 15, 1978.

transactions. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By orders of October 30, 1973 (HCAR No. 18144), and July 26, 1974 (HCAR No. 18511), applicants-declarants were authorized to severally, and not jointly, guarantee a portion of certain debt obligations of Quarto Mining Co. ("Quarto") in connection with Quarto's development of certain coal mines which are being developed to supply coal for the operation of various generating units (Sammis Unit No. 7 and Bruce Mansfield Units Nos. 1 and 2) in which Ohio Edison and Penn Power have undivided interests as tenants in common with one or more other electric utilities which comprise the Central Area Power Coordination Group ("CAPCO"). CAPCO is comprised of applicants-declarants together with the Cleveland Electric Illuminating Co., Duquesne Light Co., and the Toledo Edison Co. The percentage of the Quarto debt, including both first mortgage bonds ("bonds") and notes and concomitant loan certificates ("notes"), guaranteed by Ohio Edison is 49.65 percent and that guaranteed by Penn Power is 8.27 percent.

At present the following bonds and notes, guaranteed by applicants-declarants, have been issued by Quarto:

	Principal amount	Interest rate (percent)	Maturity
Series A bonds	$20,500,000	8.25	Jan. 1, 2000
Series B bonds	20,000,000	9.70	Do.
Series A notes	32,250,000	8.50	Do.
Series B notes	10,000,000	9.75	Do.

By post-effective amendment filed in this proceeding it is proposed that an additional series of first mortgage bonds ("series C bonds") and an additional series of notes and concomitant loan certificates ("series C notes") be issued and that the CAPCO companies guarantee such new debt, Ohio Edison's and Penn Power's portion of such guarantees being the percentages stated above. The series C bonds will be issued in an aggregate principal amount of up to $120,000,000 and will mature on January 1, 2000. It is presently intended to issue $75,000,000 principal amount on June 30, 1978, $25,000,000 in December 1978 and the final $20,000,000 at a time to be determined later. The series C bonds will be subject to annual sinking fund payments equal to 5 percent of the original principal amount thereof commencing on January 1, 1981. The interest rate to be borne by the series C bonds will be supplied by further amendment. The series C notes will be issued in an aggregate principal amount of $51,750,000 and will mature on January 1, 2000. It is presently intended to issue $30,000,000 principal amount on June 28, 1978, and $21,750,000 in December 1978. Until July 1, 1979, only interest will be paid on the series C notes; on that date level debt service payments will commence which are designed to pay the interest and principal of the series C notes over their term. The interest rate to be borne by the series C notes will be supplied by further amendment. It is anticipated that the proceeds from the sales of the series C bonds and the series C notes will be applied by Quarto to reduce short-term indebtedness incurred to pay the cost of developing and equipping the mines and/or to pay such costs directly. Such short-term indebtedness is guaranteed by the CAPCO companies.

It is stated that the estimated total cost of developing and equipping the mines has increased from the $140,000,000 originally estimated to $360,000,000. This increase take into account revisions of the overall mining plan, which now contemplates final total annual production of 4,700,000 tons, which figure is smaller than the 6,400,000 tons originally forecast for the project. Based upon the present $360,000,000 cost estimate, and assuming the issuance of $120,000,000 of series C bonds, it is anticipated that an additional series of bonds aggregating $41,500,000 will be issued and sold at a later date in order to complete the financing of the cost of developing and equipping the mines.

By order dated July 7, 1977 (HCAR No. 20102), Ohio Edison and Penn Power were authorized to make short-term borrowings and/or guarantees of short-term borrowings of Quarto and/or the owner-trustee under the lease arrangement with Quarto of up to $123,000,000 and $31,000,000 respectively, through June 30, 1978. Applicants-declarants now seek authority to make such short-term borrowings and/or guarantees, without regard to the mix of such short-term borrowings and guarantees, of up to $218,500,000 and $40,700,000, respectively, from July 1, 1978, thorugh June 30, 1979. Ohio Edison and Penn Power state that the requested amounts, as to each company, represent approximately 10 percent of the aggregate of: (1) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by that company presently oustanding, and (2) the present aggregated of the part value of, or stated capital represented by, the outstanding shares of all classes of stock and of the surplus of such company, paid-in, earned, and other, if any. The amount of permissible unsecured indebtedness under the companies' charters is in each case similarly restricted to an amount equal to 10 percent of the aggregate of: (1) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by that company presently outstanding and (2) the present aggregate of the par value of, or stated capital repesentend by, the oustanding shares of all classes of stock and of the surplus of such company, paid-in, earned, and other, if any. As used herein, the term "short-term borrowings" refers to borrowings that mature or are renewed for not more than 9 months, exclusive of days of grace, after the date of their issue or renewal.

Ohio Edison and Penn Power have estimated that the expected amounts of short-term borrowings and guarantees for the period through June 1979 should aggregate not more than $137,000,000 and $20,000,000, respectively. Ohio Edison and Penn Power both consent to a reservation jurisdiction, pending a showing of need by them, with respect to that portion of their borrowing authorizations beyond the presently expected peak amounts specified.

The short-term borrowings to be made by Quarto and/or the owner-trustee under the lease transaction, the repayment of which are to be guaranteed by the CAPCO companies, will be primarily under lines of credit with seven banks. The details with respect to these lines of credit to be in effect at July 1, 1978, are as follows:

Bank	Terms	Amount	Estimated effective rates (in percent) with prime at 8 pct: ½ utilization	Full utilization
Cleveland Trust Co	108 pct of prime and ½ pct commitment fee on unused line	$4,000,000	9.14	8.64
The Chase Manhattan Bank, N.A	Prime plus fee of 4 pct of prime on line and 2 pct of prime on unused	55,000,000	8.80	8.32
Central National Bank of Cleveland	110 pct of prime and ½ pct commitment fee on unused line	3,000,000	9.30	8.80
Mellon Bank, N.A	104 pct of prime and ½ pct commitment fee on unused line for borrowings maturing prior to Jan. 1, 1979 and, at option of bank rate can increase to no more than 107 pct of prime and ½ pct commitment fee on unused line for borrowings maturing after Dec. 31, 1978.	55,000,000	*8.82	*8.32
Society National Bank of Cleveland	Prime plus ¼ pct	5,000,000	8.25	8.25
Union Commerce Bank	Prime plus ⅜ pct	10,000,000	8.375	8.375
Pittsburg National Bank	109 pct of prime and ½ pct commitment fee on unused line	3,000,000	9.22	8.72
Total		135,000,000		
Weighted average effective cost			8.79	8.35

*Effective for borrowings maturing prior to Jan. 1, 1979. The comparable percentages for borrowings maturing after Dec. 31, 1978 are 9.06 pct at ½ utilization and 8.56 pct at full utilization.

Short-term borrowings may also be made from the note and bond escrow funds (unspent proceeds of the permanent financing previously consumated in connection with Quarto's development of the mines) prior to the time the monies therein contained are expended. In this way, amounts in the bond escrow find can be utilized by the owner-trustee prior to the time those funds are required by Quarto and Quarto can utilize amounts in the note escrow fund prior to the time those funds are required by the the owner-trustee. The interest rate for borrowing from the note escrow fund will bear interest at the interest rate applicable to the notes and the interest rate for borrowing from the bond escrow fund will bear interest at the interest rate applicable to the bonds. The repayment of such borrowing will be guaranteed by the CAPCO companies in the same way that the repayment of borrowings under the lines of credit referred to above will be guaranteed.

Ohio Edison's existing lines of credit are currently and will be on July 1, 1978, as follows:

Bank	Amount of line	Interest rate	Average compensating balances	Effective rate (in percent) (based on prime rate of 8 pct)*
Group of 55 banks with First National Bank of Akron, as agent.	$50,000,000	Prime	None	[1]8.39
The Chase Manhattan Bank, N.A	20,000,000	do	Greater of 10 pct of line or 20 pct of borrowings.	8.89
Citibank, N.A	20,000,000	do	do	8.89
Irving Trust Co	12,000,000	do	10 pct of line plus 10 pct of borrowings.	10.00
Morgan Guaranty Trust Co	12,000,000	do	Greater of 10 pct of line or 20 pct of borrowings..	8.89
National City Bank, Cleveland, Ohio	10,000,000	110 pct of prime	10 pct of line	9.78
Central National Bank of Cleveland	2,000,000	Prime	do	8.89
Society National	2,000,000	110 pct of prime	do	9.78
Total	143,000,000			
Weighted average effective cost				8.98

* Assumes ½ utilization of credit line.
[1] Treating normal working balance as compensating balances.

In addition, Ohio Edison has arrangements with the trust departments of various banks relating to so-called master notes, which are notes issued and sold by Ohio Edison, in denominations of not less then $1,000 and sold to trust departments and repayments made by Ohio Edison with respect thereto are entered on a single note as they occur, without the need for issuance of a new note or cancellation of an existing note each time a loan or repayment is made. Ohio Edison has the right to repay at any time, without penalty, all or any part of the principal amount of each note then outstanding. The issuance and sale of these "master notes" was authorized by order dated December 16, 1975 (HCAR No. 19298).

Trust department	Amount	Interest rate*
Cleveland Trust Co	$10,000,000	Highest rate of General Motors Acceptance Corp. commercial paper with maturity from 30 to, and including, 180 days plus ⅛ pct.
First National Bank of Akron	10,000,000	Ford Motor Credit Co. 180 days commerical paper rate.
Akron National Bank Trust Co	2,000,000	General Motors Acceptance Corp. 180-day commercial paper, plus ⅛ pct.

*The rates noted would be converted to the annual simple interest equivalent since they are quoted on a discount basis. The interest payable by Ohio Edison on outstanding loans would change from time to time based on changes in the commercial paper rates specified.

Penn Power's lines of credit at July 1, 1978, will be as follows:

Bank	Amount of line	Interest rate	Compensating balances	Effective rate (in percent) (based on prime rate of 8 pct)*
Group of 9 banks	$11,000,000	Prime	None	[1]8.42
Citibank, N.A	4,500,000	do	10 pct of line	8.89
Do	4,500,000	do	None	8.72
Total	20,000,000			
Weighted average effective rate				8.59

* Taking into account a fee in lieu of compensating balances equal to 9 pct of the prime rate times the line of credit.
[1] Treating normal working balance as compensating balances.

Ohio Edison and Penn Power propose to use any proceeds received in connection with short-term borrowings for the acquisition of property and the construction, completion, extension renewal, or improvement of their respective treasuries for expenditures made for such purposes.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over certain of the proposed transactions with respect to Ohio Edison and that the Pennsylvania Public Utilities Commission has jurisdiction over the proposed transactions with respect to Penn Power. No other State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 22, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment, or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15435 Filed 6-7-78; 8:45 am]

[8010-01]

[Release No. 20559; 70-6167]

NORTHEAST UTILITIES, WESTERN MASSACHUSETTS ELECTRIC CO., et al.

Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper to Dealer

MAY 26, 1978.

Notice is hereby given that Northeast Utilities ("UN"), a registered holding company, and The Connecticut Light and Power Company ("CL&P"), the Hartford Electric Light Co. ("HELCO"), Western Massachusetts Electric Co. ("WMECO"), and Holyoke Water Power Co. ("HWP"), public-utility subsidiary companies of NU, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, and 12(b) of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Declarants propose to issue, from time to time through June 30, 1979, short-term notes to a number of banks and commercial paper to a dealer in commercial paper. The aggregate amount of all such short-term indebtedness at any time outstanding, whether issued to banks or to a dealer in commercial paper, will not exceed $25,000,000 in the case of NU, and in the cases of CL&P, Helco, Wmeco, and HWP aggregate amounts of $160,000,000, $40,000,000, $45,000,000, and $6,000,000,respectively. CL&P, Helco, and Wmeco each have authorization from the holders of their respective preferred stocks to issue securities representing unsecured indebtedness up to a maximum of 20 percent

of their respective capitalizations not later than March 31, 1979, in the case of CL&P and Helco and February 10, 1979, in the case of Wmeco, CL&P, Helco, and Wmeco presently intend to seek an extension of the 20 percent limitation.

Declarants' outstanding short-term notes to banks and to a dealer in commercial paper as of March 31, 1978, the amount of such short-term borrowings anticipated to be outstanding as of June 30, 1978, and the maximum aggregate amount of such short-term notes to be outstanding at any one time at or prior to June 30, 1979, are as follows:

[In thousands]

	Commercial paper Mar. 31, 1978	Bank notes Mar. 31, 1978	Total Mar. 31, 1978	Anticipated June 30, 1978	Proposed[1] July 1, 1978 to June 30, 1979
NU	$5,800	$4,600	$10,400	$9,500	$25,000
CL&P	21,900	0	21,900	53,000	160,000
HELCO	27,800	0	27,800	[2]0	40,000
WMECO	0	12,000	12,000	15,400	45,000
HWP	0	0	0	0	6,000

[1]Maximum outstanding at any one time.
[2]Reflects the effect of the sale by HELCO of $40 million of 1st mortgage bonds in April 1978.

The notes issued to banks by the declarants will each be dated the date of issue, will have maximum maturity dates of nine months with right of renewal, will bear interest at the prime rate or at the prime rate plus a fraction thereof, will be issued no later than June 30, 1979, and will be subject of prepayment at any time at the declarant's option without premium. The companies have credit lines with a number of banks subject in some cases to commitment fees and/or compensating balance requirements. The effective rate of interest on the bank note ranges from 9.33 percent to 10.31 percent per annum, assuming a prime rate of 8¼ percent.

Commercial paper will be issued by each declarant in the form of short-term promissory notes in denominations of not less than $50,000 and not more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue, and will not be repayable prior to maturity. The commercial paper will be sold directly to a dealer in commercial paper, at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity. No commercial paper shall be issued having a maturity of more than 90 days at an effective interest cost to the company in excess of the effective bank interest rate at which the company could obtain loans from banks in an amount at least equal to the principal amount of such commercial paper. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to institutional investors at a discount of not more than ⅛ of 1 percent per annum less than the prevailing discount rate to the declarant.

The commercial paper will be reoffered to not more than 200 identified and designated customers in a list (nonpublic) prepared for each company in advance by the purchasing dealer. No additions will be made to this customer list. It is anticipated that the commercial paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the purchasing dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others in the group of 200 customers.

The new funds to be derived by NU from the issuance and sale of the bank notes and commercial paper are proposed to be used: (1) To make a capital contribution during the period from July 1, 1978, to June 30, 1979, to Northeast Nuclear Energy Co. ("NNEC"), an electric utility subsidiary of NU, in an amount not to exceed $6,000,000; (2) to make open account advances during the period from July 1, 1978, to June 30, 1979, to HWP and to The Quinnehtuk Co., wholly-owned subsidiaries of NU, in amounts not to exceed in the aggregate $5,000,000 and $2,500,000, respectively; and (3) to supply funds as needed to other subsidiary companies as heretofore or hereafter authorized by the Commission. All capital contributions to subsidiaries will be credited to their capital surplus accounts. NNEC will apply such contribution, together with other funds available to it, for nuclear fuel financing during 1978 and 1979. Total expenditures for nuclear fuel in 1978 and 1979 are estimated to be $89,600,000. The funds to be derived by CL&P, Helco, Wmeco, and HWP from the issuance and sale of the bank notes and the commercial paper will be applied, together with other funds available to these companies, to finance their respective construction expenditures in 1978 and 1979, which are estimated to be $255,000,000, $107,800,000, $63,000,000, and $922,000, respectively. It is anticipated that HWP will commence the installation of a second hydro unit at its facility on the Connecticut River in 1979; however, the construction costs have not as yet been finalized.

Declarants request exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of the commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper for prime borrowers such as declarants are published daily in financial publications. Declarants also request authority to file certificates of notification under Rule 24 with respect to the issuance and sale of commercial paper within 30 days after the end of each calendar quarter.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. There are no fees or expenses, other than the filing fee paid to this Commission, to be incurred in connection with the proposed transactions except charges for incidental services estimated at $500 in the case of each declarant to be performed at cost by Northeast Utilities Service Co., the system service company.

Notice is further given that any interested person may, not later than June 22, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15433 Filed 6-7-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06/0203]

GREAT AMERICAN CAPITAL INVESTORS, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of Great American Capital Investors, Inc., 1006 Holliday Street, Wichita Falls, Tex. 76301, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the rules and regulations promulgated thereunder.

The proposed officers, directors, and shareholder are as follows:

William H. Clement, 714 Maple, Burkburnett, Tex. 76354, Chairman of the Board of Directors.

Albert S. Dillard, 718 Sunset, Burkburnett, Tex. 76354, President, General Manager, Director.

Howard R. Clement, 8 Hiawatha, Burkburnett, Tex. 76354, Secretary, Director.

First Savings & Loan Association of Burkburnett, Texas, 100 percent ownership.

There is to be only one class of stock with 1 million shares of common stock authorized. First Savings & Loan Association of Burkburnett, Texas, will own initially all of the issued and outstanding stock. Mr. William H. Clement is the sole shareholder of First Savings & Loan Association of Burkburnett, Texas.

The applicant licensee proposes to begin operations with private paid-in capital of $510,000, less organization expenses of approximately $10,000, leaving a net paid-in capital (i.e., regulatory capital) of $500,000. Applicant proposes to conduct its operations principally in north Texas, and such other areas within the United States as may be approved by SBA from time to time.

Matters involved in SBA's consideration of the application include the general business reputation and character of the shareholder and management, and the probability of successful operation of the new company in accordance with the Act and regulations.

Notice is further given that any person may, not later than June 23, 1978, submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published by the applicant in a newspaper of general circulation in Wichita Falls, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies.)

Dated: June 1, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-15843 Filed 6-7-78; 8:45 am]

[8025-01]

[Proposed License No. 09/09-0210]

JERMYN VENTURE CAPITAL CORP.

Application for a license To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102(1978) by Jermyn Venture Capital Corp., 190 North Canon Drive, Suite 400, Beverly Hills, Calif. 90210, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seg).

The proposed officers, directors, and principal stockholders of voting common stock and nonvoting cumulative preferred stock are:

Arthur M. Sarkissian, Suite 400, 190 North Canon Drive, Beverly Hills, Calif. 90210, Chairman of Board, Secretary, 15 percent voting common.

Simon M. Olswang, 12 Highgate Avenue, London, N. 6, England, Director.

J. Barry Kulick, Suite 400, 190 North Canon Drive, Beverly Hills, Calif. 90210, President, Treasurer and Director.

Varoujan Y. Manoukian, 45 Cheyne Walk, London, SW1, England, 85 percent voting common; 100 percent nonvoting, peferred.

The applicant is a California corporation with plans to locate the principal office at Suite 400, 190 North Canon Drive, Beverly Hills, Calif. 90210. However, no regional or State limitations on operations are contemplated.

The applicant will begin operations with an initial capitalization of $11,500,000. They have been selected to participate in SBA's movie pilot program subject to meeting all licensing requirements. The applicant was organized to specialize in the financing of production and distribution of motion pictures (classified respectively under the Standard Industrial Classification Manual prepared by the Office of Management and Budget as Industry Nos. 7813, 7814, 7823, and 7824). For statement of general policy concerning motion picture specialist-licensees see 42 FR 60729, November 29, 1977, and 43 FR 21439, May 18, 1978.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include: (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may, not later than June 23, 1978, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 31, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-15843 Filed 6-7-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.95]

PRINCIPAL AID OFFICERS, LATIN AMERICA, ASIA, NEAR EAST

Redelegation of Authority Regarding Operational Program Grants

Pursuant to the authority delegated to me under redelegation of authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services, I hereby redelegate to the principal AID officer at all AID posts in Latin America, Asia, and the Near East, authority to execute operational program grants (OPG's) as defined in Appendix 7A, Chapter 7, of AID Handbook 3, Project Assistance, on the following basis:

(1) Such OPG's shall not exceed $500,000 for the life of the project;

(2) Each OPG shall constitute assistance; and

(3) The post must be advised by AID/W, prior to signing the OPG, that Congress has been notified and funds have been allotted.

This authority shall be exercised in accordance with the procedures of

Chapter 4 of AID Handbook 13, Grants, and with other regulations, procedures, and policies promulgated within AID in effect at the time this authority is exercised.

The authority herein delegated may be exercised by duly authorized persons performing the functions of the principal AID officer in an acting capacity. The authority may not be further redelegated.

Actions within the scope of this redelegation taken by the officials designated herein on or after September 27, 1977, are hereby ratified and confirmed.

The following redelegations of authority are hereby revoked.

(1) Redelegation of Authority No. 99.1.82 (42 FR 22967) dated April 27, 1977.

(2) Redelegation of Authority No. 99.1.88 (42 FR 39286) dated July 22, 1977.

This redelegation of authority is effective immediately.

Dated: May 26, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 78-15851 Filed 6-7-78; 8:45 am]

[4710-01]

[Pub. Not. CM-8/66]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Monday, June 26 and in both open and closed sessions on Tuesday, June 27, 1978. The open session of the meeting will convene Tuesday at 2 p.m. in the Loy Henderson Conference Room (formerly the International Conference Room), U.S. Department of State, 21st and C Streets NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the 1978 New York resumption of the Seventh Session of the Third United Nations Conference on the Law of the Sea. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552(b)(1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2 p.m. June 27, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada by June 12 and provide their name and affiliation to facilitate their attendance. Mr. Oakada's telephone number is 202-632-9514.

Dated: May 31, 1978.

ALAN BERLIND,
Director, Office of the
Law of the Sea Negotiations.

[FR Doc. 78-15834 Filed 6-7-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-78]

PROPOSED RELOCATED AND UPGRADED U.S. HIGHWAY 90, FROM MORGAN CITY TO LOUISIANA 311, IN ST. MARY, ASSUMPTION AND TERREBONNE PARISHES, LA.

Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Eighth Coast Guard District on Wednesday, July 12, 1978, at 1 p.m., in the Morgan City Court Room, 1663 Highway 90 East, Morgan City, La. The purpose of the hearing is to consider the application from the Louisiana Department of Transportation and Development, Office of Highways, for the proposed relocated and upgraded U.S. Highway 90, from Morgan City to Louisiana 311, in St. Mary, Assumption and Terrebonne Parishes, La.

This hearing will provide an opportunity for interested parties to express their views on this application to construct approximately 30 miles of four-lane controlled-access highway on a new alignment north of existing U.S. 90, involving 14 bridges. The purposes of the proposed State-funded project is to provide a safer and more efficient highway than is now provided by the existing 40-year-old highway.

A draft environmental impact statement (DEIS) on the project was filed with the Environmental Protection Agency on May 26, 1978, and will form the basis for this hearing. The Coast Guard, as lead agency, prepared the DEIS in compliance with the provisions of the National Environmental Policy Act of 1969 (Pub. L. 91-190). Copies of the DEIS may be obtained by writing the Bridge Administration Branch, Eighth Coast Guard District.

The public hearing will be informal. Those wishing to make oral statements should notify the Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, by July 5, 1978. Speakers are encouraged to provide written copies of their oral statements to the chairman at the time of the hearing. Those wishing to make written comments only may submit these comments at the time of the hearing, or to the Bridge Administration Branch, Eighth Coast Guard District, through July 31, 1978.

A transcript of the hearing, as well as written comments received outside of the hearing, will be available for public review at the Eighth Coast Guard District, 500 Camp Street, Room 1140, New Orleans, La. 70130.

All comments, oral and written, will be considered before a final determination is made on the subject application by the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Sec. 502, Act of August 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(c); 49 CFR 1.46 (c)(10).)

Dated: June 5, 1978.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Environment and Systems.

[FR Doc. 78-15916 Filed 6-7-78; 8:45 am]

[4910-14]

[CGD (78-71)]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE, SUBCOMMITTEE ON CHEMICAL VESSELS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Chemical Vessels to be held on July 11, 1978, beginning at 9 a.m., in the Marriott Hotel, I-70 and Lambert Airport, St. Louis, Mo. 63134. The agenda for this meeting is as follows:

To continue work on revising the rules for barges carrying hazardous chemicals, 46 CFR part 151.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements. Any member of the public may present a written statement to the Subcommittee at any time. For additional information, contact: Captain C. E. Mathieu, Commandant.(G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306.

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify the above office no later than the day before the meeting.

Issued in Washington, D.C., on June 1, 1978.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-15917 Filed 6-7-78; 8:45 am]

[4910-14]

[CGD 78-76]

PROPOSED BRIDGE ACROSS THE ST. JOHNS RIVER AND MILL COVE AT JACKSONVILLE, (DAME POINT), FLA.

Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, at the city of Jacksonville Civic Auditorium, Little Theatre, 300 West Water Street, Jacksonville, Fla., on Thursday, July 13, 1978, from 2 p.m. to 5 p.m. and 7 p.m. to 11 p.m. The purpose of the hearing is to consider the application from the Jacksonville Transportation Authority for a permit to construct a highway bridge across the St. Johns River and Mill Cove at Jacksonville (Dame Point), Fla. All interested persons may present data, views, and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on the environment and its effect on navigation. A final environmental impact statement prepared by Federal Highway Administration (FHWA) as lead agency has been filed with the Council on Environmental Quality on May 20, 1977, in compliance with the National Environmental Policy Act.

A public hearing was held on November 17 and 18, 1976, in accordance with FHWA guidelines. The public hearing included the entire project corridor. All comments presented at the hearing concerning the effects of the proposed project on the quality of the human environment and those to be presented at the scheduled hearing will be made a part of record and will be given full consideration in the permitting process. Of particular importance at this time are effects of the proposed bridge alignment and the vertical and horizontal clearances on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Seventh Coast Guard District, Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130, by July 10, 1978. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments, in writing, on or before August 11, 1978, to the Commander (oan), Seventh Coast Guard District. Each comment should state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Seventh Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, Seventh Coast Guard District, will forward the record, including all written comments, and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination of the bridge permit.

(Sec. 502, Act of August 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10).)

Dated: June 1, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-15918 Filed 6-7-78; 8:45 am]

[4910-13]

Federal Aviation Administration

ADVISORY COMMITTEE

Establishment and Invitation to Participate: Special Aviation Fire and Explosion Reduction (SAFER)

Announcement. Notice is given of the establishment of the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee. This Advisory Committee, which will remain in existence for a period of two years or less, stems from hearings held by the Federal Aviation Administration (FAA) in November of 1977 on aircraft compartment interior materials and in June of 1977 on transport category airplane post-crash fuel systems fire and explosion reduction. The Director, Flight Standards Service, is the sponsor of the Committee. The membership will include experts from the Government, the aviation industry and those representing the viewpoints of other elements of the aviaton community. The Committee will make recommendations to the FAA Administrator for ways to improve cabin occupant survivability in the post-crash environment.

Public Interest. The Secretary of Transportation has determined that the formation and use of the Committee is necessary in the public interest in connection with the duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will usually be open to the public.

Invitation to Participate. Any person who is interested in participating in the Committee as a member is invited to submit an application in writing, addressed to Director, Flight Standards Service, Attention: AFS-100, Federal Aviation Administration, Department of Transportation, Washington, D.C. 20591. Applications received on or before August 7, 1978, will be considered. Applicants should state their expertise and the organization, if any, which they represent. Non-Federal members of the Committee do not become Government employees. They serve without compensation and at their own expense.

Issued in Washington, D.C. on May 26, 1978.

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

[FR Doc 78-15544 Filed 6-7-78; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) EXECUTIVE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held June 29, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30.

The agenda for this meeting is as follows: (1) Approval of minutes of meeting held May 11, 1978; (2) special committee activities report for May and June; (3) Chairman's report of RTCA administration and activities; (4) consideration of establishing new special committees; and (5) consideration of Special Committee 129 Report on Federal Communications Commission Eighth Notice of Inquiry (8 NDI), Docket 20271.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 31, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-15872 Filed 6-7-78; 8:45 am]

[4910-13]

DISCRETE ADDRESS BEACON SYSTEM (DABS)

Proposed U.S. National Aviation Standard

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed standard and reopening of comment period.

SUMMARY: On March 27, 1978, the Federal Aviation Administration published for public review and comment a proposed U.S. National Aviation Standard for the Discrete Address Beacon System (DABS), (43 FR 12816). This notice provides the text of a portion of the proposed standard which was inadvertently omitted in the previous notice. It also announces that the comment period is reopened to receive comment until July 26, 1978.

DATES: Comments must be received on or before July 26, 1978.

ADDRESS: Director, Systems Research and Development Service, Attention: ARD-50, Federal Aviation Administration, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

P. D. Hodgkins, Surveillance Branch, ARD-240, Communications Division, System Research and Development Service, Federal Aviation Administration, 2100 Second Street SW., Washington, D.C. 20591, telephone 202-426-4085.

SUPPLEMENTARY INFORMATION: On march 27, 1978, the Federal Aviation Administration proposed a U.S. National Aviation Standard for DABS (43 FR 12816). The standard would define the system and the performance characteristics of its components. It is intended to satisfy overall operational needs and assure compatibility with all elements of the National Airspace System (NAS). Whle not regulatory, the standard may provide the basis for later rule making affecting airborne navigational equipment.

A specification for the transponder transmitted power was inadvertently omitted from the proposed standard in the previous notice. The text is therefore published in this notice.

Comments received in response to the previous notice indicate that a longer time for public comment is warranted. Further, this additional period permits the opportunity to comment on the omission in the proposed standard. The public comment period is thus reopened until July 26, 1978.

Accordingly, the comments may be submitted on this and the previous notice of proposed standard until July 26, 1978, and paragraph 2.2.2.5 is added to read as follows:

2.2.2.5 Transponder Transmitted Signal Level. When referred to the transponder RF port(s), the nominal value of the transponder power output shall be 27 dBw with a tolerance range of ±3 dB for all pulses of all required replies.

NOTE.—For this power requirement, a nominal 3 dB transmission line loss and an antenna performance equivalent to that of a simple quarter wave antenna are assumed. In the event these assumed conditions do not aply, the radiated power of the installed transponder system must be the same as that of the assumed system.

Issued in Washington, D.C., on June 5, 1978.

DAVID J. SHEFTEL,
Director, Systems Research and Development Service, ARD-1.

[FR Doc. 78-15974 Filed 6-7-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

RAILROAD COMMISSION OF TEXAS: APPLICATION FOR INCONSISTENCY RULING

Public Notice and Invitation for Comment

The Railroad Commission of Texas has applied for an administrative ruling as to whether that State's Liquefied Petroleum Gas Safety Rule 051.05.03.308, which regulates the interstate transportation of liquefied petroleum gas (LP-gas) within State boundaries, is inconsistent with and thus preempted by the Hazardous Materials Transportation Act or regulations issued thereunder. Public comment is solicited.

DATES: Comments received on or before July 21, 1978, will be considered before an inconsistency ruling is issued by the Office of Hazardous Materials Regulation (OHMR).

ADDRESSES: The Railroad Commission's application and the comments thereon may be reviewed in the Dockets Section, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-2077, both before and after close of the public comment period. Comments on the Railroad Commission's application should be submitted, preferably five copies, to the Dockets Section at the above address. A copy of each comment must also be sent to Mr. Mack Wallace, Chairman, Railroad Commission of Texas, E. O. Thompson Building, Austin, Tex. 78711, and that fact certified at the time the comment is submitted to the Dockets Section.

FOR FURTHER INFORMATION CONTACT:

Patricia L. Shebest, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Room 6222, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-0656.

SUPPLEMENTARY INFORMATION: 1. *Background.* Section 112 of the Hazardous Materials Transportation Act (Title I of Pub. L. 93-633; 49 U.S.C. 1801-1812) (HMTA) expressly preempts "any requirement of, a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or regulations issued under the HMTA. A requirement of a state or political subdivision which is inconsistent with a Federal requirement is

not preempted, however, if upon the application of an appropriate state agency, the Secretary of DOT determines that the state or local requirement provides an equal or greater level of public safety than HMTA requirements and does not unreasonably burden commerce.

Regulations codified at 49 CFR §§ 107.201-107.225 provide separate procedures for inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a Federal requirement (in the HMTA or regulations thereunder) and a requirement of a state or political subdivision. If the requirement of the state or political subdivision is determined to be inconsistent with the Federal requirement, the state or political subdivision may seek a nonpreemption determination, that is, a determination that despite the inconsistency, its regulation is not preempted because it falls within the scope of Section 112 of the HMTA.

2. *Railroad Commission's Application for Inconsistency Ruling.* On March 24, 1978, the Railroad Commission of Texas filed with OHMR a request for a determination as to whether that State's Liquefied Petroleum Gas Safety Rule 051.05.03.308 (Safety Rule), which regulates the interstate transportation of LP-gas within State boundaries, is inconsistent with and thus preempted by the HMTA or regulations issued thereunder.

The Safety Rule permits the use of motor vehicles for the interstate transportation of LP-gas within Texas only if the operator has been licensed by the Railroad Commission or holds an Emergency Transport Card issued by that Commission.

In order to qualify for a license, the operator of a motor vehicle must remit several statutorily-mandated fees and must demonstrate to the Railroad Commission by means of an examination that he can and will meet the safety requirements of the State.

If an applicant for a license holds an Emergency Transport Card issued by the Railroad Commission, he may engage in interstate LP-gas transport operations within the State while his application for a license is being processed. An applicant is eligible for an Emergency Transport Card if he holds a valid Interstate Commerce Commission Certificate of Emergency Temporary Authority (ETA), which authorizes him to conduct such operations within the State.

In order to obtain an Emergency Transport Card, which is valid for a 30-day period, the ETA certificate holder must file the following with the Railroad Commission:

(1) A properly completed LP-gas truck registration form;

(2) An application for examination for a license as an LP-gas transporter;

(3) A copy of a legally sufficient ETA certificate which permits transportation operations in the State of Texas;

(4) Evidence of automobile bodily injury and property damage liability insurance; and

(5) An affidavit stating that the operator will abide by all provisions of the HMTA and the rules issued thereunder.

In its application for an inconsistency ruling, the Railroad Commission of Texas requests that the specified provisions of the State's Safety Rule be examined in relationship to the following provisions of the HMTA and the regulations thereunder:

(1) Section 105(a) of the HMTA, which authorizes the Secretary of DOT to issue regulations for the safe transportation in commerce of hazardous materials;

(2) Section 107(b) of the HMTA, which authorizes the Scretary to require each transporter of hazardous materials to submit a registration statement not more often than every two years; and

(3) 49 CFR 177.802, which makes the provisions of 49 CFR Parts 170-189 applicable to all private, common and contract carriers by motor vehicle transporting hazardous materials.

In its application, the Railroad Commission asserts that the Safety Rule is not inconsistent with the HMTA or the regulations thereunder for the following reasons:

(1) The HMTA and regulations do not specifically prohibit State regulation of LP-gas on highways within the State's boundaries.

(2) The State's Safety Rule does not impose an inordinate burden on interstate commerce.

(3) The State's Safety Rule is in the interest of the general welfare and safety of the public.

3. *Public Comment.* Comments should be restricted to the question of whether Texas' Liquefied Petroleum Gas Safety Rule 051.05.03.308 is inconsistent with the HMTA or regulations issued thereunder. An application for a nonpreemption determination has not been filed and comments pertaining to such a determination will not be considered in this proceeding.

Insofar as the Safety Rule's effect on interstate commerce relates to the issue of nonpreemption rather than inconsistency (49 U.S.C. 1811), comments concerning that aspect of the Safety Rule are inappropriate at this time.

Persons intending to comment on the application should examine the HMTA (49 U.S.C. 1801-1812), the DOT Hazardous Materials Regulations (49 CFR Parts 171-179), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.203-211), as well as Texas' Liquefied Petroleum Gas Safety Rule 051.05.03.308. Each comment is to be accompanied by a certification that a copy of the comment has been sent to the Railroad Commission of Texas.

AUTHORITY: 49 U.S.C. 1811, 49 CFR 1.53(e), 49 CFR Part 107, Subpart C.

Issued in Washington, D.C., on May 26, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Regulation.

APPENDIX

LIQUEFIED PETROLEUM GAS SAFETY RULE 051.05.03.308 PROMULGATED BY THE RAILROAD COMMISSION OF TEXAS PURSUANT TO THE AUTHORITY OF CHAPTER 113 OF THE TEXAS NATURAL RESOURCES CODE

.308 *Interstate LP-Gas Transport Operations in Texas.*

(a) *Licensing Requirement.* No person shall engage in interstate transport operations in the State of Texas unless licensed by the Railroad Commission of Texas to conduct such operations or unless operating in compliance with the provisions of section (b) of this rule.

(b) *Pre-License Interstate Transport Operations in Texas.*

(1) Eligibility. The holder of a legally sufficient ICC Certificate of Emergency Temporary Authority permitting transportation operations in the State of Texas may engage in interstate LP-gas transport operations in the State of Texas pursuant to the authority of Emergency Transport Card(s) issued by the Liquefied Petroleum Gas Division of the Railroad Commission of Texas.

(2) Filing Requirement. The Liquefied Petroleum Gas Division shall issue an Emergency Transport Card to each LPG transport/delivery trailer or vehicle registered with the Liquefied Petroleum Gas Division upon receipt of the following:

A. A properly completed LPG truck registration form;

B. An application for examination for license as an LP-gas transporter;

C. A copy of a legally sufficient certificate of ICC Emergency Temporary Authority permitting transportation operations in the State of Texas;

D. Evidence of automobile bodily injury and property damage liability insurance; and

E. An affidavit, subscribed and sworn to by an authorized representative of the carrier, containing a statement that the carrier will abide by all provisions of the Hazardous Materials Transportation Act and rules adopted pursuant thereto.

(3) Emergency Transport Card.

A. Authorization. The Emergency Transport Card shall authorize the person to whom it has been issued and the bona fide employees of that person who are permitted by law to operate a liquefied petroleum gas motor vehicle, and no other, to operate a motor vehicle in the transportation of liquefied petroleum gas within the State of Texas and further shall authorize the filling of the tank(s) for which it has been issued with liquefied petroleum gas.

B. Duration. An emergency transport card shall be effective for a period of thirty days from the date of issuance, except that in no event shall transport operations thereunder

survive the expiration of the Certificate of Emergency Temporary Authority under which the carrier conducts transport operations in the State of Texas.

C. Prohibitions.

i. Unauthorized Operation of LP-Gas Motor Vehicle. No person shall operate a motor vehicle in the transportation of LP-gas in this State pursuant to the authority of this section unless an Emergency Transport Card authorizing the operation of the motor vehicle hauling the tank or combination of tanks for which it has been issued is carried in the cab of such truck or unless its operation has been specifically approved by a communication from the Railroad Commission of Texas.

ii. Unauthorized Filling of Tank(s). No person shall introduce LP-gas into a tank or tanks pursuant to the authority of this section unless the Emergency Transport Card issued for that tank or combintion of tanks is produced at the time of filling or unless a communication from the Railroad Commission of Texas specifically approves such operation.

[FR Doc. 78-15731 Filed 6-7-78; 8:45 am]

[4910-60]

INCONSISTENCY RULING, IR-1

Extension of Time for Filing an Appeal

By letter dated May 16, 1978, Associated Universities, Inc., has requested that the Research and Special Programs Administration extend the time for filing an appeal from the inconsistency ruling (IR-1) published in the FEDERAL REGISTER on April 20, 1978 (43 FR 16954). The request has been granted.

Persons aggrieved by the ruling may file an appeal through June 16, 1978, to the following address: Acting Administrator, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on June 1, 1978.

JOHN J. FEARNSIDES,
Acting Administrator.

[FR Doc. 78-15863 Filed 6-7-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Field Trip

The National Highway Safety Advisory Committee's State-Federal Relations Subcommittee is planning a field trip to Oklahoma City, Okla., on June 28 and 29, 1978.

Subcommittee members plan to discuss with legislators, State and local officials and FHWA and NHTSA regional personnel current program management and the impact on Oklahoma of the new management concept envisioned in the highway safety legislation now pending before Congress. Some specific items for discussion will be how highway safety problem areas will be identified; how will countermeasures be selected and evaluated; what will be the role of local communities; and what are the State's priority programs.

A report on the trip will be made by the subcommittee chairman at the September (26-28) meeting of the full Advisory Committee. The arrangements for visits to various officials are being made by the Oklahoma Governor's Highway Safety Representative.

The visit is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on June 1, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-15812 Filed 6-7-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice of No. 78-6; Reference: ATF 0 1100.86]

IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 251

DELEGATION ORDER

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 251, to the Assistant Director (Regulatory Enforcement), and permits redelegation to regulatory enforcement personnel, headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the importation of distilled spirits, wines, and beer into the United States from foreign countries. These matters include special (occupational) and commodity taxes, permits, records and reports, and marking, branding, labeling, and stamping of containers and packages. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer, belong at and should be delegated to a lower orgainzational level.

3. *Delegations.* Under the authority vested in the Director, Buerau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer:

a. To prescribe all forms required by regulations including reports, returns, and records, under 27 CFR 251.2.

b. To approve the use of other suitable materials for the manufacture of bottles which are designed or intended for use as containers of distilled spirits sold for beverage purposes, under 27 CFR 251.11.

c. To authorize lables to be affixed to containers of distilled spirits so as to partially obscure strip stamps, and to approve the use of any cup, cap, or seal after receiving a sample of the closure and container, under 27 CFR 251.69.

d. To approve applications to modify ATF F 52A, Wholesale Liquor Dealer's Report of Receipts, ATF F 52B, Wholesale Liquor Dealer's Report of Disposals, and ATF F 338 (5110.48), Wholesale Liquor Dealer's Semiannual Report, for use in tabulating or other mechanical equipment, under 27 CFR 251.135.

e. To approve applications and issue permits on ATF F 1444, Tax-Free Spirits for use of United States, for the procurement and withdrawal of imported distilled spirits for nonbeverage purposes, to receive evidence of authority to sign for the head of a department or independent bureau or agency, to receive surrendered permits, and to cancel permits after issuance, under 27 CFR 251.182 and 27 CFR 251.183.

f. To receive from customs officers a copy of ATF F 2629 (5110.26), Gauge Report, under 27 CFR 251.184.

g. To receive from Government officers the original of modified ATF F 1473 (5110.16), Shipment and Receipt—Specially Denatured, Tax-Free, or Recovered Spirits, under 27 CFR 251.186.

h. To approve, pursuant to letter applications accompanied by photographs and specimen bottles or acceptable models or representations, liquor bottles which are found to meet the requirements of 27 CFR part 5, to be distinctive, not to jeopardize the revenue, to be suitable for the intended purpose, and not to be deceptive to consumers, and to distribute the approved applications and approved photographs of the distinctive bottles, under 27 CFR 251.204.

i. To disapprove for use as a liquor bottle any bottle which is determined to be deceptive, and to advise customs officers that such deceptive bottles are not approved containers for distilled spirits for consumption in the United States, under 27 CFR 251.206.

j. To authorize an importer to receive and store used liquor bottles, under 27 CFR 251.209.

k. To approve the use of an alternate method or procedure in lieu of a method or procedure prescribed by regulations, under 27 CFR 251.221.

l. To withdraw authorization of an alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 251.221.

4. *Redelegation.* a. The authority in paragraph 3a above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b through 31 above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 3c above to affix labels to containers so as to partially obscure strip stamps and the authorities in paragraphs 3f, 3g, and 3j above, may be redelegated to regional regulatory administrators, who may redelegate these authorities to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authority in paragraph 3k above may be redelegated to regional regulatory administrators to approve, without submission to Headquarters, subsequent applications for alternate methods or procedures which are identical to those previously approved by Bureau Headquarters. The authority in paragraph 31 above may be redelegated to regional regulatory administrators and, where an alternate method or procedure is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal. Regional regulatory administrators may redelegate these authorities to regional Regulatory Enforcement personnel not lower than the position of Chief, technical services, or area supervisor.

Effective date: This order becomes effective on May 25, 1978.

Signed: May 25, 1978.

RON D. DAVIS,
Director.

[FR Doc. 78-15892 Filed 6-7-78; 8:45 am]

[4810-22]

Office of the Secretary

COLD ROLLED AND GALVANIZED CARBON STEEL SHEETS FROM THE UNITED KINGDOM, WEST GERMANY, FRANCE, ITALY, THE NETHERLANDS AND BELGIUM

Antidumping; Extension of Investigatory Period

AGENCY: U.S. Treasury Department.

ACTION: Extension of antidumping investigatory period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of cold rolled and galvanized carbon steel sheet from the United Kingdom, West Germany, France, Italy, the Netherlands and Belgium have occurred cannot reasonably be made in six months. This decision will be made in not longer than nine months from the date of the initiation of the investigation.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David P. Mueller, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On October 25, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27) from counsel on behalf of National Steel Corp. indicating that cold rolled and galvanized carbon steel sheets from Italy, Belgium, France, West Germany, the Netherlands and the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921 as amended (19 U.S.C. 160 et seq.) (hereinafter referred to as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of December 2, 1977. That notice stated that:

If, during the course of the investigation being initiated it is found that actual home market, or if appropriate, third country transactions, have been at prices below the Davignon Plan or list prices for these products, a comparison of these lower prices will be made with the cost of production. If below cost sales have occurred in substantial quantities and over an extended period of time at prices not permitting the recovery of all costs within a reasonable period of time, then a cost of production investigation would be deemed appropriate and would be initiated. The Customs Service will, accordingly, be directed to solicit information relevant to these considerations as promptly as possible from all interested persons.

Petitioner thereafter filed supplemental information supporting its claims of sales below cost. On May 31, 1978, petitioner submitted a letter withdrawing the cost of production (but not the pricing) allegations made in its petition and in supplemental information filed on January 16, 1978, without prejudice to a subsequent filing of these claims.

For purposes of this notice, the term "cold rolled and galvanized carbon steel sheets" means those items provided for in item number 608.87, 608.94, and 608.95 of the Tariff Schedules of the United States.

The merchandise in question is made and sold in a large number of sizes and forms in numerous individual transactions by 30 separate companies in the European countries involved and in the United States. Further, a variety of claims for adjustments have been made with respect to many of the transactions to be compared. Additional time is needed to analyze this data.

Accordingly, pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) cannot reasonably be made within six months. The determination under section 201(b)(1) of the Act (19 U.S.C.(b)(1)) will therefore be made within no more than nine months.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JUNE 2, 1978.

[FR Doc. 78-15844 Filed 6-7-78; 8:45 am]

[4810-25]

FARM CREDIT ADMINISTRATION

Designation of Securities for Exemption Under the Securities Exchange Act of 1934

Section 3(a)(12) of the Securities Exchange Act of 1934, as amended, states that the term "exempted security" or "exempted securities" shall include "such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors * * *".

Notice is hereby given that, pursuant to the provisions of that Section and authority delegated to me by the Secretary of the Treasury, I have today designated for exemption securities of the thirteen Banks for Cooperatives entitled "The Farm Credit In-

vestment Bonds," issued pursuant to § 4.2 of the Farm Credit Act of 1971 (12 U.S.C. 2153).

This designation may be revoked, modified or amended at any time with respect to any securities not issued prior to such time.

Dated: May 31, 1978.

ROGER C. ALTMAN,
Assistant Secretary of the Treasury (Domestic Finance).

[FR Doc. 78-15845 Filed 6-7-78; 8:45 am]

[4810-22]

STEEL WIRE ROPE FROM THE REPUBLIC OF KOREA

Antidumping; Extension of Investigatory Period

AGENCY: United States Treasury Department.

ACTION: Extension of antidumping investigatory period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of steel wire rope from the Republic of Korea have occurred cannot reasonably be made in 7 months. This decision will be made in not longer than 9 months from the date of the initiation of the investigation. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries or is less than its cost of production.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leon McNeill, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C., 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 27, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27) from counsel acting on behalf of Broderick and Bascom Rope Co. of St. Louis, Mo., alleging that steel wire rope is, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (hereinafter referred to as "the Act"). On the basis of this information, and "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 1, 1977 (42 FR 57202).

For purposes of this notice, the term "steel wire rope" means ropes, cables, and cordage other than wire strand, of steel, other than brass plated, not fitted with fittings, not made up into articles and not covered with textiles or other nonmetallic materials.

A one month extension of the investigatory period was published in the FEDERAL REGISTER of May 3, 1978 (43 FR 19095), because additional time was needed to analyze and verify the complex information previously submitted by the respondents concerning home and export prices of the numerous varying sizes and specifications of the subject merchandise. However, information bearing on claims that the merchandise may have been sold in the United States at less than its cost of production has not been received or analyzed, nor have respondents' submissions relating thereto been verified. Under these circumstances, pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)) the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) cannot reasonably be made within 7 months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will, therefore, be made within no more than 9 months.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

Dated: June 1, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-15888 Filed 6-7-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Notice of Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on: Thursday, July 13, 1978; Thursday, July 27, 1978; Thursday, August 10, 1978; Thursday, August 24, 1978; Thursday, September 7, 1978; Thursday, September 21, 1978.

The meetings will convene at 2:30 p.m. and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C.

Dated: June 2, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 15885 Filed 6-7-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 95]

PETITIONS, APPLICATIONS, FINANCE MATTERS, (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MAY 31, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or 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 on or before July 10, 1978. Such protests shall comply with Special Rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

NOTICE OF FILING OF PETITION

No. MC 119493 (Sub-No. 55F), Petition for Interpretation of Certificate and Issuance of Declaratory Order.

Petitioner: MONKEN CO., INC., Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. By petition filed May 5, 1978, Monken Co., Inc., seeks an interpretation of the term "containers" as used in Certificate No. MC 119493 (Sub-No. 55), specifically, whether this term encompasses all types of containers, such as plastic and paper bags, paper cups, trays, and similar items. The certificate in question authorizes the transportation of: *diatomite and mixture of diatomaceous earth, alkylnaphthalene* and *sodium sulfonate*, from points in NV (except Las Vegas and Henderson) to points in 10 States. The second paragraph of the certificate authorizes the transportation of *containers*, from points in the 10 destination States, to points in NV (except Las Vegas and Henderson. An informal opinion from the Commission's Bureau of Operations stated that the above description does not authorize the transportation of plastic bags, since, for transportation purposes, the term only includes solid-type receptacles used for the transporting of other commodities. Monkem assets that authority to transport containers authorizes movement of all types of items wich are designed for holding goods (1) without regard to the type of material from which they are constructed, and (2) without regard to whether they are solid or flexible receptacles. Any interested person desiring to participate in this proceeding shall file an original and six copies of written representations, views, or arguments in support of or against the petition on or before July 10, 1978. No oral hearing is contemplated at this time.

No. MC 128988 (Sub-No. 29) (Notice of Filing of a Petition to Modify Permit), filed November 4, 1977. Petitioner: JO/KEL, P.O. Box 1249, City of Industry, CA 91749. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. The notice of filing of petition is published for the above docket number in the section for Republications of Grants of Operating Rights.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before July 10, 1978. 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 128988 (Sub-No. 29) (Initial publication by order) (Notice of filing of a petition to modify permit), filed November 4, 1977. Petitioner: JO/KEL, P.O. Box 1249, City of Industry, CA 91749. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Petitioner has a motor *contract carrier* Permit pending in No. MC 128988 (Sub-No. 29), published in the FEDERAL REGISTER issues of October 17, 1973, and December 20, 1973, decided April 21, 1975, authorizing transportation, over irregular routes, of (1) *Heating and air conditioning units*, (a) from the facilities of Fraser & Johnston Co. at Emeryville, CA, to points in ID, UT, AZ, CO, and NM; and (b) from Norman, OK, Medina, OH, Elyria, OH; and Staunton, VA, to the plantsite and warehouse facilities of Fraser & Johnston Co. at Emeryville, CA: and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the above-named commodities, from points in ID, UT, AZ, CO, and NM, to the plantsite and warehouse facilities or Fraser & Johnston Co. at Emeryville, CA and Hayward, CA. Restriction: The service sought herein is subject to the following restrictions: Restricted against the transportation of commodities in bulk and those commodities which because of their size or weight require the use of special equipment; and further restricted to a transportation service to be performed under a continuing contract or contracts with Fraser & Johnston Co. By Order of the Commission, Review Board Number 3, decided March 22, 1978, and served April 4, 1978, finds that the grant of authority in No. MC 128988 (Sub-No. 29), is modified as follows: By deleting San Lorenzo, CA, as an origin point and inserting Emeryville, CA; deleting San Lorenzo, CA, as a destination point and inserting Emeryville And Hayward, CA; deleting San Lorenzo, CA, as the business headquarters of Fraser & Johnston Co., and substituting Hayward, CA, will be consistent with the public interest and the national transportation policy. 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. Notice of this petition was not published initially in the FEDERAL REGISTER, therefor the purpose of this publication is to indicate the authority sought and the authority granted.

No. MC 142844 (Correction) (Republication), filed January 10, 1977, published in the FEDERAL REGISTER issues of April 7, 1977 and March 30, 1978 and republished, as corrected, this issue. Applicant: DON HAUSAUER, d.b.a., DON HAUSAUER TRUCKING, Fort Lincoln Estates, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. BOx 1982, Bismarck, ND 58501. An Order of the Commission, Review Board Number 1, decided February 7, 1978, and served February 10, 1978, finds that operation by applicant, in interestate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, transporting: Lumber, from points in OR, ID, MT, and WA, under a continuing contract or contracts with Owens Forest Products of Duluth, MN; 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 thereunder. The purpose of this republication is to clarify that applicant is originating at points in MT in lieu of MO; and (2) indicate that Charles E. Johnson is applicant's representative.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to

[1]Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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 2253 (Sub-79F), filed March 30, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Broward, and Dade Counties, FL, on the one hand, and, on the other, points in Monroe County, FL, restricted to the transportation of shipments having prior or subsequent movement in interstate or foreign commerce. (Hearing site: Key West, or Miami, FL.)

No. MC 3255 (Sub-No. 16F), filed March 9, 1978. Applicant: PEP TRUCKING CO., INC., 386 Henderson Street, Jersey City, NJ. Representative: George A. Olsen; P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Pep Trucking Co., Inc., Jersey City, NJ, to points in Suffolk County, NY, that portion of NY, on and south of NY Hwy 17, points in Fairfield County, CT, Philadelphia, PA, and points in NJ, restricted to shipments having prior movement by motor, rail, and water common carrier. (Hearing site: New York, NY or Washington, DC.)

No. MC 14702 (Sub.-No. 71F), filed April 3, 1978. Applicant: OHIO FAST FREIGHT, INC., 3893 Market Street NE., Warren, OH 44484. Representative: Paul Beery, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Plastic pipe, conduit, valves, fittings and accessories* therefor; and (2) *Materials and supplies* used in the manufacture of commodities (except commodities in bulk, in tank vehicles), between points in Geneva County, AL, on the one hand, and, on the other, points in OH, PA, IN, IL, MI, MO, NY, and NJ. (Hearing site: Columbus, OH.)

NOTE.—Common control may be involved.

No. MC 25798 (Sub-No. 317F), Filed April 4, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. 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: *Foodstuffs and food byproducts*, including *animal and vegetable oils*, in bulk in tank vehicles, between points in FL, GA, NC, and SC on one hand, and on the other, points in AZ, CA, and points in and east of ND, SD, NE, CO, and NM. (Hearing site: Tampa, FL.)

NOTE.—Common control may be involved.

No. MC 47583 (Sub-69F), filed March 30, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence KS 66044. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Plastic articles and materials* (except in bulk) and *supplies and equipment* used in the manufacture of plastic articles, between the facilities of Mobil Chemical Co., Plastics Division, at Jacksonville and Springfield, IL, and points in the United States (except AL and HI). Restricted to traffic originating at or destined to the facilities of Mobil Chemical Co., Plastics Division. (Hearing site: Kansas City, MO.)

NOTE.—Common control may be involved.

No. MC 61440 (Sub No. 162F), filed March 30, 1978. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 Northwest 63d Street, Oklahoma City, OK 73157. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. 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 commission, commodities in bulk and those requiring special equipment). Serving the facilities of Liquid Paper Corp. at or near Greenville, TX, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Oklahoma City, OK.)

NOTE.—Common Control may be involved.

No. MC 82492 (Sub-No: 197F), filed March 31, 1978. Applicant. MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (same address 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) in vehicles equipped with mechanical refrigeration. From Milbank, SD, to Champaign, IL, Springfield, MO, Marathon, Medford, Wausau, WI, and New Ulm, NM, restricted to traffic originating at and destined to the above named points. (Hearing site: Chicago, IL, or Minneapolis, MN.)

No. MC 93840 (Sub-No. 36F), filed March 30, 1978. Applicant: GLESS BROS., INC., P.O. Box 216, Blue Grass, IA 52726. 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: *fertilizers*, from the facilities of Map-Ren at Dubuque, IA, to points in IA, WI, and MN. (Hearing site: Des Moines, IA, or Chicago, IL.)

No. MC 105566 (Sub-No. 167F), filed March 27, 1978. Applicant: SAM TANKSLEY TRUCKING, INC. P.O. Box 1119, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901

Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, adhesives, adjusters, alcohols, other than alcoholic liquors; bate, tanners; cleaning, scouring or washing compounds; soap, compounds, fuel oil treating, tree or weed killing, water clarifying; deodorants or disinfectants; depilatory, tanners, extracts, tanning, feed supplements and feeding compounds, insecticides or fungicides or repellants; paints, stains or varnishes; plasticizers; solvents; petroleum products; plastic materials, other than expanded group; plastic or rubber articles; sizing; sludge, acid, and softeners, textile* (except in bulk, in tank or hopper vehicles), from the facilities of Rohm and Haas Co. located in Hayward, CA, Calumet City, Morton Grove, and Niles, IL, Louisville, KY, Bristol, Croydon, and Philadelphia, PA, Knoxville, TN, and Dallas and Houston, TX, to points in AZ, CA, CO, ID, IL, KY, MT, NV, OR, TN, TX, UT, WA, and WY. (Hearing site: Washington, D.C.)

No. MC 105813 (Sub-No. 238F), filed March 30, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 1936, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soap and dog products* from Cranbury, Morristown, Piscataway, and Clark, NJ to points in FL and GA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or New York, NY. Common control may be involved.

No. MC 107818 (Sub-No. 90F), filed March 30, 1978. Applicant: GREENSTEIN TRUCKING CO., a corporation, 280 Northwest 12th Avenue, P.O. Box 608, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, food ingredients, food products, advertising and display items*, and *such commodities* as are dealt in by gift, curio and mail order houses, from points in WI, to points in TN, KY, GA, FL, and IN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, WI.

No. MC 108341 (Sub-No. 95F), filed March 27, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. 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: (A)(1) *Railway track construction and track maintenance machinery and equipment;* (2) *attachments, parts and accessories* for (1) above when moving in mixed loads with (1) above; and (3) *materials, supplis, and equipment* used in the manufacture, maintenance, and distribution of commodities in (1) and (2) above, between points in Lexington County, SC, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, and NM; and (b) *commodities* in (A)(1) above, which at the time of movement are being transported for display, tests, demonstration, show, or experiment, between points in the United States in and east of ND, SD, NE, CO, and NM, in nonradial movement. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 110525 (Sub-No. 1234F), filed March 30, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Dowingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *LIQUID CHEMICALS*, in bulk, in tank vehicles, from the plantsites of Jefferson Chemical Co., Inc., located at or near Port Neches, TX; Youens, Montgomery County, TX; and Austin, TX; to points in the United States (except AK and HI), restricted to shipments originating at the designated plantsites of Jefferson Chemical Co., Inc. (Hearing site: Houston, TX or Washington, DC.)

No. MC 110563 (Sub-No. 227F), filed March 30, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture or distribution of sugar, from Baltimore, MD, to points in IL, IN, IA, KY, MI, MO, OH, and WI. Restriction: Restricted to the transportation of shipments originating at the facilities used by Amstar Corp., at or near Baltimore, MD. (Hearing site: New York, NY.)

No. MC 111310 (Sub-No. 29F), filed March 27, 1978. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. 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) *Wood products, builtup wood and mineral core products, and accessories and parts* for the above-described commodities, from Algoma, WI, to points in the United States (except AK and HI); and (2) *Returned shipments, and equipment, materials and supplies* used or useful in the manufacture, distribution or sale of the above-described commodities, from the above-named destination points to Algoma, WI. (Hearing site: Madison, WI.)

No. MC 111320 (Sub-No. 69) (amendment), filed January 10, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished as amended, this issue. Applicant: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Representative: Larry E. Gresh, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, and their attachments* (except truck tractors used for pulling highway tractors used for pulling highway trailers), lift trucks, compactors, excavators, road rollers and dump trucks for off-highway use; (2) *parts, attachments and accessories* for the commodities described in (1) above when moving in mixed loads with the commodities in (1) above; from the plant sites, warehouses and storage areas of Caterpillar Tractor, located in IL and IA to points in CO, KA, MO, MT, NE, ND, OK, SD and WY. (Hearing sites: Omaha, NE or Denver, CO.)

NOTE.—Common control may be involved. The purpose of this republication is to broaden the commodity description.

No. MC 111401 (Sub-No. 522F), filed April 4, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Representative: Victor R. Comstock, 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Dow Corning Corp. at Carrollton, KY to Brownsville, TX, from furtherance in foreign commerce. (Hearing site: Chicago, IL or Louisville, KY.)

No. MC 112822 (Sub-No. 454F), filed February 23, 1978. Applicant: BRAY LINES INC., 1401 N. Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk, in tank vehicles), from Industry, CA, to points in ID, OR, and WA. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE.—Common control may be involved.

No. MC 114457 (Sub-No. 371F), filed March 30, 1978. Applicant: DART

TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. 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: *Vanities and cabinets, set up in boxes with accessories and parts* from Lakeville, MN to points in the States of CO, IL, IN, IA, KS, MO, MT, NE, ND, SD, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Chicago, IL.

No. MC 115654 (Sub-No. 82F), filed March 10, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Ave. NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by food business houses, between Nashville, TN, on the one hand, and, on the other, points in TX, AL, AR, GA, FL, MS, IL, KY, IN, and LA. (Hearing site: Nashville, TN, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115841 (Sub-No. 620F), filed March 30, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Representative: E. Stephen Heisley, 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: *Frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in the United States (except AK and HI). (Hearing site: Detroit, MI, or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 115841 (Sub-No. 626F), filed March 31, 1978. Applicant: COLONICAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Representative: E. Stephen Heisely, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities of Terminal Ice & Cold Storage Co., and those utilized by Ore-Ida Foods, Inc., at Plover, WI, to points in FL, GA, NC, SC, TN, and TX, restricted to traffic originating at the named origins and destined to the named destination States. (Hearing site: Portland, OR.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

No. MC 116077 (Sub-No. 393F), filed May 3, 1978. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 770001. Representative: Pat H. Robertson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Avondale, LA, to points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

NOTE.—Applicant requests consolidation with the application of Chemical Leaman Tank Lines, Inc., MC 110525 (Sub-No. 1227).

No. MC 117574 (Sub-No. 312F), filed March 31, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental, thereto, and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, and (3) *Iron, steel, and aluminum articles*, between points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, SC, and TN, restricted to the transportation of self-propelled articles transported on trailer. (Hearing site: Washington, DC or Chicago, IL.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

No. MC 119988 (Sub-No. 138F), filed March 30, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Hwy 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between the facilities of Stokely-Van Camp, Inc., at Lawrence, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Kansas City, KS.)

No. MC 120651 (Sub-No. 3F), filed March 29, 1978. Applicant: HIRES TRUCKING CO., INC., Post Office Box 836, Danville, IL 61832. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, over regular and irregular routes, by motor vehicle, transporting: *General commodities*, (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) over regular routes between Danville, IL and Terre Haute, IN; from Danville over U.S. Hwy 150 to Terre Haute, and return over the same route, serving all intermediate points, and (2) over irregular routes (a) between those points within 50 miles of Danville, IL, including Danville, and (b) between points within 50 miles of Danville, IL on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL.)

No. MC 121420 (Sub-No. 10F), filed March 14, 1978. Applicant: DART TRUCKING CO., INC., P.O. Box 158, 61 Railroad Street, Canfield, OH 44406. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulk commodities*, as are transported in dump trucks, between points in Ashtabula County, OH, on the one hand, and, on the other, points in OH bounded by a line beginning at the western banks of the Ohio River directly across from the northern boundary of Wetzel County, WV, then north along the western banks of the Ohio River to Clarington, OH, then from Clarington, OH on OH Hwy 78 to the intersection with the western boundary of Salem Township, Monroe County, OH, then north along the western boundary of Salem Township, Monroe County, OH, to the intersection with the northern boundary of Adams Township, Monroe County, OH, then west along the northern boundary of Adams Township, Monroe County, OH, to the intersection with OH Hwy 26, then north on OH Hwy 26 to the intersection with OH Hwy 145, then west on OH Hwy 145 to the intersection with OH Hwy 800, then north on OH Hwy 800 to the intersection with OH Hwy 147, then west on OH Hwy 147 to the intersection with OH Hwy 513, then north on OH Hwy 513 to the intersection with U.S. Hwy 22, then west on U.S. Hwy 22 to the intersection with the western boundary of Madison Township, Guernsey County, OH, then north along the western boundary of Madison Township, Guernsey County, OH to the intersection with the western boundary of Washington Township, Guernsey County, OH, then north along the western boundary of Washington Township, Guernsey County, OH to the northern boundary of Guernsey County, OH, then west along the northern boundary of Guernsey County, OH, to the intersection with the western boundary of Washington Township, Tuscarawas County, OH, then north on the western boundary of Washington Township, Tuscarawas

County, OH to the intersection with OH Hwy 258, then west on OH Hwy 258 to the intersection with Interstate Hwy 77, then north on Interstate Hwy 77 to the intersection with U.S. Hwy 250, then north on U.S. Hwy 250 to the intersection with OH Hwy 21, then north on OH Hwy 21 to the intersection with U.S. Hwy 62, then east on U.S. Hwy 62 to the intersection with OH Hwy 43, then north on OH Hwy 43 to the intersection with OH Hwy 619, then east on OH Hwy 619 to the intersection with OH Hwy 44, then north on OH Hwy 44 to the intersection with U.S. Hwy 224, then east on U.S. Hwy 224 to the intersection with OH Hwy 183, then north on OH Hwy 183 to the intersection with Interstate Hwy 76, then east on Interstate Hwy 76 to the intersection with OH Hwy 225, then north on OH Hwy 225 to the intersection with Hallock Young Road, then east on Hallock Young Road to the intersection with OH Hwy 45, then north on OH Hwy 45 to the intersection with Carson Salt Springs Road, then east on Carson Salt Springs Road to the intersection of Austintown Warren Road, then north on Austintown Warren Road to the intersection with West Park Avenue, then east on West Park Avenue to the intersection with Tibbitts Corners Wick Road, then east on Tibbitts Corners Wick Road to the intersection with Warner Road, then north on Warner Road to the intersection with Chestnut Ridge Road, then east on Chestnut Ridge Road to the intersection with U.S. Hwy 62, then northeast on U.S. Hwy 62 to the intersection with Interstate Hwy 80, then east on Interstate Hwy 80 to the OH-PA state line, then south along the OH-PA state line to the intersection with the northern boundary of the state of WV, then south along the OH-WV state line to the point of beginning on the western banks of the Ohio River directly across from the northern boundary of Wetzel County, WV. (Hearing site: Columbus, OH.)

NOTE.-This is a request to eliminate the Mercer County, PA, gateway.

No. MC 123383 (Sub-No. 82F), filed March 28, 1978. Applicant: BOYLE BROTHERS, INC., RD 2, Box 329C, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Such commodities* as are dealt in by retail home improvement, home furnishings, and lumber stores (except in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, WV, NC, OH, PA, RI, VT, VA, and DC in non-radial movement, restricted to shipments destined to the retail facilities of the Wickes Corp. in the above states. (Hearing site: Washington, DC.)

No. MC 125433 (Sub-No. 155F), filed March 30, 1978. F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. 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: *metal working machinery*, iron or steel (except in bulk), between points in the United States (excluding AK and HI). (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 125951 (Sub-No. 28F), filed April 4, 1978. Applicant: SILVEY REFRIGRERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino, 7000 West Center Road, Suite 325, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat byproducts, and articles distributed in meat packinghouse*, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities utilized by Spencer Foods, Inc., at or near Schuyler and Fremont NE, to NY, NJ, PA, MA and MD. (Hearing site: Omaha, NE.)

NOTE.—Applicant holds contract carrier authority in MC 135033, therefore dual operations may be involved.

No. MC 125951 (Sub-No. 30F), filed April 4, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE Representative: Robert M. Cimino, 7000 West Center Road, Suite 325, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat byproducts, and articles distributed in meat packinghouses*, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities utilized by MBPXL Corp. at or near Nebraska City, NE, to points in CT, DC, DE, ME, MD, MA, NH, NY, NJ, PA, RI, VT, WV. (Hearing site: Omaha, NE.)

NOTE.—Applicant holds contract carrier authority in MC 135033, therefore dual operations may be involved.

No. MC 127096 (Sub-No. 7F), filed March 30, 1978. Applicant: HENNES TRUCKING CO., a corporation, 338 South 17th Street, Milwaukee, WI 53233. Representative: Paul F. Berry, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Wampum, PA, to points in OH. Restricted to shipments moving on bills of lading issued by Columbus Cement Corp. (Hearing site: Columbus, OH.)

NOTE.—Applicant holds contract carrier authority in MC 111862 and subs thereunder, therefore dual operations may be involved, Common control may also be involved.

No. MC 133591 (Sub-No. 39F), filed March 30, 1978. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from facilities of Sunmark, Inc., at or near St. Louis, MO., to points in TX, NM, CO, AZ, UT, ID, NV, CA, WA, and OR. (Hearing site: St. Louis, MO.)

NOTE.—Applicant holds contract carrier authority under MC 134494, therefore dual operations may be involved.

No. MC 133591 (Sub-No. 40F), filed March 31, 1978. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, from Belmont, Hayward, San Francisco, Los Angeles and Belle Gardens, CA, to Denver, CO; Kansas City, MO; and Robinson, IL. (Hearing site: St. Louis, MO.)

No. MC 134477 (Sub-No. 228F), filed March 30, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. 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: *Chemicals* (except in bulk), (1) from points in IN, KY, MI, OH and TN to points in IL, IA, KS, MN, MO, NE AND WI, and (2) from Chicago, IL to points in IA, KS, MN, MO, NE and WI. (Hearing site: Minneapolis, MN.)

No. MC 134477 (Sub-No. 231F), filed March 30, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, St. Paul, MN 55118. 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: *Such commodities as are dealt in by retail and wholesale department stores* (except foodstuffs and commodities in bulk) from the facilities of Montgomery Ward at or near Chicago, IL to points in MN, SD and WI. Restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis, MN.)

No. MC 134919 (Sub-No. 5F), filed March 30, 1978. Applicant: A & D EXPRESS, INC., P.O. Box 52, North Brunswick, NJ 0890. Representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, (1) from Merrimack, NH, to South Brunswick and Mine Hill, NJ, under a continuing contract, or contracts with High Grade Beverage, of South Brunswick, NJ; (2) from Columbus, OH, to South Brunswick and Mine Hill, NJ, and Staten Island, NY, under a continuing contract, or contracts, with High Grade Beverage, of South Brunswick, NJ, and Rutgers Distributors, Inc., of Staten Island, NY; and (3) from Williamsburg, VA, to South Brunswick and Mine Hill, NJ, and Staten Island, NY, under a continuing contract, or contracts, with High Grade Beverage, of South Brunswick, NJ. (Hearing site: Newark, NJ, or New York, NY.)

No. MC 135033 (Sub-No. 5F), filed March 30, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wines, brandies, cordials, beer and non-alcoholic beverages* (except in bulk), from New York and Hammondsport, NY; Philadelphia and Schenley, PA; Lawrenceburg, IN; Frankfort, Louisville and Owensboro, KY; Chicago, Plainfield and Pekin, IL; and Hillside and Jersey City, NJ, to Omaha, NE, under a continuing contract or contracts with Nebraska Wine and Liquors, Inc. (Hearing site: Omaha, NE.)

No. MC 136343 (Sub-No. 129F) (Amendment), filed March 9, 1978, published in the FEDERAL REGISTER issue of April 27, 1978, and republished, as ameded, this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355. Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Paper and Paper Products* from the sites of International Paper Co. at or near Corinth, NY, and Ticonderoga, NY to points in the New York, NY. Commercial Zone, Nassau and Suffolk Counties, NY, NJ, PA, MD, DE, OH, Washington, DC, IL, IN, MI, WV and WI. (Hearing site: Washington, DC or New York, NY.)

NOTE.—The purpose of this republication is to broaden the territorial description.

No. MC 136605 (Sub-No. 49F), filed April 4, 1978. Applicant: DAVIS BROS, DIST., INC., MC 136605, P.O. Box 8058, Missoula, MT 59807. Respresentative: W. E. Seliski, P.O. Box 8058, Missoula, MT 59807. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Gypsum board* from Albuquerque, NM, to points in ND, SD, and MN. (Hearing site: Billings, MT.)

No. MC 138126 (Sub-No. 24F), filed March 20, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the warehouse and storage facilities utilized by Campbell Soup Co., located at points in DE, MD, and those points in PA located on and east of Interstate Hwy 81, to points in MA, CT, RI, NY, NJ, DE, MD, PA, OH, MI, KY, WV, VA, DC, and points in TN located on and east of U.S. Hwy 127. (Hearing site: DC.)

No. MC 139577 (Sub-No. 12F) (amendment), filed February 14, 1978, published in the FEDERAL REGISTER issue of April 20, 1978, and republished, as amended, this issue. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Respresentative: 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) from Mt. Vernon and St. Joseph, MO, to points in WI, IA, IL, IN, OH, TN, KY, MS, TX, AL, and AR; (2) Mansfield, TX, to points in MS, IL, TN, AR, WI, IA and MN; and (3) from Waupun, Oconomowoc and Menomonee Falls, WI, to points in IL, TN, KY, MO, OH, IN, IA, TX, MI and MN. (Hearing site: Madison or Milwaukee, WI.)

NOTE:—The purpose of this republication is to add the state of MN as a destination point in (1) above.

No. MC 140509 (Sub-No. 5F), filed March 30, 1978. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor and wall coverings* and *materials, hand tools and supplies* for the installation of floor and wall coverings from Lincoln and Los Angeles, CA; Bethany and New Haven, CT; Miami, FL; Atlanta, Calhoun, Cartersville, Chatsworth, Dalton, Ellijay, Rome, and Savannah, GA; Chicage, IL; Marion, IN, New Orleans, LA; Baltimore, MD; Boston, MA; Duluth, Minneapolis, and Moorhead, MN; Houston, MS; Lincoln, NE; East Northport, and New York, NY; Aberdeen NC; Fargo and Grand Forks, ND; Apple Creek, Canton, Cincinnati, Cleveland, East Sparta, Hamilton, Minerva, and Summitville, OH; Philadelphia, PA; Dallas, Houston, and Laredo, TX; Seattle and Spokane, WA; and Milwaukee, WI, to points in IA, MN, ND, SD, and WI, those points in IL on and north of Interstate Hwy 74 and those points in IL on and north of U.S. Hwy 34 and west of Interstate Hwy 74, those points in the upper peninsula of MI, and those in MT east of the Continental Divide; restricted to the transportation of shipments moving under a continuing contract, or contracts, with Rollin B. Child, Inc., of Hopkins, MN. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE—Common control may be involved.

No. MC 140587 (Sub-8F), filed March 31, 1978. Applicant: CLAXTON TRUCKING CO., Box 7, Route 3, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, DC 20007. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Company, Inc., at Warner Robins, GA, to Williamsburg, VA. (Hearing Site: Atlanta, GA.)

No. MC 141914 (Sub-No. 35F), filed March 29, 1978. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, OK 74332. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Wooden products* from Guilford, ME, to points in and west of WI, IL, MO, AR and LA (except UT, CA, AK and HI).

NOTE:—if a hearing is deemed necessary, it is requested that it be held in Portland, ME.

No. MC 142703 (Sub-3F), filed March 30, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, Cincinnati, OH 45214. Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities requiring special equipment, commodities in bulk) between Columbus, OH, on the one hand, and,

on the other, points in OH, restricted to the transportation of shipments having a prior or subsequent movement by rail. (Hearing site: Columbus, OH.)

No. MC 144047 (Sub-No. 1F), filed March 27, 1978. Applicant: BROOKSIDE TRANSPORT, LTD., a corporation, P.O. Box 1809, Brooks, AB, Canada. Representative: Donald Grisbrook (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Green animal hides*, between the port of entry on the international boundary line between the United States and Canada located at or near Eastport, ID, on the one hand, and, on the other Spokane, WA, for possible movement either originating or destined to Brooks, Alberta, CD, under a continuing contract, or contracts, with (1) Lakeside Farm Industries Ltd. of Brooks, Alberta, CD; and (2) Pacific Hide & Fur Corp. of Spokane, WA. (Hearing site: Spokane, WA.)

No. MC 144405F, filed March 7, 1978. Applicant: DONALD E. RHOADES TRUCKING & GRAIN, 8988 Neff Road, Bradford, OH 45308. Representative: Richard E. Hole II, 210 Weaver Building, Greenville, OH 45331. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, bulk, bag, liquid, and skids, between points in Dearborn, Noble, Delaware, DeKalb, Randolph, Blackford, Union, Huntington, Henry, Jay, Wayne, Grant, Allen, Miami, and Wabash Counties, IN, and points in Williams, Mercer, Defiance, Darke, Hamilton, Butler, Paulding, Preble, Van Wert, Miami, Montgomery, and Warren Counties, OH, in nonradial movement. (Hearing site: Dayton, Cincinnati, or Columbus, OH.)

No. MC 144535F, filed March 30, 1978. Applicant: ROBERT P. PEDIGO, INC., 611 West Township Line Road, Plainfield, IN 46168. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *anhydrous ammonia*, from Lima, OH, and Pekin, IL, to points in IN; (2) *fertilizer solutions*, in bulk, from Calumet City, Lemont, and Marseilles, IL, Henderson, KY, and Finney, OH, to IN; (3) *fertilizer*, dry, in bulk, from Marseilles, IL, and Lima, OH, to points in IN; (4) *fertilizer*, dry, in bags, from Riverdale, IL, to IN. Restricted to the transportation of shipments moving under a continuing contract, or contracts, with International Minerals & Chemical Corp., of Mundelein, IL. (Hearing site: Indianapolis, IN, or Washington, DC.)

No. MC 144543F, filed March 30, 1978. Applicant: INTERNATIONAL CONSOLIDATORS, INC., 1335 Darlington, Upland, CA 91768. Applicant's representative: Richard Celio, 1415 West Garvey Ave., Suite 102, West Covina, CA 91790. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, to transport: *Lumber, and wooden shakes, shingles and fencing material* from ports of entry located on the United States-Canadian Border in WA, to points in AZ, CA, CO, NV, NM, TX, and UT.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Los Angeles, CA.

No. MC 144550F, filed March 30, 1978. Applicant: R & M TRANSPORTATION, INC., P.O. Box 2573, Orcutt, CA 93454. Representative: Alexander F. Simas, P.O. Box 1219, Santa Maria, CA 93454. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *oil field drilling and pumping equipment*, between Santa Maria, CA, Carlsbad, NM, Odessa and Laredo, TX, Lafayette, LA, Fallon, NV, Boise, ID, Casper, WY, Cutbank, MT, Salt Lake City and Vernal, UT, and Craig, CO, restricted to the transportation of shipments moving under a continuing contract, or contracts, with Kenai Drilling Co., of Orcutt, CA. (Hearing site: Los Angeles, CA, or San Francisco, CA.)

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers of 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 on or before July 10, 1978. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13576. (Correction) (J. R. Christoni, Inc.—Purchase—DAVID MONGILLO & SON, INC.), published in the May 11, 1978, issue of the FEDERAL REGISTER, on page 20358. Previous notice inadvertently omitted the docket number, MC-F-13576, at the beginning of the caption. In addition, the second to the last sentence should have read as follows: Vendee is authorized to operate as a *common carrier* in MA, CT, RI, NY and NJ.

No. MC-F-13585. (Freiler Truck Lines, Inc.—Purchase—MID-WAY TRANSPORTATION, INC.), published in the May 11, 1978, issue of the FEDERAL REGISTER. Application filed May 22, 1978, for temporary authority under section 210a(b).

MC-F-13602 Authority sought for purchase by OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113, of a portion of the operating rights of Twin City Freight, Inc., 2550 Long Lake Road, Roseville, MN 55113, and for acquisition by W. E. Elsholtz, Sr., Robert W. Elsholtz, and W. E. Elsholtz, Jr., all of 2550 Long Lake Road, Roseville, MN 55113, of control of such rights through the purchase. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, as a common carrier, over regular routes, between St. Paul, MN, and Wahpeton, ND, and irregular routes between Minneapolis and Hutchinson, MN, and Wahpeton, ND. Vendee is authorized to operate as a common carrier in MN and WI. Application has not been filed for temporary authority under section 210a(b).

NOTE.—This application is directly related to an application by vendor under section 207 in Docket No. MC 111496 Sub 24.

No. MC-F-13606. Applicant (Transferee): CROUSE CARTAGE CO., P.O. Box 151, Carroll, IA 51401. Applicant (Transferor): The Rock Island Motor Transit Co., 2744 Southeast Market Street, Des Moines, IA 50317. Applicant's representative (transferee): William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Applicant's representatives (transferor): Raymond Goldfarb, 72 West Adams Street, Chicago, IL 60603. Donald F. Neiman, 1119 High Street, Des Moines, IA 50309. Authority sought for purchase by Crouse Cartage Co., P.O. Box 151, Carroll, IA 51401, of a portion of the operating rights of the The Rock Island Motor Transit Co., 2744 Southeast Market Street, Des Moines, IA 50317, and for acquisition by Paul E. Crouse, P.O. Box 151, Carroll, IA 51401, of control of such rights through the transaction. Transferee's attorney: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102; Transferor's attorneys: Raymond Goldfarb, 72 West Adams Street, Chicago, IL 60603 and Donald F. Neiman, 1119 High Street, Des Moines, IA 50309. Operating rights sought to be transferred: *General commodities*, except those of unusual value, livestock, nitroglycerine, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injur-

ious or contaminating to other lading, between Des Moines, IA and Minneapolis, MN, serving all intermediate points (except Austin, MN), and the off-route points within ten miles of Minneapolis, MN: as a common carrier over regular routes. Route No. 1: Des Moines over U.S. Hwy 69 to Ames, IA, then over U.S. Hwy 30 to Colo, IA, then over U.S. Hwy 65 via Albert Lea, MN, to Owatonna, MN (also from Albert Lea over U.S. Hwy 16, to Austin, MN, then over U.S. Hwy 218 to Owatonna), and then over U.S. Hwy 65 to Minneapolis, and return over the same route; Between Farmington, MN and St. Paul, MN, serving all intermediate points and the off-route points within ten miles of St. Paul, MN: Route No. 2: From Farmington over MN Hwy 3 to St. Paul, and return over the same route. Transferee is authorized to operate as a regular route common carrier in the States of IL, IA, MO, NE and KS, and transferee holds irregular route special commodity authority as a motor common carrier in 48 States. Applicant requests that the Commission cancel the following restriction contained in the authority sought to be transferred herein: Restriction: The operations authorized are subject to such further limitations, restrictions, or modifications as the Commission may find necessary to impose in order to insure that the service shall be auxiliary or supplementary to the train service of the The Chicago, Rock Island and Pacific Railroad, Co., hereinafter referred to as the C.R.I. & P. RR., and shall not unduly restrain competition. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission on or before July 10, 1978. 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 (49 CFR 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 57992 (Sub-No. 5F), filed April 27, 1978; Applicant: SEWELL MOTOR EXPRESS, INC.; 149 South Mulberry St.; Wilmington, OH 45177; Representative: Joe F. Asher; 88 East Broad St. Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes and irregular routes, transporting: *General commodities* (with no exceptions), (A) Regular routes: (1) Between Cincinnati, OH and Cleveland, OH: (a) From Cincinnati over Interstate Hwy 71 to Cleveland and return over the same route. (b) From Cincinnati, over Interstate Hwy 71 to intersection of U.S. Hwy 30, then east on U.S. Hwy 30 to junction of Interstate Hwy 77, then over Interstate Hwy 77 to Cleveland and return over the same route. (c) From Cincinnati, over Interstate Hwy 71 to intersection of Interstate Hwy 76 then over Interstate Hwy 76 to intersection of Interstate Hwy 80 to Youngstown, then over Interstate Hwy 80 to Cleveland and return over the same route. (d) From Cincinnati, over Interstate Hwy 71 to intersection of U.S. Hwy 23 then over U.S. Hwy 23 to intersection of HO Hwy 4, then over OH Hwy 4 to intersection of OH Hwy 2, then over OH Hwy 2 to Cleveland and return over the same route. (e) From Cincinnati over U.S. Hwy 42 to Cleveland, and return over the same route.

(2) Between Cincinnati, OH and Gallipolis, OH: (a) From Cincinnati over U.S. Hwy 52 to intersection of OH Hwy 7, then over OH Hwy 7 to Gallipolis and return over the same route. (b) From Cincinnati over OH Hwy 32 to intersection of OH Hwy 124, then over OH Hwy 124 to Wellston and return to intersection of U.S. Hwy 35, then over U.S. Hwy 35 to Gallipolis and return over the same route.

(3) Between Cincinnati, OH and Zanesville, HO: (a) From Cincinnati over U.S. Hwy 22 to Zanesville, and return over the same route. (b) From Cincinnati over U.S. Hwy 42 to intersection of Interstate Hwy 70, then over Interstate Hwy 70 to Zanesville and return over the same route.

(4) Between Cincinnati, OH and Chillicothe, HO: From Cincinnati over OH Hwy 28 to Chillicothe and return over the same route.

(5) Between Cincinnati, OH and Athens, OH: From Cincinnati over U.S. Hwy 50 to Athens and return over the same route.

(6) Between Dayton, OH and Gallipolis, OH: From Dayton over U.S. Hwy 35 to Gallipolis, and return over the same route.

(7) Between Dayton, OH and Portsmouth, OH: (a) From Dayton over U.S. Hwy 35 to intersection of U.S. Hwy 23, then over U.S. Hwy 23 to Portsmouth and return over the same route. (b) From Dayton over OH Hwy 48 to intersection of OH Hwy 73, then over OH Hwy 73 to Portsmouth and return over the same route.

(8) Between Dayton, OH and Wilmington, OH: From Dayton over U.S. Hwy 35 to intersection of U.S. Hwy 68, then over U.S. Hwy 68 to Wilmington, and return over the same route.

(9) Between Cincinnati, OH and Wilmington, OH: From Cincinnati over OH Hwy 28 to intersection of U.S. Hwy 68, then over U.S. Hwy 68 to Wilmington and return over the same route.

(10) Between Cincinnati, OH and Portsmouth, OH: From Cincinnati over OH Hwy 125 to intersection of U.S. Hwy 52, then over U.S. Hwy 52 to Portsmouth, and return over the same route.

(11) Between Dayton, OH and Aberdeen, OH: From Dayton over U.S. Hwy 35 to intersection of U.S. Hwy 68, then over U.S. Hwy 68 to Aberdeen, and return over the same route.

(12) Between Cincinnati, OH and Columbus, OH: (a) From Cincinnati over Interstate Hwy 71 to Columbus and return over the same route. (b) From Cincinnati over U.S. Hwy 22 to the intersection of U.S. Hwy 62, then over U.S. Hwy 62 to Columbus and return over the same route. (c) From Cincinnati over OH Hwy 28 to intersection of U.S. Hwy 23, then over U.S. Hwy 23 to Columbus and return over the same route. (d) From Cincinnati over U.S. Hwy 52 to intersection of U.S. Hwy 62, then over U.S. Hwy 62 to Columbus, and return over the same route.

(13) Between Columbus, OH and Portsmouth, OH: From Columbus, over U.S. Hwy 23 to Portsmouth, and return over the same route.

(14) Between Columbus, OH and Gallipolis, OH: From Columbus over U.S. Hwy 33 to the intersection of OH Hwy 7, then over OH Hwy 7 to Gallipolis, and return over the same route.

(15) Between Columbus, OH and Newark, OH: (a) From Columbus over OH Hwy 16 to Newark and return over the same route. (b) From Columbus over OH Hwy 161 to intersection of OH Hwy 16 then over OH Hwy 16 to Newark and return over the same route.

(16) Between Columbus, OH and Newcomerstown, OH: (a) From Columbus over OH Hwy 3 to intersection of OH Hwy 36, then over OH Hwy 36 to Newcomerstown and return over the same route. (b) From Columbus over Interstate Hwy 70, to the intersection of Interstate Hwy 77, then over Interstate Hwy 77 to the intersection of OH Hwy 36, then over OH Hwy 36 to Newcomerstown, and return over the same route.

(17) Between Columbus, OH and Wilmington, OH: (a) From Columbus

over U.S. Hwy 23 to intersection of U.S. Hwy 22, then over U.S. Hwy 22 to Wilmington, and return over the same route. (b) From Columbus over OH Hwy 3 to the intersection of U.S. Hwy 22, then over U.S. Hwy 22 to Wilmington, and return over the same route. (c) From Columbus over Interstate Hwy 71 to the intersection of U.S. Hwy 68, then over U.S. Hwy 68 to Wilmington, and return over the same route. (d) From Columbus over Interstate Hwy 70 to the intersection of OH Hwy 72, then over OH Hwy 72 to the intersection of U.S. Hwy 22, then over U.S. Hwy 22 to Wilmington, and return over the same route.

(18) Between Cincinnati, OH and Dayton, OH: (a) From Cincinnati over Interstate Hwy 75 to Dayton, and return over the same route. (b) From Cincinnati over OH Hwy 4 to Dayton, and return over the same route.

(19) Between Cincinnati, OH and Toledo, OH: (a) From Cincinnati over Interstate Hwy 75 to Toledo and return over the same route. (b) From Cincinnati over U.S. Hwy 127 to the intersection of U.S. Hwy 24, then over U.S. Hwy 24 to Toledo, and return over the same route.

(20) Between Cincinnati, OH and College Corner, OH: From Cincinnati over U.S. Hwy 27 to College Corner and return over the same route.

(21) Between Cincinnati, OH and Harrison, OH: From Cincinnati over Interstate Hwy 74 to Harrison and return over the same route.

(22) Between Wilmington, OH and Oxford, OH: From Wilmington over OH Hwy 73 to Oxford, and return over the same route.

(23) Between Wilmington, OH and Port Clinton, OH: From Wilmington over U.S. Hwy 68 to the intersection of OH Hwy 12, then over OH Hwy 12 to the intersection of OH Hwy 53, then over OH Hwy 53 to Port Clinton, and return over the same route.

(24) Between Columbus, OH and St. Marys, OH: From Columbus over U.S. Hwy 33 to St. Marys, and return over the same route.

(25) Between Dayton, OH and OH-IN line: (a) From Dayton over U.S. Hwy 35 to OH-IN line, and return over the same route. (b) From Dayton over Interstate Hwy 75 to intersection of Interstate Hwy 70, then over Interstate Hwy 70 to OH-IN line, and return over the same route.

(26) Between Dayton, OH and Greenville, OH: From Dayton over OH Hwy 49 to Greenville, and return over the same route.

(27) Between Dayton, OH and OH-WV line: From Dayton over Interstate Hwy 75 to intersection of Interstate Hwy 70, then over Interstate Hwy 70 to OH-WV line, and return over the same route.

(28) Between Dayton, OH and Cleveland, OH: From Dayton over OH Hwy 4 to intersection of U.S. Hwy 23, then over U.S. Hwy 23 to Toledo and the intersections of U.S. Hwy 20 or Interstate Hwy 80, then on either U.S. Hwy 20 or Interstate Hwy 80 to Cleveland, and return over the same route.

(29) Between Dayton, OH and Marietta, OH: From Dayton over Interstate Hwy 75 to intersection of Interstate Hwy 70, then over Interstate Hwy 70 to intersection of Interstate Hwy 77, then on Interstate Hwy 77 to Marietta, and return over the same route.

(30) Between Dayton, OH and St. Marys, OH: From Dayton over OH Hwy 48 to intersection of OH Hwy 66, then over OH Route 66 to St. Marys, and return over the same route.

(31) Between Dayton, OH and Williamsburg, OH: From Dayton over OH Hwy 48 to intersection of OH Hwy 132, then over OH Hwy 132 to New Richmond, and return to the intersection of OH Hwy 276, then over OH Hwy 276 to Williamsburg, and return over the same route.

(32) Between Wilmington, OH and Chilo, OH: From Wilmington over OH Hwy 730 to the intersection of OH Hwy 133, then over OH Hwy 133 to Chilo, and return over the same route.

(33) Between Xenia, OH and Camden, OH: From Xenia over U.S. Hwy 42 to the intersection of OH Hwy 725, then over OH Hwy 725 to Camden, and return over the same route.

(34) Between Dayton, OH and Mason, OH: From Dayton over OH Hwy 741 to Mason, and return over the same route.

(35) Between Columbus, OH and Greenville, OH: (a) From Columbus over OH Hwy 161 to the intersection of OH Hwy 29, then over OH Hwy 29 to the intersection of U.S. Hwy 36, then over U.S. Hwy 36 to Greenville, and return over the same route.

(36) Between Port William, OH and Sardinia, OH: From Port William over OH Hwy 134 to Sardinia, and return over the same route.

Serving all intermediate points on the above specified routes 1 through 36.

(B) Irregular routes: (1) Between Milford, OH, on the one hand, and, on the other, points in OH. (2) Between Wilmington, OH, on the one hand, and, on the other, points in OH. (3) Between Xenia, OH, on the one hand, and, on the other, points in OH. (4) Between Dayton, OH, on the one hand, and, on the other, points in OH. (Hearing site: Columbus or Cincinnati, OH.)

NOTE.—Applicant presently holds the above irregular route authority in OH under its Certificates of Registration of OH intrastate authorities. The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity; and also convert a portion of irregular route authority to regular route authority. This application is directly related to a Section 5 application docketed No. MC-F-13575, which was published in the FR issue of May 11, 1978.

No. MC 108835 (Sub-No. 43F), filed April 26, 1978. Applicant: HYMAN FREIGHTWAYS, INC., P.O. Box 43393, St. Paul, MN 55164. Representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (1) Between Oskaloosa, IA and Chicago, IL: (a) From Oskaloosa over U.S. Hwy 63 to junction with Interstate Hwy 80, then over Interstate Hwy 80 to juncton with Interstate Hwy 57, then over Interstate Hwy 57 to Chicago, and return over the same route; (b) From Oskaloosa over IA Hwy 92 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction with Interstate Hwy 280 to junction Interstate Hwy 80, then over the route described in (a) above to Chicago, and return over the same route; (c) from Oskaloosa over IA Hwy 92 to Muscatine, IA, then over IL Hwy 92 to its junction with Interstate Hwy 280, then over the routes described in (b) above to Chicago, and return over the same route; and (d) from Oskaloosa over the above-described routes to junction of Interstate Hwys 80 and 55, then over Interstate Hwy 55 to Chicago, and return over the same route. Service is authorized in (1) (a)-(d) above to the intermediate and offroute points of Rock Island, Moline, East Moline, and Silvis, IL and Davenport, IA; and (2) Between Oskaloosa, IA and East St. Louis, IL: (a) from Oskaloosa over U.S. Hwy 63 to junction Interstate Hwy 70, then over Interstate Hwy 70 to East St. Louis, and return over the same route; and (b) from Oskaloosa over U.S. Hwy 63 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 218, then over U.S. Hwy 218 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 40, then over U.S. Hwy 40 to East St. Louis, and return over the same route. Service is authorized in (a) and (b) above to and from the intermediate point of St. Louis, MO. (Hearing site: Minneapolis, St. Paul, MN.)

NOTE.—This application is filed as a directly related application to a finance proceeding in No. MC-F-13490, published in the FEDERAL REGISTER issue of February 2, 1978. The purpose of this application is to convert irregular route authority to regular route authority.

No. MC 111496 (Sub-No. 24F), filed May 17, 1978. Applicant: TWIN CITY

FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. 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, commodities in bulk, commodities requiring special equipment), between St. Paul, MN, and Fergus Falls, MN, serving the intermediate points of St. Cloud, MN, the intermediate and off-route points in the Minneapolis-St. Paul, MN commercial zone as defined by the Commission, and also Chemolite, MN: From St. Paul, MN, over U.S. Hwy 52 to junction unnumbered hwy (formerly portion of U.S. Hwy 52) west of Evansville, MN, then over unnumbered hwy via Melby, Ashby, and Dalton, MN, to junction U.S. Hwy 52, then over U.S. Hwy 52 to Fergus Falls, MN, and return over the same route: (Hearing site: St. Paul, MN.)

NOTE.—This application is directly related to an application filed under section 5 of the act, in docket No. MC-F-13602, published in a previous section this FEDERAL REGISTER issue. The purpose of this application is to enable applicant to continue service between the points here involved.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before July 10, 1978.

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 1074 (Deviation No. 12), ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601, filed March 27, 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 Athens, OH over U.S. Hwy 33 north to junction Interstate Hwy 270, then over Interstate Hwy 270 to junction Interstate Hwy 71, then over Interstate Hwy 71 south to Cincinnati, 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 Athens, OH over U.S. Hwy 50 to Cincinnati, OH, and return over the same route.

No. MC 1074 (Deviation No. 13), ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601, filed March 24, 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 Charleston, WV, over U.S. Hwy 35 north to junction Interstate Hwy 71, then over Interstate Hwy 71 south to Cincinnati, 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 Interstate Hwy 77 north to junction U.S. Hwy 50, then over U.S. Hwy 50 to Cincinnati, OH, and return over the same route.

No. MC 1074 (Deviation No. 14), ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601, filed March 24, 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 Parkersburg, WV, over WV, Hwy 2 south to Huntington, WV, 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 Parkersburg, WV, over Interstate Hwy 79 south to junction Interstate Hwy 64, then over Interstate Hwy 64 west to Huntington, WV, and return over the same route

No. MC 59856 (Deviation No. 6), SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82601, filed April 12, 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 Interstate Hwy 25 and U.S. Hwy 85 located 7 miles north of Cheyenne, WY, then over U.S. Hwy 85 to Lusk, WY, 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 Cheyenne, WY, over combined Interstate Hwy 25 and U.S. Hwy 87 to junction U.S. Hwy 20 at Orin, WY, then over U.S. Hwy 20 to Lusk, WY, and return over the same route.

No. MC 108937 (Deviation No. 15), MURPHY MOTOR FREIGHT LINES, INC., 354 Hamm Building, P.O. Box 43640, St. Paul, MN 55164, filed April 24, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows; (1) From junciton U.S. Hwy 53 and U.S. Hwy 2 near Duluth, MN, over U.S. Hwy 53 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, IL, (2) from junction U.S. Hwy 53 and U.S. Hwy 2 near Duluth, MN, over U.S. Hwy 53 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Milwaukee, WI, and (3) from St. Paul, MN, over MN Hwy 280 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction U.S. Hwy 10, then over U.S. Hwy 10 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Milwaukee, WI, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Duluth, MN, over U.S. Hwy 2 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction WI Hwy 47, then over WI Hwy 47 to Rhinelander, WI, then over U.S. Hwy 8 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Oshkosh, WI, then over U.S. Hwy 41 to junciton WI Hwy 175, then over WI Hwy 175 to Fond du Lac, WI, then over U.S. Hwy 45 to junction WI Hwy 145, then over WI Hwy 145 to Milwaukee, WI, then over over U.S. Hwy 41 to Chicago, Il, and (2) from St. Paul, MN, over U.S. Hwy 8 via Rhinelander, WI, to junction U.S. Hwy 45, then over U.S. Hwy 45 to Oshkosh, WI, then over U.S. Hwy 41 to junction WI Hwy 175, then over WI Hwy 175 to Fond du Lac, WI, then over U.S. Hwy 45 to junction WI Hwy 145, then over WI Hwy 145 to Milwaukee, WI, and return over the same routes.

No. MC 112713 (Deviation No. 48), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207, filed April 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 Newburg, NY, over Interstate Hwy 84 to junction U.S. Hwy 209 near Matamoras, PA, then over Hwy 209 to Stroudsburg, PA, 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 Newburg, NY, across the Hudson River to junction NY Hwy 9D, then over NY Hwy 9D to New York, NY, then across the Hudson River to junction NJ Hwy 4, then over NJ Hwy 4 to Paterson, NJ, then over NJ Hwy 62 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction U.S. Hwy 611, then over U.S. Hwy 611 to Portland, PA, then over Alternate U.S. Hwy 611 to junction

U.S. Hwy 611, then over U.S. Hwy 611 to junction U.S. Hwy 209, then over U.S. Hwy 209 to Stroudsburg, PA, and return over the same route.

By the Commission.

H.G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-15804 Filed 6-7-78; 8:45 am]

[1505-01]

[Volume No. 90]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-13436 appearing at page 21528 in the issue for Thursday, May 18, 1978, the following corrections should be made:

1. On page 21529 the second motor carrier application number in the middle column should read, "No. MC 82841".

2. On page 21532 the last motor carrier application number in the last column should read, "No. MC 117639".

3. On page 21538 the second motor carrier application number appearing in the middle column should read, "No. MC 144438".

[1505-01]

[Volume No. 88]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Corrections

In FR Doc. 78-12758 appearing at page 20297 in the issue for Thursday, May 11, 1978, the following corrections should be made:

1. On page 20313 the third motor carrier application number in the first column should read, "No. MC 141994 (Sub-No. 1F)."

2. On page 20314 the second motor carrier application appearing in the middle column should read, "No. MC 144395."

[7035-01]

[Notice No. 62]

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 July 10, 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-77640 filed May 3, 1978. Transferee: B D Trucking Co., Old Highway 99/Jacktone Road, Ripon, CA 95366. Transferor: Bigge Drayage Co., 10700 Bigge Avenue, San Leandro, CA 94577. Applicants' representative: Edward J. Hegarty, Loughran & Hegarty, 100 Bush Street, San Francisco, CA 94104. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate Nos. MC-43716, MC-43716 (Sub-No. 26), MC-43716 (Sub-No. 28), and MC-43716 (Sub-No. 31), issued December 7, 1954, January 9, 1968, July 9, 1973, and February 1, 1978, respectively as follows: *Machinery, equipment, materials and supplies* used or useful in logging, mining, roadbuilding, and construction work, between points in CA except those in San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, CA, on the one hand, and, on the other, points in NV; between points in ID and OR on the one hand, and, on the other, points in NV and CA, except those in San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties CA; between points in ID and OR. *Machinery, equipment, materials, and supplies* used in logging, mining, roadbuilding and construction work, and such commodities when moving as a replacement, addition, repair, or a standby shipment, between points in CA (except points in San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties), on the one hand, and, on the other, points in NV; between points in ID and OR; between points in ID and OR, on the one hand, and, on the other, points in NV and CA (except points in San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, CA); Iron and steel articles, as described in Apppendix V to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 between points in ID, OR, and NV, on the one hand, and, on the other, points in CA (except those in San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, CA); and between points in ID, OR, and NV; (1)(a) *Machinery, equipment, materials, and supplies* used in logging, mining, road building, and construction work, and (b) replacement, additional, repair or standby equipment to the commodities authorized in (1)(a) above, (2) *Iron and steel articles* as described in Appendix V to the report in Descriptions in Motor Carrier Certificates 61 MCC 290 and, (3) *construction materials*, between points in Ventura, Kern, Inyo, San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

Transferee: Oil Country Haulers, Inc., 15714 Old Beaumont Hwy (90), Houston, TX 77049. Transferor: Sheldon Trucking Co., same as transferee. Applicants' representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration, No. MC-120228 (Sub-No. 1), issued November 22, 1972, authorizing the transportation of specific commodities between points in TX. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77657, filed May 8, 1978. Transferee: BROWN GOBBLE, doing business as Gobble Trucking Co., 706 High Street, Lawrenceburg, TN 38464. Transferor: Paulie Brazier, doing business as Brazier Co., 203 Helton Drive, Lawrenceburg, TN 38464. Applicants' representative: B. E. Bryant, 107 North Military Avenue, Lawrenceburg, TN 38464. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 136876 (Sub-No. 9), issued November 14, 1977, as follows: *Dry fertilizer*, from Humboldt, TN, and points in Davidson County, TN, to points in Colbert, Lauderdale, Lawrence, Madison, Limes-

tone, Jackson, Morgan, Franklin, and Marion Counties, AL, and points in a specified section of KY. Transferee is presently authorized to operate as a common carrier under certificate No. MC 123880. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77683, filed May 23, 1978. Transferee: SUDS EXPRESS, INC., 7601 South 1st Street, Lincoln, NE 68512. Transferor: Debb Trucking Co., P.O. Box 334, Beatrice, NE 68310. Applicants' representative: Scott E. Daniel, Attorney at Law, P.O. Box 82028, Lincoln, NE 68310. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit No. MC 138527 (Sub-No. 1), issued July 27, 1976, as follows: *Malt beverages* (except in bulk, in tank vehicles), from St. Louis, MO, to Fairbury, NE, with restrictions. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-F-C 77689, filed May 25, 1978. Transferee: TIGGES TRUCKING, INC., 5071 JFK Road, Dubuque, IA 52001. Transferor: Curtis Henkes, Monona, IA 52159. Applicants' representative: James M. Hodge, Attorney at Law, 1980 Financial Center, Des Moines, IA 50309. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 133262 (Sub-No. 1), issued May 12, 1969, as follows: *Sand, gravel, stone, and asphalt mix,* in dump vehicles, from Prairie due Chien, WI, to points in Allamakee, Clayton, Fayette, and Winneshiek Counties, IA. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

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

[FR Doc. 78-15919 Filed 6-7-78; 8:45 am]

[7035-01]

[Docket No. AB-19 (Sub-No. 33)]

THE BALTIMORE & OHIO RAILROAD CO. ABANDONMENT OF ITS "BOWLING GREEN BRANCH" BETWEEN TONTOGANY AND NORTH BALTIMORE IN WOOD COUNTY, OHIO

Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on September 30, 1977, and the decision of the Commission, Division 1, served May 8, 1978, as modified, adopted the decision of the Commission, Review Board No. 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Baltimore & Ohio Railroad Co. of a portion of its line of railroad known as the "Bowling Green Branch" between Valuation Station — 2+14 at or near Tontogany, OH, and Valuation Station 880+66, at or near North Baltimore, OH, a distance of approximately 15.22 miles, all in Wood County OH. A certificate of abandonment will be issued to the Baltimore & Ohio Railroad Co. based on the above-described finding of abandonment, on July 10, 1978, unless on or before July 10, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

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

[FR Doc. 78-15920 Filed 6-7-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 57; Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads: In the opinion of Robert S. Turkington, Agent, the Chicago & North Western Transportation Co. is unable to transport traffic over its line between Albia, Iowa, and Des Moines, Iowa, because of track damage from flooding.

It is ordered, (a) *Rerouting traffic.* The Chicago & North Western Transportation Co. being unable to transport traffic over its line between Albia, Iowa, and Des Moines, Iowa, because of track damage from flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent 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.

(f) *Effective date.* This order shall become effective at 9 a.m., May 18, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m. May 31, 1978, unless otherwise modified, changed, or suspended.

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 it shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 18, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-15921 Filed 6-7-78; 8:45 am]

[7035-01]

[Corrected Service Order No. 1304; Exception No. 3, Amdt. No. 2]

ILLINOIS CENTRAL GULF RAILROAD CO.

Car Service Order

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 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 May 31, 1978.

Expires June 15, 1978.

Issued at Washington, D.C., May 22, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.[1]

[FR Doc. 78-15922 Filed 6-7-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 58 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads: In the opinion of Robert S. Turkington, Agent, the Western Maryland Railway Co. is unable to transport promptly all traffic offered for movement over its lines between Hendricks, W. Va., and Lime Rock Siding, W. Va., because of track damage from flooding.

It is ordered, (a) *Rerouting traffic.* The Western Maryland Railway Co. being unable to transport promptly all traffic offered for movement over its lines between Hendricks, W. Va., and Lime Rock Siding, W. Va., because of track damage from flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent 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.

(f) *Effective date.* This order shall become effective at 9:30 a.m., May 25, 1978.

Expiration date. This order shall expire at 11:59 p.m., June 10, 1978, unless otherwise modified, changed, or suspended.

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. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 25, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-15923 Filed 6-7-78; 8:45 am]

[7035-01]

[Notice No. 678]

ASSIGNMENT OF HEARINGS

JUNE 5, 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.

No. MC 116200 (Sub-Nos. 2, 3, and 5), United Parcel Service, Inc., a New York corporation, and No. MC 115495 (Sub-Nos. 3, 4, 7, 14, 16, 20, 22, 24G, and 25G), United Parcel Service, Inc., an Ohio corporation, now assigned June 5, 1978, at Washington, DC, is postponed to June 13, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

No. MC-F 13306, Beeline Motor Freight, Inc.—Purchase (Portion)—McAllister Transfer, Inc., is now assigned for hearing July 17, 1978 (1 week), at Omaha, NE, at a location to be later designated.

No. MC 143558, Cardinal Transportation Co., Inc., is now assigned for continued hearing July 27, 1978 (1 day), in the Tennessee Public Service Commission Hearing Room, Floor C-1, 122 Cordell Hull Building, Nashville, TN.

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

[FR Doc. 78-15924 Filed 6-7-78; 8:45 am]

[7035-01]

[Notice No. 88]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in

[1] Members: Joel E. Burns, Robert S. Turkington and John R. Michael.

the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting form approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub.No. 497TA), filed May 3, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the plantsite of Hoover Universal, beverage Bottle Division, at New Castle, DE, to Lenexa, KS; St. Louis and Springfield, MO, and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hoover Universal Beverage Bottle Division, Route 2, Tri Port Road, Georgetown, KY 40324 (Thomas E. Gould). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building, and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 57239 (Sub-No. 29TA), filed April 24, 1978. Applicant: RENNER'S EXPRESS, INC. 1350 South West Street, P.O. Box 882, Indianapolis, IN 46206. Applicant's representative: B. V. Beaman, 1350 South West Street, Indianapolis, IN 46206. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air coolers or air conditioners, compactors, cooling boxes or refrigerators, freezers, dishwashers, washing machines, dryers, garbage disposals, ovens, stoves or ranges, stove or range hoods and other household appliances and parts*, (except commodities in bulk), from Louisville, KY, and its commercial zone, to all points in MI, on and south of MI State Hwy 21, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Electric Co., Appliance Park, Louisville, Ky. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 57239 (Sub-No. 30TA), filed April 26, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, P.O. Box 882, Indianapolis, IN 46206. Applicant's representative: B. V. Beaman, 1350 South West Street, Indianapolis, IN 46206. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts*, serving Alma, MI, as an off-route point in connection with carrier's regular route operations to and from Lansing, MI, restricted to traffic from the plantsite or warehouses of Alma Products, Ford Motor Co., or Lobdell Emery Co., at Alma, MI, and consigned to Ford Motor Co., or to Hessco Corp., at Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ford Motor Co., One Parklane Boulevard, Parklane Section, Towers E, Suite 200, Dearborn, MI 48126. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 82079 (Sub-No. 63TA), filed April 19, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, MI 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery and foodstuffs* (except in bulk, in mechanically refrigerated vehicles), from the facilities of Standard Brands, Inc., at Chicago and Bensonville, IL, to points in MI, restricted to traffic originating at the named origin points and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Standard Brands Confectionery, division of Standard Brands, Inc., 3401 Mt. Prospect Road, Franklin Park, IL 60131. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 96881 (Sub-No. 20TA), filed April 26, 1978. Applicant: FINE TRUCK LINE, INC., 801 West Dodson Avenue, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. 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 facilities of General Electric Co. at Little Rock, AR, as an off-route point in connection with carrier's regular route operations at Fort Smith, AR, and Texarkana, TX, and Shreveport, LA, and their commercial zones, for 180 days. Carrier intends to tack this authority to other authority held by it. Carrier intends to interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) General Electric Co., 6901 Lindsey Road, Little Rock, AR 72206. (2) Central Freight Lines, Inc., and Central Express, Inc., 5601 West Waco Drive, Waco, TX. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 108248 (Sub-No. 15TA), filed April 24, 1978. Applicant: SHAW TRUCKING, INC., P.O. Box E, Brockway, PA 15824. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, from the facilities of Brockway Glass Co., Inc., in Clearfield County, PA, to Fulton, S. Volney, Auburn, Syracuse and Liverpool, NY, and points in their commercial zones; and (2) *Equipment, materials and supplies* used in the production and distribution of glass containers, from the destination points described above, to the facilities of Brockway Glass Co., Inc., in Clearfield County, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brockway Glass Co., Inc., Brockway, PA 15824. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 112822 (Sub-No. 451TA), filed April 14, 1978. Applicant: BRAY LINES INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Applicant's representative: Charles D. Midkiff, 1401 North Little, Cushing, OK

74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in AL, AR, CA, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 NW., 3rd, Oklahoma City, Ok 73102.

No. MC 113843 (Sub-No. 256TA), filed April 14, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co. at or near Betendorf, IA, to points in IL, IN, MI, MO, KY, OH, MN, WI, PA and NY, for 180 days. Supporting shipper(s): General Foods Corp., 240 North Street, White Plains, NY 10625. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway, Boston, MA 02114.

No. MC 121509 (Sub-No. 8TA), filed April 13, 1978. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, P.O. Box 675, Muscatine, IA 52761. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, (in bulk), from the facilities used by Allied Chemical Corp., located at or near Muscatine, IA, to points in IL, MO, and WI, restricted against service to points in the St. Louis, MO-East St. Louis, IL, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Chemical Corp., P.O. Box 2120, Houston, TX 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 124078 (Sub-No. 803TA), filed May 3, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Liquid zinc chloride* (in bulk, in tank vehicles), from Decatur, AL, to Brunswick, GA, for 180 days. Supporting shipper(s): Chemresol, Inc., P.O. Box 603, Brunswick, GA 31520. (Edward H. Shelander) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124078 (Sub-No. 804TA), filed May 3, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Fly ash*, from Louisville, KY, to Bloomington, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): S. J. Groves & Sons, Co., P.O. Box 3247, Shiremanstown, PA 17011. (George B. Searle). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124078 (Sub-No. 805TA), filed May 3, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Salt cake* (in bulk, in tank vehicles), from Weeks, LA, to Milford, TX, for 180 days. Supporting shipper(s): Morton Chemical Co., 110 North Wacker Drive, Chicago, IL 60606. (J. L. Callaghan). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124078 (Sub-No. 806TA), filed May 4, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil* (in bulk, in tank vehicles), from Carrollton, GA, to points in NC, SC, TN, and VA, for 180 days. Supporting shipper(s): E. F. Houghton & Co., 421 Garrett Street, Carrollton, GA 30117 (Chaffer Banister). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124284 (Sub-No. 1TA), filed April 24, 1978. Applicant: WALKER'S TRANSFER, INC., 200 Barnett Avenue, Roxboro, NC 27573. Applicant's representative: Charles E. Hubbard, 25 Abbitt Street, Box 601, Roxboro, NC 27573. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood molding, kiln dried and air dried imported nondomestic hardwood lumber*, from the site of the plant of Pat Brown Lumber Corp., at or near Roxboro, NC, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and the DC, under a continuing contract, or contracts, with Pat Brown Lumber Corp., for 180 days. Supporting shipper(s): Pat Brown Lumber Corp., Hwy 501 S., Roxboro, NC 27573. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 124344 (Sub-No. 11TA), filed April 19, 1978. Applicant: HINER TRANSPORT, INC., 1317 South Jefferson Street, Huntington, IN 46750. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool insulation* (except in bulk), from Huntington, IN, to points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX, and (2) *Materials and supplies* used or useful in the manufacturing and shipping of mineral wood insulation, from points in and east of the States of ND, SD, NE, KS, OK, and TX, to Huntington, IN, under a continuing contract, or contracts, with Guardian Insulation, division of Guardian Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Guardian Insulation, division of Guardian Industries, Inc., 701 North Broadway, Huntington, IN 46750. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 129031 (Sub-No. 5TA), filed April 26, 1978. Applicant: KLAUSNER TRANSPORTATION CO., INC., 101 North Avenue 18, Los Angeles, CA 90031. Applicant's representative: Wil-

liam Davidson, 2455 East 27th Street, Los Angeles, CA 90058. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Apparel on hangers and in packages*, between Los Angeles, CA, and Carson, CA, on the one hand, and, Chicago, IL; Alsip, IL; Atlanta, GA; Forest Park, GA; and North Bergen, NJ, on the other hand with stops in transit at Atlanta, GA; Forest Park, GA; Chicago, IL; Alsip, IL, when intermediate to final destination, under a continuing contract, or contracts, with Fashion Barn, Inc., and K-Mart Apparel Corp., for 180 days. Supporting shipper(s): (1) Fashion Barn, Inc., 42-99 Francis Lewis Boulevard, Bayside, NY, 11361. (2) K-Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ 07047. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 133566 (Sub-No. 114TA), filed April 26, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, 1 World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite or facilities of Rich Products Corp., at or near Murfreeboro, TN, to points in AL, AR, DE, FL, GA, KS, KY, LA, MD, MI, MS, NJ, NY, NC, OH, OK, PA, SC, TX, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 135283 (Sub-No. 36TA), filed May 2, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stahr Road, Grand Island, NE 68801. Applicant's representative: Lloyd A. Mettenbrink (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Plastic articles* (except in bulk), (1) from Grand Island, NE, to Dallas, TX, and (2) from Traverse City, MI, to Grand Island and Omaha, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Steven S. Stauffer, Plant Manager, GIA, Inc., Subsidiary of Burwood Industries, P.O. Box 9025, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 136553 (Sub-No. 60TA), filed May 4, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. 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 regular routes, transporting: *Limestone and gypsum feed ingredients and limestone and gypsum soil conditioners*, from Marion County, IA, to points in IL, KS, MN, MO, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Pelletizing Corp., 7200 Hickman Road, Des Moines, IA 50322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138882 (Sub-No. 70TA), filed May 4, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from OR, CA, AZ, MT, and UT, to points in AL, MO, WI, TX, NM, and AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northwest Pine Sales, Inc., P.O. Box 12511, Portland, OR 97212. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 138882 (Sub-No. 72TA), filed May 4, 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*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, gaskets, and accessories* (except in bulk), from Holt, AL to points in TX, MO, OK, KS, NE, IA, AZ, UT, and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Central Foundry Co., P.O. Box 188, Holt, AL 35401. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139205 (Sub-No. 2TA), filed April 28, 1978. Applicant: DOLPHIN CARTAGE, INC., 14500 Cottage Grove Avenue, Dolton, IL 60419. Applicant's representative: James R. Madler, 120 West Madison Street, Room 718, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fibre board containers*, from Montgomery and Elk Grove Village, IL, to LaPorte, IN, under a continuing contract, or contracts, with Wilmette Industries, Inc., and Western Kraft Paper Group, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Kraft Paper Group, Wilmette Industries, Inc., Administrative Manager Frank R. Bridge, 1001 Knell Street, Montgomery, IL 60538. Send protests to: Patricia A. Roscoe, Transportation Consumer Specialist, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 139482 (Sub-No. 53TA), filed April 26, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, 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: *Foodstuffs*, in packages, from Jersey City, NJ; New York, NY, and Philadelphia, PA, to points in IN, MI, MN, OH, WI, Burlington, IA, Chicago, IL, Lawrence, KS, and Los Angeles, CA, for 180 days. Supporting shipper(s): Atlanta Corp., 17 Varick Street, New York, NY 10013. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 140768 (Sub-No. 18TA), filed April 20, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm, dairy and water treatment equipment, materials, and supplies, and cleaning products, paint, and pesticides*, from the facilities of Babson Bros. Co., at Oak Brook, IL, and the facilities of Pfanstiel Detergent Chemicals, Inc., at Romeoville, IL, to points in CT, DE, MD, MA, ME, NJ, NH, NY, RI, PA, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Babson Bros. Co., 2100 South York Road, Oak Brook, IL 60521. Send protests to: Robert E. Johnston, District Supervisor, Inter-

state Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 140820 (Sub-No. 4TA), filed April 28, 1978. Applicant: A & R TRANSPORT, INC., 2996 North Illinois 71, Rural Route No. 3, Ottawa, IL 61350. Applicant's representative: James R. Madler, 120 West Madison Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dicalcium phosphate* (in bulk) (feed grade), from Marseilles, IL, to points, in IA, KS, MO, KY, IN, MI, WI, IL, OH, MN, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beker Industries Corp., Joseph Lammey, Manager of Transportation, 124 West Putnam Avenue, Greenwich, CT 06830. Send protests to: Patricia A. Roscoe, Transportation Consumer Specialist, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Il 60604.

No. MC 140987 (Sub-No. 2TA), filed April 13, 1978. Applicant: WILLIAM FREDERICK, P.O. Box 161, Rear 77 Mechanic Street, Leominster, MA 01453. Applicant's representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic articles, and supplies and materials* used in their manufacture and distribution (except in bulk), between the facilities of Plastican, Inc., located at or near Leominster, MA, and points in Dade, Pasco, Orange, Broward, Polk, Hillsborough, Brevard, Osceola, Indian River, Duval, and St. Lucie Counties, FL, under a continuing contract or contracts, with Plastica, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plastican, Inc., 196 Industrial Road, Leominster, MA 01453. Send protests to: David M. Miller, District Supervisor, 436 Dwight Street, Room 338, Springfield, MA 01103.

No. MC 142508 (Sub-No. 18TA), filed April 25, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68138. Applicant's representative: Joseph Winter, 33 North LaSalle, Suite 2108, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical and asphalt products, in containers, and empty containers and displays*, from Chicago, Ringwood, Libertyville, and Peotone, IL, and Milwaukee, WI, and the commercial zones to Mid-America Research Corp., at Columbus, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ron Lambert, President, Mid-America Research Chemical Corp., 2470 14th Avenue, Box 458, Columbus, NE 68601. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 142914 (Sub-No. 2TA), filed April 17, 1978. Applicant: RAYMOND C. GRIFFITH, d.b.a., GRIFFITH TRANSPORT, P.O. Box 244, Esbon, KS 66941. Applicant's representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk and bag feed*, from Kansas City, MO, and St. Joseph, MO, to all points and places in KS bounded on the East by Belleville and Hwy 81; on the North by the State of NE, on the South by Hwy 24, on the West by Hwy 183, for 180 days. Applicant states it does not intend to tack or interline. Supporting shipper(s): There are approximately (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof whch may be examined at the field office named below. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 SE., Quincy, Topeka, KS 66683.

No. MC 143785 (Sub-No. 1TA), filed April 19, 1978. Applicant: B & W TRANSPORTATION, INC., 24 Collins Avenue, Randolph, MA 02363. Applicant's representative: David M. Marshall, Marshall & Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer, and materials and supplies* used in the distribution thereof, between South Volney and Fulton, NY, on the one hand, and, on the other, Randolph, MA, under a continuing contract, or contracts, with Burke Distribution Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Burke Distribution Corp., 89 Reed Drive, Randolph, MA 02368. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 143794 (Sub-No. 3TA), filed April 17, 1978. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Hwy 45 South, Selmer, TN 38375. Applicant's representative: William J. Monheim, 13710 E. Whittier Blvd., Suite 203, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts*, from Hagerstown, MD, to Hayward, CA, under a continuing contract, or contracts, with Mack Western Division of Mack Trucks, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mack Western Division of Mack Trucks, Inc., 21021 Corsair Blvd., P.O. Box 4117, Hayward, CA 94545. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 144042 (Sub-No. 2TA), filed April 19, 1978. Applicant: HUNTER BROKERAGE, INC., 805 Thirty Second Avenue, Council Bluffs, IA 51501. Applicant's representative: Kenneth J. Hunter (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from the International Boundary line between the United States and Canada located in MN and ND, to points in the states of ND, SD, MN, WI, IA, NE, KS, IL, IN, OH, MO, KY and TN, under a continuing contract, or contracts, with Northwood Building Materials, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jim Pico, Operations Manager, North Building Materials, 1460 Clarence Avenue, Winnipeg, MB, Canada. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144583 (Sub-No. 1TA), filed April 22, 1978. Applicant: D & D TRANSFER, INC., 271 Culver Avenue, Jersey City, NJ 07305. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the New York, NY, commercial zone, on the one hand, and, on the other, the railroad trailer on flat car facilities located in Alexandria, VA, restricted to traffic in trailers or containers having a prior or subsequent movement by rail, for 180 days. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be

examined at the field office named below. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 144701TA, filed April 28, 1978. Applicant: BLACKSHEAR REFRIGERATED TRANSPORT, INC., 1178 Wright Avenue, Camden, NJ 08102. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, feed, and foodstuffs*, from Camden, NJ, to points in CT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Campbell Soup Co., 100 Market St., Camden, NJ 08101. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

By the Commission.

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

[FR Doc. 78-15925 Filed 6-7-78; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19, 44th Rev. Exemption No. 90]

ABERDEEN AND ROCK FISH RAILROAD CO. ET AL.

Exemption Under Mandatory Car Service Rules

To all Railroads: It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, That there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol (*) have 150 percent or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcar described in the Official Railway Equipment Register, ICC-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen & Rockfish Railroad Co.
Reporting Marks: AR
* The Baltimore & Ohio Railroad Co.
Reporting Marks: BO
* Bessemer & Lake Erie Railroad Co.
Reporting Marks: BLE
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT
* The Chesapeake & Ohio Railway Co.
Reporting Marks: CO-PM
* Chicago & Illinois Midland Railway Co.
Reporting Marks: CIM
* Chicago, Rock Island and Pacific Railroad Co.
Reporting Marks: RI-ROCK
City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
* Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC-P&E-PAE-PC-PCA-PRR-RDG
* Delaware & Hudson Railway Co.
Reporting Marks: DH
Duluth, Missabe & Iron Range Railway Co.
Reporting Marks: DMIR
* Florida East Coast Railway Co.
Reporting Marks: FEC
* Grand Trunk Western Railroad Co.
Reporting Marks: GTW
Greenville & Northern Railway Co.
Reporting Marks: GRN
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ
Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Municipality of East Troy, WI
Reporting Marks: METW
New Orleans Public Belt Railroad
Reporting Marks: NOPB
* Norfolk & Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN

* * * * *[1]

St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
WCTU Railway Co.
Reporting Marks: WCTR
* Western Maryland Railway Co.
Reporting Marks: WM
* Western Railway of Alabama
Reporting Marks: WA
Youngstown & Southern Railway Co.
Reporting Marks: YS
Yreka Western Railroad Co.
Reporting Marks: YW

Effective May 31, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 25, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-15926 Filed 6-7-78; 8:45 am]

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* Carriers having 150 pct or more of ownership on lines.

[1] St. Johnsbury and Lamoille County Railroad deleted.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6155-01]

1

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., June 15, 1978.

PLACE: American Consulate General, Conference Room, 5 Koeniginstrasse, Munich, Federal Republic of Germany.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) and 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-1180-78 Filed 6-6-78; 9:12 am]

[6320-01]

2

[M-135; May 1, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 8, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 30332, IATA agreement dealing with reduced fares for cargo agents (Memo No. 7982, BPDA, BIA).
3. Docket 32237, Application of Emery Air Freight Corporation for tariff-filing authority to provide pickup and delivery service from Orlando Jetport to various points (Memo No. 7993, BPDA, OGC).
4. Dockets 30764, 30772, and 30768; Agreements CAB 16874-A61, 16874-A63, and 16874-A64; Application of the Air Traffic Conference of America for prior Board approval of agreements relating to bonding requirements for travel agents (Memo No. 7983, BPDA).
5. Docket 32079, Petition from First National Bank in Dallas, Tex. for declaratory order of no violation, or disclaimer or waiver of jurisdiction, or, an application for special exemption (Memo No. 7992, BPDA, OGC).
6. Docket 29968, *Louisville Service Case*—Order on Discretionary Review (Memo No. 6240-C, OGC).
7. Dockets 31951, 31949, 31990, 31992, 32026, 31947, 31950, 31991, and 32039; Pan American's application to suspend its Miami/Tampa-Merida-Mexico City and Miami-Merida services; Applications of National, Eastern, Western and Braniff for Florida-Mexico certificate authority; Applications of Eastern, National, Braniff and Western for Florida-Mexico exemption authority (Memo No. 7994, BPDA, BIA, BALJ, OGC).
8. Docket 30275, Eastern's Albany-New York Application and Petition for an order to show cause (Memo No. 7817-A, BPDA, BALJ).
9. Dockets 28366, 30233, 30339, 32151, 32145, 28273, 29106, 29764, 32282, and 32152, et al.; Route Proceedings Instituted by the Board at its May 19, 1978 Meeting (Memo No. 7976, BPDA).
10. Docket 30790, *United States-Benelux Low-Fare Proceeding* (BIA, BALJ, OGC).
11. Docket 32311, Laker Airways Limited Application for Renewal and Amendment of Foreign Air Carrier Permit and Petition for an Order to Show Cause (Memo No. 7991, BIA, OGC).
12. Docket 32225, Braniff's request to release International Origin-Destination Survey data in its Application for Certificate Authority between Dallas/Ft. Worth and Tokyo, Japan (Memo No. 7859-A, BIA).
13. Docket 31415, Petition for Review of WITS, Inc., d.b.a. WITS Air Freight, an air freight forwarder, of Order 78-2-99 (Memo No. 7734-C, BOE, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 673-5068.

[S-1182-78 Filed 6-6-78; 9:12 am]

[6320-01]

3

[M-133, Amdt 4; May 31, 1978]

NOTICE OF DELETION OF ITEM FROM THE JUNE 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Docket 32321, Southern Airways, Inc., Proposed settlement of Enforcement Proceeding (Memo No. 7951, BOE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 25 is being deleted because Vice Chairman Minetti requested additional information from the Board's staff. Response to this request has not yet been received. This item will be recalendared on June 14, after the material has been received and considered. Accordingly, the following Members have voted that agency business requires the deletion of Item 25 from the June 1, 1978, agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1183-78 Filed 6-6-78; 9:12 am]

[6320-01]

4

[M-133, Amdt 5; May 31, 1978]

NOTICE OF ADDITION OF ITEM TO THE JUNE 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 8a. Docket 32264, Nashville-Cleveland Subpart M Proceeding, Order on discretionary review (Memo N. 7989, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The initial decision in the subject case was issued on May 12. Petitions for discretionary review were due May 26. None were filed. Absent Board action, the initial decision will become effective as the Board's decision on June 3.

As the staff recommendation is now ready, the staff requests that this matter be decided at tomorrow's calendar meeting. The alternative is to issue immediately an order staying the effective date of the initial decision so that the case can be decided on the merits at a later open meeting. The latter course would delay the inauguration of service in this market. Accordingly, the following Members have voted that agency business requires the addition of this item to the June 1, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1184-78 Filed 6-6-78; 9:12 am]

[6320-01]

5

[M-133, Amdt 6; May 31, 1978]

NOTICE OF ADDING AND CLOSING AN ITEM FOR THE JUNE 1, 1978, MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978 (4:30 p.m.—Closed).

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 26. Negotiations with Germany and other countries on rate policy and procedures (BPDA, BIA).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Negotiatins with Germany involving rate issues are scheduled to begin on June 5, 1978. Staff work on these items was not completed until May 30, and therefore no earlier meeting was possible.

If a Board meeting is held on this matter, we recommend that it be closed to the public. Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies discussed could seriously compromise the ability of the U.S. Government to achieve understandings in these rate negotiations which would be in the best interests of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. David M. Kirstein.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of International Aviation.—Mr. Rosario J. Scibilia, Ms. Sandra Gersen, Mr. Donald Litton, and Mr. Anthony Largay.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. James L. Deegan Mr. Don C. Sauers, Mr. Herbert P. Aswall, and Mr. John Kiser.

Office of the General Counsel.—Mr. Philip Bakes, Mr. Gary Edles, and Mr. Peter Schwarzkopf.

Office of Economic Analysis.—Mr. Darius Gaskins and Mr. Richard Klem.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-1185-78 Filed 6-6-78; 9:12 am]

[6351-01]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., June 16, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1186-78 Filed 6-6-78; 9:12 am]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 1, 1978, 43 FR 23843.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m., June 6, 1978.

CHANGES IN THE MEETING: Addition of the following item to the open session:

10. Proposed rulemaking on average value rate base.

[S-1188-78 Filed 6-6-78; 3:37 pm]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., June 9, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Discussion of interim handling of Labor-Management Agreements

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1189-78 Filed 6-6-78; 3:37 pm]

[6820-35]

9

LEGAL SERVICES CORPORATION: Committee on Provision of Legal Services.

TIME AND DATE: 1 p.m., Tuesday, June 13, 1978.

PLACE: 733 15th Street NW., 7th Floor, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Consideration of the Report on an Evaluation of the Reginald Heber Smith Community Lawyer Fellowship Program, prepared by James Robertson.

2. Preliminary consideration of the Legal Services Institute, proposed by Gary Bellow and others.

3. Progress report on the study required by Section 1007(h) of the Legal Services Corporation Act.

4. Status report on the Quality Improvement Project.

CONTACT PERSON FOR MORE INFORMATION:

Ruth Felter, Executive Office, telephone 202-376-5100.

Issued: June 5, 1978.

THOMAS EHRLICH,
President.

[S-1181-78 Filed 6-6-78; 9:12 am]

federal register

THURSDAY, JUNE 8, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

MEDICARE AND MEDICAID PROGRAMS

Suspension of Physicians and Other Individual Practitioners

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 405 and 450]

MEDICARE AND MEDICAID PROGRAMS

Suspension of Physicians and Other Individual Practitioners

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would establish policies under which any physician or other individual practioner who has been convicted on or after October 25, 1977, of a criminal offense related to his involvement in the Medicare or Medicaid program would be suspended from participation on both of those programs. It would prohibit reimbursement for services provided during suspension. The proposal implements section 7 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments. The purpose is to prevent fraud and abuse in the two health care programs.

DATES: Consideration will be given to written comments or suggestions received by August 7, 1978.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to PCO-182-P. Agencies and organizations are requested to send comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today in Room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-0950).

FOR FURTHER INFORMATION, CONTACT:

Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, phone 301-594-5415.

SUPPLEMENTARY INFORMATION:

STATUTORY PROVISIONS

The Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142) contain several new measures designed to detect and prevent fraud and abuse in the Medicare and Medicaid programs. Section 7 of that law requires that physicians and other individual practitioners convicted of criminal offenses related to their prticipation in either program be automatically suspended from both programs. A suspension from Medicare is for such period of time as the Secretary deems appropriate and the suspension from Medicaid must be at least as long as the Medicare suspension. No Federal payments may be made during the period of suspension.

Prior to the enactment of Pub. L. 95-142, practitioners were not automatically suspended from these programs when convicted. The Secretary has had authority to discontinue Medicare payments to practitioners (section 1862(d) of the Social Security Act), and to providers (section 1866(b) of the Act) who have:

(1) Falsified information related to a request for payment;

(2) Billed the program for charges substantially in excess of the person's customary charges or the costs incurred by the provider; or

(3) Furnished services found to be substantially in excess of any individual's needs, or harmful or of grossly inferior quality.

NOTE.—The last clause was changed by section 13 of Pub. L. 95-142 to refer to services which are of a quality which fails to meet professionally recognized standards of care.

If the Secretary discontinues Medicare payments, Federal financial participation is not available for State Medicaid payments for sevices furnished by that practitioner or provider. (Section 1903(i)(2) of the Act.)

Under the new legislation, State Medicaid agencies do not merely lose Federal funds with respect to convicted practitioners. They are now required to suspend practitioners who are suspended from Medicare, for a period at least equal to the period of Medicare suspension.

Recognizing that imposition of this suspension could, under unusual circumstances, deny adequate access to medical care to persons eligible for services under Medicare or Medicaid, section 7 of Pub. L. 95-142 provides that:

(1) The Secretary may designate a community as a health manpower shortage area and place National Health Service Corps personnel in that community under section 332(c)(3) of the Public Health Service Act. (Appropriate amendments to the Public Health Service regulations, at 42 CFR Part 5, are under development.); and

(2) The Secretary may waive suspension under Medicaid if the State Medicaid agency submits a request showing that the suspension would deprive the community of needed medical services because of the shortage of practitioners in the area.

This proposed rule would establish the procedures and standards to be used in implementing section 7 for both Medicare and Medicaid. It would also revise the existing regulation implementing the Secretary's authority under sections 1862(d) and 1866(b) to deny Medicare reimbursement (42 CFR 405.315a), in order to conform to the change made by section 13 of Pub. L. 95-142 and to make other editorial and clarifyng changes.

MAJOR PROVISIONS AND POLICY ISSUES

1. *Summary of suspension procedure.* We are proposing suspension procedures that are nearly identical to the existing procedures for exclusion under sections 1862(d) and 1866(b). The principal difference would occur at the initial step of the two procedures. The exclusion regulation provides for a notice of proposed exclusion and an opportunity for the provider or practitioner to show why HCFA should not take final action. (See § 405.315-1(d) of the proposed rule.) However, since the statute makes suspension mandatory upon a conviction of a crime related to the practitioner's involvement in Medicare or Medicaid, we are proposing that suspension be accomplished promptly without any preliminary proceedings on the part of HCFA. As soon as HCFA has reliable, confirmed information that a conviction has been entered, it will notify the practitioner by telegram that he is suspended from Medicare. Within 30 days of that telegram, HCFA will send the practitioner a detailed explanation of the basis for the suspension, the duration of the suspension and how the duration was determined, the means by which the practitioner may be reinstated, and the fact that suspension from Medicaid is an automatic consequence.

At this point, the practitioner could invoke the administrative hearing procedures set forth in 42 CFR 405, Subpart O. These procedures include an opportunity for a hearing before an administrative law judge. A final decision under these procedures is also subject to judicial review. Although a practitioner who has been convicted would not have any basis for contesting whether he should be suspended, he could seek to have the duration of the suspension shortened.

Concurrently with HCFA's initial notice of suspension, it would notify several other specific agencies of the suspension. State Medicaid agencies would be notified so that they could suspend the practitioner from Medicaid. The State or local licensing or certification agency would be requested to make appropriate investigations, invoke available sanctions, and inform HEW of its actions. The appropriate health systems agency would be notified so that it could determine whether the practitioner's suspension would result in a shortage of health manpower services.

Notice of the suspension would also be given to the general public, to the

beneficiaries served by the practitioner, and to several other designated agencies and institutions, where appropriate.

The practitioner would remain suspended until he was reinstated in accordance with specified procedures and HCFA would set the earliest date on which reinstatement could be sought. A practitioner who was denied reinstatement would be entitled to an informal administrative appeal within HCFA.

2. *Convictions to which section 7 will be applied.* Pub. L. 95-142 was enacted on October 25, 1977. Section 7 states that it is applicable to convictions entered on or after that date, or within such period of time prior to that date as the Secretary sets by regulation. We are proposing to apply section 7 only to convictions entered on or after the date of enactment, based on considerations of fair notice of possible sanctions and consistent administration of these programs.

It appears that persons convicted prior to the enactment of the statute could be suspended under section 7 consistent with constitutional precepts of due process (see *DeVeau* v. *Braisted*, 363 U.S. 144(1960)). However, in most cases someone convicted of an offense prior to enactment of Pub. L. 95-142 might well have been a proper subject for exclusion under 42 CFR 405.315a although such action may not have been taken. In our view, it would be difficult to justify relying on the new statutory authority to accomplish what might have been done in some cases under existing authority. In our view, no other date can be supported as logically and convincingly as the date of enactment.

3. *Definition of "conviction."* The statute does not define the term "convicted." We are proposing to define it as the entry of a judgment of conviction by a Federal, State or local court. There may be legally supportable alternatives, such as a jury verdict or judicial acceptance of a guilty plea, which would come earlier in the process than our proposed definition. Another alternative would be after appeals have been exhausted or the time for appeal has expired, which would be later in the process than our proposed definition.

Defining conviction as the entry of judgment is consistent with the term as generally understood among judges and attorneys practicing criminal law. It is also consistent with Rule 32(b) of the Federal Rules of Criminal Procedure, which is used for establishing post-conviction appeal rights. Using the entry of judgment will avoid the complications that would arise if a verdict is overturned on a post-verdict motion by the defendant or if a guilty plea is withdrawn. Since a judgment of conviction normally includes the sentence, the proposed definition also has the administrative advantage of giving HCFA the benefit of the judge's sentencing considerations when it determines the duration of the suspension. For these reasons, we believe the proposed definition is better than the entry of a verdict or the acceptance of a guilty plea, even though this means that some delay may occur in suspending a practitioner who has entered a guilty plea or had a guilty verdict returned against him.

We do not believe, however, that it is necessary or desirable to delay a suspension until appeal rights have been exhausted, which might take many months. There is no indication in the legislative history that exhaustion of appeal rights was intended and we do not believe that outcome is required by constitutional due process. If a conviction is overturned on appeal, we would, of course, promptly remove the suspension.

4. *Definition of "practitioner."* Section 7 is applicable to "a physician or other individual practitioner" who has been convicted of a program related offense. However, the term "practitioner" is not defined in Pub. L. 95-142. Nor has it been previously defined in the Medicare or Medicaid statutes or regulations. In order to carry out what we believe its the clear purpose of section 7, we are proposing to define practioner broadly to include any physician or other health care professional licensed under State law to practice his or her profession. (We have included "physician" in the definition simply to avoid having to repeat "physician or other individual practitioner" many times throughout the regulation.) We believe this definition is proper and legally supportable for the following reasons.

Clearly, "other individual practitioners" was intended to cover someone other than a physician. At the same time, we think section 7 is specifically directed at health care professionals and that the term "practitioner" connotes a person furnishing health care services. Therefore, although we would limit the term to health care professionals, we would cover every type of health care professional that each State has chosen to license for the delivery of health care.

The coverage of section 7 is necessarily limited, of course, to practitioners whose services are covered under Medicare or Medicaid. The States are authorized, however, to provide Medicaid coverage for any type of medical or remedial care or service furnished within the scope of practice defined by State law and furnished by a practitioner licensed under State law. (See 42 CFR 449.10(b)(6).) Consequently there are practitioners whose services are covered under Medicaid, but not under Medicare when furnished directly to a Medicare beneficiary by the practitioner. In each such instance, however, the practitioner's services could come within Medicare coverage if furnished in an institutional setting. Thus, for example, a pharmacist's services are not covered directly by Medicare, but could be covered if he were on the staff of a hospital or nursing home and furnished prescriptions to patients at the institution.

By defining practitioner as we propose we would be able to "suspend" from Medicare any practitioner who has been convicted of a crime related to his involvement in Medicaid, even though the practitioner has not been furnishing services to Medicare beneficiaries or could not be covered directly for services furnished to Medicare beneficiaries. Although the suspension from Medicare in this situation appears to be a mere formatlity, for the reasons given below we believe it is an appropriate precautionary measure and is necessary in order to implement fully the Congressional directive set forth in section 7. (Of course, the term "suspension" is not a literal characterization of the action being taken and, semantically, a different word might be desirable. For purposes of this regulation, such a "suspension" is actually a notice that the practitioner's services will not be reimbursed by Medicare under any circumstances for the period of time covered by the suspension. We do not think it necessary, however, to define a separate term in the proposed regulation just to cover this situation; to do so might create more confusion than clarity.)

In our view, suspending the Medicaid-only practitioner from Medicare serves the statutory purpose of avoiding fraud and abuse in both programs. The legislative history for section 7 clearly demonstrates that Congress had a deep concern about the potential for abuse arising from the continued participation in either the Medicare or the Medicaid program by practitioners who had been convicted of offenses related to either program. (See H. Report 95-393 Part 1, pp. 62-64; H. Report 95-393 Part II, pp. 69-71; S. Report 95-453, pp. 26-27.)

In passing Pub. L. 95-142, the Congress was undoubtedly aware there are Medicaid-only practitioners. Since section 7 specifically deals with suspensions from Medicaid only for those cases in which a practitioner has been suspended from Medicare, while at the same time requiring suspension from Medicare for any practitioner convicted of a crime related to either program, it seems apparent that Congress intended that the Medicaid-only practitioner be suspended from Medicare. It would simply be incongruous not to suspend Medicaid-only practitioners from either program, when all other practitioners must automatically be suspended from both.

Our proposed approach to this situation also avoids the confusion and administrative complexity that might arise if the practitioner, subsequent to his conviction for a Medicaid-related offense, began participating in Medicare. As proposed, the Medicaid-only practitioner would be suspended from Medicare in accordance with the same procedures as any other practitioner. In particular, the period for which his services could not be covered by Medicare would start immediately, rather than being triggered at some later, indefinite date upon the submission of a Medicare claim for his services, and run until a specific date.

5. *Duration of suspension.* Section 7 of Pub. L. 95-142 (which adds a new paragraph (e) to section 1862) states that a suspension shall be for such period as the Secretary may deem appropriate. It also incorporates by reference the procedures specified in paragraph (d)(2) of section 1862 with respect to exclusions. That paragraph states that an exclusion remains in effect until the Secretary finds that the basis for the exclusion has been removed and there is reasonable assurance that it will not recur.

On the basis of these two provisions, we are proposing that a suspension will be set for a specified period, after which the practioner may seek reinstatement. Under this procedure, the practitioner will not automatically resume participation in the program at the end of the specified period. Rather, he must apply for reinstatement and have his reinstatement approved by HCFA in order to resume participation.

The period of suspension will be commensurate with the nature and seriousness of the crime for which the practitioner is convicted. Among the factors which HCFA will consider are: the number and the nature of the violations; how the violation might have affected the practitioner's Medicare and Medicaid patients; the losses caused to the Medicare or or Medicaid programs; whether there are any mitigating circumstances; and the length of the sentence imposed by the court. Although each case must be judged on its particular facts and circumstances, HCFA will seek to establish reasonable uniformity in its treatment of similar cases.

6. *Denial of payments.* Medicare payment will not be made to a practitioner (who has accepted an assignment from a beneficiary of the right to payment) for items or services furnished by the practitioner or under his direct supervision after the effective date of the suspension, with one exception. In the case of inpatient hospital or post-hospital extended care services where the beneficiary was admitted to a hospital or skilled nursing facility before the effective date of suspension, payment will be available for services furnished by the admitting practitioner for up to 30 days after that date.

If a Medicare beneficiary submits a claim directly to HCFA, however, HCFA will pay the first claim and give immediate notice of the suspension. This right to receive Medicare payment for items or services furnished by a suspended practitioner ends 6 days after the date on the notice.

Medicaid payments will not be made for any services furnished by, or under the direct supervision of, a suspended practitioner during the period of suspension, except for the case of a hospital or skilled nursing facility patient discussed above.

7. *Procedures for reinstatement and subsequent appeals.* HCFA will not grant reinstatement unless it is reasonably certain that the violation on which suspension is based will not be repeated. Factors to be considered include among others, whether there have been additional Federal, State, or local convictions relating to program participation and whether the State or local licensing authority has taken any adverse action since the effective date of the suspension. (HCFA will reinstate a suspended practitioner whose conviction is reversed or vacated, without requiring the documentation specified above.) HCFA will give written notice of its reinstatement determination to the suspended practitioner. If favorable, the individual will be notified of the date when program participation may resume, and notice will be given to the public of the decision. If unfavorable, the suspended practitioner may, within 30 days of the date on the notice, submit additional evidence and argument or request to present evidence of argument orally to a HCFA official.

8. *Length of Medicaid suspension.* The statute requires that the Medicaid agency suspend the practitioner "for not less than the period specified in [the Medicare] notice * * *" We recognize that having identical periods of suspension would be administratively convenient and might avoid possible confusion. However, we believe that this language clearly indicates Congress' intent to permit States to suspend for periods longer than Medicare if they wish. We propose a simultaneous beginning date of the suspension period for both programs in order to provide administrative simplicity for practitioners, patients, and the Federal and State agencies. However, the Medicaid agency has discretion to impose a longer period of suspension.

9. *State agency notification to HCFA.* We propose requiring State Medicaid agencies to notify HCFA, within 15 days, when a State or local court has entered a judgment of conviction against a practitioner for a criminal offense related to his involvement in the Medicaid program. We believe this requirement is necessary to implement fully section 7, since HCFA may not otherwise become informed of State or local convictions. However, we recognize that such a requirement assumes either that the State Medicaid agency has been involved in the investigation or prosecution, or it has developed some means of having such convictions routinely reported to it. We, therefore, seek comments on the feasibility of these requirements.

10. *Section 13 of Pub. L. 95-142.* Section 13 abolishes the program review teams which were established in Pub. L. 92-603. Congress concluded that these teams (consisting of physicians and other professional personnel in the health care field) would duplicate the function now assumed by Professional Standards Review Organizations (PSROs). Although the concurrence of the program review teams was formerly mandated by statute before HCFA could exclude providers or persons from the medicare program and deny Federal financial participation under the Medicaid program, HCFA is not now bound to obtain the concurrence of the PSRO in abuse cases. "Abuse" cases include those in which items or services furnished are substantially in excess of a beneficiary's needs or of a quality that does not meet professionally recognized standards of health care. HCFA is authorized, however, to use the sanction reports from the PSRO for the area served by the provider or person in making a determination of abuse.

In accordance with section 13: a. Section 405.315b of the current regulation, establishing program review teams, would be revoked and references to that section would be deleted from §§ 405.315-1 and 405.614; and b. Provision would be made for HCFA to consider reports from other professional groups, as well as PSROs, in determining Medicare program abuse.

11. *Immediate implementation of the statute.* Section 7 became effective with respect to Medicare on the date of enactment and with respect to Medicaid on January 1, 1978. The statute does not explicitly require that the Secretary issue regulations prior to implementation (except as the Secretary might set a period prior to the date of enactment during which convictions would result in suspension).

Because the statute makes suspension compulsory for convictions after enactment and because of the strong views expressed by the Congress that suspensions are necessary for the integrity of these programs (see, e.g., the Report of the Senate Committee on Finance, Sen. Rept. No. 95-453, pp. 26-27) we are implementing the statute immediately with respect to any practitioners convicted of Medicare or Medicaid related offenses after Octo-

ber 25, 1977, the date of enactment. In doing so, we will follow the existing regulation establishing procedures for exclusion, except for the requirement of a notice of proposed exclusion and opportunity to show cause why a final determination should not be made (see 42 CFR 405.315a(c)). State Medicaid agencies must also comply with the statute and must suspend a practitioner from Medicaid upon being notified by HCFA of a Medicare suspension. However, the State agencies will not be required to amend their State plans or to comply with the provisions of this proposed regulation prior to its promulgation as a final rule.

42 CFR Parts 405 and 450 are amended as set forth below:

1. § 405.315a is redesignated as § 405.315–1 and revised to read as follows:

§ 405.315–1 Nonreimbursable expenses: Items or services furnished by excluded providers or persons.

(a) *Scope and applicability.* This section implements section 1862(d) of the Act, by setting forth criteria and procedures for the exclusion of providers and persons from the Medicare program. It includes procedures for administrative appeals and for reinstatement of excluded parties. The procedures set forth in this section also apply to terminations of provider agreements under § 405.614(a)(5) and (a)(7) of this part.

(b) *Definitions.* As used in this section and in § 405.315–2, unless the context indicates otherwise:

(1) *"Convicted"* means that a judgment of conviction has been entered by a Federal, State, or local court, irrespective of whether an appeal from that judgment is pending.

(2) *"Exclusion"* means that items or services furnished by a specified provider or person will not be reimbursed under Medicare.

(3) *"Furnished"* refers to items and services provided directly by, or under the direct supervision of, a person, practitioner, or provider. It does not refer to services ordered by one person or practitioner but provided by or under the supervision of another.

(4) *"HCFA"* stands for Health Care Financing Administration.

(5) *"Medicaid agency"* means the single State agency designated to administer, or supervise the administration of, the State Medicaid plan approved under Title XIX of the Social Security Act.

(6) *"Person"* means a physician or other health care practitioner or a supplier of services, who is not a "provider."

(7) *"Practitioner"* means a physician or other health care professional licensed under State law to practice his or her profession.

(8) *"Provider"* means a hospital, a skilled nursing facility, or a home health agency (see Subparts J, K, and L of this part) and, for the limited purposes of furnishing outpatient physical therapy or speech pathology services, a clinic, rehabilitation agency, or public health agency (see Subpart Q of this part) as used in section 1866 of the Act and this Part 405.

(9) *"PSRO"* stands for Professional Standards Review Organization.

(c) *Bases for exclusion; exceptions.* (1) Payment will not be made under Medicare for items or services furnished by a provider or person if HCFA determines that the provider or person has:

(i) Knowingly and willfully made or caused to be made any false statement or misrepresentation of a material fact in a request for payment under Medicare or for use in determining the right to payment under Medicare; or

(ii) Furnished items or services that are substantially in excess of the beneficiary's needs or of a quality that does not meet professionally recognized standards of health care.

(2) Payment will not be made under Medicare for items or services furnished by a person if HCFA determines the person has submitted or caused to be submitted bills or requests for payment containing charges (or costs) that are substantially in excess of that person's customary charges (or costs).

(3) HCFA's determination under paragraph (c)(1)(ii) of this section, that the items or services furnished were excessive or of unacceptable quality, will be made on the basis of reports, including sanction reports, from the following sources:

(i) The PSRO for the area served by the provider or person;

(ii) State or local licensing or certification authorities;

(iii) Peer review committees of fiscal agents or contractors;

(iv) State or local professional societies; or

(v) Other sources deemed appropriate by HCFA.

(4) *Exceptions.* (i) Notwithstanding the circumstances specified in paragraph (c)(1)(ii) of this section, HCFA will not deny Medicare payments if it has waived a disallowance on the grounds that the beneficiary and the provider or person could not reasonably be expected to know that payment would not be made for a particular item or service. (See section 1879(a) of the Act (42 U.S.C. 1395 pp (a)), and §§ 405.195 and 405.330.)

(ii) HCFA will not deny Medicare payment for bills or requests that are substantially in excess of customary charges or costs, if it finds there is good cause for those bills or requests. HCFA may find good cause, for example, if the excess charges are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities in which it is accepted medical practice to make an extra charge in such case.

(d) *Notice of proposed exclusion or termination.* (1) If HCFA proposes to deny reimbursement in accordance with paragraph (c) of this section (or to terminate a provider agreement in accordance with § 405.614(a)(5) or (a)(7)), it will send the provider or person written notice of its intent and the reasons for the proposed exclusion or termination.

(2) Within 30 days of the date on the notice, the provider or person may (i) submit documentary evidence and written argument against the proposed action; or (ii) request an opportunity to present evidence or argument orally to a HCFA official.

(3) For good cause shown by the provider or person, HCFA may extend the 30-day period.

(e) *Notice of exclusion or termination.* (1) If after exhaustion of the procedures specified in paragraph (d) of this section, HCFA decides to exclude a provider or person under paragraph (c) of this section, or to terminate a provider agreement under § 405.614(a)(5) or (a)(7), it will send written notice of its decision to the affected person or provider at least 15 days before the decision becomes effective.

(2) The notice will state (i) the reasons for the decision; (ii) the effective date; (iii) the extent of its applicability to the provider's or person's participation in the Medicare program; (iv) the earliest date on which HCFA will accept a request for reinstatement; and (v) the requirements and procedures for reinstatement.

(3) This decision and notice constitute an "initial determination" and a "notice of initial determination" for purposes of the administrative appeals procedures specified in Subpart 0 of this part.

(4) HCFA will also give notice of exclusion or termination and the effective date to the public, to beneficiaries (in accordance with paragraph (h) of this section) and, as appropriate, to:

(i) State Medicaid and title V agencies, State Medicaid Fraud Control Units, and PSROs;

(ii) Hospitals, skilled nursing facilities, home health agencies and health maintenance organizations (HMOs);

(iii) Medical societies and other professional organizations;

(iv) Contractors, health care prepayment plans and other affected agencies and organizations.

(f) *Duration of exclusion.* A practitioner who has been excluded under this section must be reinstated, in accordance with paragraph (j), in order to participate in Medicare. The written notice of exclusion will specify the earliest date on which the practitioner may seek reinstatement. In setting that date, HCFA will consider:

(1) The number and nature of the violations;

(2) The nature and degree of any adverse impact on beneficiaries;

(3) The amount of any damages incurred by the Medicare program;

(4) Whether there are any mitigating circumstances; and

(5) Any other facts bearing on the nature and seriousness of the violation.

(g) *Denial of payments to providers and persons during exclusion.* (1) Payment will not be made to an excluded provider or person (who has accepted assignment of beneficiary claims) for items or services furnished after the effective date of exclusion specified in the exclusion notice, except as provided in paragraph (g)(3) of this section.

(2) An assignment of a beneficiary's claim that is made to an excluded provider or person after the effective date of exclusion will not be valid.

(3) *Exceptions.* (i) In the case of inpatient hospital services or posthospital extended care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of exclusion, payment will be available for up to 30 days after that date; and

(ii) In the case of home health services furnished under a plan established before the effective date of exclusion, payment will be available for services furnished through the end of the calendar year in which exclusion became effective.

(h) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by an excluded provider or person after the effective date of the exclusion:

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give notice of the exclusion.

(2) The beneficiary's right to receive Medicare payment for items or services furnished by an excluded provider or person will end 6 days after the date on the notice to the beneficiary or on the effective date of the exclusion of the provider or person, whichever is later.

(i) *Effective date of termination of agreement.* For the effective date of termination of a provider's agreement under § 405.614(a)(5) or (a)(7), see § 405.615.

(j) *Procedures for reinstatement.*—(1) *Timing and method of request.* An excluded provider or person may request reinstatement at any time after the date specified in the notice of exclusion by submitting to HCFA:

(i) Statements from private health insurers, indicating whether there have been any questionable claims submitted during the period of exclusion;

(ii) Statements from peer review bodies, probation officers, where appropriate, or professional associates, as required by HCFA, attesting to their belief, supported by facts, that the violations that led to exclusion will not be repeated; and

(iii) The provider's or other person's own statement setting forth the reasons why he should be reinstated.

(2) *Criteria for action on request.* HCFA will not grant reinstatement unless it is reasonably certain that the violations that led to exclusion will not be repeated. In making this determination, HCFA will consider, among other factors:

(i) Whether the applicant has been convicted in Federal, State or local court for activities related to his program participation; and

(ii) Whether the State or local lincesing authority has taken any adverse action against the provider or person since the date of exclusion.

(3) *Notice of approval of request.* If HCFA approves the request for reinstatement it will:

(i) Give written notice to the excluded party specifying the date when program participation may resume; and

(ii) Give notice to the public and, as appropriate, to title V State agencies, State Medicaid agencies and Medicaid Fraud Control Units, hospitals, skilled nursing facilities, home health agencies, medical societies, other professional societies or associations, contractors, health care prepayment plans, health maintenance organizations (HMOs), PSROs, and other affected organizations.

(4) *Notice of denial of request.* (i) If HCFA does not approve the request for reinstatement, it will give written notice to the provider or person.

(ii) Within 30 days of the date on the notice, the excluded provider or person may submit documentary evedence and written argument against the continued exclusion or request an opportunity to present evidence or argument orally to a HCFA official.

(5) *Action following consideration of additional evidence.* After evaluating any additional evidence submitted by the excluded party (or at the end of the 30 day period, if none is submitted), HCFA will send written notice:

(i) Confirming the denial, and indicating that a subsequent request for reinstatement will not be accepted until 6 months after the date of confirmation; or

(ii) Approving reinstatement and specifying the date when program participation may be resumed. If HCFA approves reinstatement, it will notify the public and, as appropriate, the agencies and institutions as specified in paragraph (j)(3) of this section.

§ 405.315b [Revoked]

2. § 405.315b is revoked.

3. A new § 405.315-2 is added, to read as follows:

§ 405.315-2 Suspension of individual practitioners convicted of crimes related to Medicare or Medicaid.

(a) *Scope and purpose.* This section implements section 7 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142) by setting forth criteria and procedures for the suspension of practitioners convicted of crimes under Medicare or Medicaid. It includes procedures for administrative appeals and reinstatement of suspended practitioners.

(b) *Definitions.* The definitions contained in § 405.315-1(b) are applicable to this section.

(c) *Bases for Suspension.* An individual practitioner who has been convicted, on or after October 25, 1977, of a criminal offense related to his involvement in the Medicare or Medicaid program will be suspended from participation in the Medicare program.

(d) *Effect of suspension.* Payment will not be made under the Medicare program for items or services furnished by the suspended practitioner during the period of suspension, except as specified in paragraphs (g)(3) and (h) of this section.

(e) *Notice of Suspension.* (1) Whenever HCFA has conclusive information that a partitioner has been convicted of a crime related to his involvement in the Medicare or Medicaid program, it will notify him by telegram that he is suspended from the Medicare Program, beginning on the day following the date of the telegram. The telegram will also state that the State Medicaid agency is required to suspend the practitioner from the Medicaid program for at least as long as his suspension from Medicare.

(2) Within 30 days, HCFA will send the suspended practitioner a written notice setting forth:

(i) The basis for the suspension;

(ii) The duration of the suspension and the factors considered in setting the duration; and

(iii) The requirements and procedure for reinstatement.

(3) HCFA will concurently notify:

(i) The State Medicaid agencies in order that they can promptly suspend the practitioner from participation in the Medicaid program (see 42 CFR 450.85);

(ii) The State or local authority responsible for the licensing or certification of the suspended practitioner;

(iii) The appropriate health systems agency, so that it can determine whether the suspension is likely to create a shortage of health manpower in the area of practice of the suspended practitioner; and

(iv) Other appropriate entities as described in § 405.315-1(e)(4).

(4) The notice to the licensing or certifying authority will be accompanied by a request that the authority:

(i) Make appropriate investigations;

(ii) Invoke any sanctions available under State law and the authority's policies; and

(iii) Keep HCFA and the Inspector General of the Department fully and currently informed of any action it takes.

(5) The decision to suspend a practitioner because he has ben convicted of a criminal offense related to his involvement in the Medicare or Medicaid program is an "initial determination" for purposes of administrative appeals procedures specified in Subpart 0 of this part.

(f) *Duration of suspension.* A suspended practitioner must be reinstated, in accordance with paragraph (i) of this section, in order to participate in Medicare of Medicaid. The written notice of suspension will specify the earliest date on which the practitioner may seek reinstatement. In setting that date, HCFA will consider:

(1) The number and nature of the violations;

(2) The nature and degree of any adverse impact on beneficiaries;

(3) The amount of the damages incurred by the Medicare and Medicaid programs;

(4) Whether there are any mitigating circumstances;

(5) The length of the sentence imposed by the court; and

(6) Any other facts bearing on the nature and seriousness of the offense.

(g) *Denial of payments to suspended practitioner.* (1) Payment will not be made to a suspended practitioner (whose has accepted assignment of the beneficiary's claims) for items or services furnished after the effective date of suspension specified in the suspension notice, except as provided in paragraph (g)(3) of this section.

(2) An assignment of a beneficiary's claim that is made to a suspended practitioner after the effective date of suspension will not be valid.

(3) *Exception.* In the case of inpatient hospital services or posthospital extended care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of suspension, payment for services furnished by the admitting physician will be available for up to 30 days after that date.

(h) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by the suspended practitioner after the effective date of the suspension:

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give notice of the suspension.

(2) The beneficiary's right to receive Medicare payment for items or services furnished by a suspended practitioner will end 6 days after the date on the notice to the beneficiary.

(i) *Procedures for reinstatement.* (1) The provisions regarding reinstatement of excluded providers and persons (paragraph (j) of § 405.315-1) apply for reinstatement of practitioners suspended under this section.

(2) HCFA will also reinstate a suspended practitioner whose conviction has been reversed or vacated.

4. § 405.614 is amended by revising paragraphs (a)(5)(iii) and (c) to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if the Secretary determines that the provider of services:

* * * * *

(5) (i) * * *

(iii) Has furnished items or services which HCFA has determined to be substantially in excess of the needs of individuals, or of a quality that fails to meet professionally recognized standards of health care. (See § 405.315-1(c)(3).) HCFA will not terminate a provider agreement under this clause if it has waived a disallowance with respect to the services in question on the grounds that the provider and the beneficiary could not reasonably be expected to know that payment would not be made. (See section 1879(a) of the Act (42 U.S.C. 1395pp(a).)

* * * * *

(c) *Appeal by agency or institution.* A provider may appeal a termination of its agreement by the Secretary in accordance with Subpart 0 of this part. The termination of a provider's agreement on grounds specified in paragraphs (a)(5) and (a)(7) of this section is subject to the additional procedures specified in § 405.315-1

5. § 405.1502 is amended by revising paragraph (e) to read as follows:

§ 405.1502 Initial determinations.

* * * * *

(e) The denial of reimbursement for items and services furnished to a Medicare beneficiary:

(1) By a provider or person excluded from participation in accordance with § 405.315-1; or

(2) By an individual practitioner convicted of a criminal offense related to the Medicare or Medicaid program. and suspended in accordance with § 405.315-2.

6. § 405.1505 is amended by adding a new paragraph (l) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

* * * * *

(l) The finding that a physician or other individual practitioner, suspended from the Medicare program (under section 1862(e)(1) of the Act) because of a criminal conviction, has failed to present evidence to reasonably assure that he or she will not commit further criminal violations related participation in Medicare or Medicaid.

7. § 450.80 is amended by revising paragraph (c) to read as follows:

§ 450.80 Fraud in the medical assistance program.

* * * * *

(c) *Federal financial participation (FFP).*

(1) FFP is not available in payments for services furnished by a provider or other person while that provider or person is excluded from the Medicare program, under § 405.315-1 of this part, for any of the following reasons:

(i) False or excessive claims; and

(ii) Furnishing of services that are substantially in excess of the recipient's needs or of unacceptable quality. (See sections 1862(d)(1) and 1866(b)(2)(D), (E), and (F) of the Act and §§ 405.315-1(c) and 405.614 (a)(5) and (a)(7) of this chapter.)

(2) The date of FFP will apply to services furnished after the effective date of exclusion from Medicare, except for those services specified in § 405.315-1(g)(3)

(3) FFP will be available for services furnished by a provider or person after he is reinstated in the Medicare program.

8. Part 450 is amended by adding a new § 450.85 to read as follows:

§ 450.85 Suspension of individual practitioners convicted of crimes related to Medicare or Medicaid.

(a) *Definitions.* As used in this section:

(1) *"Convicted"* means that a judgment of conviction has been entered by a Federal, State, or local court, irrespective of whether an appeal from that judgment is pending.

(2) *"HCFA"* stands for Health Care Financing Administration.

(3) *"Individual practitioner"* or *"practitioner"* means a physician or other health care professional licensed under State law to practice his or her profession.

(b) *State plan requirements.* The State medicaid plan shall provide that the State agency will meet all requirements of this paragraph.

(1) *Notification of State or local conviction.* When a State or local court has entered a judgment of conviction against a practitioner for a criminal offense related to his involvement in the medicaid program, the State agency shall so notify HCFA within 15 days of such judgment.

(2) *Suspension.* (i) If the State agency is notified by HCFA that a

practitioner has been suspended from participation under medicare, it shall suspend that practitioner from participation under medicaid, effective on the date established by HCFA, and at least for the period of the medicare suspension.

(ii) Except as provided in paragraph (b)(2)(iv) of this section, the State agency shall make no payment under the plan for any items or services furnished directly by, or under the supervision of, the suspended practitioner during the period of suspension.

(iii) The State agency may pay for services or items, otherwise reimburseable under the State plan, that are ordered by a suspended practitioner and furnished by a practitioner or provider in good standing.

(iv) In the case of inpatient hospital services or posthospital extended care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of suspension, payment for services furnished by the admitting physician will be available for up to 30 days after that date.

(3) *Reinstatement.* If the State agency is notified by HCFA that a practitioner has been reinstated, it may reinstate that practitioner under medicaid, effective on the reinstatement date specified by HCFA.

(c) *Waiver of Suspension.* (1) The State agency may request HCFA to waive a suspension if it concludes that, because of the shortage of practitioners in the area, individuals eligible to receive medicaid benefits would be denied adequate access to medical care.

(2) HCFA will approve a request for waiver only if:

(i) The Secretary designates the community as a health manpower shortage area; and

(ii) An insufficient number of National Health Service Corps personnel have been assigned to meet the needs of the area.

(d) *Notice of waiver or lifting of suspension.* HCFA will notify the State agency if and when it:

(1) Waives suspension in response to the State agency's request; or

(2) Lifts the suspension and reinstates the practitioner under medicare.

(Sections 1102, 1862(d) (1), (2), (3), and (4), 1862(e), 1866(b)(2) (D), (E), and (F), 1871 and 1902(a)(39) of the Social Security Act; 49 Stat. 647; 42 U.S.C. 1302, 1395y(d), 1395cc, 1395hh, and 1396a.)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program, No. 13.773, Medicare—Hospital Insurance, and No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: April 27, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: May 29, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-15512 Filed 6-7-78; 8:45 am]

federal register

THURSDAY, JUNE 8, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Coast Guard

GREAT LAKES PILOTAGE RATES

[4910-14]

Title 46—Shipping

CHAPTER III—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-016]

PART 401—GREAT LAKES PILOTAGE REGULATIONS

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Great Lakes Pilotage Regulations increases U.S. pilotage rates by 10 percent, retroactive to April 1, 1978, 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 amendment is necessary 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.

EFFECTIVE DATE: This amendment is effective on April 1, 1978.

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: On April 13, 1978, the Coast Guard published a proposed rule (43 FR 15590) concerning this amendment. Interested persons were given until May 15, 1978, to submit comments. Two comments were received.

The effective date of this rule is made retroactive to April 1, 1978, so that these rates may be in effect for the entire shipping season which is necessary in order to meet the goals of pilot compensation comparability and adequate funds for pilot training.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of Chief Counsel.

Discussion of Major Comments

One comment supported the proposed rate increase, including the retroactive effective date feature.

The other comment, from the Shipping Federation of Canada, was opposed to the retroactive feature of the proposed rate increase. The Federation indicated that retroactivity could cause serious hardships because some vessels will have entered and left the Great Lakes system before these higher rates became effective, and that this would leave little or no chance of collection by the agent if the vessels involved were not regular callers at Great Lakes ports. The Federation also stated that because the U.S. rate increase is to be effective prior to the Canadian rate increase, that this would be a breach of the Memorandum of Arrangements and that it indicates the inability of the pilotage laws in each country to integrate successfully.

Agents are "put in funds" by the owners and charterers they represent prior to the vessel incurring these costs, and the amount of funds provided the agents are an imprecise amount because of the number and variability of shipping costs. As an example of the variability of pilotage costs alone, leaving aside many other variable costs such as overtime for longshoring etc., Detention, Delay, and Cancellation are pilotage costs that cannot be determined prior to the time the vessel actually incurs these charges. The 10 percent increment resulting from this rate increase could be handled in a manner similar to other variable costs of shipping. Under present procedures, and for the past 15 years, many vessels have exited the system prior to the agent receiving the invoice for pilotage services.

This 10 percent rate increase was jointly developed with Canada and is identical to the Canadian proposal in the international sectors. Representatives of the Canadian Government have been consulted throughout the development of this rate change and they have expressed no objection to this temporary rate disparity. Under these circumstances, it is not considered a breach of the Memorandum of Arrangements. This temporary rate disparity is necessary so that the U.S. goals of pilot compensation and adequate funds for pilot training may be met. Canadian pilots are, for the most part, Government employees and their compensation has very little to do with the rate level. However, U.S. pilots are private entrepreneurs, and as such, their compensation is directly affected by the rate level.

This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (43 FR 9582, March 8, 1978). An evaluation of the rule has been prepared, and has been included in the public docket.

Accordingly, the proposed amendment is adopted, without change, as set forth below:

May 31, 1978.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

Part 401 of Title 46 of the Code of Federal Regulations is amended 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 mixiмum 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 applicable 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.

[FR Doc. 78-15928 Filed 6-7-78; 8:45 am]

Federal Register

THURSDAY, JUNE 8, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

LIFESAVING EQUIPMENT FOR GREAT LAKES VESSELS

Exposure-Suits Specifications

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 33, 35, 71, 75, 78, 91, 94, 97, 160, 189, 192, 196]

[CGD 76-33a]

LIFESAVING EQUIPMENT FOR GREAT LAKES VESSELS

Exposure Suits for Vessels Operating on the Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard proposes to add a specification for exposure suits to the specifications in Part 160 for vessel lifesaving equipment. The proposal also contains requirements concerning the carriage, use, and inspection of exposure suits on the following vessels that operate on the Great Lakes:

a. Tank Vessels (Subchapter D, Parts 33 and 35).

b. Passenger Vessels (Subchapter H, Parts 71, 75, and 78).

c. Cargo and Miscellaneous Vessels (Subchapter I, Parts 91, 94, and 97).

d. Oceanographic Vessels (Subchapter U, Parts 189, 192, and 196).

The proposals are based in part upon a Coast Guard review of vessel casualties in the Great Lakes. The review showed that deaths in the casualties were attributable in part to complications resulting from exposure to cold water. Use of the proposed exposure suit would provide protection to the wearer while in cold water for an extended period and would serve as a protective garment if worn in a lifeboat or life raft.

DATES: Comments must be received on or before July 20, 1978.

ADDRESSES: 1. Comments should be submitted to Commandant (G-CMC/81), (CGD 76-33a), 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.

2. Copies of the comments reports, technical standards, Coast Guard publication (CG-473), and the draft evaluation discussed in this notice are available for examination at the above address.

3. Copies of Battelle Columbus Laboratories reports may be obtained from the National Technical Information Service, Springfield, Va. 22161.

4. Coast Guard publication CG-473 may be obtained from the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590 or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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. Persons submitting comments should include their names and addresses, identify this notice (CGD 76-33a) and the specific sections of the proposal to which their comments apply, and give reasons for the comments. The proposal may be changed in light of comments received. 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: Robert L. Markle and Lieutenant Commander Theodore J. Sampson, Project Managers, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

BACKGROUND

On June 7, 1976, the Coast Guard published an advance notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 22840) concerning proposals to amend the regulations governing lifesaving equipment on vessels operating on the Great Lakes. Nine proposals were described in the advance notice. The proposal concerning lights and reflectorized materials has since been expanded to cover all vessels regulated under Title 46 and was published as a notice of proposed rulemaking in the FEDERAL REGISTER of May 23, 1977 (42 FR 26229). The proposal concerning exposure suits is the subject of this notice of proposed rulemaking. The other proposals described in the advance notice of proposed rulemaking are still under consideration and may be the subjects of future rulemaking.

The notice of proposed rulemaking for lights and reflectorized materials contains proposed specifications for personal flotation device lights and retroreflective material. The proposed specification in this notice makes reference to these other proposed specifications and proposes requirements concerning the use of lights and retroreflective material on an exposure suit.

DISCUSSION OF PROPOSED REGULATIONS

1. This notice proposes a specification for exposure suits and requirements concerning their carriage, inspection, and use on vessels that operate on the Great Lakes. The specification would be added to the lifesaving equipment specifications in Part 160 of Subchapter Q, Title 46. The requirements concerning carriage, use, and inspection would be added to the existing regulations in Subchapters D, H, I, and U for tank vessels, passenger vessels, cargo and miscellaneous vessels, and oceanographic vessels. The proposals in this notice are limited to Great Lakes vessels certificated under these Subchapters since the studies upon which the proposals are based were limited primarily to consideration of these types of vessels. However, it is recognized that the value of exposure suits in preventing death caused by exposure to cold water extends beyond the vessels covered by these proposed rules. Accordingly, similar requirements are currently under consideration for other types of Great Lakes vessels as well as for vessels in ocean, coastwise, and other service; and these additional requirements may be proposed at a later date.

2. The proposals in this notice are based primarily on projects done under a Coast Guard research and development program and the Great Lakes Extended Navigation Season Demonstration Program conducted by the U.S. Army Corps of Engineers. The Coast Guard participated in the Human Factors subgroup of the "Extended Season" program.

A Coast Guard review of vessel casualties in the Great Lakes, which was conducted in connection with participation in the "Extended Season" program, revealed that deaths in the casualties were attributable in part to hypothermia and other complications resulting from exposure to cold water. (The review is documented in a report entitled "Assessment of the Requirements for Survival on the Great Lakes" dated January 31, 1974 (NTIS report CG-D-55-74) and was prepared by Battelle Memorial Institute.) In order to determine the effectiveness of exposure suits in lessening the hazards involved with cold water exposure, the Coast Guard had studies performed for which the following reports were prepared:

(a) A report published by the University of Victoria on hypothermia research entitled "Man in Cold Water", dated June 30, 1975. This report estimates the survival time for a man in 44° F (7° C) water to be 2.44 hours when lightly clad, 4.10 hours when

heavily clad, and 8.53 hours when wearing the survival suit used in the test. The report also contains test results of a second type of survival suit showing that the heat loss rate of the second suit is half that of the survival suit on which the estimates of survival time are based. The estimates are based on men who are in good health, who are wearing personal flotation devices, and who are adopting "thermally-protective behavior" described in the report.

(b) A report entitled "Evaluation of Survival Suits for the Use of the Crews of Great Lakes Carriers" prepared by Batelle Columbus Laboratories, dated October 1973 (NTIS Report No. AD-785465/6). The report evaluates the effectiveness of four types of exposure suits.

The findings in these studies were used in developing the proposed specification. The approval tests in the proposed specification also adapt existing methods used by the Coast Guard in evaluating personal flotation devices.

3. The requirements and procedures set out in the proposed specification are essentially self-explanatory. However, additional explanation is provided concerning the thermal protection and buoyancy requirements, as follows:

(a) Proposed § 160.071-11(c) would require in part that an exposure suit be designed to limit the loss in body core temperature (represented by rectal remperature) to not more than 2° C (3.6° F) during a 6 hour period when a standard test subject is wearing the suit in freezing water. Proposed § 160.071-17(d)(1) describes the standard test subject as a male who is between 1.65 m (65 in.) and 1.85 m (73 in.) in height and who is not more than ten percent overweight or underweight for his height and physical type as determined by a physician or physiologist or from published physiological data. Different rates of temperature loss can be expected in the case of other types of test subjects. Also, death can be expected to occur if body core temperature drops 6° C (10.8° F) or more below normal body core temperature. An exposure suit that can limit body temperature drop to 2° C over a 6 hour period could be expected to keep the wearer alive about 18 hours in freezing water assuming that the rate of heat loss were constant. (However, a constant rate of heat loss is generally recognized to be an inexact assumption.) In contrast, a subject wearing no special exposure protection would probably survive less than an hour in freezing water.

(b) Proposed § 160.071-11(a) contains buoyancy requirements for an exposure suit. A suit designed in accordance with these requirements would perform the function of a life preserver to keep the wearer afloat. However, the proposed regulations concerning carriage of exposure suits do not allow their substitution for life preservers though the advance notice of proposed rulemaking stated that this substitution was under consideration. An exposure suit could be used effectively in an abandon ship situation, regardless of weather and sea conditions, since hypothermia is a threat even in moderate water temperatures. The proposed suit is designed to provide protection both while in the water for an extended period and while in a lifeboat or life raft. However, the suit is not required to have self-righting characteristics required for a life preserver, and it would be somewhat cumbersome to wear on deck since it does not allow the same freedom of motion that a life preserver provides.

4. The proposed regulations for the carriage, use, and inspection of exposure suits are similar to the existing regulations for life preservers in Title 46 since the purposes of both sets of regulations are similar. However, there are significant differences between the proposed exposure suit requirements and the life preserver requirements including the following:

(a) The proposed regulations would allow exposure suits in use on a vessel before the effective date of the regulations to remain in use in lieu of exposure suits approved under Subpart 160.071 (as proposed in this notice) as long as they remained in serviceable condition. This provision would afford relief to vessel operators who have already provided exposure suits for persons on their vessels. With few exceptions, the life preserver regulations require all life preservers to be approved in accordance with current specifications for lifesaving equipment in Part 160 of Title 46.

(b) The proposed regulations contain requirements that exposure suits be stowed in work stations for persons assigned to the stations unless their staterooms, cabins, or berthing areas are in locations that are readily accessible to the work stations. The life preserver regulations, with the exception of the regulations for cargo and miscellaneous vessels, do not have comparable requirements. The purpose of these proposed requirements is to provide exposure suits for crew members who could not return to their staterooms, cabins, or berthing areas during an emergency to get the exposure suits stowed in those locations for their use.

(c) The proposed regulations contain provisions for advising passengers of the location of exposure suits and for making available to them copies of the instructions on donning and use of exposure suits. Similar requirements for life preservers are contained in the passenger vessel regulations but not in the regulations for tank vessels and cargo and miscellaneous vessels. The proposed requirements would cover passengers on tank vessels and cargo and miscellaneous vessels, as well as passenger vessels. Because exposure suits are new equipment, there is a need to inform passengers of their purpose and method of donning and use so that they can be used properly in the event of an emergency.

(d) The proposed regulations provide that child size exposure suits must be stowed in a manner that prevents mistaking the suits for adult sizes. The life preserver regulations do not have a comparable requirement, except in the case of passenger vessels. Adult and child size suits are similar in outward appearance and, therefore, careful attention to the manner of stowage is esstential to prevent mistaking one suit size for another.

(e) The proposed regulations for tank vessels, cargo and miscellaneous vessels, and oceanographic vessels require that each child on board a vessel be provided with a child size exposure suit. The life preserver regulations provide for children's life preservers but do not expressly require each child on board to be provided with one.

(f) The proposed regulations for passenger vessels require that enough adult size exposure suits be carried to equal 100 percent of the persons authorized to be carried during the Great Lakes winter season (September 16 through May 14). These proposed dates are the same as the dates that define the winter season for purposes of determining the number of lifeboats and life rafts required on most Great Lakes passenger vessels. The life preserver regulations also contain a 100 percent carriage requirement but do not distinguish between the winter and summer season and, thus, require carriage of a total number of life preservers that is significantly larger than the number of exposure suits proposed for these vessels. (The maximum number of persons authorized to be carried on a Great Lakes vessel during the summer season is larger than the number authorized for the winter season.) The proposed regulations do not require exposure suits for additional passengers carried during the summer season in order to minimize the economic impact of the requirements on vessel operators and still provide exposure suits for all passengers during the time of year when hazards associated with exposure to cold water are the greatest. As explained in paragraph 1 of this discussion, however, additional proposals concerning exposure suits are under consideration, including a proposal to require carriage of the exposure suits for the additional passengers authorized to be on board Great Lakes vessels during the summer season.

(g) The proposed regulations for passenger vessels also require that enough child size exposure suits be carried to equal ten percent of total number of passengers authorized to be carried during the winter season. The life preserver regulations have a ten percent carriage requirement for children but, as in the case of exposure suits for adult passengers, they do not distinguish between the winter and summer season. The proposal further provides that whenever the number of children on board during the winter season of operation exceeds ten percent of the number of passengers authorized during the winter season, an exposure suit must be provided for each additional child. These requirements are necessary to provide for passenger vessels carrying large groups of children on individual voyages during the winter season.

DISCUSSION OF COMMENTS TO ADVANCE NOTICE OF PROPOSED RULEMAKING

Several comments concerning exposure suits were received on the advance notice of proposed rulemaking. A discussion of the comments follows:

(a) One commenter suggested that consideration of personal exposure protection should not be limited to exposure clothing. The Coast Guard agrees with the commenter. In early 1976, the Coast Guard released a pamphlet entitled "Guide to Cold Water Survival" (Coast Guard Publication CG-473). This pamphlet was produced as part of the Coast Guard's research and development work under the Great Lakes Extended Navigation Season Demonstration Program. This pamphlet covers appropriate winter clothing for shipboard use as well as recommendations for survival of those who find themselves in cold water. This pamphlet has already been given wide distribution among Great Lakes mariners.

(b) One commenter, a Manufacturer of exposure suits, supported the proposal for the carriage of exposure suits. The company cited the record of lives lost at sea due to hypothermia and the success of their product in saving lives in vessel sinkings.

(c) One commenter, a naval architecture and marine engineering firm, suggested that exposure suits be coated with electrostatically applied aluminum as a visual and radar locating aid. The Coast Guard has experimented with similar materials and found them ineffective. Accordingly, the proposal has not been adopted.

(d) One commenter suggested that the potential benefits of the proposed regulations would not justify the costs involved. He stated further that the proposed regulations would not significantly improve the lifesaving capabilities of his Great Lakes vessels, that the existing equipment and operating practices on his vessels are adequate, and that millions of people have used his vessels for more than 60 years without the loss of life.

The economic impact of these requirements has been analyzed under existing guidelines, and a summary of that analysis is provided in this preamble. Based on the analysis, the Coast Guard has determined that the costs associated with this proposal do not outweigh the benefits in using exposure suits. Carriage of exposure suits in addition to life preservers would significantly improve the lifesaving capabilities of Great Lakes vessels because of the protection they would provide to survivors of a vessel casualty while in a cold water environment. Though the commenter states that his vessels have an excellent safety record, the potential for a vessel casualty on his and other Great Lakes vessels still remains.

(e) Two commenters recommended that research be continued to develop a safe, workable garment before regulations are issued. One of the commenters stated that a practical exposure suit should be designed so that it—

(1) Will not deteriorate in storage;

(2) Will not require individual fitting;

(3) Can be easily stowed but still readily available; and

(4) Can be donned quickly without assistance.

As previously discussed, studies concerning the effectiveness of exposure suits have been conducted and the proposed specification is based on these studies. The exposure suit described in the proposed specification meets the criteria suggested by the commenter.

(f) The Norwegian Maritime Directorate commented on the need for exposure suits and stated that it has recently approved a suit for emergency use and for use while working on board and that it is working on the development of another suit for use specifically in an emergency. As explained previously, the suit described in this notice of proposed rule making could be used as a protective garment both in the water and in a lifeboat or life raft, but would be somewhat cumbersome to wear while on deck.

SUMMARY OF DRAFT EVALUATION

A draft evaluation has been prepared for this proposal in accordance with Department of Transportation Notice 78-1 entitled "Improving Government Regulations" (43 FR 9582-9584). DOT Notice 78-1 requires that the evaluation quantify, to the extent practicable, the estimated cost of the proposed regulations to the private sector, consumers, Federal, State and local governments, and the anticipated benefits and impact of the regulations. The proposed regulations would affect 189 U.S.-flag vessels operating on the Great Lakes. Under these regulations, the affected vessels would need a total of approximately 13,000 exposure suits. Assuming the cost of each suit to be $200, the total cost to outfit all of the affected vessels would be about $2.6 million. The primary benefits to be derived from this proposal would be the prevention of injury and death from exposure to cold water as a result of abandoning a vessel in distress.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 46, Code of Federal Regulations, as follows:

PART 33—LIFESAVING EQUIPMENT

1. By adding a new Subpart 33.37 to read as follows:

Subpart 33.37—Exposure Suits

Sec.

33.37-1 Applicability—TB/L.
33.37-5 Number and type required—TB/L.
33.37-10 Shipboard inspections—TB/L.
33.37-15 Stowage containers—TB/L.

AUTHORITY: R.S. 4405, as amended, 4417a, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 391a, 416, 49 U.S.C. 1655(b); 49 CFR 1.46(b), (35 FR 4959). Interpret or apply R.S. 4488, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 481, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.

§ 33.37-1 Applicability—TB/L.

This subpart applies to each tank vessel that operates on the Great Lakes.

§ 33.37-5 Number and type required—TB/L.

(a) Each tank vessel must carry an exposure suit for each person on board.

(b) In addition to the exposure suits required by paragraph (a) of this section, the engine room, pilothouse, bow lookout, and each work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the work station.

(c) Except as provided in paragraph (d) of this section, each exposure suit on a tank vessel must be of a type approved under Subpart 160.071 of this chapter.

(d) An exposure suit in use on a vessel before [the effective date of these regulations] may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter as long as it remains in serviceable condition.

§ 33.37-10 Shipboard inspections—TB/L.

(a) At each inspection for certification, and more often if necessary, a marine inspector inspects each exposure suit to determine its serviceability.

(b) Each exposure suit found not to be in a serviceable condition must be removed from the vessel.

§ 33.37-15 Stowage containers—TB/L.

No stowage container for exposure suits may be capable of being locked.

PART 35—OPERATIONS

2. By adding a new § 35.10-6 to read as follows:

§ 35.10-6 Exposure suits—TB/L.

The master or person in charge of a tank vessel that operates on the Great Lakes shall ensure that—

(a) Each crew member wears an exposure suit in at least one fire and boat drill per month;

(b) In each fire and boat drill, each passenger on board is instructed in the use of exposure suits; and

(c) Each passenger is told at the beginning of the voyage where exposure suits are stowed on board and is encouraged to read the instructions for donning and use of exposure suits.

3. By adding a new § 35.30-50 to read as follows:

§ 35.30-50 Stowage of exposure suits—TB/L.

The master or person in charge of a tank vessel that operates on the Great Lakes shall ensure that—

(a) Each exposure suit required by § 33.37-5(a) is stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided;

(b) Each exposure suit required by § 33.37-5(b) for a watch or work station is stowed in a readily accessible location in or near the station; and

(c) Each child size exposure suit is stowed in a manner that prevents mistaking it for an adult size.

4. By adding a new § 35.30-55 to read as follows:

§ 35.30-55 Child size exposure suit—TB/L.

The master or person in charge of a tank vessel that operates on the Great Lakes shall ensure that children, when carried, are provided with child size exposure suits.

5. In § 35.40-40(a), by inserting the words "exposure suits," between the words "life preservers," and "EPIRB". As amended, § 35.40-40(a) would read as follows:

§ 35.40-40 Vessel's name on equipment—TB/ALL.

(a) The equipment of all tank vessels, such as fire hoses, fire axes, lifeboats, life rafts, life preservers, exposure suits, EPIRB's, and buoyant apparatus, shall be painted or branded with the name of the vessel upon which they are used, except that inflatable life rafts shall be marked in accordance with § 33.25-10.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

6. By adding a new § 71.25-15(b) to read as follows:

§ 71.25-15 Lifesaving equipment.

* * * * *

(b) At each inspection for certification, and more often if necessary, a marine inspector inspects each exposure suit to determine its serviceability. Each exposure suit found not to be in a serviceable condition must be removed from the vessel.

PART 75—LIFESAVING EQUIPMENT

7. By revising § 75.40-25 to read as follows:

§ 75.40-25 Notices.

The notices described in §§ 78.47-47 (a)(2) and (a)(3) of this chapter must be posted in each passenger cabin and stateroom and in conspicuous places about the decks.

8. By adding a new Subpart 75.41 to read as follows:

Subpart 75.41—Exposure Suits

Sec.
75.41-1 Applicability.
75.41-5 Number and type required.
75.41-10 Stowage containers.

AUTHORITY: R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 FR 4959). Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4488, as amended, 4491, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 481, 489, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.

§ 75.41-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 75.41-5 Number and type required.

(a) Each vessel must carry an adult size exposure suit for each person authorized to be carried during the Great Lakes winter season (September 16 through May 14).

(b) In addition to the exposure suits required by paragraph (a) of this section, the engine room, pilothouse, bow lookout, and each work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the work station.

(c) Each vessel must carry enough child size exposure suits to equal 10 percent of the number of suits required by paragraph (a) of this section.

(d) Except as provided in paragraph (e) of this section, each exposure suit on a vessel must be of a type approved under Subpart 160.071 of this chapter.

(e) An exposure suit in use on a vessel before [the effective date of these regulations] may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter as long as it remains in serviceable condition.

§ 75.41-10 Stowage containers.

(a) No stowage container for exposure suits may be capable of being locked.

(b) Exposure suits stowed overhead must be supported in a manner that allows quick release for distribution.

(c) If exposure suits are stowed more than (2.1 m) (7 ft.) above the deck, a means for quick release must be provided and must be capable of operation from the deck.

PART 78—OPERATIONS

9. By revising § 78.13-5(a)(4)(ii) to read as follows:

§ 78.13-5 Duties of crew.

(a) * * *

(4) * * *

(ii) Seeing that the passengers are dressed and have put on their life preservers or exposure suits correctly.

* * * * *

10. By adding a new § 78.17-52 to read as follows:

§ 78.17-52 Exposure suits.

The master of each vessel in Great Lakes service shall ensure that—

(a) Each crew member wears an exposure suit in at least one fire and boat drill per month; and

(b) In each fire and boat drill, each passenger is instructed in the use of exposure suits.

11. By revising paragraphs (a), (a)(3), and (b) of § 78.47-47 to read as follows:

§ 78.47-47 Stateroom notices.

(a) Notices must be conspicuously posted in each passenger cabin and stateroom and, except as provided in

paragraph (b) of this section, must contain the following information:

* * * * *

(3) The stowage location of exposure suits and instructions for their donning and use.

(b) On each vessel that operates on the Great Lakes, the third paragraph of the notice required by paragraph (a)(1) of this section must read as follows:

THE OCCUPANTS OF THIS ROOM ARE ASSIGNED TO LIFEBOAT NO. —. ALL PASSENGERS ARE REQUIRED TO PUT ON LIFE PRESERVERS OR EXPOSURE SUITS AND GO TO THEIR LIFEBOAT STATIONS WHENEVER THE GENERAL ALARM BELLS RING.

12. By adding a new § 78.47-51 to read as follows:

§ 78.47-51 Exposure suits.

Each container or other location for stowage of exposure suits must be plainly marked in letters and figures at least two inches high with the label "EXPOSURE SUITS", the number of suits, and their sizes.

13. In § 78.47-65, by deleting the paragraph symbol "(a)" at the beginning of the section and by revising the heading and first sentence. As amended, § 78.47-65 reads as follows:

§ 78.47-65 Life preservers, exposure suits, and ring life buoys.

Each life preserver, exposure suit, and ring life buoy must be marked with the vessel's name. For vessels on an international voyage, the vessel's port of registry must be added in similar type letters on all ring life buoys.

14. By adding a new Subpart 78.87 to read as follows:

Subpart 78.87-Exposure Suits

Sec.
78.87-1 Applicability.
78.87-5 Stowage of exposure suits.
78.87-10 Additional child size exposure suits.

AUTHORITY: R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 FR 4959). Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4453, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 62, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 435, 395, 363, 367, 1333, 390(b), 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.

§ 78.87-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 78.87-5 Stowage of exposure suits.

The master of a vessel shall ensure that—

(a) Each exposure suit required by § 75.41-5(a) for a crew member or berthed passenger is stowed in a readily accessible location in or near his or her berthing area;

(b) Each exposure suit required by § 75.41-5(b) for a watch or work station is stowed in a readily accessible location in or near the station;

(c) Each other exposure suit required by § 75.41-5 is stowed in a conspicuous, readily accessible location that is on deck or otherwise open to passengers; and

(d) Each child size exposure suit is stowed in a manner that prevents mistaking it for an adult size.

§ 78.87-10 Additional child size exposure suits.

If during the Great Lakes winter season (September 16 through May 14) the number of children on board exceeds the number of child size exposure suits required by § 75.41-5(c), the master of the vessel shall ensure that enough additional exposure suits of a child size are on board the vessel to provide one for each child.

PART 91—INSPECTION AND CERTIFICATION

15. By adding a new § 91.25-15(b) to read as follows:

§ 91.25-15 Lifesaving equipment.

* * * * *

(b) At each inspection for certification, and more often if necessary, a marine inspector inspects each exposure suit to determine its serviceability. Each exposure suit found not to be in a serviceable condition must be removed from the vessel.

PART 94—LIFESAVING EQUIPMENT

16. By adding a new Subpart 94.41 to read as follows:

Subpart 94.41—Exposure Suits

Sec.
94.41-1 Applicability.
94.41-5 Number and type required.
94.41-10 Stowage containers.

AUTHORITY: R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 FR 4959). Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4488, as amended, 4491, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 481, 489, 395, 363, 367, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965, Supp.

§ 94.41-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 94.41-5 Number and type required.

(a) Each vessel must carry an exposure suit for each person on board.

(b) In addition to the exposure suits required by paragraph (a) of this section, the engine room, pilothouse, bow lookout, and each work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the work station.

(c) Except as provided by paragraph (d) of this section, each exposure suit on a vessel must be of a type approved under Subpart 160.071 of this chapter.

(d) An exposure suit in use on a vessel before [the effective date of these regulations] may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter as long as it remains in serviceable condition.

§ 94.41-10 Stowage containers.

(a) No stowage container for exposure suits may be capable of being locked.

(b) Exposure suits stowed overhead must be supported in a manner that allows quick release for distribution.

(c) If exposure suits are stowed more than 2.1 m (7 ft.) above the deck, a means for quick release must be provided and must be capable of operation from the deck.

PART 97—OPERATIONS

17. By revising § 97.13-10(a)(4)(ii) to read as follows:

§ 97.13-10 Duties of crew.

(a) * * *
(4) * * *
(ii) Seeing that the passengers are dressed and have put on their life preservers or exposure suits correctly.

* * * * *

18. By adding a new § 97.15-37 to read as follows:

§ 97.15-37 Exposure suits.

The master of a vessel that operates on the great Lakes shall ensure that—

(a) Each crew member wears an exposure suit in at least one fire and boat drill per month;

(b) In each fire and boat drill, each passenger on board is instructed in the use of exposure suits; and

(c) Each passenger is told at the beginning of the voyage where exposure suits are stowed on board and is encouraged to read the instructions for donning and use of the exposure suits.

19. In § 97.37-43, by revising the heading and paragraph (a) to read as follows:

§ 97.37-43 Life preservers, exposure suits, wood floats, and ring life buoys.

(a) Each life preserver, exposure suit, wood float, and ring life buoy must be marked with the vessel's name.

* * * * *

20. By adding a new Subpart 97.85 to read as follows:

Subpart 97.85—Exposure Suits

Sec.
97.85-1 Applicability.
97.85-5 Stowage of exposure suits.
97.85-10 Child size exposure suits required.

AUTHORITY: R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4453, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 68 Stat. 675, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 391, 392, 404, 435, 395, 363, 367, 50 U.S.C. 198, 49 U.S.C. 1655(b); E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.; 49 CFR 1.46(b) (35 FR 4959).

§ 97.85-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 97.85-5 Stowage of exposure suits.

The master or person in charge of a vessel shall ensure that—

(a) Each exposure suit required by § 94.41-5(a) is stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided;

(b) Each exposure suit required by § 94.41-5(b) for a watch or work station is stowed in a readily accessible location in or near the station; and

(c) Each child size exposure suit is stowed in a manner that prevents mistaking it for an adult size.

§ 97.85-10 Child size exposure suit required.

The master or person in charge of a vessel shall ensure that children, when carried, are provided with child size exposure suits.

PART 160—LIFESAVING EQUIPMENT

21. By adding a new Subpart 160.071 to read as follows:

Subpart 160.071—Exposure Suits

Sec.
160.071-1 Scope.
160.071-3 Applicable regulations and standards.
160.071-5 Independent laboratory.
160.071-7 Approval procedure.
160.071-9 Construction.
160.071-11 Performance.
160.071-13 Storage case.
160.071-15 Instructions.
160.071-17 Approval testing for adult size exposure suit.
160.071-19 Approval testing for child size exposure suit.
160.071-21 Test report.
160.071-23 Marking.
160.071-25 Production testing.

§ 160.071-1 Scope.

This subpart contains approval procedures, construction and performance requirements, and approval tests for adult and child exposure suits that are designed to prevent shock upon entering cold water and lessen the effect of hypothermia (body heat loss during long periods of immersion).

§ 160.071-3 Applicable regulations and standards.

(a) This subpart makes reference to the following Coast Guard regulations:

(1) Subpart 161.012 of this chapter (Personal Flotation Device Lights).

(2) Subpart 164.018 of this chapter (Retro-reflective Material for Lifesaving Equipment).

(b) This subpart makes reference to the following standards of the American Society for Testing and Materials:

(1) ASTM B 117-73, Standard Method of Salt Spray (Fog) Testing.

(2) ASTM C 177-76, Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Guarded Hot Plate.

(3) ASTM C 518-76, Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter.

(4) ASTM D 1004-66, Tear Resistance of Plastic Film and Sheeting.

(c) This subpart makes reference to the following Federal Standards:

(1) Federal; Test Method Standard No. 191, Method 5304.1, Abrasion Resistance of Cloth; Oscillatory Cylinder (Wyzenbeek) Method, dated July 9, 1971.

(2) Federal Standard No. 751a, Stitches, Seams, and Stitchings, dated January 25, 1965.

(d) The standards listed in paragraphs (b) and (c) of this section may be obtained as follows:

(1) ASTM standards may be purchased from the American Society for Testing and Materials, 1916 Race St. Philadelphia, Pa. 19103.

(2) The Federal Standards may be purchased from the Business Service Center, General Services Administration, Washington, D.C. 20407 or from any other regional General Services Administration Business Service Center.

(e) When changes are made in the standards listed in paragraphs (b) and (c) of this section, the effective date for their use will be the effective date set by the issuing authority unless otherwise determined by the Coast Guard.

§ 160.071-5 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory.

(b) To be an independent laboratory, a laboratory must—

(1) Be regularly engaged in inspecting and testing marine materials and equipment; and

(2) Not be owned or controlled by a manufacturer or vendor of exposure suits or by a supplier of materials to the manufacturer.

§ 160.071-7 Approval procedure.

(a) *General.* An exposure suit is approved by the Coast Guard if it passes the approval tests and meets the construction and performance requirements of this subpart.

(b) *Application for approval.* An application for approval of an exposure suit must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(c) *Contents of application.* An application for approval of an exposure suit must include the following:

(1) Two sets of plans describing the suit.

(2) The name of a proposed independent laboratory and a description of the laboratory's qualifications to conduct or supervise approval tests.

(3) An approval test plan describing in detail the proposed test procedures, apparatus, and facilities.

(d) *Preliminary review.* The Coast Guard examines the information submitted in the application and determines whether the proposed independent laboratory is acceptable to conduct or supervise the approval tests. The Coast Guard notifies the applicant of the results of this examination and determination.

(e) *Approval testing.* The applicant must make arrangements for the approval tests directly with the independent laboratory. Each approval test must be conducted in accordance with § 160.071-17 or § 160.071-19.

(f) *Submission of test report and plans.* After the approval tests are completed, the applicant must send the test report and three sets of plans to the Commandant (G-MMT-3/83). Each set of plans must include the following:

(1) An assembly drawing or general arrangement drawing.

(2) Detailed drawings showing components of the suit.

(3) For each drawing, a bill of materials or parts list containing a description of each component not detailed on the drawing.

(4) A list identifying the current revision and revision date of each drawing submitted.

(5) A detailed description of the quality control procedure used in producing the suit.

(6) A copy of the instructions described in § 160.071-15(a).

(g) *Final review and approval.* The Coast Guard reviews the test report

and plans and advises the applicant whether the exposure suit is approved. If the suit is approved, a certificate of approval and one copy of the approved plans are sent to the applicant.

(h) *Approval of child size suit.* No child size suit will be approved unless the adult size of the suit has been approved.

§ 160.071-9 Construction.

(a) *General.* Each exposure suit must be constructed primarily of a closed-cell flexible foam that meets the buoyancy and thermal insulation requirements in § 160.071-11 (a) and (c). Each suit must be designed to cover the wearer's entire body, except for the area of the nose and eyes.

(b) *Impact resistance and body strength.* The body of each adult size suit must be designed so that it is not damaged when tested as prescribed in § 160.071-17 (c)(11) and (j). The body of each child size suit must be designed so that it is not damaged when tested as prescribed in § 160.071-19(c).

(c) *Seams.* Stitching used in each structural seam of an exposure suit must be lock type stitching that meets the requirements in Federal Standard No. 751a for one of the following:

(1) Class 300 Lockstitch.

(2) Class 400 Multithread chain stitch.

(3) Class 700 Single thread lockstitch.

(d) *Seam strength.* Each seam must have a strength of at least 225 N(50 lb.).

(e) *Closures and seals.* Each closure and seal must be designed so that the suit can meet the water penetration requirements of § 160.071-11(f).

(f) *Hardware.* All hardware of an exposure suit must be of a size and design that allows ease of operation by the wearer. The hardware must be attached to the suit in a manner that allows the wearer to operate it easily and that prevents it from attaining a position in which it can be operated improperly.

(g) *Metal parts.* Each metal part of an exposure suit must be—

(1) 410 stainless steel or have salt water and salt air corrosion characteristics equal or superior to 410 stainless steel; and

(2) Galvanically compatible with each other metal part in contact with it.

(h) *Suit exterior.* The primary color of the exterior surface of each suit must be international orange. The exterior surface of the suit must not tear or abrade when tested as prescribed in §§ 160.071-17 (l) and (m).

(i) *Buoyant materials and compartments.* Buoyant materials used in a suit must not be loose or granular. The suit must not have an inflated or inflatable compartment, except as prescribed in § 160.071-11(a)(3).

(j) *Hand and arm construction.* The hand of each suit must be a glove that allows sufficient dexterity for the wearer to pick up a 9.5 mm (⅜ in.) diameter wooden pencil from a table and write with it. The glove may not be removeable unless it is attached to the arm and unless it can be secured to the arm or stowed in a pocket on the arm when not in use. A removeable glove must be designed so that only a small amount of water can enter the glove during use. Each arm with a removeable glove must have a wristlet seal that meets paragraph (e) of this section.

(k) *Leg construction.* Each suit must be designed to prevent air from becoming trapped in its legs when the wearer enters the water headfirst.

(l) *Foot construction.* Each leg of a suit must have a foot that has a hard sole or enough room for a work show to be worn inside. The sole of each foot must be—

(1) Natural or synthetic rubber that is ribbed or bossed for skid resistance; and

(2) Designed to prevent the wearer from slipping when the suit is tested as prescribed in § 160.071-17(c)(5).

(m) *Size.* Each adult suit must fit adult males and females ranging in weight from 40 kg (88 lb.) to 150 kg (330 lb.) and in height from 1,500 mm (59 in.) to 1,900 mm (75 in.). Each child size suit must fit children ranging in weight from 20 kg (44 lb.) to 40 kg (88 lb.) and in height from 1,000 mm (39 in.) to 1,500 mm (59 in.). Each suit must be capable of being worn comfortably over clothing and must not restrict the wearer's motion. The suit size and design must allow successful completion of the mobility tests prescribed in §§ 160.071-17(c)(2) through (c)(7).

(n) *Retro-reflective material.* Each exposure suit must be fitted with Type I retro-reflective material that meets Subpart 164.018 of this chapter. When the wearer of an exposure suit is in the face-up, stable floating position described in § 160.071-11(a)(2), at least 200 sq. cm (31 sq. in.) of the material must be visible above water to observers at water level directly in front of the wearer and directly behind the wearer.

(o) *PFD light.* Each exposure suit must be designed so that a light meeting the requirements of Subpart 161.012 of this chapter can be attached to its front shoulder area and so that the light when attached does not damage the suit and cannot adversely affect its performance. If the manufacturer of the suit designates a specific location for the light, or designates a specific model light, this information must be clearly printed on the suit or in the instructions prescribed by § 160.071-15(c).

§ 160.071-11 Performance.

(a) *Buoyancy.* Each suit must meet the following buoyancy requirements:

(1) The buoyancy of each adult size suit must be at least 100 N(22 lb.). The buoyancy of each child size suit must be at least 50 N(11 lb.).

(2) Each suit must have a stable floating position in which the mouth and nose of the wearer are at least 50 mm (2 in.) above the surface of the water.

(3) If this stable floating position is horizontal or nearly so, or if the mouth and nose of the wearer are less than 100 mm (4 in.) above the surface of the water in the stable position, an auxiliary means of buoyancy such as an inflatable bladder must be provided for changing from the horizontal position to a more upright stable floating position. When using the auxiliary means of buoyancy, the mouth and nose of the wearer must be at least 100 mm (4 in.) above the surface of the water, and the torso must be inclined slightly backward from the upright position.

(4) The buoyancy of any auxiliary means of buoyancy must not be counted when determining the buoyancy of the suit.

(b) *Righting.* The suit must be designed to turn the wearer from a face-down position to a face-up position within 10 seconds or to allow the wearer without assistance to turn himself from a face-down position to a face-up position within 5 seconds. If a suit has an auxiliary means of buoyancy, the suit must be designed to meet this requirement when the auxiliary means of buoyancy is used and when it is not used.

(c) *Thermal protection.* The suit must be designed to protect against loss of body heat as follows:

(1) The thermal conductivity of the suit material when submerged 1 m (39 in.) in water must be less than or equal to that of a control sample of 4.75 mm (3/16 in.) thick, closed-cell neoprene foam. The control sample of foam must have a thermal conductivity of not more than 0.418 watt/meter-degrees K (2.90 Btu-in./hr.-sq. ft.-°F) when determined by ASTM C 177 or ASTM C 518.

(2) The suit must be able to pass the thermal protection test prescribed in § 160.071-17(d)(6).

(d) *Donning time.* Each suit must be designed so that a person can don the suit correctly within one minute after reading the donning and use instructions described in § 160.071-15(a).

(e) *Vision.* Each suit must be designed to allow unrestricted vision throughout an arc of 60° to either side of the wearer's straight-ahead line of sight when the wearer's head is turned to any angle between 30° to the right and 30° to the left. Each suit must be designed to allow a standing wearer to

move his head and eyes up and down far enough to see both his feet and a spot directly overhead.

(f) *Water penetration.* An exposure suit must not retain more than 5 kg (11 lb.) of water when tested for water penetration as prescribed in § 160.071-17(c)(10).

(g) *Splash protection.* Each suit must have a means to prevent water spray from directly entering the wearer's mouth and nostrils.

(h) *Storage temperature.* Each suit must be designed so that it will not be damaged by storage in its storage case at any temperature between minus 20° C (minus 4° F) to 60° C (140° F).

(i) *Flame exposure.* Each suit must be designed to be useable after two seconds contact with a gasoline fire.

§ 160.071-13 Storage case.

(a) Each suit must have a storage case made of vinyl coated cloth or material that provides an equivalent measure of protection to the suit.

(b) Each storage case must be designed so that it is still useable after two seconds contact with a gasoline fire.

§ 160.071-15 Instructions.

(a) Each suit must have instructions for its donning and use in an emergency. The instructions must be in english and must not exceed 50 words. Illustrations must be used in addition to the words.

(b) The instructions required by paragraph (a) of this section must be on the exterior of the storage case or printed on a waterproof card attached to the storage case or to the suit. These instructions must also be available in a form suitable for mounting on a bulkhead of a vessel.

(c) In addition to the instructions required by paragraph (a) of this section, each suit must have instructions on care and repair of the suit and any additional, necessary information concerning stowage and use of the suit on a vessel.

§ 160.071-17 Approval testing for adult size exposure suit.

CAUTION: During each of the in-water tests prescribed in this section, a person ready to render assistance when needed should be near each subject in the water.

(a) *General.* Each adult size exposure suit must be tested as prescribed in this section. If the suit is also made in a child size, the child size suit must be tested as prescribed in § 160.071-19.

(b) *Test samples.* Each test prescribed in this section may be performed by using as many exposure suits as are needed to make efficient use of the test subjects and test equipment, except that each subject in the impact test described in § 160.071-17(c)(11) must not use more than one suit during the test.

(c) *Mobility and flotation tests.* The mobility and flotation capabilities of each exposure suit must be tested under the following conditions and procedures:

(1) *Test subjects.* Seven males and three females must be used in the tests described in this paragraph. The subjects must represent each of the three physical types (ectomorphic, endomorphic, and mesomorphic). Each subject must be in good health. The heaviest male subject must weight at least 25 kg (55 lb.) more than the lightest male subject. The heaviest female subject must weigh at least 25 kg (55 lb.) more than the lightest female subject. Each subject must be unfamiliar with the specific suit under test. Each subject must wear a swimming suit for the in-water tests and ordinary street clothing or work clothing for the other tests.

(2) *Donning time.* Each subject is removed from the view of the other subjects and allowed one minute to examine a suit and the manufacturer's instructions for donning and use of the suit in an emergency. At the end of this period, the subject attempts to don the suit as rapidly as possible without the aid of a chair or any support to lean on; however, the subject may sit on the floor. If the subject does not don the suit completely, including gloves and any other accessories, within 60 seconds, the subject removes the suit, examines the instructions for another minute, and again attempts to don the suit. At least nine of the ten subjects must be able to don the suit completely in 60 seconds in at least one of the two attempts.

(3) *Field of vision.* The exposure suit's field of vision must be tested as follows:

(i) While wearing a suit, each subject stands upright and faces straight ahead. An observer is positioned to one side of the subject at an angle of 60° away from the subject's straight-ahead line of sight. The observer must be able to see the subject's closest eye at this position. The observer then walks past the front of the subject to a position on the subject's other side that is at an angle of 60° away from his straight-ahead line of sight. The suit must not obstruct the observer's view of the subject's eyes at any point between the two positions.

(ii) While wearing the suit, each subject stands upright and faces straight ahead. An observer is positioned to one side of the subject at an angle of 90° away from the subject's straight-ahead line of sight. The subject then turns his head through an arc of 30° toward the position of the observer. This procedure is repeated with the observer positioned on the other side of the subject of an angle of 90° away from the subject's straight-ahead line of sight. The suit must not obstruct the observer's view of the subject's eyes when the subject's head is turned 30° toward the observer.

(4) *Hand dexterity.* While wearing a suit, including a removable glove if any, each subject must be able to pick up a 9.5 mm (⅜ in.) diameter wooden pencil from a flat hard surfaced table using only one hand. Still using only one hand, the subject must be able to position the pencil and write with it. At least eight of the ten test subjects must be able to complete this test.

(5) *Walking.* A 30 m (100 ft.) long walking course must be laid out on a smooth linoleum floor. The finish on the floor must allow water to lie on it in a sheet rather than in beads. The course may have gradual turns, but must not have any abrupt change in direction. Each subject is timed walking the course five times at a normal pace with the floor dry. Each subject then dons a suit and is timed again walking the course five times with the floor wet. The subject is given adequate rest periods between trials to avoid fatigue. The subject must not slip on the wet floor when wearing the suit. The average time for each subject to walk the course while wearing the suit must be not more than 1.25 times the subject's average time to walk the course without the suit.

(6) *Climbing.* A vertical ladder extending at least 5 meters (17 feet) above a level floor must be used for this test. Each subject is timed five times climbing the ladder to a rung at least 3 meters (10 feet) above the floor. The subject then dons a suit and is again timed five times climbing to the same rung. The subject is given adequate rest periods between trials to avoid fatigue. The average time for each subject to climb the ladder while wearing the suit must be not more than 1.25 times the subject's average time to climb the ladder without the suit.

(7) *Water emergence.* A pool with a wooden platform at one side must be used for this test. The platform must be 300 mm (1 ft.) above the water surface and must not float on the water. The platform must have a smooth painted surface.

Each subject enters the water without a suit and swims or treads water for approximately two minutes. The subject must then be able to emerge from the pool onto the platform using only his or her hands on top of the platform as an aid and without pushing off of the bottom of the pool. Any subject unable to emerge onto the platform within 30 seconds is disqualified for this test. At least five subjects must qualify and be used for this test. If less than five subjects of the original ten qualify, substitute subjects may be used. Each qualified subject dons the suit with all closures open and without any auxiliary means of

buoyancy. The subject then enters the water feet first and swims or treads water for two minutes. during this period the subject allows water to enter the suit but does not attempt to flood the suit to its capacity. After the two minute period, the subject closes each of the suit closures. The subject must then be able to emerge from the pool onto the platform, using only his or her hands on top of the platform as an aid, and without pushing off the bottom of the pool.

(8) *Stability and retro-reflective material.* While wearing a suit in water without any auxiliary means of buoyancy, each subject assumes a face-up position and then allows his or her body to become limp. The distance from the water surface to the lowest part of the subject's mouth or nose is measured. For each test subject, the stable position and the distance of the mouth and nose above water must be as prescribed in § 160.071-11(a)(2). This procedure is repeated using the auxiliary means of buoyancy, if one is provided. For each test subject the stable position and the distance of the mouth and nose above the water must be as prescribed in § 160.071-11(a)(3). During this test, each subject must be viewed by observers at water level from the front and back to determine whether the retroreflective material of the suit meets § 160.071-9(n).

(9) *Righting.* Each subject while wearing a suit in water without any auxiliary means of buoyancy takes a deep breath, assumes a face-down position, allows his or her body to become limp, and slowly expels air. The suit must cause the subject to turn face up within 10 seconds; or if the suit does not turn the subject within 10 seconds, the subject must be able to turn face up under his or her own power within 5 seconds. The procedure is repeated using the auxiliary means of buoyancy, if one is provided.

(10) *Water and air penetration.* Each subject is weighed while wearing a completely dry suit without any auxiliary means of buoyancy. The subject jumps into water from a height that will cause the subject to be completely immersed. The subject swims or treads water for approximately one minute, emerges from the water, and is weighed within 10 seconds after emerging. The procedure is repeated with the subject entering the water headfirst. As the subject enters the water head-first, air that accumulates in the leg must be expelled automatically. At the end of this test, the weight of the subject in the wet suit must not exceed the dry weight of the subject and suit by more than 5 kg (11 lb.).

(11) *Impact.* While wearing a suit without any auxiliary means of buoyancy, each subject jumps into water feet first six times from a height of 3 m (10 ft.) above the water surface. Each subject must be able to assume a face up stable position without assistance after each jump. The suit must not tear, separate at any seam, or exhibit any characteristic that would render it unsafe or unsuitable for use in water.

(d) *Thermal protection.* The thermal protection capability of a suit must be tested under the following conditions and procedures:

(1) *Test subjects.* Male subjects must be used for this test. Each subject must be familiarized with the test procedure before starting the test. Each subject must be between 1.65 m (65 in.) and 1.85 m (73 in.) tall and must not be more than 10 percent overweight or underweight for his height and physical type as determined by a physician or physiologist or from published physiological data. Each subject must have had a normal night's sleep the night before the test, a well-balanced meal 1 to 5 hours before the test, and no alcoholic beverages for 24 hours before the test. In addition to the suit, each subject must wear a tee shirt and shorts, a long sleeved cotton shirt, denim trousers, athletic socks, and oxford type shoes if the suit is designed for shoes to be worn inside.

(2) *Test equipment.* The test must be conducted in calm water with a temperature between 0° C (32° F) and 3° C (37.4° F). The air temperature 300 mm (1 ft.) above the water surface must be between minus 10° C (14° F) and 20° C (68° F). Each subject must be instrumented with an electrocardiograph, a thermistor or thermocouple in the rectum placed 150 mm (6 in.) beyond the anus, a thermistor or thermocouple on the tip of the index finger, and a thermistor or thermocouple on the tip of the great toe. Each thermistor or thermocouple must have an accuracy of 0.1° C (.18° F).

(3) *Test procedure.* A physician must be present during this test. Before donning the suit, each subject rests quietly in a room with a temperature between 10° C (50° F) and 25° C (77° F) for 15 minutes. The rectal temperature is then recorded as the initial rectal temperature. The subject dons a suit as rapidly as possible without damaging the instrumentation and immediately enters the water. The subject assumes a face-up, stable floating position. No auxiliary means of buoyancy may be used during this test. The subject remains in the water engaging in activ- ity that maintains the heart rate between 50 and 140 per minute for the first hour, and between 50 to 120 per minute during the remainder of the test, except that no attempt is made to control heart rate if the subject is shivering. Each thermistor or thermocouple reading is recorded as least every 10 minutes.

(4) *Completion of testing.* Testing of a subject ends six hours after he first enters the water, unless terminated sooner.

(5) *Termination of test.* Testing of a subject must be terminated before completion if any of the following occurs:

(i) The physician determines that the subject should not continue.

(ii) The subject requests termination due to discomfort or illness.

(iii) The subject's rectal temperature drops more than 2° C (3.6° F) below the initial rectal temperature, unless the physician determines that the subject may continue.

(iv) The subject's finger or toe temperature drops below 5° C (41° F), unless the physician determines that the subject may continue.

(6) *Test results.* The test results must be prepared as follows:

(i) The total rectal temperature drop during the test period and the average finger and toe temperature at the end of the test must be determined for each subject in the test, except subjects who did not complete testing for a reason stated in paragraph (d)(5)(i) or (d)(5)(ii) of this section. These temperatures and temperature drops must then be averaged. The average drop in rectal temperature must not be more than 2° C (3.6° F), and the average toe and finger temperatures must not be less than 5° C (41° F). Data from at least four subjects must be used in making these temperature calculations.

(ii) Rates of toe, finger, and rectal temperature drop for each subject who did not complete testing for a reason stated in paragraph (d)(5)(iii) or (d)(5)(iv) of this section must be determined using the highest temperature measured and the temperature measured immediately before testing was terminated. These rates must be used to extrapolate to 6 hours the estimated rectal, finger, and toe temperature at the end of that time. These estimated temperatures must be the temperatures used in computing the average temperatures described in paragraph (d)(6)(i) of this section.

(e) *Insulation.* Suit material must be tested under the following conditions and procedures:

(1) *Test equipment.* The following equipment is required for this test:

(i) A sealed copper or aluminum can that has at least two parallel flat surfaces and that contains at least two liters (two quarts) of water and no air. One possible configuration of the can is shown in Figure 160.071-17(e)(1)(i).

(ii) A thermistor or a thermocouple that has an accuracy of 0.° C (0.18° F) and that is arranged to measure the temperature of the water in the can.

(iii) A control sample of two flat pieces of 4.75 mm (3/16 in.) thick, closed-cell neoprene foam of sufficient size to enclose the can between them. The control sample must have a ther-

mal conductivity of not more than 0.418 W/m-° K (2.90 Btu-in/hr-sq. ft.-° F). The thermal conductivity of the control sample must be determined in accordance with the procedures in ASTM C 177 or ASTM c 518.

(iv) Two flat pieces of suit material of sufficient size to enclose the can between them. The surface covering, surface treatment, and number of layers of the material tested must be the same as those of material used in suit. If the material used in the suit varies in thickness or number of layers, the material tested must be representative of the portion of the suit having the least thickness or number of layers.

(v) A clamping arrangement to form a watertight seal around the edges of the material when the can is enclosed inside. A sealing compound may be used. Figure 160.071(e)(1)(v) shows one possible configuration of the clamping arrangement.

(vi) A container of water deep enough to hold the entire assembly of the can, material, and clamp at least 1 m (39 in.) below the surface of the water.

(vii) A means to control the temperature of the water in the container between 0°C (32°F) and 1°C (33.8°F).

(viii) A thermistor or thermocouple that has an accuracy of ±0.1°C (0.18°F) and that is arranged to measure the temperature of the water in the container at the depth at which the can, material, and clamp are held.

(2) *Test Procedure.* The can is held under water (which can be at room temperature) and clamped between the two pieces of the neoprene control sample so that the assembly formed conforms as closely as possible to the shape of the can, and so that water fills all void spaces between the can and the sample. When the water temperature in the can is at or above 45°C (113°F), the assembly is then placed in the container and submerged to a depth of 1 m (39 in.) at the highest point of the assembly. The water temperature in the container must be between 0°C (32°F) and 1°C (33.8°F) and must be maintained within this temperature range for the remainder of the test. No part of the assembly may touch the bottom or sides of the container. Every two minutes the assembly is shaken and then inverted from its previous position. The time for the water inside the can to drop from 45°C to 33°C (91°F) is recorded. This procedure is performed three times and then repeated three additional times using the suit material instead of the neoprene control sample. The shortest time for the drop in water temperature when the suit material is used must be greater than or equal to the shortest time when the neoprene control sample is used.

(f) *Storage temperature.* A suit in its storage case is placed in a chamber with a temperature of 60°C±3°C (140°F±5.4°F) for 24 hours. A test subject then enters the chamber and dons the suit. This procedure is repeated at a temperature of minus 20°C (minus 4°F), ±3°C. The subject may wear protective clothing for this test. Under each condition, the subject must be able to don the suit without damaging it.

(g) *Buoyancy.* The buoyancy of a suit must be tested under the following conditions and procedures:

(1) *Test equipment.* The following equipment is required for this test:

(i) A mesh basket that is large enough to hold a folded suit.

(ii) Weights that are heavy enough to overcome the buoyancy of the suit when placed in the mesh basket containing a folded suit.

(iii) A tank of water that is large enough to contain the basket submerged with its top edge 50 mm (2 in.) below the surface of the water.

(iv) A scale or load cell that has an accuracy of 0.15 N (½ oz.) and that is arranged to support and weigh the basket in the tank.

(2) *Test procedure.* The weights described in subparagraph (g)(1)(ii) of this section are placed in the mesh basket. The basket with weights is submerged so that its top edge is 50 mm (2 in.) below the surface of the water. The basket with weights is then weighed. Thereafter, a suit is submerged in water and then filled with water, folded, and placed in the submerged basket. The basket is tilted 45° from the vertical for five minutes in each of four different directions to allow all entrapped air to escape. The basket is then suspended with its top edge 50 mm (2 in.) below the surface of the water for 24 hours. At the end of this period, the basket and suit are weighed underwater. The buoyancy of the suit is the difference between this weight and the weight of the basket as determined at the beginning of the test. The buoyancy must be as prescribed in §160.071-11 (a)(1) and (a)(4).

(h) *Suit flame exposure.* The suit's resistance to flame must be tested under the following conditions and procedures:

(1) *Test equipment.* The following equipment is required for this test:

(i) A metal pan that is at least 300 mm (12 in.) wide, 450 mm (18 in.) long, and 60 mm (2½ in.) deep. The pan must have at least 12 mm (½ in.) of water on the bottom with approximately 40 mm (1½ in.) of gasoline floating on top of the water.

(ii) An arrangement to hold the suit over the gasoline.

(2) *Test procedure.* A suit is held from its top by the holding arrangement. The gasoline is ignited and allowed to burn for approximately 30 seconds in a draft-free location. The suit is then held with the lowest part of each foot 240 mm (9.5 in.) above the surface of the burning gasoline. After two seconds, measured from the moment the flame first contacts the suit, the suit is removed from the fire. If the suit is burning, it is allowed to continue to burn for six seconds before the flames are extinguished. If the suit sustains any visible damage other than scorching, it must then be subjected to the stability test described in paragraph (c)(8) of this section, except that only one subject need be used, the impact test described in paragraph (c)(11) of this section, except that only one subject need be used, the thermal protection test described in paragraph (d) of this section, and the buoyancy test described in paragraph (g) of this section, except that the buoyancy test need be conducted only for 2 hours.

(i) *Storage case flame exposure.* The storage case must be tested using the same equipment required for the suit flame exposure test. The exposure suit must be inside the storage case for this test. The storage case is held from its top by the holding arrangement. The gasoline is ignited and allowed to burn for approximately 30 seconds in a draft-free location. The storage case is then held with its lowest part 240 mm (9.5 in.) above the surface of the burning gasoline. After two seconds, measured from the moment the flames first contact the case, the case is removed from the fire. If the case is burning, it is allowed to continue to burn for six seconds before the flames are extinguished. The storage case material must not burn through at any point in this test and the exposure suit must not sustain any visible damage.

(j) *Corrosion resistance.* Each metal part of a suit that is not 410 stainless steel, or for which published evidence of salt-spray corrosion resistance equal to or greater than 410 stainless steel is not available, must be tested as described in ASTM B 117. A sample of each metal under test and a sample of 410 stainless steel must be tested for 720 hours. At the conclusion of the test, each sample of test metal must show corrosion resistance equal to or better than the sample of 410 stainless steel.

(k) *Body strength.* The body strength of a suit must be tested under the following conditions and procedures:

(1) *Test equipment.* The test apparatus shown in Figure 160.071-17(j)(1) must be used in this test. This apparatus consists of—

(i) Two rigid cylinders each 125 mm (5 in.) in diameter, with an eye or ring at each end;

(ii) a weight of 135 kg (300 lb.); and

(iii) ropes or cables of sufficient length to allow the suit to be suspended as shown in Figure 160.071-17(j)(1).

(2) *Test procedure.* The suit is cut at the waist and wrists, or holes are cut into it as necessary to accommodate the test apparatus. The suit is immersed in water for at least two minutes. The suit is then removed from the water and immediately arranged on the test apparatus, using each closure as it would be used by a person wearing the suit. The 135 kg (300 lb.) load is applied for 5 minutes. No part of the suit may tear or break during this test. The suit must not be damaged in any way that would allow water to enter or that would affect the performance of the suit.

(l) *Seam strength.* The strength of each different type of seam used in a suit must be tested under the following conditions and procedures:

(1) *Test equipment.* The following equipment must be used in this test:

(i) A chamber in which air temperature can be kept at 23° C (73.4° F) ±2° C (1.8° F) and in which relative humidity can be kept at 50% ± 5%.

(ii) A device to apply tension to the seam by means of a pair of top jaws and a pair of bottom jaws. Each set of jaws must grip the material on both sides so that it does not slip when the load is applied. Each jaw must be 25mm (1 in.) wide by 25mm (1 in.) long. The distance between the jaws before the load is applied must be 75mm (3 in.).

(2) *Test samples.* Each test sample must consist of two pieces of suit material, each of which is a 100mm (4 in.) square. The two pieces are joined by a seam as shown in figure 160.071-17(k)(3). For each type of seam, 5 samples are required. Each sample may be cut from the suit or may be prepared specifically for this test. One type of seam is distinguished from another by the type and size of stitch or other joining method used and by the type and thickness of the materials joined at the seam.

(3) *Test procedure.* Each sample is conditioned for at least 40 hours at 23° C ±2° C and 50% ± 5% relative humidity. Immediately after conditioning, each sample is mounted individually in the tension device as shown in figure 160.071-17(k)(3). The jaws are separated at a rate of 5mm/second (12 in./minute). The force at rupture is recorded. The average force at rupture must be at least 225 N (50 lb.).

(m) *Tear resistance.* The tear resistance of suit material must be determined by the method described in ASTM D 1004. If more than one material is used, each material must be tested. If varying thicknesses of a material are used in the suit, samples representing the thinnest portion of the material must be tested. If multiple layers of a material are used in the suit, samples representing the layer on the exterior of the suit must be tested. Any material which is a composite formed of two or more materials bonded together is considered to be a single material. The average tearing strength of each material must be at least 45 N (10 lb.).

(n) *Abrasion resistance.* The abrasion resistance of each type of suit material on the exterior of the suit must be determined by the method described in Federal Test Method Standard 191, Method 5304.1. If varying thicknesses of exterior suit material are used, samples representing the thinnest portion of the material must be tested. If exterior material has multiple layers, samples of the layer on the outside surface of the suit must be tested. Any exterior material which is a composite formed of two or more materials bonded together is considered to be a single material and the abradant must be applied to the surface that is on the exterior of the suit. The residual breaking strength of each material must be at least 225 N (50 lb.).

§ 160.071-19 Approval testing for child size exposure suit.

A child size suit must pass the following tests:

(a) The stability test prescribed in § 160.071-17(c)(8), except that only six children need be used as test subjects and they can be either sex. The subjects must be within the ranges of weight and height prescribed in § 160.071-9(m). The heaviest subject must weigh at least 10 kg (22 lb.) more than the lightest subject.

(b) The buoyancy test prescribed in § 160.071-17(g).

(c) The body strength test prescribed in § 160.071-17(j), except that the cylinders must be 50mm (2 in.) in diameter and the test weight must be 55 kg (120 lb.).

§ 160.071-21 Test report.

(a) after the approval tests are completed, a test report must be prepared by the independent laboratory or by the applicant. If the report is prepared by the applicant, its accuracy must be certified by the independent laboratory.

(b) The test report must contain—

(1) The name and address of the applicant;

(2) The name and address of the independent laboratory;

(3) A detailed description of the test procedure and apparatus used;

(4) Detailed test results including all data recorded and a description of each test failure and each other discrepancy;

(5) The date and location of testing;

(6) The name of each test participant and observer; and

(7) Photographs showing at least one overall view of the suit and enough additional views to show all major design details, test apparatus, and each failure occurring during testing.

§ 160.071-23 Marking.

(a) Each suit must be marked with the name of the manufacturer, the date of manufacture, the model, the size, and the Coast Guard approval number.

(b) Each storage case must be marked with the words "exposure suit" and the size.

§ 160.071-25 Production testing.

(a) One out of every 100 exposure suits produced must be tested as prescribed in § 160.071-17(g) and must be given a complete visual examination. The suit must be selected at random from a production lot of 100 suits and tested by, or under the supervision of, an independent laboratory.

(b) If the suit fails to pass the test prescribed in § 160.071-17(g), 10 additional suits from the same lot must be selected at random and subjected to the test. If a defect in the suit is detected upon visual examination, 10 additional suits from the same lot must be selected at random and examined for the defect.

(c) If one or more of the 10 suits fails to pass the test or examination, each suit in the lot must be tested or examined for the defect for which the lot was rejected. Only suits that pass the test or that are free of defects may be sold as Coast Guard approved.

(d) The manufacturer must ensure that the quality control procedure described in the test plans previously submitted for approval under § 160.071-7 (f) and (g) is followed.

(e) The manufacturer must report the results of each production test performed under paragraphs (b) and (c) of this section to the Commandant (G-MMT-3). The report must be prepared by the independent laboratory or by the manufacturer. If the report is prepared by the manufacturer, its accuracy must be certified by the independent laboratory.

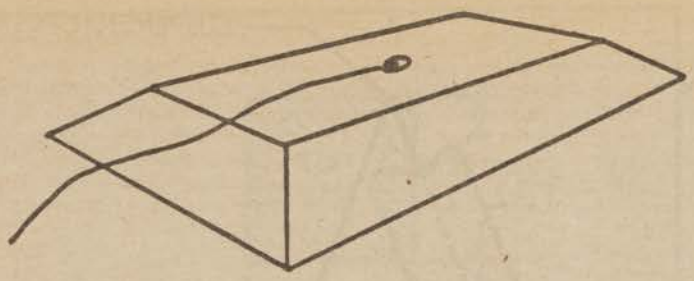


Figure 160.071(e)(1)(i). Water can for insulation test shown with thermistor lead.

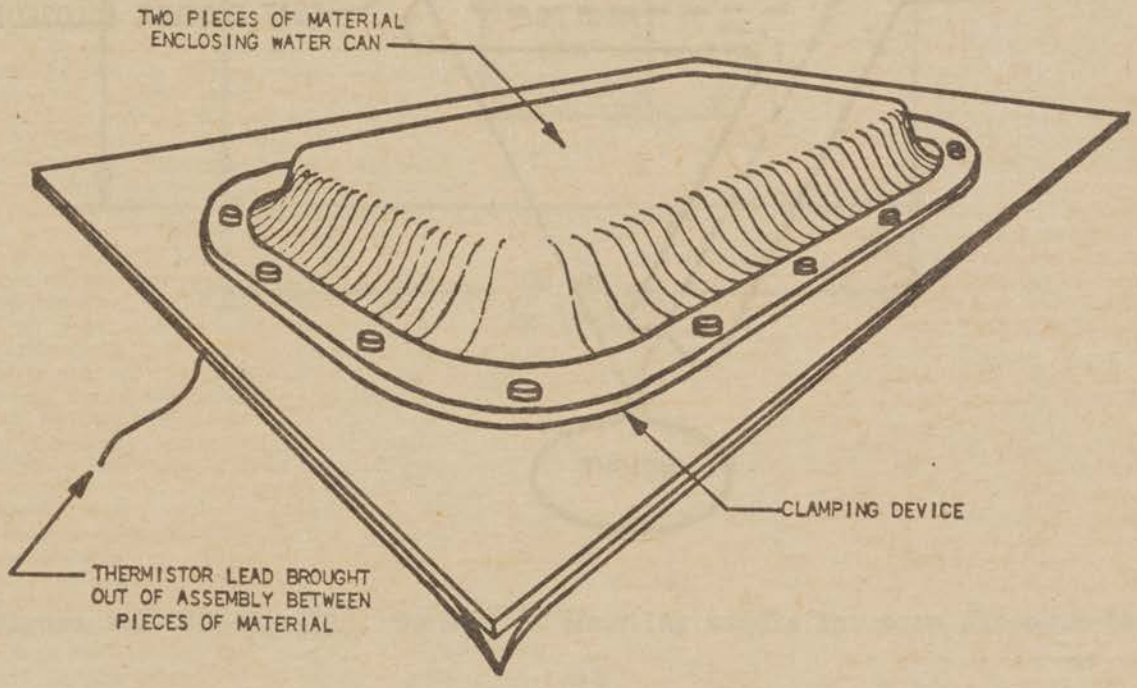


Figure 160.071-17(e)(1)(v). Insulation test assembly.

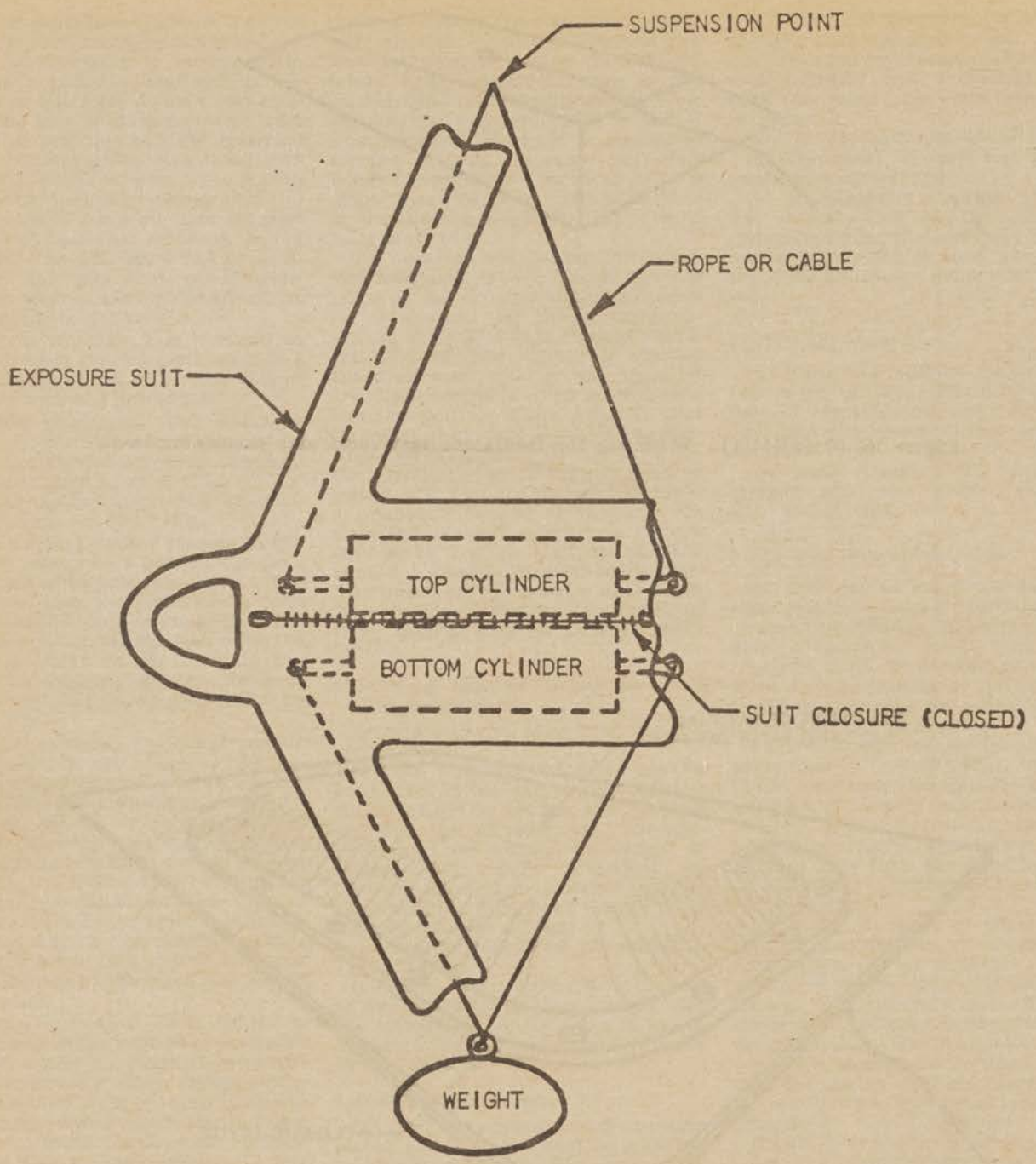


Figure 160.071-17(j)(1). Body strength test apparatus.

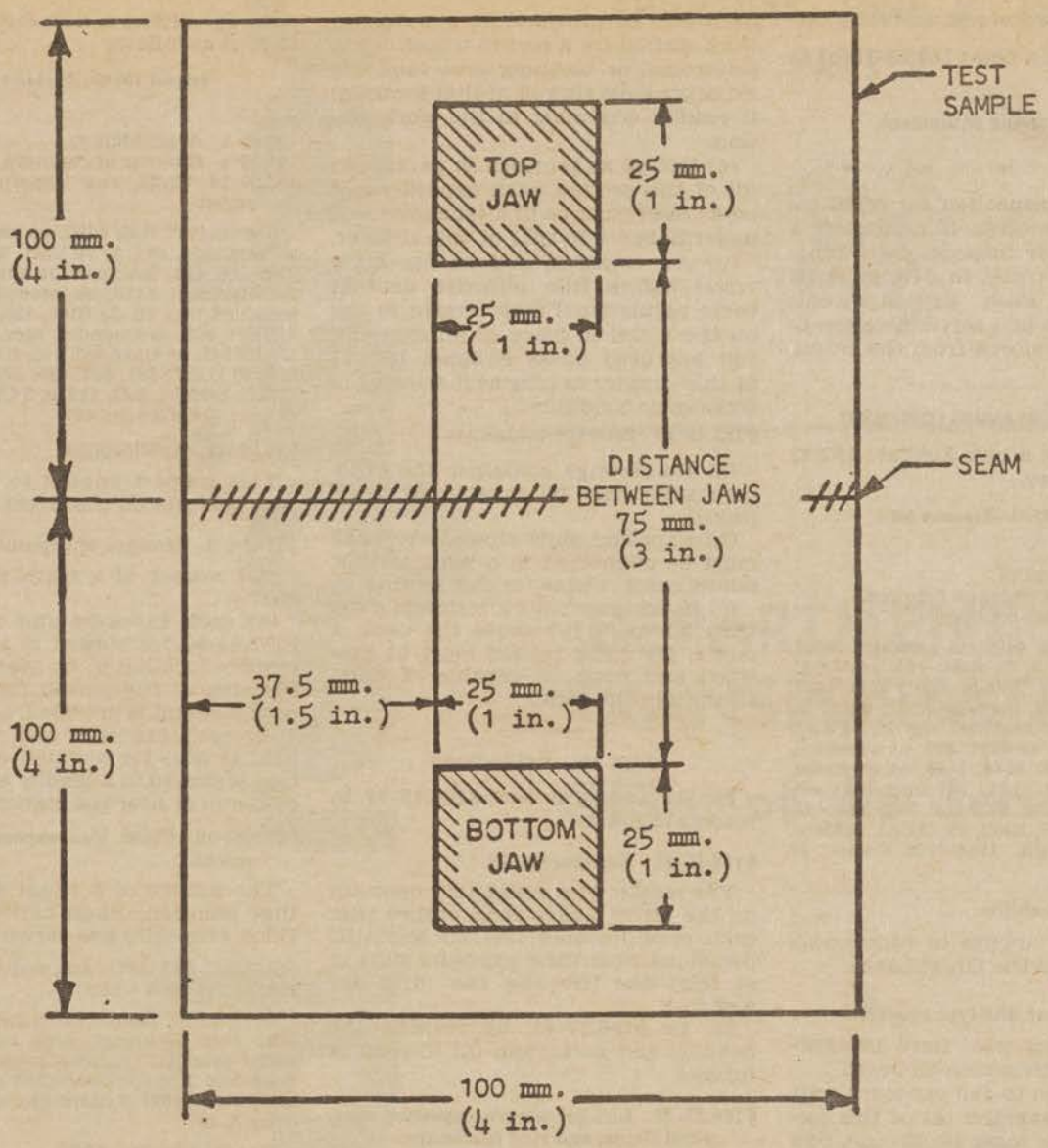


Figure 160.071-17(k)(3). Method of mounting sample for seam strength test.

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PART 189—INSPECTION AND CERTIFICATION

22. By adding a new § 189.25-15(b) to read as follows:

§ 189.25-15 Livesaving equipment.

* * * * *

(b) At each inspection for certification, and more often if necessary, a marine inspector inspects each exposure suit on a vessel to determine its serviceability. Each exposure suit found not to be in a serviceable condition must be removed from the vessel.

PART 192—LIFESAVING EQUIPMENT

23. By adding a new Subpart 192.41 to read as follows:

Subpart 192.41—Exposure Suits

Sec.
192.41-1 Applicability.
192.41-5 Number and type required.
192.41-10 Stowage containers.

AUTHORITY: R.S. 4405, as amended, 4462, as amended, sec. 5, 79 Stat. 424; 46 U.S.C. 375, 416, 445. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4453, as amended, 4488, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 391, 392, 435, 481, 395, 363, 367, 526p, 49 U.S.C. 1655(b), E.O. 11239; 3 CFR, 1964-1965 Comp.; 49 CFR 1.4(a)(2).

§ 192.41-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 192.41-5 Number and type required.

(a) Each vessel must have an exposure suit for each person on board.

(b) In addition to the exposure suits required by paragraph (a) of this section, the engine room pilothouse, bow lookout, and each work station must have enough exposure suits to equal the number of persons normally on watch in or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the work station.

(c) Except as provided in paragraph (d) of this section, each exposure suit on a vessel must be of a type approved under Subpart 160.071 of this chapter.

(d) An exposure suit in use on a vessel before [the effective date of these regulations] may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter as long as it remains in serviceable condition.

§ 192.41-10 Stowage containers.

(a) No stowage container for exposure suits may be capable of being locked.

(b) Exposure suits stowed overhead must be supported in a manner that allows quick release for distribution.

(c) If exposure suits are stowed more than 2.1 m (7 ft.) above the deck, a means for quick release must be provided and must be capable of operation from the deck.

PART 196—OPERATIONS

24. By adding a new § 196.15-37 to read as follows:

§ 196.15-37 Exposure suits.

The master of a vessel that operates on the Great Lakes shall ensure that each crew member and all scientific personnel wear their exposure suits in at least one fire and boat drill per month.

25. In § 196.37-43, by revising the heading and paragraph (a) to read as follows:

§ 196.37-43 Life preservers, exposure suits, wood floats, and ring life buoys.

(a) Each life preserver, exposure suit, wood float, and ring life buoy must be marked with the vessel's name.

* * * * *

26. By adding a new Subpart 196.90 to read as follows:

Subpart 196.90—Exposure Suits

Sec.
196.90-1 Applicability.
196.90-5 Stowage of exposure suits.
196.90-10 Child size exposure suits required.

AUTHORITY: R.S. 4405, as amended, 4462, as amended, sec. 5, 79 Stat. 424; 46 U.S.C. 375, 416, 445. Interpret or apply R.S. 4417, as amended, 4418, as amended, 4453, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 6(b)(1), 80 Stat. 838; 46 U.S.C. 391, 392, 435, 395, 363, 367, 49 U.S.C. 1655(b), E.O. 11239; 3 CFR 1964-1965 Comp.; 49 CFR 1.4(a)(2).

§ 196.90-1 Applicability.

This subpart applies to each vessel that operates on the Great Lakes.

§ 196.90-5 Stowage of exposure suits.

The master of a vessel shall ensure that—

(a) each exposure suit required by § 192.41-5(a) is stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided; and

(b) each exposure suit required by § 192.41-5(b) for a watch or work station is stowed in a readily accessible location in or near the station.

§ 196.90-10 Child size exposure suits required.

The master of a vessel shall ensure that children, when carried are provided with child size exposure suits.

(46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); 49 CFR 1.46.)

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: May 31, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-15931 Filed 6-7-78; 8:45 am]

federal register

THURSDAY, JUNE 8, 1978
PART V



DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

NONDISCRIMINATION ON THE BASIS OF HANDICAP

Federally-Assisted Programs and Activities

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 27]

[OST Docket No. 56; Notice No. 78-6]

NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would implement section 504 of the Rehabilitation Act of 1973, which 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 regulation would require recipients of Federal financial assistance ("recipients") which are employers to make reasonable accommodation to the handicaps of job applicants and employees. As providers of services, recipients would be required to make programs operated in existing facilities accessible to handicapped persons, and to ensure that new facilities are constructed so as to be readily accessible to handicapped persons.

COMMENT CLOSING DATE: September 6, 1978.

FOR FURTHER INFORMATION, CONTACT:

Martin Convisser, Director, Office of Environment and Safety, Office of Assistant Secretary for Policy and International Affair, U.S. Department of Transportation, Washington, D.C. 20590, 202-426-4357.

SUPPLEMENTAL INFORMATION: This regulation was drafted principally by Martin Convisser and Ira Laster, Office of Environment and Safety, and reviewed for legal sufficiency by Cynthia Straker, Office of the General Counsel.

BACKGROUND

1. The Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 790 et seq., provides in section 504: "no otherwise qualified handicapped individual in the United States, as defined in section 7(6), 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."

2. For the purposes of section 504, the term "handicapped individual" is defined in section 111(a) of the Rehabilitation Act Amendments of 1974, 29 U.S.C. 706(6), to mean:

> * * * any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment.

3. On April 28, 1976, the President issued Executive Order 11914 (41 FR 17871), which states:

> [T]he Secretary of Health, Education, and Welfare shall coordinate the implementation of section 504 of the Rehabilitation Act of 1973, as amended, * * * by all Federal departments and agencies empowered to extend Federal financial assistance to any program or activity.

The Executive Order also directs the Secretary of HEW to establish certain standards and guidelines, as well as the procedures to guide other Federal departments and agencies in implementing section 504. Standards procedures and guidelines were issued by HEW on January 13, 1978, 43 FR 2132, to provide the framework for a comprehensive governmentwide approach to the effort to eliminate discrimination against the handicapped.

4. Finally, the Executive Order directs:

> each Federal department and agency empowered to provide Federal financial assistance shall issue rules, regulations, and directives, consistent with the standards and procedures established by the Secretary of Health, Education, and Welfare.

This Notice of Proposed Rulemaking (NPRM) is issued to implement section 504 for the Department of Transportation (DOT) in the manner required by the Executive Order.

The DOT programs have for some time been concerned with providing access for the handicapped. Besides the Rehabilitation Act of 1973, legislative mandates for such action are found in the Urban Mass Transportation Act of 1964, as amended (UMT Act), and the Federal-Aid Highway Act of 1973 as amended (Highway Act). Section 16(a) of the UMT Act, 49 U.S.C. 1612(a), states: "[I]t is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this Act) should contain provisions implementing this policy." The UMT Act authorizes grants and loans to State and local public bodies and to private nonprofit corporations and associations for the purpose of assisting in the provision of mass transportation services to "meet the special needs of elderly and handicapped persons."

Section 165(b) of the Highway Act, 23 U.S.C. 142 nt., provides that mass transit projects financed with Federal-aid highway funds "shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons." Section 228 of the Highway Act, 23 U.S.C. 402 (b)(1)(F), also provides for the "safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs * * *." This provision has been implemented in 23 CFR 625.7, which requires that "Federal-aid projects that provide curbs shall include curb ramps at all pedestrian crosswalks, and other provisions as may be appropriate for physically handicapped persons."

In response to these statutory mandates, the Urban Mass Transportation Administration (UMTA) and the Federal Highway Administration (FHWA) jointly issued a regulation (23 CFR 450.120) that requires the urban transportation planning process of State and local governments to include special efforts to plan public mass transportation facilities and services that can effectively be used by elderly and handicapped persons. UMTA and FHWA have also issued a joint supplementary statement that provides advisory information on the special planning requirements (appendix to 23 CFR Part 450, Subpart A). UMTA has also issued regulations (49 CFR Part 609 and 49 CFR 613.204) that require:

1. All transit-related buildings and fixed facilities, planned and constructed after the effective date of the regulations, to be accessible to the elderly and handicapped;

2. All new transit rolling stock purchased with capital grants awarded after the effective date of the regulations to incorporate interior design features that increase the comfort and convenience of transit vehicles for elderly and handicapped persons; and

3. All areas to plan and implement projects or project elements designed to benefit elderly and handicapped persons, specifically including wheelchair users and those with semiambulatory capabilities.

On September 23, 1977, the "Transbus regulation" (42 FR 48339) was published, amending 49 CFR 609.15, and setting forth specifications for full-sized transit buses purchased with Federal transit grants after September 30, 1979. These specifications require a stationary bus floor height of not more than 22 inches and an effective floor height, including a kneeling feature, of not more than 18 inches, together with a ramp for boarding and exiting.

We anticipate issuing an additional portion of the NPRM shortly, covering programs of the National Highway Traffic Safety Administration. We welcome comments on that portion at the same time that comments are submitted on other portions of the NPRM.

The Interstate Commerce Commission (ICC) is proceeding with a rulemaking action, under the provisions of section 801 of the Rail Passenger Service Act of 1970, 45 U.S.C. 641, to parallel the provisions of this Notice with respect to rail transportation. We have coordinated with staff of the ICC to assure that the two regulations are as consistent as the separate mandates of the two agencies permit. A single set of comments may be filed with both agencies, provided that the comments specifically identify the portions of the two regulations to which they are addressed.

Additional documents prepared to fulfill regulatory and statutory requirements for this rulemaking include (1) a regulatory analysis, (2) an economic impact statement, and (3) a negative environmental declaration. These documents will be placed in the public docket for this regulation and will be available for examination by interested persons during the comment period. In addition, the economic impact statement is published immediately following the attachment to the Notice of Proposed Rulemaking.

The regulatory analysis, prepared pursuant to the Department's procedures for simplification, analysis and review of regulations (43 FR 9582, March 8, 1978), summarizes the major alternatives considered thus far during the process of developing the regulation, within the constraints of the standards, procedures and guidelines issued by HEW; and summarizes the economic consequences of implementation. The negative environmental declaration, prepared pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332), indicates that implementation of the regulation will not have any significant adverse impacts on the environment.

The economic impact statement describes in detail the benefits of the regulation, the costs of compliance for each mode of transportation, and the options available to meet these costs. It indicates that there are an estimated 13 million handicapped persons in the United States, many of whom would benefit from implementation of the regulation. Economic benefits for the handicapped will be realized in terms of increased job opportunities and independence for the handicapped resulting from improved access to transportation, and increased employment in the transportation industry. Of even greater importance, the additional mobility benefits which will be achieved by the regulation will affect the overall quality fo life of handicapped persons, and cannot be evaluated purely in economic terms.

The great bulk of the costs of implementing the regulation will be expended to achieve structural alteration of existing rapid rail, commuter rail, and light rail facilities. The total capital cost of the regulation is estimated to be $1.8 billion in 1977 dollars, of which $1.6 billion is for alteration of such mass transit rail stations. The proposed regulation sets forth three options for the compliance period for altering mass transit stations; 12 years, 20 years, and 30 years. The costs of the alterations to mass transit stations would be an estimated $2.7 billion if one assumes an annual inflation rate of six percent, a 12-year compliance period, and a project midpoint of 1986. Assuming a 30-year compliance period, a 6 percent rate of inflation, and a project midpoint of 1995, the cost of altering such rail stations would be an estimated $4.6 billion. (In either a 12-year or 30-year compliance period, assuming a 6 percent annual inflation rate, if the project midpoint occurs earlier, the total cost would be lower, while a later project midpoint would produce a higher total.) The average annual compliance cost would be as follows:

(Millions of dollars) [1]

	12 years	30 years
Constant 1977 dollars	133.1	53.3
Annual 6 pct. inflation rate	224.9	152.0

[1] Alteration of mass transit stations, average annual compliance cost.

This cost of "retrofitting" existing transit stations would be unreasonably high unless spread over at least the entire 12-year compliance period provided for existing transit stations in the regulation. As noted below, and in the economic impact statement, the costs are large, and may strain local and Federal resources, particularly if not spread over a sufficient number of years. It is for this reason that the Department, although costing out a 12-year compliance period in detail, has listed in the regulation as alternatives a 20-year and a 30-year compliance period. Cost calculations based only on the 12-year deadline are meant to be illustrative and not to convey a Departmental view that this is the preferred alternative. The Department proposes to set a single deadline in the final regulation, although city by city deadlines were considered. The Department welcomes comment on the proper compliance deadline(s) to be set in this area. Commentors should bear in mind that extending the deadline for rail accessibility will prolong the period during which interim accessible transportation must be available (§ 27.109).

The total capital and operating cost of the regulation, averaged over the first 12 years, would be an estimated $221.5 million in 1977 dollars, or approximately $360 million assuming a six percent annual rate of inflation and a project midpoint of 1986 for mass transit rail station retrofit. These annual averages are not meant to be predictive of the cost in any given year. After the initial 12-year period, capital costs would be negligible, and the total average annual operating costs would be an estimated $71.7 million in 1977 dollars.

A summary of the estimated cost of the regulation is presented in Table 1.

The expenditures for alteration of existing mass transit rail stations would principally benefit those handicapped persons who cannot use steps or can do so only with difficulty, and who reside in the limited number of areas with existing rail mass transit systems, a number considerably smaller than the estimated 13 million total transportation handicapped persons in the United States. As with the ablebodied, it would be expected that many handicapped will choose not to use these mass transit systems.

Although constrained by the language of HEW's guidelines, which provide that existing rail facilities be made accessible over time, the Department considered alternatives to this requirement during the drafting process, both because of the large budgetary impact of retrofitting existing rail stations and the Department's desire to find, if possible, a less expensive approach that would provide substantially similar benefits. One alternative considered was a requirement that a transportation system as a whole be accessible—thus allowing for the possibility that a bus system accessible to those who could not negotiate steps could substitute for a similarly accessible rail system if it paralleled that rail system. A paratransit alternative which was considered was a voucher system to provide subsidized taxi rides, with lift- or ramp-equipped vans supplementing taxi automobiles where needed, to persons who but for the lack of level change mechanisms in rail stations could have used that rail service. Comment is specifically invited on these alternatives and any others that may be proposed as substitutes for retrofitting of existing subway systems. Comments are invited on the relative benefits and costs of such alternatives and on whether those alternatives are consistent with the HEW guidelines and/or section 504 of the statute. Comments directed at substitute service should if possible also address the level, frequency, and standards for such services that should or must be required.

TABLE 1: Total Estimated Costs of Compliance with Proposed DOT Section 504 Regulations*
(Millions of 1977 Dollars)

	Total Capital	Annual Capital***			Annual Operating
		Years 1-3	Years 4-12	Years 13-On	
Employment	minimal	minimal	minimal	minimal	minimal
Federal Aviation Administration	$40.0	$11.6	$ 0	$ 0	$ 1.0
Federal Railroad Administration	56.6	13.6	0**	0	1.9
Urban Mass Transportation Admin. Compliance periods of:					
12 years	1,700.4	141.7***	141.7	1.1	68.8
30 years	1,700.4	56.6	56.6	56.6	68.8
(Inflated at 6%)****					
(12 years)	(2,8 .)	(2 4..)	(234.8)		
(30 years)	(4,(3)	(5 .	(155.9)	(155.9)	
Federal Highway Administration	min:	minimal	minimal	minimal	minimal
Administrative & Compliance	mi al	minimal	minimal	minimal	minimal
TOTAL (12-year compliance period)	$1,7 7.0	$166.9	$141.7	$1.1	$71.7
TOTAL (30-year compliance period)	$1,797.0	$ 81.8	$ 56.6	$56.6	$71.7

* FAA cost estimates based on data developed from National Airport System Plan 1978-1987; FRA estimates based on analysis of data provided by Amtrak; UMTA estimates based on analysis of survey responses submitted by transit operators. The UMTA estimates do not include the costs already required by current regulations, for (1) making new fixed facilities accessible, and (2) Transbus.

** FRA costs are $5.8 million per year for years 4 and 5.

*** Annual averages for the UMTA program were calculated by simply dividing the totals by the indicated alternative compliance periods.

**** Assumes a six percent annual rate of inflation and a project midpoint for mass transit rail station retrofit of 1986 and 1995 based on rail station compliance periods of 12 and 30 years, respectively.

OVERVIEW OF THIS PROPOSED REGULATION

The proposed regulation is organized into general provisions that describe the rest of the regulation, provisions concerning employment practices and program accessibility in general, provisions addressing specific requirements applicable to each mode of transport, and an enforcement section.

SUBPART A. GENERAL

This subpart provides the general framework for the regulation. The definition of a "handicapped" person, as set forth in § 27.5, is the definition used in HEW guidelines which implement Executive Order 11914.

Section 27.7 provides the general prohibition against discrimination and describes the discriminatory actions that these regulations address. A recipient of Federal financial assistance must afford the handicapped the same, or the same quality of, aid, benefits or services, as are provided to the nonhandicapped. Such aid, benefits or services may be different from those provided to nonhandicapped persons only if necessary to provide aid, benefits, or services that are as effective as those provided to nonhandicapped. The Department's interpretation of § 27.7 on matters of accessibility to programs is set forth in Subparts D and E. It is those subparts that, in general, should be looked to for guidance on this subject. Compliance with those subparts satisfies the requirements of § 27.7 on matters of program accessibility.

Section 27.9 sets forth the form and content of written assurances from recipients of financial assistance that programs will be conducted and facilities operated in compliance with the regulations.

Section 27.11 authorizes the Department to require appropriate remedial action when discrimination is found. Recipients will also be required to evaluate their own policies and practices in terms of the requirements of the regulation, and to take appropriate steps to remedy discrimination.

Sections 27.13 and 27.15 outline certain steps that a recipient shall take to establish a grievance mechanism and to notify the public of its compliance with section 504.

SUBPART B. EMPLOYMENT PRACTICES

Subpart B contains the regulations which generally prohibit recipients of Federal financial assistance from discriminating in employment practices against "qualified handicapped persons", as defined in § 27.5.

Section 27.33 provides that the recipient shall "make reasonable accommodation to the known physical or mental limitations" of otherwise qualified applicants or employees unless it can be demonstrated that such an accommodation would impose undue financial hardship on the operation of the recipient's program, or would have other undesirable effects, such as the creation of a safety hazard.

Section 27.35 prohibits the use of tests or other selection criteria that tend to screen out handicapped persons on a basis that is not job-related.

Section 27.37 limits required pre-employment inquiries and medical examinations to those that are relevant to the applicant's ability to perform job-related functions unless all entering employees are subjected to such an examination and the results of the examination are not used in a discriminatory manner. Information may be requested on a voluntary basis under certain circumstances. All information must be kept confidential, and only certain specified persons with a need to know may have access to the information.

SUBPART C. PROGRAM ACCESSIBILITY—GENERAL

Section 27.61 states that this subpart applies to all programs and activities receiving financial assistance from the Department of Transportation. Additional provisions with respect to certain specific programs of the Department are set forth in Subparts D and E.

Section 27.65 requires recipients to make each program or activity accessible when viewed in its entirety, but each existing facility or every part of a facility need not necessarily be accessible to and usable by the handicapped. Necessary structural changes to existing facilities shall be made as soon as practicable, and in any event not later than 3 years after the effective date of the regulation unless provided otherwise in Subpart D or E. If structural changes are necessary to comply with this subpart, the recipient must develop a transition plan, available for public inspection, describing how accessibility will be achieved.

Section 27.67 requires new facilities to be made accessible; parts of existing facilities undergoing alterations shall be made accessible, to the maximum extent feasible.

SUBPART D—PROGRAM ACCESSIBILITY REQUIREMENTS IN SPECIFIC OPERATING ADMINISTRATION PROGRAMS: AIRPORTS, RAILROADS AND HIGHWAYS

§ 27.71 Federal Aviation Administration—Airports.

General accessibility standards approved by the American National Standards Institute (ANSI) will be utilized for terminal buildings constructed after the effective date of this part.

Additional specified measures will also be taken to facilitate the arrival and departure processes for handicapped persons, including matters relating to terminal circulation and flow, the use of the international accessibility symbol, design of ticketing system, emplaning and deplaning provisions for wheelchair confined persons, telephones, teletypewriters, vehicular loading and unloading areas, parking areas, baggage check in and retrieval, and walking area.

Existing terminals are required to be made accessible as soon as possible, and in any event within three years of the effective date of this regulation.

Operators of terminals emplaning 10,000 or more passengers per year shall make provision for assisting handicapped passengers. The 10,000 emplaning passenger per year threshold for provision of such services was estimated to be the minimal number necessary to provide program accessibility to air passenger service. The Department welcomes comments on the reasonableness of this threshold.

§ 27.73 Federal Railroad Administration—Railroads.

Fixed Facilities. New fixed facilities will be required to meet applicable ANSI standards and additional standards designed to help handicapped persons boarding the rail vehicles, including matters relating to station circulation and flow, the use of the international accessibility symbol, the design of the ticketing system, the baggage areas, the waiting area, station information, telephones, boarding platforms, teletypewriters, parking, and loading and unloading areas.

When extensive structural changes are necessary to make existing fixed facilities accessible, a transition plan must be submitted to the Federal Railroad Administration (FRA) for approval within one year. The changes must be made as soon as practicable but not later than five years after the effective date of this regulation. The FRA may exempt a maximum of ten percent of those existing facilities which have the lowest utilization rates from this provision. The Department welcomes comments on the percentage of stations that should be permitted exemptions from compliance and on criteria which might be used to evaluate requests for exemptions.

Rail Vehicles. Within 3 years from the effective date of the regulation, each train is generally required to have at least one accessible vehicle of each type of vehicle (e.g., coach) on the train. All new rail cars purchased 1 year after the effective date of this part will be accessible. Comment is invited as to whether this requirement for accessibility of all new vehicles is necessary in view of the requirement for at least one accessible vehicle of each type, per train, within 3 years.

Rail Passenger Service. The regulation generally provides that carriers

may not deny transportation to the handicapped and must provide certain services to assure accessibility.

The proposed regulation does not require Amtrak to provide station service for each of its 150 currently closed (unmanned) stations. This alternative was considered, but was concluded to be infeasible. Another alternative considered, but not adopted, would require Amtrak to meet any need for assistance to the handicapped by developing a plan for on-call staffing of unmanned stations. The Department solicits the views of interested persons on this alternative.

The proposed regulation exempts terminals accommodating fewer than 5,000 passengers per week from the requirement that a teletypewriter (TTY) be installed for communication with deaf persons when a toll-free reservation number is not provided. The Department welcomes comments on the desirability of establishing a higher or lower passenger rate threshold for this requirement.

The Department has coordinated development of the intercity rail section of this regulation with ICC. The transition plans for making existing fixed facilities accessible to handicapped persons required in this regulation shall be the same as the plan required in the ICC regulation. The Department will coordinate with ICC in the approval of transition plans submitted by recipients of Federal financial assistance.

§ 27.75 Federal Highway Administration—Highways.

The regulation requires newly constructed highway rest area facilities to conform with ANSI standards. Curb cuts or ramps will be installed in new construction pursuant to section 228 of the Federal-Aid Highway Act of 1973. Pedestrian overpasses and underpasses can have gradients no steeper than 10 percent, unless alternative safe means of crossing are provided. Public comment is invited particularly on this section of the NPRM.

In existing facilities, rest areas will be made accessible within a 3-year period.

SUBPART E—PROGRAM ACCESSIBILITY REQUIREMENTS IN SPECIFIC OPERATING ADMINISTRATION PROGRAMS: MASS TRANSPORTATION

In addition to the proposed regulations of Subpart E, Appendix A provides an analysis which should be consulted on the intended meaning of provisions in that subpart. The appendix material explains and elaborates on the regulatory language.

Section 27.81 explains the purpose of Subpart E, which is to implement, in addition to section 504, two statutes specifically concerned with mass transportation for elderly and handicapped persons. Those statutes are section 16 of the Urban Mass Transportation Act of 1964, as amended, and section 165(b) of the Federal-Aid Highway Act of 1973, as amended. Existing Urban Mass Transportation Administration regulations and advisory guidance as published at 41 FR 18234 (April 30, 1976) will be largely or fully withdrawn at the time final regulations are issued as part of this rulemaking. In order to avoid a gap between implementation activities under the existing UMTA regulations and implementation activities under the new regulation, § 27.109(b) of the proposed regulation requires that the existing level of effort with respect to transportation for elderly and handicapped persons be maintained until significant physical implementation under the new regulation has begun.

Section 27.95 of the proposed regulation requires that all mass transportation stations and other public fixed facilities be made accessible to handicapped persons "except that in unusual circumstances where compelling reasons exist, a small proportion of stations or other fixed facilities may be exempted from this requirement upon adequate justification in the transition plan." The exception does not apply to new fixed facilities, all of which must be accessible.

The HEW guidelines implementing Executive Order 11914 say, with respect to existing facilities, that program accessibility "does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons" (43 FR 2138-39). We particularly welcome comment on the criteria which the regulation should express concerning which facilities, if any, should be excepted from a full accessibility requirement. Should a maximum percentage of facilities which may be inaccessible be set in the regulation? Should localities be allowed to establish the criteria, with significant involvement of handicapped persons or organizations representing handicapped persons?

Section 27.99 requires that program policies and practices that prevent or inhibit travel or convenient use of services and facilities be modified as soon as reasonably possible. The appendix analysis is particularly important in understanding this section.

Section 27.101(a) states that program accessibility for a fixed route bus system requires that off-peak frequency service or half of the peak service (whichever is greater) be provided during off-peak hours as well as peak hours by wheelchair accessible buses. The same paragraph requires that fixed route bus systems achieve program accessibility as soon as practicable but no later than 3 years after the effective date of this regulation, except for extraordinarily expensive changes, which must be achieved as soon as practicable but no later than 6 years.

Section 27.101(b) implements § 85.58 of the HEW guidelines, which requires that new buses ordered after the effective date of this regulation but prior to October 1, 1979, must be accessible unless DOT concludes that it is not feasible to impose such a requirement, in which case "comparable accessible services" must be available in the interim if inaccessible buses are ordered. Section 27.101 requires that buses ordered during this interim period be accessible if it is determined during the course of the rulemaking that such a requirement is feasible. The Department invites comment on the feasibility of such a requirement that new buses purchased prior to Transbus be accessible, and on the definition of "comparable accessible service." One possible definition of "comparable accessible service" would be comparable origin-destination range and flexibility, comparable trip time and trip decision time, and no greater fare. Another definition might involve a local determination of comparability, with consideration given to the foregoing elements of comparability.

Incorporating the current Transbus regulation, this section also requires that new, standard, full-sized urban transit buses ordered with UMTA assistance on or after October 1, 1979, be low-floor, ramped Transbuses, which are accessible to wheelchair users.

Section 27.103 requires that fixed guideway systems, which include rapid transit ("subway"), light rail ("trolley"), and commuter rail systems, achieve program accessibility as soon as practicable, but no later than 3 years, except for extraordinarily expensive changes to existing fixed facilities and vehicles. For such cases, program accessibility must be achieved as soon as practicable but no later than 5 years for commuter rail vehicles, 10 years for light rail vehicles, and 12, 20, or 30 years for fixed facilities. The Department invites comment on these alternative deadlines and any others that might be proposed, as noted above. The "as soon as practicable" phrase is very important here as well as all other occasions when it is used, for some systems may have to achieve program accessibility ahead of the deadline. A possible example is a commuter rail system with high platforms and level entry vehicles.

"Program accessibility" generally requires fixed facilities to be accessible and at least one accessible vehicle per train for rapid and commuter rail systems.

New rapid transit vehicles are, under the general vehicles (§ 27.97), required to be accessible. For new commuter

rail and light rail vehicles, however, we have deferred the proposed effective date of a full accessibility mandate until October 1, 1979. The delay is based on the current state of technology for providing wheelchair access to those vehicles and our belief that further development time is needed. The normal delivery time for rail vehicles is approximately two years from the time vehicles are ordered. Thus, the date of October 1, 1979, should provide approximately 3 years for the full test and development of wheelchair loading concepts, either carborne or off the vehicle. We invite comment on whether October 1, 1979, is the date which should be specified.

Section 27.105 of the proposed regulation requires that each paratransit system be operated so that the system, when viewed in its entirety, is accessible to handicapped persons. Program accessibility for a paratransit system requires service to handicapped persons who require a lift- or ramp-equipped vehicle.

Section 27.107 of the proposed regulation extends the general program accessibility requirement, subject to modification on a case-by-case basis, to all other forms of mass transportation not covered by a specific section.

Section 27.109(a) requires each recipient of Federal financial assistance whose system will not achieve accessibility within three years to "(1) determine, in cooperation with the MPO [Metropolitan Planning Organization], whether other accessible modes of transportation are available, and (2) proposed, document, and ensure the provision of any supplements to such transportation where necessary to assure that service levels are reasonable." The appendix analysis provides some illustrations which may be helpful in applying the regulation language.

The HEW guideline on this subject provides that "other accessible modes" must be available if a system takes longer than three years to achieve program accessibility. Comment is particulary welcome on what the DOT provision should be. One approach given serious consideration was to define "other accessible modes" of urban public transportation, within the context of that provision, to mean bus systems having fully accessible buses in operation or on order within the following periods after the effective date of this regulation:

a. Thirty percent of the fleet within 3 years;

b. Fifty percent of the fleet within 5 years; and

c. Seventy percent of the fleet within 7 years.

All fixed route bus systems would have to meet this standard.

Concerning the proposed form of § 27.109(a) on interim accessible transportation, recipients may want to consider whether the most cost-effective approach may be the achieve program accessibility in their fixed route bus system within three years if at all possible. For bus-only cities and for cities with bus systems which could serve rail passengers, reaching program accessibility for their fixed route bus system within three years would presumably eliminate any requirement under § 27.109(a) for interim accessible transportation. Comment on this point is welcome.

Section 27.111 indicates that the requirements of Subpart E will not be waived except in rare circumstances where compelling reason exists.

Finally, in order to prepare subsequent follow-up advisory information, DOT solicits specific information on facility and vehicle hardware features, operating practices, or other components of transit systems that are needed by handicapped sub-groups, especially the mentally retarded and the visually handicapped. What specific user-related features of buses, terminal operations, and other system components are not yet addressed by this regulation, existing ANSI standards (that emphasize fixed facilities), or other technical advisory material? What existing specific designs, products, service approaches, or guidance materials should DOT be aware of in preparing advisory information for recipients?

SUBPART F. ENFORCEMENT

Pursuant to the HEW guidelines, this subpart generally follows the Department's current Title VI regulations. The latter are now under review within the Department, and we expect that they will be revised. Subsequent to such revision, this subpart of the 504 regulation will also be reviewed and the need for change considered.

§ 27.121 Compliance Information.

A recipient is required by § 27.121 to keep on file for one year all complaints alleging noncompliance; a record of such complaints must be kept for five years. Compliance reports, which must be submitted to the DOT Director of Environment and Safety, must contain sufficient information to allow the Director to determine whether the recipient is complying with the Act and these regulations.

The Director or his/her designee shall have access to all pertinent information including that which normally is confidential. When confidential information is obtained in connection with an action relating to compliance, this information shall not be disclosed except as necessary in formal enforcement proceedings or as required by law.

Participants, beneficiaries, and other interested persons shall be informed by the recipient about protection against discrimination provided by the Act and this regulation.

§ 27.123 Conduct of Investigations.

From time to time, compliance reviews will be conducted by the Director. Complaints alleging discrimination must be filed within 180 days of the alleged offense. Complaints and other indications of possible noncompliance will be investigated promptly.

§ 27.125 Compliance Procedure.

The regulation provides that if there appears to be a failure or threatened failure to comply with provisions of this Part 27 which is not resolved by informal means, compliance may be effected by suspension or termination of, or refusal to grant or continue, Federal financial assistance.

§ 27.127 Hearings.

The regulation provides that when an opportunity for a hearing is required by § 27.125(b), a recipient will have the option of requesting a hearing or submitting written information and argument for the record. Otherwise, a decision will be made on the basis of the information that has been filed for the record.

Hearings, decisions and any administrative review of these will be conducted in accordance with the Administrative Procedure Act (5 U.S.C. 551, et seq.). After an Administrative Law Judge holds the hearing and renders the initial decision, the principal parties concerned in the proceedings may file with the Director their exceptions, together with the reasons therefor, whereupon the Director will issue his/her own decision. Final decisions by officials within the Department, other than the Secretary, which provide for the suspension or termination of Federal financial assistance, or the refusal to grant or continue such assistance, or the imposition of other sanctions, will be subject to approval by the Secretary.

§ 27.129 Decisions and Notices.

This section sets forth certain procedural details concerning decision orders, and subsequent proceedings. For example, it provides that no decision to suspend or terminate financial assistance, or to refuse to grant or continue such assistance, shall be final until approved by the Secretary of Transportation. Any recipient from whom financial assistance has been denied may restore its eligibility upon a showing to the Director that it satisfies the terms and conditions contained in the termination order.

REQUEST FOR COMMENTS

The Department is interested in receiving comments on this regulation

from all interested parties. We are concerned that the provisions be clear and provide for a workable program that will achieve the objectives in a prompt and reasonable manner. The definition of handicapped persons is provided in the law, and is interpreted by HEW. The framework for the regulation is provided in the HEW guidelines.

We hope to receive comments particularly upon the specific provisions that address each transportation mode. We would wish to learn, for example, whether groups of handicapped persons are not accommodated by the provisions or if the accommodation of one group creates a barrier for another group. Are there activities that are not addressed? Is the opportunity for consumer advice adequate? If not, how might it be improved? Are timetables reasonable?

In what instances are interim measures appropriate and what should they be? Should the accessibility of one mode within a service area count, on an interim basis, for partial accessibility of another mode? In instances where full accessibility is very difficult to achieve, should such interchange be acceptable on a long-term basis?

Should certain small transportation operations be exempt from the requirements of the regulation where it is clear that the costs may force the discontinuance of service or reduce quality and quantity of service significantly? Should the cities with existing rapid rail facilities be exempted from a requirement that elevators or other level change mechanisms be installed at some or all stations? If so, on what theory and what is a suitable substitute for such rapid rail accessibility?

The Department solicits, in particular, comments on the economic benefits and costs of compliance with the regulation, and will carefully consider additional data submitted during the comment period on this issue.

Public Comments and Public Hearings. The Department of Transportation welcomes comments on the proposed rule, particularly written comments that suggest specific ways in which the regulations may be improved. Interested parties are invited to participate in the making of the rule by submitting to the Department such written data, views, or arguments as they may desire.

Communications should be submitted to the following address: U.S. Department of Transportation, Docket Clerk, Docket No. 56, Office of the General Counsel, Room 10100, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. All written communications received on or before September 6, 1978, will be considered by the Department before final action is taken on the proposed rule. Comments received after that date will be placed in the public docket, but considered only to the extent possible. The proposed rule contained in this Notice may be changed as a result of comments received. All comments submitted will be available from the Docket Clerk, in room 10100, for examination by interested parties, between 9 a.m. and 5:30 p.m. local time, Monday through Friday except Federal holidays.

In order to increase the opportunity for comments which can be used to evaluate and improve the proposed rule, the Department will hold a public hearing on July 26 (and, if necessary, July 27), 1978, in room 2230 of the Department of Transportation (Nassif Building), 400 Seventh Street SW., Washington, D.C. 20590. Sessions each day will convene at 9 a.m. and conclude at 4:30 p.m., with an hour recess for lunch. The room is accessible to wheelchairs, and interpreters for the deaf will be provided.

The hearing will be informal in nature and will be conducted by an official representing the Department. Since the hearing will not be of the evidentiary or judicial type, there will be no cross-examination of those persons presenting statements.

All interested persons are invited to attend the hearing. They must submit their requests postmarked by July 6, 1978, stating name, whether they represent an organization, telephone number during the day, any particular area of interest and the length of time required (to a maximum of 10 minutes). Requests should be submitted to the Office of Environment and Safety, Room 9422, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590. Persons making an oral statement are encouraged to submit the substance of their remarks in written form either at the hearing or by mail to the Office of Environment and Safety (in time to arrive on or before July 19, 1978).

Some funds are available, under authority of the Department as set forth in the Travel Manual (paragraphs 331, "Invitational Travel" and 222.c, "Non-Employee Travel"), to provide travel and per diem funds to a limited number of persons who will be testifying at the hearing. Application for such funds should provide the following information:

(1) Name and address of individual testifying;

(2) Name and address of organization being represented, if any;

(3) A short statement of the purpose of the organization and of its tax status;

(4) The interest of the individual, or the organization being represented, in the matters being discussed at the hearing;

(5) The subject area or areas to be discussed and the general thrust of the testimony to be given;

(6) The competency of the individual to testify on this matter;

(7) An itemization of the amount of funds requested; and

(8) The reason why funding is needed.

Factors that will be considered in evaluating applications for travel and per diem expenses shall include, but not be limited to: (1) Likelihood that the applicant would not participate in the absence of the requested funding; (2) the size of the constituency or organization represented by the applicant; (3) the type of disability represented (i.e., deaf, blind, mobility-impaired); (4) applicant's familiarity with the issues at hand; and (5) the likelihood that the applicant will contribute significantly to a full and fair disposition of the issues.

Applications must be submitted by mail postmarked by June 26, 1978, to the Office of Environment and Safety, Room 9422, 400 Seventh Street SW., Washington, D.C. 20590. Late applications will be received, but cannot be assured full consideration. Applicants will be notified of approval or disapproval of travel and per diem funds by July 7.

If a very large number of persons request an opportunity to speak at the hearing, DOT reserves the right to restrict further the length of time allowed for each oral statement in order to give the maximum number of persons the opportunity to be heard. A transcript of the hearing will be made and placed in the regulatory docket for examination by interested persons.

This Preamble and the NPRM are available on standard cassette tapes to persons with sight disabilities. Requests for tapes should be made to the Office of Environment and Safety, at the above address.

This amendment to Title 49 CFR is proposed under the authority of section 504, Rehabilitation Act of 1973 (29 USC 794).

Issued in Washington, D.C. on June 5, 1978.

ALAN BUTCHMAN,
Acting Secretary of Transportation.

PART 27—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

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Authority: Sec. 504, Rehabilitation Act of 1973; 29 U.S.C. 794.

Subpart A—General

§ 27.1 Purpose.

The purpose of this part is to carry out the intent of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended, to the end that no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 27.3 Applicability.

This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance.

§ 27.5 Definitions.

As used in this part:

"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. 790 et seq.

"Applicant" means one who submits an application, request, or plan to be approved by a Departmental official or by a primary recipient as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

"Closed station" means a station at which no services are provided to passengers by station attendants and at which trains make regularly scheduled stops.

"Department" means the Department of Transportation.

"Director" means the Director of the Office of Environment and Safety of the Department.

"Discrimination" means denying handicapped persons the opportunity to participate in or benefit from any program or activity receiving Federal financial assistance.

"Facility" means all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

"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 Department provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal personnel; or

(c) Real or personal property or any interest in, or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(2) 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.

"Flag stop" means any station which is not a regularly scheduled stop but at which trains will stop to entrain or detrain passengers only on signal or advance notice.

"Handicapped Person" means any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. As used in this definition:

(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; respiratory, including speech 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. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; mental retardation; emotional illness; drug addiction; and alcoholism.

(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 classified, or 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 activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments set forth in paragraph (1) of this definition, but is treated by a recipient as having such an impairment.

"Head of Operating Administration" means the head of an operating administration within the Department (United States Coast Guard, Federal Highway Administration, Federal Aviation Administration, Federal Railroad Administration, National Highway Traffic Safety Administration, Urban Mass Transportation Administration, and Research and Special Programs Directorate) providing Federal financial assistance to the recipient.

"Open station" means a station at which passengers may make reservations and purchase tickets and where passenger assistance is available for entraining and detraining passengers on trains which make regularly scheduled stops.

"Passenger" means anyone, except a working crew member, who travels on a train the service of which is governed by these regulations.

"Primary receipient" means any recipient that is authorized or required

to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

"Qualified handicapped person" means:

(a) With respect to employment, a handicapped person who, with reasonable accommodation and within normal safety requirements, can perform the essential functions of the job in question; and

(b) With respect to other activities, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

"Recipient" means any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended directly or through another recipient, for any Federal program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

"Secretary" means the Secretary of Transportation.

"Section 504" means section 504 of the Act.

§ 27.7 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance administered by the Department of Transportation.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equal to that afforded persons who are not handicapped;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as persons who are not handicapped;

(iv) 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 services that are as effective as those provided to persons who are not handicapped;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing financial or other 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;

(vi) Deny a qualified handicapped person the opportunity to participate in conferences, planning or advising recipients, applicants; or would-be applicants' or

(vii) 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.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable.

(3) Even if separate or different programs or activities are available to handicapped persons, a recipient may not deny a qualified handicapped person the opportunity to participate in the programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially reducing the likelihood that handicapped persons can benefit by the objectives of the recipient's program, or (iii) that yield or perpetuate discrimination against another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance, or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefitting 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.

(c) *Programs limited by Federal law.* In programs authorized by Federal statute or executive order that are designed especially for the handicapped, or for a prticular class of handicapped persons, the exclusion of nonhandicapped or other classes of handicapped persons is not prohibited by this part.

§ 27.9 Assurances required.

(a) *General.* Each application for Federal financial assistance to carry out a program to which this part applies, and each application to provide a facility, shall, as a condition to approval or extension of any Federal financial assistance pursuant to the application, contain, or be accompanied by, written assurance that the program will be conducted or the facility operated in compliance with all the requirements imposed by or pursuant to this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of assurance.* (1) If the Federal financial assistance is in the form of real property or is to provide real property structures on the property, the assurance shall obligate the recipient or any subsequent transferee for the period during which the 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.

(2) If Federal financial assistance is to provide personal property, the assurance will obligate the recipient for the period it retains ownership or possession of the property.

(3) In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended to the program for which the assurance was originally made.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument of transfer shall contain a covenant running with the land to assure 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.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree in writ-

ing to include the covenant described in paragraph (b)(1) of this section in transferring of the property.

§ 27.11 Remedial action, voluntary action and self evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has excluded from participation in, denied the benefits of, or otherwise subjected to discrimination a qualified handicapped person, under any program or activity, in violation of this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the violation.

(2) Where a recipient is found to have violated this part, and where another recipient exercises control over the recipient that has violated this part, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of a violation of this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred, and (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to assure the full participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within 90 days from the effective date of this part, designate and forward to the head of any operating administration providing financial assistance, with a copy to the Director, the names, addresses, and telephone numbers of the persons responsible for evaluating the recipient's compliance with this part.

(2) A recipient shall, within 180 days from the effective date of this part after consultation at each step in paragraphs (c)(2) (i)–(iii) of this section with interested persons, including handicapped persons and organizations representing the handicapped;

(i) Evaluate its current policies and practices for implementing these regulations, and notify the head of the operating administration of the completion of this evaluation;

(ii) Identify shortcomings in compliance and describe the methods used to remedy them;

(iii) Modify, with official approval of recipient's management, any policies or practices that do not meet the requirements of this part according to a schedule or sequence that includes milestones or measures of achievement;

(iv) Take appropriate remedial steps to eliminate the effects of any discrimination that resulted from the modified policies and practices; and

(v) Establish a system for periodically reviewing and updating the evaluation.

(3) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and furnish to the head of the operating administration:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems indentified; and

(iii) A description of any modifications made and of any remedial steps taken.

§ 27.13 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient that employs fifteen or more persons shall, within 90 days of the effective date of this regulation, forward to the head of the operating administration that provides financial assistance to the recipient, with a copy to the Director, the name, address, and telephone number of a least one person designated to coordinate its efforts to comply with this part. Each recipient shall inform the head of the operating administration of any subsequent change.

(b) *Adoption of complaint procedures.* A recipient that employs fifteen or more persons shall, within 180 days, adopt and file with the head of the operating administration procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part.

§ 27.15 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 provessional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated pursuant to § 27.13(a). A recipient shall make the initial notification required by this section within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications and distribution of memoranda or other written 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 be revising and reprinting the materials and publications. In either case, the addition or revision must be specially noted.

§ 27.17 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 affected by any State or local law.

(b) The obligation to comply with this part is not affected by the fact that employment opportunities in a particular occupation may be more limited for handicapped persons than for nonhandicapped persons.

§§ 27.19–29 [Reserved].

Subpart B—Employment Practices

§ 27.31 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped applicant 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.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner assuring that discrimination on the basis of handicap does not occur. A recipient may not limit, segregate, or classify applicants for employment or employees on the basis of handicap.

(3) A recipient may not enter a contractual or other relationship that subjects qualified handicapped applicants for employment or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, or with organizations providing training and apprenticeship programs.

(b) *Specific Activities.* A recipient shall not discriminate on the basis of handicap in:

(1) Recruiting, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promoting, awarding 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.

(c) 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.

§ 27.33 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known handicaps of an otherwise qualified applicant for employment or employee unless the recipient can demonstrate to the Director that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation includes (but is not limited to):

(1) Making facilities used by employees readily accessible to and usable by handicapped persons;

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment, and similar actions; and

(3) The assignment of an emloyee who becomes handicapped and unable to perform his/her original duties to an alternative position with comparable pay.

(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, including 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;

(3) The nature and cost of the accommodation needed; and

(4) Its effect on program accomplishments, including safety.

(d) A recipient shall not deny any employment opportunity to a qualified handicapped employee or applicant for employment if the basis for the denial is the need to make reasonable accommodations to the handicaps of the employee or applicant.

§ 27.35 Employment criteria.

(a) A recipient shall not make use of an employment test or other selection criterion that has an adverse impact or tends to have an adverse impact on handicapped persons, unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests or criteria that do not have an adverse impact or do not tend to have an adverse impact on handicapped persons are shown by the recipient to be unavailable.

(b) A recipient shall select and administer tests that, when administered to an applicant for employment or employee with impaired sensory, manual, or speaking skills, nonetheless accurately purports to measure.

§ 27.37 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient shall not conduct a preemployment medical examination or inquiry as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment medical examinations or inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action pursuant to § 27.11 (a) or (c), or when a recipient is taking affirmative action pursuant to section 503 of the Act (which relates to government procurement), the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided that:

(1) The recipient makes clear that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative actions efforts; and

(2) The recipient makes clear that the information is being requested on a voluntary basis, that it will be kept confidential, 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.

(c) Nothing in this section prohibits a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, if:

(1) All entering employees in that category of job classification must take such an examination regardless of whether or not they are handicapped; and

(2) The results of such an examination are used only in accordance with this part.

(d) Information obtained in accordance with this section shall be collected and maintained on separate forms and treated confidentially, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of handicapped persons and 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, consistent with the Privacy Act of 1974, 5 USC 552a.

§§27.39–59 [Reserved]

Subpart C—Program Accessibility—General

§ 27.61 Applicability.

This subpart applies to all programs of the Department of Transportation to which section 504 is applicable. Additional provisions with respect to certain specific programs of the Department are set forth in Subparts D and E.

§ 27.63 Discrimintion 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.

§ 27.65 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that, when viewed in the entirety, it is accessible to handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, alteration of existing facilities and construction of new facilities in accordance with the requirements of § 27.67(c) or any other methods that results in making its program or activity accessible to handicapped persons. In choosing among available methods for meeting the requirements 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) *Structural changes.* Where structural changes are necessary to make programs or activities in existing facilities meet the requirements of par-

araph (a) of this section, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of this regulation, unless otherwise provided in Subpart D or E.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirements of paragraph (a) of this section, a recipient shall develop, and submit to the cognizant operating administration providing Federal financial assistance, within one year 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. A copy of the transition plan shall be made available for public inspection. 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 the methods that will be used to make the facilities accessible;

(3) Describe how the facilities and surrounding areas will be made accessible;

(4) Specify the schedule for taking the steps necessary to achieve overall program accessibility and, if the time period of the transition plan is longer than three years, identify steps that will be taken during each year of the transition period; and

(5) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 27.67 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in a manner so that the facility or part of the facility is accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the accessibility of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *ANSI standards.* Design, construction or alteration of facilities in paragraphs (a) and (b) of this section shall be in accordance with the minimum standards in the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by ANSI, Inc. (ANSI A117.1-1961 (R1971)), which is incorporated by reference in this part. (These standards are now being updated and the revised standards will serve as a reference when they have been adopted.) When used in this regulation, the term "accessible" refers to these standards. Departures from particular requirements of these standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided. (Copies available from ANSI, Inc., 1430 Broadway, New York, N.Y. 10018.)

§ 27.69 [Reserved]

Subpart D—Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways

§ 27.71 Federal Aviation Administration—Airports.

(a) *Fixed facilities.* (1) New terminal—(i) Terminal facilities designed and constructed with Federal financial assistance on or after the effective date of this part, the intended use of which will require it to be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed or constructed in accordance with the ANSI or standards referenced in § 27.67(c). Where there is ambiguity or contradiction between the definitions and the standards used by ANSI and the definitions and standards used in paragraph (a)(1)(ii) of this section, the ANSI terms should be interpreted in a manner which will make them consistent with the standards in paragraph (a)(1)(ii) of this section. If this cannot be done, the standards in Paragraph (a)(1)(ii) of this section prevail.

(ii) In addition to the standards referred to in paragraph (a)(1)(i) of this section, the following standards apply to airline terminal facilities covered by paragraph (a)(1)(i) of this section:

(A) *Station circulation and flow.* Handicapped users shall be able to locate and enter the station. The basic station design shall permit efficient movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. It is also essential that the design, especially concerning the location of elevators, escalators, and similar devices, minimize any extra distance that wheel chair users and other persons unable to climb steps must travel compared to nonhandicapped persons, to reach ticket counters, waiting areas, baggage handling areas, and boarding locations.

(B) *International accessibility symbol.* The international accessibility symbol shall be displayed at wheelchair accessible entrances to buildings that meet the ANSI standards.

(C) *Ticketing.* The ticketing system shall be designed to provide the handicapped with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment.

(D) *Baggage check-in and retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons.

(E) *Boarding.* Boarding by jetways and by passenger lounges are the preferred methods for movement of handicapped persons between terminal buildings and aircraft; however, where this is not practicable, operators at terminals emplaning 10,000 or more passengers per year shall assure that there are in place handicapped lifts not normally used for movement of freight for emplaning and deplaning wheelchair-confined persons.

(F) *Telephones.* Wherever there are public telephone centers in terminals, at least one clearly marked telephone shall be equipped with a volume control or sound booster device and with a device which makes telephone communications possible for persons wearing hearing aids.

(G) *Teletypewriter.* Each carrier reservation center shall have at least one teletypewriter (TTY) to enable agents and other personnel to communicate with hearing-impaired persons.

(H) *Vehicular loading and unloading areas.* Several spaces adjacent to the terminal building entrance, separated from the main flow of traffic, and clearly marked, shall be made available for the loading and unloading of handicapped passengers from motor vehicles. The spaces should allow individuals in wheelchairs or with braces or crutches to get in and out of automobiles onto a level surface suitable for wheeling and walking.

(I) *Parking.* In addition to the requirements in the ANSI standards referenced in paragraph (a)(1)(i) of this section, the following requirements shall be met:

(*1*) Curb cuts or ramps with grades not exceeding 8.33° shall be provided at crosswalks between park areas and the terminal;

(*2*) Where multi-level parking is provided, ample and clearly marked space shall be reserved for ambulatory and semi-ambulatory handicapped persons on the level nearest the ticketing and boarding portion of the terminal facilities; and

(*3*) In multi-level parking areas, elevators, ramps, or other devices which can accommodate wheelchair-confined persons shall be easily available.

(J) *Waiting area/public space.* As the major public area of the airline terminal facility, the environment in the waiting area/public space should give the handicapped person confidence and security in using the facility. The space shall be designed to accommodate the handicapped providing clear direction about how to use all passenger facilities.

(K) *Station information.* Station information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual words and letters, or symbols, using lighting and color coding. Stations shall also have facilities giving spoken information in braille or information available to touch.

(L) *Public services.* Public service facilities such as public toilets, drinking fountains, travelers aid and first aid medical facilities shall be designed in accordance with ANSI standards.

(2) Existing Terminals—(i) *Structural changes.* Where structural changes are necessary to make existing terminals which are owned and operated by recipients of Federal financial assistance accessible to and usable by handicapped persons, such changes shall be made in accordance with the ANSI standards referenced in § 27.67(c), as soon as practicable, but in no event later than three years after the effective date of this part.

(ii) *Ongoing renovation.* In terminals that are undergoing structural changes involving entrances, exits, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, curbs, and parking areas, recipients shall begin immediately to incorporate accessibility features.

(iii) *Transition.* Where extensive structural changes to existing facilities are necessary to meet accessibility requirements, recipients shall develop and submit to the Federal Aviation Administration (FAA) a transition plan setting forth the changes needed to comply with § 27.65(d).

(iv) *Boarding.* Within three years from the effective date of this part, recipients operating terminals emplaning 10,000 or more passengers per year that are not equipped with jetways or passenger lounges for boarding and unboarding shall assure that there is in place handicapped lifts, not normally used for movement of freight, for emplaning and deplaning wheelchair-confined persons.

(v) *Passenger services.* Recipients operating terminals emplaning 10,000 or more passengers per year shall assure that there are provisions for assisting handicapped passengers upon request in movement into, out of, and within the terminal, and in the use of terminal facilities, including baggage handling.

(vi) *Guide dogs.* Seeing eye and hearing guide dogs shall be permitted to accompany their owners on all certificated aircraft and shall be accorded all the privileges of the passengers whom they accompany in regard to access to terminals, facilities, and passenger compartments.

§ 27.73 Federal Railroad Administration—Railroads.

(a) *Fixed facilities.* (1) New facilities—(i) Every fixed facility or part of a facility—including every station, terminal, building, or other facility—designed or constructed with Federal financial assistance on or after the effective date of this part, the intended use of which will require it to be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed and constructed in accordance with the ANSI standards referenced in § 27.67(c). Where there is ambiguity or contradiction between the definitions and the standards used by ANSI and the definitions and standards used in paragraph (a)(1)(ii) of this section, the ANSI terms should be interpreted in a manner which will make them consistent with the standards in paragraph (a)(1)(ii) of this section. If this cannot be done, the standards in paragraph (a)(1)(ii) of this section will prevail.

(ii) In addition to the standards referred to in paragraph (i) of this section, the following standards also apply to rail facilities covered by paragraph (i) of this section;

(A) *Station circulation and flow.* Handicapped persons shall be able to locate and enter the station. The basic station design shall permit efficient movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. The design, especially concerning the location of elevators, escalators, and similar devices, shall minimize any extra distance that wheelchair users or other persons unable to climb steps must travel, compared to nonhandicapped persons, to reach ticket counters, baggage handling areas, and boarding locations.

(B) *International accessibility symbol.* The international accessibility symbol shall be displayed at wheelchair-accessible entrances to buildings that meet ANSI standards.

(C) *Ticketing.* The ticketing system shall be designed to provide the handicapped with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment.

(D) *Baggage check-in retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons.

(E) *Boarding platforms.* All boarding platforms that are located more than two feet above ground, or present any other dangerous condition, shall be marked with a warning device consisting of a string of floor material differing in color and texture from the remaining floor surface. The design of boarding platforms shall be coordinated with the vehicle design where possible, in order to minimize the gap between platform and vehicle doorway and to permit safe passage by wheelchair users and other handicapped persons. Where it is not possible to construct boarding platforms that accommodate all vehicles, ramps or lift devices or both shall be available to permit boarding by persons in wheelchairs.

(F) *Telephones.* Wherever there is more than one public telephone in stations and terminals, at least one clearly marked telephone shall be equipped with a volume control or sound booster device and with a device which makes telephone communication possible for persons wearing hearing aids.

(G) *Teletypewriter.* Where recipient does not make available a toll-free reservation number with teletypewriter capabilities, stations and terminals serving more than 5,000 passengers per week shall be equipped with at least one clearly marked teletypewriter (TTY) to enable ticket agents and other appropriate personnel to communicate with handicapped persons.

(H) *Vehicular loading and unloading areas.* Several spaces adjacent to the terminal entrance, separated from the main flow of traffic, and clearly marked, shall be made available for the boarding and exiting of handicapped persons. The spaces should allow individuals in wheelchairs or with braces or crutches to get in and out of vehicles onto a level surface suitable for wheeling or walking.

(I) *Parking.* Where parking facilities are provided, at least two spaces shall be set aside and identified for the exclusive use of handicapped persons. Curb cuts or ramps with grades not exceeding 8.33° shall be provided at crosswalks between parking areas and the terminal. Where multi-level parking is provided, ample space which is clearly marked shall be reserved for handicapped persons with limited mobility on the level which is most accessible to the ticketing and boarding portion of the terminal facitilies; such level change shall be by elevator, ramp, or by other devices which can accommodate wheelchair-confined persons.

(J) *Waiting area/public space.* As the major public area of the rail facility, the environment in the waiting area/public space should give the handicapped person confidence and security in using the facility. The space shall be designed to accommodate the handicapped by providing clear directions about how to use all passenger facilities.

(K) *Station information.* Station information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual words and letters or symbols using lighting and color coding. Stations shall also have facilities giving spoken information and in braille or information available by touch.

(L) *Public services.* Public service facilities, such as public toilets, drinking fountains, travelers aid and first aid medical facilities, shall be designed in accordance with ANSI standards.

(2) Existing facilities—(i) *Ongoing renovation.* All recipients shall begin immediately to incorporate accessibility features in stations and terminals that are already undergoing structural changes involving entrances and exists, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, boarding platforms, curbs, and parking garages.

(ii) *Structural changes.* Existing transportation facilities shall, as explained in the transition plan to be submitted to the Federal Railroad Administration (FRA) pursuant to § 27.73(a)(2)(iii) of this section, be modified to insure that the facilities, when viewed in their entirety, are readily accessible to and usable by handicapped persons. Such changes shall be made in accordance with the ANSI standards referred to in § 27.67(c) as soon as practicable, but in no event later than five years after the effective date of this part, except that if the recipient submits a request and justification to the FRA on or before the transition plan is submitted pursuant to § 27.73(a)(2)(iii) of this section, the Administrator may exempt from this provision those existing facilities which have the lowest utilization rates, provided that such exemptions include no more than 10 percent of all stations.

(A) Within 30 days of the date the exemption request is filed with the FRA, representatives of the FRA will meet with representatives of the Interstate Commerce Commission (ICC) to determine if the justification is adequate. The representatives will coordinate their efforts so that any changes requested by either FRA or ICC are consistent.

(B) If no agreement can be reached by the FRA and ICC on the adequacy of the justification within 60 days from the date the representatives first meet, the matter shall be referred to the Secretary of the Department of Health, Education, and Welfare for resolution.

(iii) *Transition plan.* Where extensive changes to existing facilities are necessary to meet accessibility requirements, recipients shall develop and submit to the FRA within one year after the effective date of this part, with a copy to the Director, a transition plan setting forth the changes needed to comply with § 27.65(d). The plan shall contain, but not necessarily be limited to:

(A) Identification of the physical obstacles in the facility that limit the accessibility of its program or activity to handicapped persons;

(B) Description of the methods that will be used to make facilities accessible;

(C) A schedule for undertaking the steps necessary to achieve full accessibility to the passenger handling process. If the transition plan will require more than one year to implement, then steps to be taken during each year of the transition period should be identified; and

(D) To the extent feasible, recipients should at a minimum strive to make one-fifth of all fixed facilities accessible each year until all such facilities are accessible to and usable by handicapped persons, except those exempted pursuant to the last sentence of paragraph (a)(2)(ii) of this section.

(iv) *Approval of transition plan.* (A) Within 30 days from the date the plan is filed with the FRA, representatives of the FRA will meet with representatives of the ICC to determine if the plan is adequate. The representatives shall coordinate their efforts so that any changes requested by either the FRA or the ICC will be consistent.

(B) If no agreement can be reached by the FRA and the ICC within 60 days from the date the representatives first meet, the matter shall be referred to the Secretary of the Department of Health, Education, and Welfare for resolution.

(v) *Existing danger.* Every existing facility and piece of equipment shall be free of conditions which pose a danger to the life or safety of handicapped persons. Upon discovery of such conditions, the danger shall be immediately eliminated and all necessary steps taken to protect the handicapped, or a particular category of handicapped persons, from harm during the period that the facility or equipment is being made safe.

(b) *Rail vehicles.* (1) Within three years from the effective date of this part, on each passenger train:

(i) At least one coach car shall be accessible;

(ii) Where sleeping cars are provided, at least one sleeping car shall be accessible; and

(iii) At least one car in which food service is available shall be accessible to handicapped persons, or they shall be provided food service where they are seated.

In cases where the only accessible car is not a coach, first class seating for handicapped persons shall be provided at coach fare.

(2) In order for a passenger car to be accessible to handicapped persons, the following shall be available:

(i) Space to park and secure one or more wheelchairs to accommodate persons who wish to remain in their wheelchairs, and space to fold and store one or more wheelchairs to accommodate individuals who wish to sit in coach seats.

(ii) Accessible restrooms with wide doorways, bars to assist the individual in moving from wheelchair to toilet, low sinks, and other appropriate modifications. These restrooms should be large enough to accommodate wheelchairs.

(iii) General access to food service, including wide enough aisles and accessible tables if a dinette or dining car is used.

If there is an insufficient supply of existing accessible equipment to meet the requirements set forth in paragraphs (b)(2) (i), (ii), and (iii) of this section, recipients must either retrofit a sufficient quantity of existing equipment or purchase a sufficient quantity of new accessible equipment.

All new rail vehicles ordered more than one year after the effective date of this part by recipients of Federal financial assistance shall be designed so as to be accessible to handicapped persons and shall display the international accessibility symbol at each entrance.

(c) *Rail passenger service.* (1) No recipient shall deny transportation to any person who meets the requirements of this regulation because that person cannot board a train without assistance, or use on-train facilities without assistance, except as provided in this regulation.

(2) Handicapped persons who require the assistance of an attendant shall not be denied transportation so long as they are accompanied by an attendant. Handicapped persons who require the service of an attendant, but who are unaccompanied, are not required to be transported by the recipient under this regulation. Handicapped persons requiring the assistance of an attendant shall include those cannot take care of most of their fundamental personal needs.

(3) All recipients at stations, except flag stops and closed stations, shall on advance notice of three hours or more provide assistance to handicapped persons except that those handicapped persons who require the services of an attendant, including those who are confined to a bed or stretcher, shall give advance notice of at least 12 hours. Such assistance shall include, but is not limited to, advanced boarding and assisting handicapped persons in moving from station platform onto the train and to a seat. The recipient shall provide the same assistance to handicapped persons as they leave the

train and reboard another train in the process of changing trains. Recipients shall provide assistance upon request to handicapped persons in the use of station facilities and in the handling of baggage.

(4) In all open stations, there shall be prominently displayed a notice stating the location of the recipient's representative or agent who is responsible for providing assistance to handicapped persons. Recipients shall publish in their schedules a notice of those closed stations and flag stops at which assistance cannot be provided to handicapped persons.

(5) Assistance to handicapped persons in the use of on-train facilities shall be provided as follows:

(i) *General assistance.* Recipients shall provide assistance to handicapped persons in moving to and from accommodations, including assistance in moving to and from wheelchairs.

(ii) *Restroom facilities.* All recipients shall, upon request, provide assistance to handicapped persons needing assistance in gaining access to rest and washroom facilities.

(iii) *Sleeping car service.* All recipients on all trains where sleeping car service is provided shall, upon request, provide assistance in gaining access to the facilities on various accommodations, such as roomette, bedroom, or compartment.

(iv) *Dining and lounge car service.* Where dining cars, food service cars, or lounge cars are inaccessible to handicapped persons, all recipients shall, upon request, provide meal, beverage, and snack service to handicapped persons needing such service in their accommodations.

(6) *Assistance with wheelchairs, crutches, walkers, and canes.* All recipients shall provide coach or sleeping car space to store, and shall assist in storing, such orthopedic aids as wheelchairs, walkers, crutches, and canes. These orthopedic aids shall be stored on the same coach or sleeping car in which the handicapped person travels.

(7) *Notice of assistance available provided in the use of on-board facilities.* All recipients shall, on all coaches, sleeping cars, dining cars, food service cars, and lounge cars, permanently display a notice stating where and from whom assistance in the use of facilities of various cars may be obtained.

(8) *Bedridden and stretcher-bound passengers.* (i) Where equipment is designed or modified to accept bedridden or stretcher-bound passengers without unreasonable delay, the recipient shall provide assistance in the boarding of bedridden or stretcher-bound persons into sleeping quarters. Accessibility to coaches for these persons is not required.

(ii) Advance notification of 12 hours or more is mandatory in order to insure provision of assistance to bedridden or stretcher-bound passengers. For the purpose of this section, assistance need not necessarily include placing the bedridden or stretcher-bound person into the compartment.

(9) *Passengers requiring life support equipment.* Recipients shall not be required to transport persons who are dependent upon life support equipment.

(10) *Guide dogs.* Seeing eye dogs and hearing guide dogs shall be permitted to accompany their owners on all passenger trains, and shall be permitted in coach, sleeping, and dining cars.

(11) *Services to deaf and blind passengers.* Recipients shall provide assistance to deaf and/or blind passengers, on request, by advising them of station stops.

(12) Recipients shall notify the public that they provide services that facilitate travel by handicapped persons.

(13) *Effective date of requirement.* The requirements of this section are effective 6 months from the date of promulgation of the rule.

§ 27.75 Federal Highway Administration—Highways.

(a) New Facilities—(1) *Highway rest area facilities.* All such facilities which will be constructed with Federal financial assistance shall be designed and constructed in accordance with the ANSI standards referenced in § 27.67(c). Wherever the word "accessible" appears in this section, it refers to these standards.

(2) *Curb cuts.* All pedestrain crosswalks constructed with Federal financial assistance shall have curb cuts or ramps to accommodate persons in wheelchairs, pursuant to section 228 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 402(b)(1)(F)).

(3) *Pedestrain over-passes and under-passes.* Pedestrain over-passes, under-passes and ramps, constructed with Federal financial assistance, shall be accessible to the handicapped, including having gradients no steeper than 10 percent, unless:

(i) Alternate safe means are provided to enable mobility-limited persons to cross the roadway at that location; or

(ii) It would be infeasible for mobility-limited persons to reach the over-passes, under-passes or ramps because of terrain obstacles unrelated to the federally assisted facility.

(b) Existing Facilities—

(1) *Rest area facilities.* Rest area facilities on Federal-aid highways shall be made accessible to handicapped persons, including those confined to wheelchairs, within a three-year period after the effective date of this part.

Subpart E—Program Accessibility, Requirements in Specific Operating Administration Programs: Mass Transportation

§ 27.81 Purpose.

The purpose of this subpart is, in addition to implementing section 504 of the Rehabilitation Act of 1973, also to implement section 16(a) of the Urban Mass Transportation Act of 1964, as amended, and section 165(b) of the Federal-Aid Highway Act of 1973, as amended. These latter statutes are designed to increase the availability to elderly and handicapped persons of mass transportation which they can effectively utilize, and to require access for elderly and handicapped persons to public mass transportation facilities, equipment, and services.

§ 27.83 Objective.

This subpart consolidates and revises existing Urban Mass Transportation Administration (UMTA) regulations, policies, and administrative practices implementing the statutes named in § 27.81.

§ 27.85 Scope.

This subpart covers mass transportation program accessibility, including the planning and implementation of mass transportation services, and community participation. It does not cover employment-related matters or compliance, which are covered in other subparts of this regulation.

§ 27.87 Definitions.

As used in this subpart:

"Fixed route bus system" means a system of buses of any size which operate on a fixed route pattern on a fixed schedule.

"Fixed guideway system" means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service including, but not limited to, fixed rail and automated guideway transit.

"Public paratransit system" means those forms of collective passenger transportation which provide shared-ride service to the general public or special categories of users on a regular and predictable basis and which do not necessarily operate on fixed schedules or over prescribed routes.

§ 27.89 Transition plan.

(a) *General.* A transition plan shall be prepared for each urbanized and non-urbanized area receiving UMTA financial assistance. The transition plan is a staged, multi-year program. The purpose of the plan is to identify the transportation improvements and policies needed to achieve program accessibility, to provide other accessible services prior to the achievement of program accessibility, and to assure compliance with this regulation. The

service and program aspects of the self-evaluation required by § 27.11 shall be accomplished as part of the preparation of this plan.

(b) *Planning process.* (1) The urban transportation planning process of each urbanized and non-urbanized area receiving UMTA transit assistance shall include the development and periodic reappraisal of a transition plan which is an outgrowth of ongoing activities to plan public mass transportation facilities and services that can effectively be utilized by elderly and handicapped persons pursuant to 23 CFR 120(a)(5).

(2) The transition plan shall cover the entire period required to achieve program accessibility. The period for achieving program accessibility shall not exceed the deadlines established for each system in §§ 27.93-27.105 of this regulation.

(3) The development and periodic reappraisal of the transition plan shall:

(i) In urbanized areas be done under the direction of the Metropolitan Planning Organization (MPO) in conformance with 23 CFR 450.306 (a) and (b);

(ii) In non-urbanized areas be done under the direction of local elected officials in cooperation with transit operators and the State;

(iii) B prepared with community participation required by § 27.91; and

(iv) Assure continuing self-evaluation activities.

(4) The transition plan shall be endorsed by the MPO in urbanized areas pursuant to 23 CFR 450.112, and shall be endorsed by the recipients responsible for implementing improvements and policies specified in the transition plan, with the recipient endorsement required only for the portions of the plan which affect each such recipient.

(c) *Plan content.* The transition plan shall include:

(1) Identification of public transportation vehicles, facilities, services, policies, and procedures that do not meet the program accessibility requirements of this subpart;

(2) Identification by system and recipient of the improvements and policies required for bringing them into conformance with this subpart, including any required other or comparable accessible services; the plan should indicate how other accessible transportation service levels and fares were determined to assure reasonableness;

(3) Establishment of priorities among the improvements, reasonable implementation schedules, and system accessibility benchmarks;

(4) Assignment of responsibility among public transportation providers for the implementation of improvements and policies;

(5) Identification of coordination activities to improve the efficiency of existing services;

(6) Estimation of total costs and identification of sources of funding for implementing the improvements in the plan;

(7) Description of community participation in the development of the transition plan; and

(8) Identification of responses to substantive concerns raised during public hearings on the plan.

(d) *Deadlines.* (1) Transition plans for areas with rail transit systems shall be transmitted for approval to UMTA with a copy to the Director as soon as practicable but not later than July 1, 1980.

(2) Transition plans for all other areas shall be transmitted for approval to UMTA as soon as practicable but not later than July 1, 1979.

(3) Transition plans will be reviewed and approved by UMTA as they are received.

§ 27.91 Status report and evaluation.

In order to provide a basis upon which a determination of compliance may be made, recipients (or MPO's on their behalf) shall prepare a status report summarizing the findings of the self-evaluation activity with respect to the recipient's accomplishment and plans for meeting the schedule of improvements in the area's approved transition plan. Such information shall be transmitted as an exhibit accompanying the annual element of the transportation improvement program, or, for recipients whose projects do not appear in a transportation improvement program, as an exhibit in the project application. This report shall cover the recipient's compliance with the employment provisions of this regulation as well as the program accessibility provisions. The report shall incorporate the items required to be submitted to UMTA by § 27.11(c)(2) of this part and shall satisfy that section.

§ 27.93 Community participation.

This section requires specific community involvement, particularly by handicapped persons or organizations representing handicapped persons, during the development of the transition plan and at least annually during its implementation, during significant changes in the transition plan, and at the time of any request for waiver. Agencies performing the planning, programming, and implementation activities required by this subpart shall use adequate citizen participation mechanisms or procedures during those activities. The mechanisms shall ensure participation by handicapped persons, advocacy organizations of handicapped persons (where available), public and private social service agencies, public and private operators of existing transportation for handicapped persons, public and private transportation operators, and other interested and concerned persons. A public hearing shall be held on the proposed plan and on significant changes to the plan, and a written response shall be provided for substantive concerns raised during the hearing. This response shall indicate whether the plan has been or will be changed to accommodate the concerns and the rationale for changing or not changing the plan.

§ 27.95 Fixed facilities for the public (general).

(a) *Basic requirement.* This subpart requires that all public mass transportation stations and other fixed facilities are accessible to handicapped persons, including those who cannot use steps, except that in unusual circumstances where compelling reasons exist, a small proportion of stations or other fixed facilities may be exempted from this requirement upon adequate justification in the transition plan. Public fixed facilities include those structures, features, or pathways used by the traveling public and the public who participate in the planning and implementation of federally supported transportation services.

(b) *Deadlines.* Fixed facility accessibility shall be achieved by a staged sequence of fixed facility modifications, replacements, and new construction which reflect reasonable and steady progress. Changes not involving extraordinarily expensive structural changes to, or replacement of, existing facilities shall be implemented as soon as practicable but not later than three years after the effective date of this regulation. Other fixed facility accessibility changes shall be made as soon as practicable but no later than the deadlines specified in §§ 27.99-27.105.

(c) *Phasing (sequencing of accessibility activities).* (1) Localities in cooperation with recipients shall establish and document phasing criteria for projects needed to achieve program accessibility, as part of the development of required transition plans. Handicapped persons or organizations representing handicapped persons shall assist in the selection of phasing criteria and their application.

(2) Transition plans will describe the phasing for fixed facility accessibility. Projects needed to satisfy three-year requirements shall be identified, along with five-year benchmarks toward long-term fixed facility accessibility.

(d) *New fixed facilities.* Each fixed facility or part of a fixed facility for the public constructed by or for a recipient shall be designed, constructed, and operated in such manner that the fixed facility or part of the fixed facility is accessible to handicapped persons.

(e) *Alterations.* Each fixed facility or part of a fixed facility for the public

which is altered by or for a recipient in a manner that affects or could affect the usability of the facility or part of the fixed facility by handicapped persons shall, to the maximum extent feasible, be altered in such manner that the altered portion of the fixed facility is accessible to handicapped persons.

(f) *American National Standards Institute accessibility standards.* Design, construction, or alteration of fixed facilities in conformance with ANSI standards referenced in § 27.67(c) and the standards of paragraph (g) of this section shall constitute compliance with paragraphs (d) and (e) of this section. Departures from particular requirements of those standards by the use of other methods are permitted when it is clearly evident that equivalent access to the fixed facility or part of the fixed facility is thereby provided.

(g) *Other necessary features.* In addition to the ANSI standards of paragraph (f) of this section, new transit fixed facilities for the public shall incorporate such other features as are necessary to make the fixed facilities accessible to handicapped persons. Existing fixed facilities shall incorporate these same features to the extent provided by paragraph (e) of this section and by §§ 27.99–27.105. In particular among these features, the design of boarding platforms for level-entry vehicles shall be coordinated with the vehicle design in order to minimize the gap between the platform and vehicle doorway and to permit safe passage by wheelchair users and other handicapped persons. Special attention shall be given to the needs of handicapped persons in the areas of fare vending and collection systems, visual and aural information systems, telephones (wheelchair users and persons with reduced hearing ability require certain accommodations), teletype machines to handle calls from deaf persons, vehicular loading and unloading areas, and parking areas at park-and-ride facilities.

§ 27.97 Vehicles (general).

(a) New vehicles shall be accessible to handicapped persons unless otherwise provided in the section below on the applicable specific system. Unless otherwise stated, requirements are effective for vehicles ordered or leased after the effective date of this regulation.

(b) When an existing vehicle is renovated substantially to prolong its life, the vehicle shall, to the maximum extent feasible, meet the requirements for a comparable new vehicle. Lesser renovations shall incorporate accessibility features for a comparable new vehicle when practicable and justified by the remaining life expectancy of the vehicle.

§ 27.99 Program policies and practices.

(a) Program policies and practices that prevent or inhibit travel or convenient use of services and facilities by handicapped persons shall be modified as soon as reasonably possible. This requirement reflects the concept that public transportation services require more than facility and vehicle accessibility if they are to be predictably, conveniently, and safely used by handicapped travelers.

(b) The following program policies and practices which influence the achievment of program accessibility shall, along with any other appropriate practice, be addressed in the planning process:

(1) Safety and emergency policies and procedures.

(2) Periodic sensitivity and safety training for personnel.

(3) Accommodations for companions or aides of handicapped travelers.

(4) Intermodal coordination of transportation providers.

(5) Coordination with social service agencies which provide or support transportation for handicapped persons.

(6) Comprehensive marketing considerate of handicapped persons' travel needs.

(7) Leasing, rental, procurement, and other related administrativer practices.

(8) Involvement of existing private and public operators of transit and public paratransit in planning and competing to provide other accessible modes and appropriate services.

(9) Regulatory reforms to permit and encourage accessible services.

(10) Management supervision of accessible facilities and vehicles.

(11) Maintenance and security of accessibility features.

(12) Labor agreements and work rules.

(13) Appropriate insurance coverage.

(c) Recipients shall:

(1) Begin immediately to identify and change program policies and practices that prevent or inhibit travel or convenient use of services and facilities by handicapped persons. Necessary changes shall be made as soon as reasonably possible but no later than three years after the effective date of this regulation.

(2) Cover policy and practice changes in the transition plan required by § 27.89 and the annual status report required by § 27.91. In each case the recipient shall estimate one-time and ongoing costs connected with these changes, and indicate which changes have been implemented and which, because of special circumstances, have yet to be implemented.

§ 27.101 Fixed route bus systems accessibility.

(a) *Program accessibility.* (1) Program accessibility for a fixed route bus system is achieved when:

(i) The system is accessible to handicapped persons who can use steps; and

(ii) The system when viewed in its entirety is accessible to handicapped persons who cannot use steps. With respect to vehicles, this requirement means off-peak frequency service or half of the peak service, whichever is greater, during off-peak hours as well as peak hours, by buses which are accessible to handicapped persons who cannot use steps.

(2) Fixed route bus systems shall achieve program accessibility as soon as practicable but no later than three years after the effective date of this regulation, provided, however, that the time limit is extended to six years for the extraordinarily expensive structural changes to, or replacement of, existing facilities, including vehicles, necessary to achieve program accessibility. Where paragraph (a)(1)(ii) of this section would require more than 50 percent of the buses in a fixed route system be accessible, the six-year standard is extended by one year for each 10 percent above the 50 percent of the buses that would have to be accessible.

(b) *Vehicles.* (1) New fixed route buses of any size ordered after the effective date of this regulation shall be accessible to handicapped persons, including those who cannot use steps, if the Secretary determines it is feasible during the course of this rulemaking, or at such later date that the Secretary determines it is feasible, but not later than October 1, 1979. If the Secretary determines that it is not feasible to require that new fixed route buses ordered prior to October 1, 1979, be accessible, comparable accessible service shall be available in the interim if inaccessible buses are ordered.

(2) Effective with procurements advertised on or after October 1, 1979, UMTA recipients may procure new, standard, full-sized urban transit buses with UMTA financial assistance only through use in the procurement solicitation of UMTA's bid document entitled "Transbus Procurement Requirements," the technical specifications portion of which requires a stationary floor height of not more than 22 inches, an effective floor height including a kneeling feature of not more than 18 inches, and a ramp for boarding and exiting.

§ 27.103 Fixed guideway systems accessibility.

(a) *Program accessibility.* (1) Program accessibility for a fixed guideway system (including rapid transit ("subway"), light rail ("trolley"), commuter rail, automated guideway, and monorail systems) is achieved when the requirement of § 27.95(a) is met and:

(i) The system is accessible to handicapped persons who can use steps; and

(ii) The system, when viewed in its entirety, including at least one vehicle per train where the system has trains, is accessible to handicapped persons who cannot use steps. With respect to light rail vehicles, this requirement means off-peak frequency service or half the peak service, whichever is greater, during off-peak as well as peak hours, by vehicles which are accessible to handicapped persons who cannot use steps.

(2) Fixed guideway systems shall achieve program accessibility as soon as practicable but no later than three years after the effective date of this regulation, provided, however, that the time limit is extended to [12], [20], [30] years for the extraordinarily expensive structural changes to, or replacement of, existing fixed facilities necessary to achieve program accessibility; to ten years for such changes to, or replacement of light rail vehicles; and to five years for such changes to, or replacement of, other existing vehicles.

(b) *Vehicles.* (1) New light rail vehicles and other commuter rail vehicles ordered before October 1, 1979, shall be accessible to those handicapped persons who can use steps.

(2) New light rail and commuter rail vehicles ordered on or after October 1, 1979, shall be accessible to handicapped persons, including those who cannot use steps.

§ 27.105 Paratransit systems accessibility.

(a) *Program accessibility.* Each paratransit system shall be operated so that the system, when viewed in its entirety, is accessible to handicapped persons. Where new vehicles must be purchased or structural changes must be made to meet this requirement, the purchase or changes shall be made as soon as practicable but no later than three years after the effective date of this regulation.

(b) *Vehicles.* New paratransit vehicles shall be accessible to handicapped persons, provided that where the paratransit system already has lift- or ramp-equipped vehicles capable of carrying a wheelchair user seated in a wheelchair, sufficient in number to provide equal service to handicapped persons who need such vehicles as is provided to other persons, the new vehicles need not be lift- or ramp-equipped.

§ 27.107 Systems not covered by §§ 27.101–27.105.

(a) *Scope.* This section applies to forms of transportation not covered by §§ 27.101–27.105 (e.g., ferry boat). All provisions of this section are subject to modification on a case-by-case basis upon appeal to the Urban Mass Transportation Administrator.

(b) *Program accessibility.* (1) Program accessibility for a subject system is achieved when the system, when viewed in its entirety, is accessible to handicapped persons, including those who cannot use steps.

(2) Subject systems shall achieve program accessibility as soon as practicable but in no event later than three years after the effective date of this regulation, provided, however, that this period may be extended upon appeal to the Urban Mass Transportation Administrator if program accessibility can be achieved only through extraordinarily expensive structural changes to or replacement of, existing facilities, including vehicles, and if other accessible modes of transportation are available.

§ 27.109 Interim accessible transportation.

(a) Each recipient whose system will not achieve program accessibility within three years shall:

(1) Determine, in cooperation with the MPO, whether other accessible modes of transportation are available; and

(2) Propose, document, and ensure the provision of any supplements to such transportation where necessary to assure that service levels provided are reasonable.

The use of other accessible modes of transportation shall be explicitly defined in the transition plan so that it may be fully reviewed.

(b) Until the transition plan required by section 27.91 has been approved and significant physical implementation of that plan has begun, recipients shall maintain at least the same level of special efforts to provide transportation for elderly and handicapped persons as they had operated or programmed during the period prior to the effective date of this regulation.

§ 27.111 Waiver.

In rare circumstances where compelling reasions exist, the requirements of this subpart may be modified or waived on a case-by-case basis upon application to the Secretary, if the Secretary determines that such modification or waiver is clearly necessary and is consistent with the intent of the laws cited in § 27.81. A modification or waiver for a building covered by the Architectural Barriers Act of 1969 also requires the approval of the Administrator of the General Services Administration. Any request for modification or waiver should be submitted by or through the MPO (in the case of urbanized areas) and be presented for comment at an appropriate public hearing. For significant waiver requests, special attention shall be given to appropriate community participation in the decision to seek a waiver (see § 27.93). This waiver provision is in addition to the limited exemptions in § 27.95(a).

Subpart F—Enforcement

§ 27.121 Compliance information.

(a) *Cooperation and assistance.* The Director, to the fullest extent practicable, seeks the cooperation of recipients in securing compliance with this part and provides assistance and guidance to recipients to help them comply with this part.

(b) *Compliance reports.* Each recipient shall keep on file for one year all complaints received of noncompliance. A record of all such complaints, which may be in summary form, shall be kept for five years. Each recipient shall keep such other records and submit to the Director or his/her designee timely, complete, and accurate compliance reports at such times, and in such form, and containing such information as the Director may prescribe. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, the other recipient shall also submit compliance reports to the primary recipient so as to enable the primary recipient to prepare its report.

(c) *Access to sources of information.* Each recipient shall permit access by the Director or his/her designee during normal business hours to books, records, accounts, and other sources of information, and to facilities that are pertinent to compliance with this part. Where required information is in the exclusive possession of another agency, or person, who fails or refuses to furnish the information, the recipient shall so certify in its report and describe the efforts made to obtain the information. Considerations of privacy or confidentiality do not bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement is not disclosed by the Department, except in formal enforcement proceedings, where necessary, or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its application to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Director finds necessary to apprise them of the protections against discrimination provided by the Act and this part.

§ 27.123 Conduct of investigations.

(a) *Periodic compliance reviews.* The Director or his/her designee shall, from time to time, review the practices of recipients to determine

whether they are complying with this part.

(b) *Complaints.* Any person who believes himself/herself or any specific class of individuals to be harmed by failure to comply with this part may, personally or through a representative, file a written complaint with the Director. A Complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Director or his/her designee.

(c) *Investigations.* The Director or his/her designee makes a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation includes, where appropriate, a review of the pertinent practices and policies of the recipient, and the circumstances under which the possible noncompliance with this part occurred.

(d) *Resolution of matters.* (1) If, after an investigation pursuant to paragraph (c) of this section, the Director finds that there is a failure to comply with this part, the Director will inform the recipient. The matter is resolved by informal means whenever possible. If the Director determines that the matter cannot be resolved by informal means, action is taken as provided in § 27.125.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, the Director or his/her designee so informs the recipient and the complainant, if any, in writing.

(e) *Intimidating and retaliatory acts prohibited.* No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 504 of the Act or this part, or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, under this part. The identity of complainants is kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding.

§ 27.125 Compliance procedure.

(a) *General.* If there appears to be a failure or threatened failure to comply with any provision of this part that cannot be corrected by informal means, the Director may recommend suspension or termination of, or refusal to grant or to continue Federal financial assistance, or take any other steps authorized by law. Such other steps may include, but are not limited to:

(1) A referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking; and

(2) Any applicable proceeding under State or local law.

(b) *Refusal of Federal financial assistance.* (1) No order suspending, terminating, or refusing to grant or continue Federal financial assistance becomes effective until:

(i) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part;

(ii) The Director has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means; and

(iii) The action has been approved by the Secretary.

(2) Any action to suspend, terminate, or refuse to grant or to continue Federal financial assistance is limited to the particular recipient who has failed to comply, and is limited in its effect to the particular program, or part thereof, in which noncompliance has been found.

(c) *Other means authorized by law.* No other action is taken until:

(1) The Director has determined that compliance cannot be secured by voluntary means;

(2) The recipient or other person has been notified by the Director of its failure to comply and of the proposed action.

(3) The expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period, additional efforts are made to persuade the recipient or other person to comply with the regulations and to take such corrective action as may be appropriate.

§ 27.127 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 27.125(b), reasonable notice is given by the Director by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice advises the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fixes a date not less than 20 days after the date of such notice within which the applicant or recipient may request a hearing; or

(2) Advises the applicant or recipient that the matter in question has been set for hearing at a stated place and time.

The time and place shall be reasonable and subject to change for cause. The complainant, if any, also is advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing constitutes a waiver of the right to a hearing under section 504 of the Act and § 27.125(b), and consent to the making of a decision on the basis of such information as may be part of the record.

(b) *Time and place of hearing.* Hearings are held at the office of the Department in Washington, D.C., at a time fixed by the Director unless he/she determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings are held before an Administrative Law Judge designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient, the complainant, if any, and the Department have the right to be represented by counsel.

(d) *Procedures, evidence and record.* (1) The hearing, decision, and any administrative review thereof are conducted in conformity with sections 554 through 557 of Title 5 of the United States Code, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving notices subsequent to those provided for in paragraph (a) of this section, taking testimony, exhibits, arguments and briefs, requests for findings, and other related matters. The Department, the complainant, and the applicant or recipient are entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing. Any person (other than a government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the government's behalf, attends at a time and place scheduled for a hearing provided for by this part may be reimbursed for his/her travel and actual expenses in an amount not to exceed the amount payable under the standardized travel regulations applicable to a government employee traveling on official business.

(2) Technical rules of evidence do not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross examination are applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record are open to examination by the parties and opportunity

is given to refute facts and arguments advanced by either side. A transcript is made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions are based on the hearing record and written findings shall be made.

(e) *Consolidation or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this regulation with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under section 504 of the Act, the Director may, in agreement with such other departments or agencies, where applicable, provide for consolidated or joint hearings. Final decisions in such cases, insofar as this regulation is concerned, are made in accordance with § 27.129.

§ 27.129 Decisions and notices.

(a) *Decisions by Administrative Law Judge.* After the hearing, the Administrative Law Judge either makes an initial decision, if so authorized, or certifies the entire record including his recommended findings and proposed decision to the reviewing authority for a final decision. A copy of the initial decision or certification is mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this or the preceding paragraph is made by the Administrative Law Judge, the applicant or recipient or the counsel for the Department may, within 30 days after the mailing of the notice of initial decision, file with the Director his/her exceptions to the initial decision, with his/her reasons therefor. Upon the filing of exceptions, the Director reviews the initial decision and issues his/her own decision, including the reasons therefor. In the absence of exceptions, the initial decision is the final decision, subject to the provision of paragraph (e) of this section.

(b) *Decisions of the Director.* Whenever a record is certified to the Director for decision or he/she reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, the applicant or recipient is given a reasonable opportunity to file briefs or other written statements. A copy of the Director's final decision is given to the applicant or recipient and to the complainant, if any.

(c) *Decisions if hearing is waived.* Whenever a hearing pursuant to § 27.125(b) is waived, the Director makes his/her final decision on the record, or refers the matter to an Administrative Law Judge for an initial decision to be made on the record. A copy of the decision is given to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of the Administrative Law Judge or the Director contains a ruling on each finding, conclusion, or exception presented, and specifies any failures to comply with this part.

(e) *Approval by Secretary.* A final decision by the Director, which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, is promptly transmitted to the Secretary, who may approve such decision, vacate it, or change any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved. The decision may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended unless and until the recipient corrects its noncompliance and satisfies the Director that it will fully comply with this part.

(g) *Subsequent proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section is restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may, at any time, request the Director to restore its eligibility, to receive Federal financial assistance. Any request must be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Director determines that those requirements have been satisfied, he/she may restore such eligibility.

(3) If the Director denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the Director should restore it to full eligibility. It is thereupon given a prompt hearing, and with a decision on the record. The applicant or recipient is restored to eligibility if it proves at the hearing that it satisfied the requirements of paragraph (g) (1) of this section.

While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section may remain in effect.

§ 27.131 [Reserved]

APPENDIX A—ANALYSIS OF SUBPART E (PROGRAM ACCESSIBILITY, REQUIREMENTS IN SPECIFIC OPERATING ADMINISTRATION PROGRAMS: MASS TRANSPORTATION (URBAN MASS TRANSPORTATION ADMINISTRATION))

GENERAL

(a) *Principal intent.* The principal intent of Subpart E on program accessibility for mass transportation is to require that each federally supported community transportation system (e.g., bus, subway) be made accessible to handicapped travelers by modifying the physical, policy, and procedural barriers that prevent or inhibit handicapped persons from use of the system. Program accessibility requires that the system, when viewed in its entirety, be accessible.

As a practical matter, program accessibility will involve significant costs and institutional changes that in many cases can only be achieved over time, through staged improvements to the transportation system. This regulation intends to provide a clear policy framework for local planning toward systemwide program accessibility. In order for each system to achieve program accessibility, the subpart requires the preparation and implementation of a "transition plan"—at the community or regional level, with effective input by handicapped persons, transportation providers, and other segments of the public—to be used by grant applicants and recipients.

(b) *Beneficiaries.* Transportation services should accommodate the complete range of the handicapped public that is eligible to receive transit service—persons who are not confined to their dwellings or require emergency medical or direct "hands-on" physical assistance to use transit services. Services should be available to persons who are semiambulatory (e.g., those who have difficulty climbing steps or standing for longer than a few minutes), ambulatory persons with other disabilities (e.g., the deaf, the blind, the mentally retarded), and wheelchair users (including those who can and cannot transfer from their wheelchairs to a vehicle seat and those who use powered wheelchairs). This listing does not preclude accessibility efforts on behalf of other handicapped persons. The intent is to make transportation services accessible to handicapped persons, regardless of age. This subpart is intended to ensure accessible public transportation for handicapped persons which will also provide improved transportation for the general public.

(c) *Principles.* Transportation providers and other applicants and recipients of Urban Mass Transportation Administration (UMTA) assistance should move toward program accessi-

bility in ways that reflect the following principles:

(1) Fixed facilities, vehicles, and services should be designed to permit independent use by handicapped persons, without the need for attendants or help from strangers.

(2) Fixed facilities, vehicles, and services should involve "mainstreaming," i.e., the mixing of handicapped and non-handicapped persons. Elevators, special services, and other accessibility elements should be as integrated as possible.

(3) Accessibility features should be designed, built, operated, and maintained to assure their predictable, convenient, comfortable, and safe use by handicapped persons. Consideration should be given during construction and maintenance to the needs of the blind, wheelchair users, and other handicapped persons.

(4) Handicapped persons should receive dignified treatment in all aspects of their travel. Accessibility features are to be equipped and decorated consistent with the standard for features for the general public.

(5) Simple, low-cost materials and designs for accessibility features may be used when they are feasible and as effective as complex technological devices or largescale facility changes. For example, a simple wooden ramp may in some circumstances be a suitable substitute for costly level change devices.

(6) Facility modifications may be simplified if operational changes or vehicle positioning (within trains or along platforms) can be substituted.

(7) Applicants and recipients are encouraged to consider several alternative approaches to providing vehicle accessibility (e.g., lift devices on vehicles or platforms, platform ramps that permit level entry to vehicles). In general these regulations are not intended to mandate a particular physical solution or technology approach to achieve accessibility.

(8) Engineers, architects, planners, and other persons designing equipment or aids for handicapped persons should consider the range of skills, body dimensions, and capabilities of persons with particular types of handicaps. Program accessibility design should reflect the diversity of human factors by appropriate design criteria or the use of multiple appropriate methods that can collectively serve the handicapped subgroups. Accessibility features that highlight the importance of this principle include: (i) approaches to minimize the gap distance between vehicles and boarding platforms so that most (if not all) wheelchair users can easily cross the gap and (ii) approaches to communicate effectively with people with different types of visual handicaps.

(9) Recipients should look beyond specific key problems and analyze the total trip on the transit system to identify the complete sequence of barriers encountered by each category of handicapped traveler. This approach is encouraged to ensure that removal of barriers will be effective in providing access for a category of handicap. A thorough trip review will guard against, for example, a situation in which an elevator is installed to accommodate wheelchair users but fare gates remain too narrow for the wheelchair to pass through.

(10) The staging of accessibility efforts, such as the modification of selected facilities or the assignment of new accessible vehicles to an existing system, should avoid isolated, unconnected accessibility improvements that provide no effective or predictable service.

(d) Recipients are encouraged but not required to provide supplemental service to handicapped persons who cannot reach transit facilities, use accessible vehicles, or travel from transit stops to their destinations. This UMTA subpart is intended to increase overall travel opportunities of handicapped persons by fostering program accessibility in addition to any current or planned specialized services available from a variety of sources. No part of these regulations is intended to reduce or discourage door-to-door paratransit services or programs that help handicapped travelers directly through user-side subsidies or other methods.

STATUS REPORT AND ANNUAL DETERMINATION

The compliance procedures described in Subpart F of this part provide the basic mechanisms for ensuring compliance with the requirements of this subpart. Those procedures include provisions for on-site compliance reviews where appropriate. UMTA will also review compliance with this subpart as a basis for performing planning certifications (described in 23 CFR 450.122), program approvals (described in 23 CFR 450.320), and transition plan approvals (described in § 27.87). Failure to prepare and implement transition plans and to meet accessibility requirements of this subpart may result in program disapproval or disapproval or applications for UMTA capital or operating assistance.

UMTA will make an annual determination of compliance with this part either in conjunction with the certification and program reviews or as transition plans are transmitted to UMTA. For nonurbanized areas, a similar determination will be made as part of the application review process. A determination of compliance will be based upon a determination of satisfactory progress toward implementing the requirements of this part, including the schedules and benchmarks specified in the transition plan, and satisfactory progress towards meeting the provisions of grant contracts. This determination will provide a basis for UMTA to certify the planning process and approve projects contained in the annual element of the transportation improvement program. Section 27.91 provides for information transmission in order to provide a basis upon which a determination of compliance may be made.

COMMUNITY PARTICIPATION

The intent of § 27.95 is to ensure significant involvement of those most concerned and knowledgeable about accessible transportation in the planning and implementation of such transportation.

Efforts should include as many and as diverse interests as possible in order to assure obtaining all the information necessary to develop a viable accessible system. The regulation lists the interests whose participation must be sought.

While as much connection as possible should be made with the area's already established community participation efforts, the special nature of the accessibility programs requires a special, identifiable effort in community participation. Due to the mobility problems of the transportation handicapped, special mechanisms may have to be developed to ensure the involvement of future consumers of the accessible services. Such mechanisms could include conference call meetings, providing special transportation to meetings, developing materials to be understood by the blind, the hard of hearing, or mentally-retarded, or meetings and discussions via television with telephone response. Of course, all of a recipient's public meetings, conferences, and workshops should be held in accessible buildings.

The community participation process, while basically an advisory process to decisionmakers, should be seriously pursued. The advice of knowledgeable and concerned individuals is essential to the development of viable plans and implementation programs. Where there is disagreement on issues developed through the community participation process, explanations of viewpoints should be given and attempts made at resolving the issue to the satisfaction of all. On plans, documents, and implementation actions, a consensus should be reached, if possible, and a recommendation made to the decisionmakers. Ideally the decisionmakers would be part of the ongoing participation process and receive not only a recommendation but the ongoing input. When consensus cannot be reached, minority opinions should be included and reasoning on both sides of the issue presented to the decisionmakers.

The U.S. Department of Transportation publication "Effective Citizen Participation in Transportation Plan-

ning" (1976) (DOT-FH-11-8514) and the booklet "Barrier Free Meetings: A Guide for Professional Associations" (American Association for the Advancement of Science, 1515 Massachusetts Avenue NW., Washington, D.C. 20005) are useful resources which agencies responsible for planning and implementation activities may wish to consult.

FIXED FACILITIES

Section 27.95(a) requires that all mass transportation stations and other public fixed facilities be accessible, "except that, in unusual circumstances where compelling reason exists, a small proportion of stations or other fixed facilities may be exempted from this requirement upon adequate justification in the transition plan." The assumption clearly is that every station or other fixed facility be accessible. The exceptions, if any, should be justified in terms of special circumstances, such as physical impossibility or infrequent use, which distinguish the subject fixed facility from other fixed facilities.

Locally established criteria for phasing fixed facility improvements over time (paragraph (c)) should include proximity of other stations, numbers of facility users, nearness to activity centers, facility use as a transfer point, availability of accessible services between stations or accessible feeder service to accessible stations.

Paragraph (d) requires that all new fixed facilities, as well as alterations that could affect access to and use of existing fixed facilities, be designed and constructed in a manner so as to make the fixed facility accessible to hadicapped persons.

Public facilities covered by this subpart include, but are not limited to stations, terminals, boarding areas, park and ride lots, information centers, and conference meeting sites.

One application of paragraph (d) which should be noted is the application to bus stop shelters. Shelters must have wide enough entrances and be positioned with respect to the curb to permit access by wheelchair users and other handicapped persons.

Paragraph (e) requires certain alterations to conform to the requirement of physical accessibility in paragraph (d). If an alteration is undertaken to a portion of a building, the accessibility of which could be improved by the manner in which the alteration is carried out, the alteration must be made in that manner. Thus, if a doorway is being altered, the doorway must be made wide enough to accommodate wheelchairs. On the other hand, if the alteration involves ceilings, the provisions of this section do not apply because this alteration cannot be done in a way that affects the accessibility of the building.

Paragraph (e) is based on the belief that alterations present opportunities to design and construct the altered portion or item in an accessible fashion. It should be noted that paragraph (e) applies only to the altered portion or item of a fixed facility. Thus, a stair renovation to meet the ANSI standard does not impose a requirement for elevator installation since an elevator is not within the scope of the stair alteration project. Paragraph (e) does not create the obligation to install an elevator in an existing fixed facility which has no elevator. The basic requirement in paragraph (e) is simply to take the opportunities afforded by the alteration and, to the maximum extent feasible, make the alteration accessible. Thus, normal maintenance may take place in practically all cases without generating an accessibility requirement.

In sharp contrast to paragraph (e), the sections on specific mass transportation systems (§§ 27.101-27.107) effectively do require the installation of elevators or other level change mechanisms in fixed facilities which have no elevators. However, because of the transition plan requirement in those sections, all of a system's fixed facilities (for example, all stations in a rapid transit system) are examined at once and a rational phasing can occur.

Paragraph (g) requires the incorporation, in new transit fixed facilities, of such other features, in addition to the ANSI standards, as are necessary to make the fixed facilities accessible to the handicapped. The features include the following, or others which provide the same degree of accessibility:

(1) *Telephone.* Wherever there are public telephone centers in terminals, at least one clearly marked telephone shall be accessible to and usable by persons confined in wheelchairs. At least one telephone shall be equipped with a volume control or sound booster device and with a device which makes telephone communications possible for persons wearing hearing aids.

(2) *Vehicular Loading and Unloading Areas.* Several spaces adjacent to the station building entrance, separated from the main flow of traffic, and clearly marked, shall be made available for the loading and unloading of handicapped passengers. The spaces should allow individuals in wheelchairs or who use braces or crutches to get in and out of automobiles onto a level surface suitable for wheeling and walking.

(3) *Parking Areas.* Where park-and-ride facilities are provided, clearly marked special parking areas that are accessible and approximate to the station shall be provided for physically handicapped persons who drive to the station in their own cars. These special parking spaces shall be laid out so that persons using wheelchairs, braces, or crutches are not compelled to wheel or walk behind parked cars.

Vehicles. Section 27.97(b) concerns the renovation of existing vehicles. Fleet rebuilding efforts undertaken by grant recipients to avoid the higher cost or problems of purchasing new equipment should be combined with retrofit accessibility efforts. This section recognizes that existing buses, rail cars, and other rolling stock are likely candidates for renovation and upgrading, and that such fleet maintenance investments might preclude the timely replacement of inaccessible equipment by accessible new equipment. Retrofit accessibility is not required for routine maintenance activities or for those modifications to vehicles that are unrelated to passengers (such as new roofs, power plants, or wheels).

Program policies and practices (general). The activities required by this section are the responsibility of each UMTA grant applicant or recipient providing transportation service. Many related activities should be coordinated and conducted jointly by several recipients, MPO's, States, or other institutions. Each activity should be described in required transition plans.

Recipients must immediately start to modify their barrier-related policies and practices. Most changes are expected to be completed while the transition plan is being prepared.

Several policy and practice reforms merit illustration to make the meaning clear. Supplemental guidance will be issued later.

Item 1. Safety and emergency policies and procedures should cover the routine transporting of persons with differing disabilities and their safe handling by recipients' personnel.

Item 4. Intermodal coordination should be effectively established among multiple services offered by a single recipient, between each recipient and other transit and paratransit providers, and between recipients and other transportation institutions and modes (e.g., Amtrak, ConRail, highway departments).

Item 5. Coordination with agencies and institutions who provide or support transportation services on behalf of the disabled should assure effective integration of their facility locations, operations, and transportation services.

Item 6. Comprehensive marketing should be integrated with the required preparation and implementation of the transition plan. Marketing should at least provide public information about accessible transportation services.

Several specific marketing activities should be conducted and described in the transition plan:

(a) An assessment of each operating recipient's management organization

and resources to assure effective marketing;

(b) Examinations of the feasibility of a local transit broker and user side subsidies;

(c) Periodic publication of reports (at the regional or State level) revealing accessible facilities and services (e.g., housing, education, commerce) and existing and planned accessible transportation services;

(d) Establishment of mail or telephone systems that provide disabled persons with effectively the same or better information, ticket purchase, or other services available to the general public.

(e) Establishment of a certification process to determine the handicapped status of a traveler, if such a process is needed to be eligible to qualify for special services, fare reduction, or other efforts to help disabled persons.

Item 7. New or renewed leases and rental agreements for facilities or vehicles should be restricted to vehicles and facilities that are accessible or will be accessible.

Item 8. Recipients should provide for the participation of existing private and public operators and public paratransit providers to assure maximum feasible opportunities to provide the desired services. Recipients, MPO's, and/or State or regional agencies should seek planning input from existing public and private operators. Recipients, MPO's, States, or regional agencies should maintain current inventories of existing transit or paratransit providers to assist them in their planning and to be considered in providing the services. The plan for implementing these objectives should be included in the transition plan.

Item 9. Regulatory reforms to permit and encourage accessible services should include, but not be limited to, actions which remove or modify unnecessary or inappropriate restrictions on types of taxicab service, insurance coverage, or entry-exit requirements on the providers of accessibility.

FIXED ROUTE BUS SYSTEMS ACCESSIBILITY

Although paragraph (a) of § 27.101 defines program accessibility in terms that do not require that every bus be accessible, paragraph (b)(3) requires that every new fixed route bus ordered on or after October 1, 1979 be accessible. Thus, the regulation effectively requires that all buses in fixed route systems eventually be accessible.

FIXED GUIDEWAY SYSTEM ACCESSIBILITY

In a provision paralleling a similar provision in the fixed route bus section, § 27.103(b)(2) effectively requires that all vehicles in light rail systems eventually be accessible.

PARATRANSIT

Automobiles may be used by transit operators or other service providers as one form of paratransit vehicle. They are accessible to many handicapped persons, including many wheelchair users. However, automobiles are not accessible to some handicapped persons, for example, persons who use battery-powered wheelchairs which cannot be folded and carried in an automobile trunk or back seat. Thus, § 27.105(a) requires that each paratransit system operate enough paratransit vehicles with level change mechanisms to provide approximately the same level of service to handicapped persons who need such vehicles as is provided to other persons. A higher fare may not be charged just because the handicapped person needs a vehicle with a level-change mechanism.

INTERIM ACCESSIBLE TRANSPORTATION

Concerning § 27.109, the other accessible transportation may be supplied by the recipient or other providers. Tradeoffs may be made among factors such as those listed below in providing a service that is reasonable:

(a) No restrictions on trip purpose;

(b) Service hours comparable to the regular fixed-route system;

(c) Combined wait and travel time, transfer frequency, and fares comparable, to the maximum extent feasible, to that of the regular fixed-route system;

(d) Service is available to all qualified handicapped persons, including wheelchair users who cannot transfer from a wheelchair and those who use powered wheelchairs; and

(e) No waiting list exists such that a significant number of handicapped persons are excluded from the system by virtue of low capacity.

With regard to providing other accessible transportation, door-to-door service is encouraged but not required.

Paragraph (b) of § 27.109 is designed to ensure that there is not a gap between the activities undertaken or about to be undertaken as a result of UMTA's existing regulations on transportation for Elderly and Handicapped Persons (41 FR 18234, April 30, 1976) and actual implementation of actions under this regulation, which supersedes those former regulations in most cases.

THE ECONOMIC IMPACTS OF U.S. DEPARTMENT OF TRANSPORTATION REGULATIONS IMPLEMENTING SECTION 504 OF THE REHABILITATION ACT OF 1973

THE COSTS AND BENEFITS OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED TRANSPORTATION PROGRAMS

JUNE 1978.

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I. INTRODUCTION

This document analyzes the costs, benefits, and economic impacts of implementing section 504 of the Rehabilitation Act of 1973, requiring nondiscrimination of handicapped persons

with respect to programs and activities carried out by the U.S. Department of Transportation (DOT). Section 504 states that:

> No otherwise qualified handicapped individual in the United States . . . 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 Department of Transportation is fully committed to achieving accessibility for handicapped individuals under federally funded transportation programs and activities. Pursuant to section 504, the Department has prepared a Notice of Proposed Rulemaking to implement the requirements of this statute. To assist DOT in its rulemaking and to meet Executive Branch regulatory requirements, the Department of Transportation has prepared an analysis of the costs, benefits, and economic impacts of its proposed accessibility regulations. Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 require that major proposals for the promulgation of regulations by any Executive Branch agency shall be accompanied by a statement which certifies that the inflationary impact of the proposal has been evaluated. DOT "Procedures for Considering Inflationary Impacts" (DOT Order 2050.4) require that this analysis include:

A. The principal costs or other inflationary effects of the action on markets, consumers, and businesses, as appropriate, as well as the cost to appropriate levels of government;

B. A comparison of benefits to be derived from the proposed action;

C. A review of alternatives to the proposed action that were considered.

This analysis is required for all "major" proposals, defined to include, among other criteria, all regulations resulting in aggregate increased expenditure by federal, state and local governments of more than $100 million in a single fiscal year, or more than $150 million in any two consecutive fiscal years. A preliminary survey indicated that the $100 million threshold would be reached.

A Department of Transportation regulation issued on March 8, 1978, on "Improving Government Regulations" (43 FR 9582, March 8, 1978) has superseded the above Executive Orders and regulations. This economic impact statement, prepard substantially prior to March 8, 1978, is incorporated by reference into the Regulatory Analysis required under the March 8 regulation.

While this analysis meets the requirements of OMB and DOT regulations, several unique aspects of the analysis should be noted at the outset. First of all, the analysis provides considerable detail on the cost impacts of the proposed regulations, but does not attempt to link these additional costs to inflation. The proposed regulations mandate services which will be provided by the public sector, through federal, state, or local funding. The governmental jurisdictions which must meet the added cost burden of the regulations have a number of options open to them to meet this burden, including increased fares, new or increased taxes, deficit financing, or reallocation of existing resources. It is therefore not possible to determine whether, and the extent to which, the added costs of this regulation will have inflationary impacts until more is known about how various levels of government will meet the added costs. The following analysis focuses on these costs and the benefits of the regulation.

The analysis attempts to quantify and measure benefits of the regulation where at all possible. However, it should be noted that the major benefit of these regulations will lie in improving the quality of life of handicapped individuals. The difficulty of measuring these benefits is not to minimize their importance. To the contrary, the Congress, in passing section 504, section 16(a) of the Urban Mass Transportation Act, sections 165 and 228 of the Federal-Aid Highway Act of 1973, and other legislation, has fully recognized the rights of handicapped individuals whether these benefits can be quantified or not. DOT fully supports these congressionally stated policies and recognizes the quality of life benefits of its proposed regulations.

The analysis attempts to present all costs and benefits of the proposed regulations. Where possible, backup material is presented to allow the reader to see how estimates were arrived at and to evaluate the validity and reliability of these estimates. In some cases, it has been possible to present precise cost estimates. In other cases, only a range of estimates has been possible. DOT recognizes that the data provided in its analysis are in many cases preliminary in nature and may require revisions as additional information becomes available. The Department welcomes the comments and analysis of all interested parties with respect to the costs, benefits, and economic impacts of this proposed regulations.

A summary of the total estimated costs of accessibility under the proposed DOT regulation is presented in Table 1. For purposes of detailed analysis, this economic impact statement is divided into six sections corresponding to sections of the proposed regulation. These sections are: (1) Subpart B, Employment Practices; (2) Subpart D, Program Accessibility—Federal Aviation Administration; (3) Subpart D, Program Accessibility—Federal Railroad Administration; (4) Subpart D, Program Accessibility—Urban Mass Transportation Administration; (5) Subpart D, Program Accessibility—Federal Highway Administration; and (6) Compliance.

TABLE 1: Total Estimated Costs of Compliance with Proposed DOT Section 504 Regulations*
(Millions of 1977 Dollars)

	Total Capital	Annual Capital*** Years 1-3	Years 4-12	Years 13-On	Annual Operating
Employment	minimal	minimal	minimal	minimal	minimal
Federal Aviation Administration	$40.0	$11.6	$ 0	$ 0	$ 1.0
Federal Railroad Administration	56.6	13.6	0**	0	1.9
Urban Mass Transportation Admin. Compliance periods of:					
12 years	1,700.4	141.7***	141.7	1.1	68.8
30 years	1,700.4	56.6	56.6	56.6	68.8
(Inflated at 6%)****					
(12 years)	(2,817.2)	(234.8)	(234.8)		
(30 years)	(4,678.3)	(155.9)	(155.9)	(155.9)	
Federal Highway Administration	minimal	minimal	minimal	minimal	minimal
Administrative & Compliance	minimal	minimal	minimal	minimal	minimal
TOTAL (12-year compliance period)	$1,797.0	$166.9	$141.7	$1.1	$71.7
TOTAL (30-year compliance period)	$1,797.0	$ 81.8	$ 56.6	$56.6	$71.7

* FAA cost estimates based on data developed from National Airport System Plan 1978-1987; FRA estimates based on analysis of data provided by Amtrak; UMTA estimates based on analysis of survey responses submitted by transit operators. The UMTA estimates do not include the costs already required by current regulations, for (1) making new fixed facilities accessible, and (2) Transbus.

** FRA costs are $5.8 million per year for years 4 and 5.

*** Annual averages for the UMTA program were calculated by simply dividing the totals by the indicated alternative compliance periods.

**** Assumes a six percent annual rate of inflation and a project midpoint for mass transit rail station retrofit of 1986 and 1995 based on rail station compliance periods of 12 and 30 years, respectively.

II. Employment Practices

Subpart B of the proposed regulation prohibits discrimination in employment against handicapped individuals by recipients of DOT financial assistance or benefits. This Subpart contains two basic components. The first relates to employer recruitment, hiring, promotion programs, tenure decisions, and other personnel practices and procedures. The second requires that "reasonable accommodation" be made at the workplace to known mental or physical limitations of otherwise qualified individuals unless undue hardship is demonstrated.

PERSONNEL PRACTICES AND PROCEDURES

The proposed prohibition against discrimination in personnel practices and procedures should result in increased job opportunities, greater promotion potential, and increased earnings for handicapped individuals in transportation-related jobs. Routine pre-employment inquiries about mental and physical conditions, a strong disincentive to many handicapped individuals in job seeking, will be prohibited. It will be easier for handicapped individuals to get jobs, to get promoted, and to achieve tenure. While these benefits are significant, it is not possible to estimate their extent in pecuniary terms.

The costs of achieving nondiscrimination in employee practices and procedures should be minimal. There is no cost, for example, in eliminating the practice of pre-employment inquiries about mental and physical conditions. Possible costs include employee training, reprinting of forms, and development of a personnel system which screens out applicants with job disqualifying handicaps without discriminating against otherwise qualified handicapped individuals.

REASONABLE ACCOMMODATION

The proposed regulation requires that recipients make reasonable accommodation to known mental or physical limitations. These accommodations might include: (1) Making physical facilities accessible and usable by handicapped persons; (2) job restructuring; and (3) reassignment of employees who become handicapped to comparable alternative positions.

Both pecuniary and quality of life benefits should result from this section of the regulation. Pecuniary benefits will arise from new job opportunities for handicapped individuals, increased earnings, and employment stability, the latter a significant benefit for both employees and employers. The quality of life of handicapped individuals will be improved through the elimination of employment discrimination.

In a survey of the costs of bringing seven existing federal buildings into compliance with accessibility standards of the American National Standards Institute (ANSI), the General Accounting Office found that the necessary alterations would cost from 0.6 to 2.4 percent of total project cost. However, had accessibility features been incorporated during original construction, costs in all cases would have been less than one percent of total project cost.[1] The Department of Health, Education, and Welfare recommends that the cost of barrier-free new construction be estimated at one-half of one percent of total project cost.[2]

An estimate of the accessibility costs of complying with the reasonable accommodation provision of the proposed regulation can be accomplished only following a facility survey by recipients, a task beyond the scope of the present analysis.

III. Program Accessibility—The Federal Aviation Administration

The proposed regulations require that airport operators who receive federal financial assistance for airport development make both new and existing terminal facilities accessible to the handicapped.

BENEFITS

It is not known how many handicapped travelers have used commercial air carrier service in recent years, nor are precise projections available for future use. It is the goal of section 504 to fully integrate handicapped persons into society. Given this goal, it can be assumed for purposes of gross analysis that the handicapped population will use air carrier service at the same rate as the general population once full integration, including the availability of employment opportunities, is achieved.

During 1976, the general population took an estimated 180.7 million commercial airplane trips based on the recorded enplaned revenue passengers for trunk carriers.[3] Assuming the same rate of travel for the handicapped population, the estimated five million handicapped persons who could use a fully accessible transportation system [4] would take an estimated 3.8 million plane trips. It will, of course, be some time before this extensive ridership is achieved given current barriers to the handicapped in transportation and other areas. Nevertheless, the proposed regulations will clearly provide increased opportunities for the handicapped for both business and pleasure travel.

COSTS

The total estimated capital cost of making airport terminal facilities accessible under the proposed regulation is $40.0 million. The annual capital cost for the initial three years is $11.6 million, or 2.6 percent of the $435 million allocated to air carrier service in FY 1976 under the Airport Development Aid Program. Thereafter, annual capital costs drop to $1 million per year, until the eleventh year, when the capital costs become minimal. Estimated accessibility costs are broken down in Table 2, and discussed in detail below.

[1] [2] See footnotes at end of document.
[3] [4] See footnotes at end of document.

Table 2

Total Estimated Airport Terminal Accessibility Costs of Proposed DOT Section 504 Regulations*
(Millions of 1977 Dollars)

	Total Capital	Annual Capital			Annual Operating
		Years 1-3	Years 4-10	Years 11 - on	
Incorporation of ANSI Standards	$27.80	$6.89	$1.02	$0	$0.98
New Terminal Construction	10.20	1.02	1.02	0	minimal
Existing Terminal Renovation	17.60	5.87	0	0	0.98
Boarding Lifts (existing terminals only)	$11.20	$3.73	$0	$0	unknown
Teletypewriters	$ 0.98	$0.98**	$0	$0	minimal
New Terminals	0.04	0.04	0	0	
Existing Terminals	0.94	0.94**	0	0	
TOTAL	$39.98	$11.60	$1.02	$0	$0.98

* Existing terminal accessibility required in 3 years; new terminal costs are projected over 10 years.

**An initial year cost only.

NEW TERMINAL CONSTRUCTION

The proposed regulation requires that new terminals and terminal expansions constructed with federal aid meet accessibility standards set by the American National Standards Institute. According to data developed from the National Airport System Plan, 1978-1987 (NASP), an estimated $1 billion in ADAP-eligible terminal development will occur at air carrier airports during the next ten years (see Table 3). Eligible development includes all non-revenue producing public use facilities such as baggage areas. It does not include restaurants, cocktail lounges, and similar facilities.

TABLE 3.—*Estimated cost of ADAP-eligible terminal development at air carrier airports, 1978-87*

	1 to 5 years	6 to 10 years
Large hubs	$320.7	$145.0
Medium hubs	152.6	111.7
Small hubs	92.7	66.2
Nonhubs	71.2	59.2
Total	637.2	382.1

Source: "National Airport System Plan 1978-87," Federal Aviation Administration, 1978.

The Federal Aviation Administration estimates that all new terminal construction, including both eligible and non-eligible terminal facilities, will total twice the cost of eligible development, or $2 billion. As noted in the employment section of this impact statement, the Department of Health, Education, and Welfare estimates the cost of barrier-free construction of new facilities at one-half of one percent of total project cost. Applying this figure, the total accessibility cost of new terminal construction expansion is estimated at $10.2 million, or $1.02 million per year over the ten-year period of terminal development.

The regulation requires that teletypewriters be provided at each air carrier reservation center at new airport terminals to assist the deaf (similar services for expanded terminal facilities will be provided by teletypewriters installed at existing facilities, the cost of which is discussed below). The *National Airport System Plan 1978-1987* estimates that one large hub airport will be constructed during the next 10 years, one small hub airport, and 27 non-hub airports. Assuming that eight teletypewriters will be required at the large hub, two units at the small hub, and one unit at each non-hub, the total anticipated teletypewriter cost at $1,000 per unit is $37,000.

EXISTING TERMINAL RENOVATION

The proposed regulations require that airport operators receiving federal financial assistance reconstruct existing terminal facilities to ANSI standards within three years. There are currently 620 airports served by certificated air carriers, as detailed in Table 4.

TABLE 4.—*Number of U.S airports served by certificated air carriers by size and passenger distribution*

Hub classification	Number		1976 passenger levels
	Hubs	Airports	
Large	25	37	2,153,350 or more.
Medium	38	38	538,338 to 2,153,349.
Small	93	94	107,668 to 538,337.
Non	.....	177	10,000 to 107,667.
	.....	274	Less than 10,000.
Total	156	620	

Source: "National Airport System Plan 1978-87," Federal Aviation Administration, 1978.

Many existing airport terminals already meet a number of ANSI accessibility standards,[5] and a complete analysis of accessibility costs is not possible absent an architectural survey of all existing facilities. However, for purposes of analysis, a maximum cost estimate for achieving accessibility in all of these terminals, excluding elevators, was developed by estimating average unit costs by station size as follows: Large—$17,000; Medium—$15,000; Small—$13,000; and Non—$5,000. Applying these costs to the number of stations in each category, the total estimated cost of station accessibility (excluding elevators) was found to be $4.7 million. It should again be emphasized that this figure is a maximum cost estimate. Actual costs should be somewhat less, given that many airports have already incorporated at least some accessibility features into their facilities.

Many existing terminal facilities will require installation of elevators to achieve accessibility. Assuming one elevator per hub airport (a high estimate, given current terminal accessibility), at an average unit cost of $76,500, the total elevator cost is estimated at $12.9 million. Added to the costs discussed above for achieving ANSI standards, the total estimated capital cost for existing facilities is $17.6 million, or $5.87 million per year over the three-year time period allowed for station accessibility.

Based on initial operating experience and usage rates for similar elevators in Amtrak station, it is estimated that each elevator will cost $4,800 per year for power consumption and $1,000 per year for maintenance. The total estimated annual operating cost for all elevators is $980,200.

In addition to incorporation of ANSI standards, the proposed regulations require that operators of terminals serving 10,000 or more enplaned passengers per year, which are not equipped with jetways or passenger lounges for boarding and unboarding, provide a mechanical lift or other system of handicapped access to the plane. The basic lift cost is $20,000. Assuming that 5 lifts will be required at the 15 largest airports, 2 lifts at the other 154 airports serving 107,668 or more passengers, and 1 lift at airports serving 10,000-107,668, the total cost of this section is estimated at $11.2 million, or $3.7 million per year over the three-year period allowed to meet this requirement. Some operating expenses should result as well.

Finally, the regulation requires that each carrier reservation center provide at least one teletypewriter (TTY) for communicating with deaf people. It is estimated tht the 75 large and medium-sized airports will require an average of 4 TTYs; the 94 small airports, an average of 2; and the 451 non-hub airports, only 1 TTY each. Given the basic teletypewriter cost of $1,000 per unit, the total cost of this requirement is estimated at $939,000.

IV. PROGRAM ACCESSIBILITY—THE FEDERAL RAILROAD ADMINISTRATION

The proposed regulations require that recipients of financial assistance from the Federal Railroad Administration provide accessibility to the handicapped in terms of fixed facilities, vehicles, and services. The only rail agency receiving assistance appropriate to this regulation is Amtrak. The following analysis pertains to the benefits and costs of Amtrak accessibility to the handicapped.

BENEFITS

Provision of accessibility for Amtrak stations, equipment, and services will

[5] See footnotes at end of document.

result in significant increases in intercity travel opportunities for the handicapped. These opportunities include business travel, vacation travel, visiting of friends and relatives, and all other trip purposes generally associated with intercity train transportation.

It is difficult to estimate the number of handicapped citizens who will utilize Amtrak services once fully available. Amtrak currently handles a substantial volume of requests for special services from handicapped individuals. Advance requests are processed by one of the five Amtrak Central Reservations Offices (CROs), and special arrangements made with station and train operations personnel. In 1977 the five CROs reported a total of 3,581 special handling requests from handicapped persons of four basic types:

(1) *Wheelchair requests.* These were requests for provision of a wheelchair at the departing and arriving stations, and redcap assistance with wheelchairs and baggage—1,897 such requests were received.

(2) *Loading/unloading requests.* These were requests for assistance in loading and unloading received from blind, deaf, elderly, and disabled persons—372 such requests were received.

(3) *Window loading requests.* These were requests for provision of personnel and equipment to load and unload stretcher-borne passengers through the window of a specialy designed bedroom available on certain types of conventional sleeping cars—42 such requests were received.

(4) *Miscellaneous.* These requests include advance requests for meals to be served in a handicapped or elderly passenger's room, for storage of oxygen or medical supplies, and all other special service requests. A total of 1,270 miscellaneous requests were received.

No data have been kept on the number of handicapped passengers requiring special services who have presented themselves at stations without calling in advance. A rough estimate, based on a two-week tally kept by 20 stations of modest size throughout Amtrak's system, suggests that some 2,400 incidents occur annually. Of those handicapped persons who do phone for special arrangements, an estimated 350, or 10 percent of those who phone, are denied service. These denials are based primarily on lack of proper equipment or personnel to perform the requested service.

Precise projections of anticipated handicapped ridership, given a fully accessible system, are not available. Assuming that the handicapped population will use Amtrak services at the same rate as the general population, once handicapped citizens are fully integrated into society, it can be estimated, based on 1977 ridership statistics, that handicapped passengers will take some 400,000 trips annually. This figure is, of course, the potential ridership market only, and assumes handicapped accessibility in all aspects of society, including employment.

COSTS

It is estimated that the proposed regulation will increase Amtrak capital costs by $57 million, or $13.6 million per year over the initial three years, and $5.78 million per year for the remaining two years mandated for achieving accessibility. These figures are 14.6 percent and 6.2 percent, respectively, of the total $93.1 million in capital assistance appropriated for Amtrak for fiscal year 1977. Operating costs are estimated at $1.9 million per year, or 0.4 percent of the $482.6 million appropriated for Amtrak in operating assistance for fiscal year 1977 (it should also be noted that Amtrak had a $420 million operating deficit in fiscal year 1977). A breakdown of capital and operating costs is provided in table 5, and discussed in detail below.

Table 5

Total Estimated Accessibility Costs of Amtrak
Compliance With Proposed DOT Section 504 Regulations
(1977 Dollars)

CAPITAL EXPENDITURES

(1)	Station Modifications (assuming no waivers)	
(a)	470 off-NEC Stations	$11,114,300
(b)	54 Northeast Corridor Stations	27,500,000
(c)	Hydraulic Lift Vehicles (300)	600,000
		$39,214,300
(2)	Equipment Modification	
(a)	80 Conventional Coaches	$ 6,024,000
(b)	80 Conventional Sleepers	8,219,000
(c)	20 Metrosnack Cars	1,060,200
(d)	RTG Turboliners	1,310,300
(e)	12 Budd RDCs	736,800
		$17,350,300

Total Capital Costs: $56.56 million
Annual Capital Costs - years 1-3: $13.64 million
years 4-5: $ 5.78 million

OPERATING EXPENDITURES

(1)	Elevator Power and Maintenance	$ 713,400
(2)	Reservations and Special Handling	Unknown
(3)	Station Services	728,000
(4)	On-Board Services	
	(a) Additional Crew Costs	300,000
(5)	Hydraulic Lift Vehicles	Unknown
(6)	Other	
	(a) Lost Revenue	70,000
	(b) Management Overhead	50,000
Total Annual Operating Costs		$1,861,400

STATIONS AND RELATED FACILITIES

The proposed regulations require that within five years ticket counters, waiting rooms, baggage areas, and other public areas for both new and existing facilities be barrier-free. Public toilets, drinking fountains, and other public conveniences must be designed in accordance with the standards of the American National Standards Institute. In addition, parking lots and loading areas must be designed with special features for handicapped travelers, and safe loading of wheelchair travelers provided through appropriate platform or lift devices. The Federal Railroad Administrator may exempt from these provisions those existing facilities which have the lowest passenger utilization rates, provided that such exemptions include no more than ten percent of all stations.

It is estimated that the total maximum capital cost of all station modifications, assuming no waiver of the requirements, will be $39.2 million, or $7.8 million per year over five years. Assuming that the requirements are waived at ten percent of all stations, the estimated capital cost is $38,355,800. To arrive at this figure, stations on and off the Northeast Corridor were analyzed as follows:

Outside Northeast Corridor. The 470 Amtrak stations outside the Northeast Corridor were categorized as:

(1) Small stations, consisting only of platforms, small unstaffed shelters, or buildings with waiting rooms having an interior area of 50 to 4,999 square feet.

(2) Medium-sized stations, having waiting rooms with an interior area of 500 to 4,999 square feet.

(3) Large stations, having an interior area greater than 5,000 feet.

The cost of modification was determined for four existing stations in each category. These costs are detailed in Appendix A. In addition, the average cost of features incorporated in the design of fourteen new stations to make them barrier-free was computed by station type. The estimated costs for new stations are summarized in Appendix B.

These figures were combined into an average cost for making a station in each category barrier-free, except for the cost of elevator installation. The average cost was multiplied by the number of stations in the appropriate category to arrive at a total cost figure. The cost of elevators was added only for stations where passengers must now change levels and will continue to do so under Amtrak's current plans. Total estimated costs are summarized in Table 6.

Assuming that waivers are granted at 10 percent of all stations, or 52 stations, and assuming that all waivers will occur at less utilized off-corridor stations, the total estimated accessibility cost for off-Northeast Corridor stations is $10,255,800.

Northeast Corridor. The projected cost of bringing the 54 existing Northeast Corridor stations into compliance with the proposed regulations is $27,326,300. This figure was arrived at by classifying these facilities according to the May 1976 FRA Corridor Performance Standards, as follows:

(1) An "A" station is one located in a major urban area, with a projected 1990 daily patronage of greater than 10,000.

Table 6

Estimated Costs of Accessibility for Amtrak Stations Outside Northeast Corridor (1977 Dollars)

(1) Small Stations

199	Stations
$ 16,500	per Station
$3,283,500	

Elevators required at 6 stations, at $76,500 per elevator. Total cost of elevators is $459,000.

Total Small Station Cost: $3,742,500

(2) Medium Stations

240	Stations
$ 16,925	per Station
$4,062,000	

Elevators required at 21 stations, at $76,925 per elevator. Total cost of elevators is $1,615,425.

Total Medium Station Cost: $5,677,425

(3) Large Stations

$ 15,625	per Station
31	stations
$484,375	

$ 75,625	per elevator
16	elevators
$1,210,000	elevator cost

Total Large Station Cost: $1,694,375

TOTAL STATION COST (assuming no waivers): $11,114,300

(2) A "B" station is one located in a medium-size city, with a projected 1990 daily patronage of 4,600 to 12,700.

(3) A "C" station is one located in a suburban area adjacent to a major expressway, with a projected 1990 daily patronage of 3,000 to 9,000.

It was assumed that "C" stations would require one elevator for each of two platforms, and that a new or refurbished pedestrian tunnel would be needed to connect the platforms. The estimated cost for each of the 54 NEC stations, along with an analysis of the component costs is provided in Table 7. The total annual capital cost of NEC modification, over a 10-year period, is $2,732,600.

TABLE 7.—*Projected cost of modifying Northeast Corridor stations to accommodate handicapped passengers*

Station classification	Station	Modification cost
A	Washington, D.C	$239,200
C	Capital Beltway	548,550
A	Baltimore	410,550
C	Aberdeen	548,550
B	Wilmington	356,500
A	Philadelphia—30th St	515,200
B	Philadelphia—North	250,700
B	Trenton	197,800
C	Princeton Junction	548,550
C	New Brunswick	548,550
C	Metropark	548,550
B	Newark	543,950
A	New York—Penn Station	727,950
C	Rye	548,550
C	Stamford	548,550
C	Bridgeport	548,550
B	New Haven	506,000
C	Old Saybrook	548,550
C	New London	548,550
C	Mystic	548,550
C	Westerly	548,550
C	Kingston	548,550
B	Provience	678,500
C	Route 128	548,550
B	Boston—Back Bay	368,000
A	Boston—South	133,400
A	Philadelphia-Suburban Station	124,200
C	52d St	548,550
C	Overbrook	548,550
C	Merion	548,550
C	Narberth	548,550
C	Ardmore	548,550
C	Bryn Mawr	548,550
C	Wayne	548,550
C	Berwyn	548,550
C	Paoli	548,550
C	Malvern	548,550
C	Whitford	548,550
C	Downingtown	548,550
C	Coatesville	548,550
C	Parkesburg	548,550
C	Lancaster	548,550
C	Mount Joy	548,550
C	Elizabethtown	548,550
C	Middletown	548,550
B	Harrisburg	332,350
C	Wallingford	548,550
C	Meriden	548,550
C	Berlin	548,550
C	Hartford	548,550
C	Windsor	548,550
C	Windsor Locks	548,550
C	Thompsonville	548,550
C	Springfield	548,550
	Total	27,326,300
	Passenger arrival	172,500
	Parking	146,395
	Walks	461,150
	Ramps (exterior and interior)	575,000
	Entrances	51,750
	Doors	700,695
	Public and work spaces	660,905
	Stairs	1,782,500
	Elevators	9,895,750
	Toilet facilities	157,550
	Drinking fountains	26,450
	Public telephones	10,120
	Controls, identification, warning	313,490
	Pedestrian tunnels and overpasses	11,779,795
	Train boarding	592,250
	Total	27,326,300

Hydraulic Lift Vehicles. None of the station modification costs for on or off corridor stations include engineering costs or take inflation into account. In addition, these estimates consider only the structural costs of making the station building and vehicular approaches accessible. They do not include the cost of measures to insure that handicapped passengers are able to enter the train from the station platform. There are various possible solutions which have been explored for this problem.

Each coach and sleeper on the new superliner-equipped trains will carry a 6-foot portable ramp which can be dropped into place by one employee. Since the gradient of the ramp is 14 percent, and thus in excess of the 8.33 percent gradient required by the regulation, Amtrak must provide attendant assistance where necessary.

It is infeasible to use any ramp with Amfleet, Turboliners and conventional equipment since all three have vestibule entrances approximately four and one-half feet above track level. Full accessibility would require that stations have high-level loading platforms or that some type of mechanical device by employed at the station or on the train. The construction of high-level platforms is extremely expensive.

With respect to mechanical devices, Amtrak has ordered two prototype hydraulic lift vehicles for testing and demonstration. These lifts are being purchased at a cost of $2,500 to $3,000, although the unit cost of a volume purchase can be expected to be somewhat lower. Assuming a unit cost of $2,000, the estimated total cost of providing lifts at each of the 300 stations requiring such devices is $600,000. Another possible alternative is a fixed or mobile ramp on the platform.

EQUIPMENT

The proposed regulations require that within three years at least one coach and one sleeper be accessible to handicapped travelers on each train, with provision for storage space for wheelchairs and other orthopedic aids. In addition, at least one food service car must be accessible on trains which have food service, or food service must be provided to disabled passengers at their seats.

The cost of modifying existing equipment to meet these requirements is estimated at $17.4 million, or $5.8 million per year, broken down as follows:

(1) Eighty 44 seat conventional coaches at $75,000 per coach, plus design and engineering costs—$6,024,000

(2) Eighty 10-roomette, 6-double bedroom sleeping cars at $102,300 per car, plus design and engineering costs—$8,219,000

(3) Twenty Metroliner snack/coach cars at $51,500 per car, plus engineering and design costs—$1,060,200

(4) RTG (French) Turboliner Equipment—4 dinette cars and 12 coaches, including design and engineering costs and FRA required "squeeze testing"—$1,310,300

(5) Twelve Bud self-propelled Rail Diesel cars at $60,000 per car, plus design and engineering costs—$736,800

Total cost—$17,350,300

These estimates are further broken down by vehicle type in Table 8.

Table 8

PROJECTED COST OF EQUIPMENT MODIFICATION
TO ACCOMMODATE HANDICAPPED PASSENGERS

Budd Rail Diesel Cars

Material	$36,600/car	
Labor	23,400/car	
Total	$60,000 x 12 cars =	$720,000
	10,800	- Engineering
	6,000	- Design
	$736,800	- Total

RTG (French) Turboliners

Material	$44,700/Dinette car	
Labor	36,000/Dinette car	
Total	$80,700 x 4 cars =	$322,800
Material	$36,000/Coach car	
Labor	39,000/Coach car	
Total	$75,000 x 12 cars =	$900,000
	32,500	- Engineering
	45,000	- FRA Squeeze Test
	10,000	- Design
	$1,310,300	- Total

Metrosnack Cars

Material	$33,000/car	
Labor	18,500/car	
Total	$51,500 x 20 cars =	1,030,000
	20,200	- Engineering
	10,000	- Design
	$1,060,200	- Total

Conventional 10/6 Sleeping Cars

Material	$60,800/car	
Labor	41,500/car	
Total	$102,300 x 80 cars =	$8,184,000
	23,200	- Engineering
	12,700	- Design
	$8,219,000	- Total

4410 Series-Type Conventional Coaches

Material	$42,000/car	
Labor	33,000/car	
Total	$75,000 x 80 cars =	$6,000,000
	17,800	- Engineering
	6,200	- Design
	$6,024,000	- Total

GRAND TOTAL $17,350,300

RAIL PASSENGER OPERATING COSTS

The proposed regulations will result in increased operating expenditures resulting from increased power and maintenance costs, and the requirement for certain specialized services to be provided for handicapped passengers.

Elevator Power and Maintenance. As discussed earlier, the regulations will require installation of an estimated 43 elevators in off-Northeast Corridor stations, and 80 elevators in corridor stations. Based on initial experience and usage rates for elevators on the Amtrak system, it is estimated that each elevator will cost $4,800 per year for power consumption and $1,000 per year for maintenance. The total annual operating cost for all elevators is estimated at $713,400.

Station Services. The proposed regulations require Amtrak to provide assistance to non-ambulatory handicapped persons at all stations with one or more station attendants if Amtrak receives appropriate advance notice. Since Amtrak periodically changes its operating schedules and makes adjustments in its station staffing, it is difficult to estimate the additional cost of this requirement. Those stations which have two or more attendants at traintime will have little or no difficulty in meeting this service requirement. Additional costs would result where stations provide only one attendant at traintime, and a second attendant is required to lift wheelchair or stretcher passengers over barriers or onto or off the train.

Amtrak is not required to hire additional full-time personnel at one-attendant stations. It is only necessary that someone be available at traintime or on call within three or twelve hours' notice, as appropriate. Most requests for special station services would likely come in urban areas, at stations which already have two or more employees. Thus, little additional manpower or financial burden is anticipated. However, Amtrak does have an estimated 250 off-corridor stations manned by only one employee. One additional person would have to be available on call at each of these stations during traintime to meet special service needs.

Of the 400,000 trips on Amtrak trains which can be ancitipated by handicapped travelers assuming full accessibility, an estimated 12,000 would involve special service requests. This estimate is based on the ratio of transportation-handicapped persons who require the help of another person, a wheelchair, or other aids, to the total chronic transportation-handicapped population.[6] Assuming that one-third of special service requests occur at stations with only one attendant (a high figure given that most requests will occur at highly traveled urban stations which have two or more attendants), the total operating cost to service these requests, at $9.10 per hour and two hours per request, is $728,000.

It should be noted that the proposed regulation does not require Amtrak to provide service for each of its currently 150 unmanned stations (out of 524 total stations). This alternative was considered, and the cost found unreasonable in relation to the benfits. The basic annual wage cost of staffing a station with one attendant for one shift (including fringe benefits), five days per week, is $22,500. The cost for a seven-day shift would be $31,500 annually. Total annual costs for staffing 150 Amtrak stations would be $3,375,000 and $4,725,000, respectively. As these small stations are generally in rural areas, with little likelihood of the need for special handicapped service, the cost of such service clearly outweighs the benefits which would be gained. One possible alternative would be to require that Amtrak develop a contingency plan for on-call assistance at currently unmanned rural stations. DOT welcomes comments on this and other alternatives for handicap service at unmanned stations.

On-Board Services. The proposed regulations would require Amtrak to provide assistance to handicapped persons who request aid in moving to and from their accommodations, using rest- rooms and sleeping car facilities, and obtaining meal services. As Amtrak now provides such service for all trains on which there is a service attendant, this regulation would result in little incremental cost. However, several trains on short Northeast Corridor runs have no service attendant, including "Clocker" service between Philadelphia and New York, between Philadelphia and Harrisburg, and between New Haven and Springfield, Mass. The estimated annual labor expense of providing service attendants on these runs would be $300,000, based on an hourly wage rate of $9.10.

Other Service Costs. The proposed regulations would result in lost revenue opportunity costs and increased management expenses to accommodate handicapped travelers and to comply with the regulations. Equipment modification will reduce the number of available seat. The impact of this reduction will vary according to load factors on given trains at given times. It is anticipated that there will be some impact on revenues from long distance and Northeast Corridor trains during peak travel periods, particularly for Metroliner revenues. The required modification of 20 Metroliner cars, as documented earlier, would reduce the number of seats in each car from 60 to 55. On the basis of present ridership, 5 lost seats would otherwise be filled on an average of 15 trips per week, at an estimated loss of $70,000 per year in Metroliner revenues.

Amtrak has estimated that increased management responsibilities will require additional staff at an estimated cost of $50,000 per year.

V. PROGRAM ACCESSIBILITY—THE URBAN MASS TRANSPORTATION ADMINISTRATION

The proposed regulations require that recipients of financial asistance from the Urban Mass Transportation Administration provide accessible services to the handicapped in the operation of their rail and bus systems, as discussed in detail below.

BENEFITS

It has ben estimated that the transportation-handicapped population in urban areas in 1975 with chronic conditions totalled 4.3 million people.[7] Of this total, two million can now use transit services but only with some difficulty (category 1, Table 9). This entire segment of the population would potentially benefit from a fully accessible mass transit network. In addition, another 947,000 people with chronic conditions (categories 2 (a), (b), and (c), Table 9) cannot now use transit, though they are capable of leaving their homes either through wheelchairs or other aids, or with the assistance of another person. The potential benefits for this segment of the handicapped population are quite significant. Transit services would become available for new employment opportunities, for shopping, and for pleasure trips.

[6] See footnotes at end of document.

[7] See footnotes at end of document.

Table 9

CHRONIC CONDITIONS BY TRANSPORTATION HANDICAPPED CLASSIFICATION, 1975: METROPOLITAN AREAS

	Age			
TH Classification	Under 18	18 to 64	65 & Over	Total
1) Use Transit with Difficulty				
a) Have trouble getting around alone	43,000	912,000	687,000	1,641,000
b) Use aids other than wheelchair	5,000	137,000	281,000	424,000
Subtotal	48,000	1,049,000	968,000	2,065,000
2) Cannot Use Transit				
a) Use aids other than wheelchair	3,000	80,000	200,000	282,000
b) Need help of another person	30,000	127,000	221,000	379,000
c) Use wheelchair	18,000	120,000	148,000	286,000
d) Confined to the house	24,000	488,000	737,000	1,250,000
Subtotal	76,000	815,000	1,306,000	2,197,000
TOTAL	124,000	1,864,000	2,274,000	4,262,000

Source: The Transportation Handicapped Population, Definition & Counts, U.S. DOT, Urban Mass Transportation Administration, August 1976, Vol. I, p. 41.

It is difficult to predict what percentage of the urban handicapped population would take advantage of a fully accessible transit system. As noted earlier, the goal of section 504 is to fully integrate handicapped persons into society. A gross analysis of projected handicapped ridership can be done by assuing that the handicapped population will use transit services at the same rates as the general population (this assumption depends heavily on full integration of handicapped persons in employment). The urban population took 5.7 billion revenue passenger trips in 1976.[8] Assuming that three million handicapped persons in urban areas could use accessible transit systems, compared to a total urban population of 175 million, handicapped persons would take an estimated 98 million transit trips per year.

[8]See footnotes at end of document.

COSTS

The total estimated capital cost of achieving transit accessibility under the proposed regulations is $1.7 billion in 1977 dollars. This latter cost would be an estimated $2.8 billion if one assumes an annual inflation rate of six percent and a project midpoint for mass transit rail station retrofit of 1986, based on a 12-year compliance period. (If the project midpoint occurs earlier, the total would be lower, while a later project midpoint would produce a higher total.) These cost estimates are the incremental costs of implementing section 504 only, and do not include the costs of implementing existing regulations such as the requirement for Transbus.

The average annual capital cost assuming a 12-year compliance period, would be an estimated 141.7 million in 1977 dollars, or approximately $234.8 million assuming a six percent annual rate of inflation and a project midpoint for mass transit rail station retrofit of 1986.

These annual averages are not meant to be predictive of the cost in any given year. A summary of the estimated cost of the mass transportation provisions of the regulation is presented in Table 10.

Table 10

Total Estimated Transit Accessibility
Costs of Proposed DOT Section 504 Regulations
(Millions of 1977 Dollars)

	Total Capital	Average Annual Capital* Years 1-3	Years 4-12	Years 13-on	Annual Operating
Rail Systems (Inflated at 6% with rail station compliance periods of: 12 years	$1,648.4	$137.4	$137.4	$1.12	$27.4
20 years	(2,765.2)	(230.4)	(230.4)		
30 years)**	(3,473.7)	(173.7)	(173.7)	(173.7)	
	(4,626.3)	(154.2)	(154.2)	(154.2)	
Bus Systems***	52.0	35.3/3.3****	3.3*****	0	41.4
TOTAL	$1,700.4	172.7/140.7****	$140.7	$1.12	$68.8

* Annual averages were calculated by simply dividing the total by the number of years to achieve program accessibility. Actual annual costs would be lower or higher in many cases, and thus the annual averages are not meant to be predictive of the cost in any given year. Annual costs for the constant 1977 dollar numbers are based on 12 years.

** Assumes a six percent annual rate of inflation and project midpoints for rail station retrofit of 1986, 1990, and 1995 for compliance periods of 12, 20, and 30 years, respectively; for rapid and commuter rail vehicles of 1981; and for light rail vehicles of 1983.

*** Does not include cost of Transbus, which was required prior to proposed section 504 regulation. Assumes purchase of accessible buses in interim prior to Transbus.

**** Initial year cost is $35.3 million. This includes an estimated $32 million required to purchase accessible buses during interim prior to Transbus. Shows first year/second and third yrs.

***** Drops to $0 after year 6.

The estimated average annual capital cost of $141.7 million in 1977 dollars would be 7.1 percent of the $2 billion of administrative commitments included in the Department of Transportation's budget for UMTA capital assistance under the section 3 and interstate transfer (transit) programs for fiscal year 1979. The estimated average annual operating cost of $68.8 million in 1977 dollars would be 8.1 percent of the $850 million of administrative commitments included in the budget for UMTA assistance under the section 5 program for fiscal year 1979. In the short term, however, a high proportion of the Department's mass transportation budget already has been planned or programmed for particular categories (and, in some cases, projects) other than retrofit of existing stations.

It should be noted that the incidence of costs for transit accessibility is highly localized. In particular, the proposed regulation will significantly increase mass transit capital costs in the four largest rapid rail cities—New York, Chicago, Philadelphia, and Boston—to meet the requirement for "retrofitting" existing rapid rail stations. It is estimated that the cost of retrofitting rapid rail stations in all rapid rail cities is $1.1 billion in 1977 dollars. The great bulk of this cost can be attributed to the four cities listed above. The cost of achieving structural alteration of existing rapid rail, commuter rail, and light rail systems, which make up $1.6 billion of the $1.7 billion in 1977 dollars of costs for the mass transportation provisions of the regulation, would principally benefit those handicapped persons who cannot use steps or can do so only with difficulty, and who reside in the limited number of areas with existing rail mass transit systems, a number considerably smaller than the estimated 13 million total transportation handicapped persons in the United States. As with the able-bodied, it would be expected that many handicapped will choose not to use these mass transit systems.

A. *Rail System Accessibility.* The estimated costs of rail accessibility for both facilities and vehicles are summarized in Table 11, and discussed below.

Table 11

Estimated Costs of Rail System Accessibility Under Proposed DOT Section 504 Regulations*

CAPITAL COSTS (Millions of 1977 dollars)

Accessibility Cost Component	Rapid Rail	Commuter Rail	Light Rail	Total
Fixed facilities	$1076.74	$484.32	$36.61	$1597.67
Vehicles	3.60	34.40	12.70	50.70
Total	$1080.34	$518.72	$49.31	$1648.37

OPERATING COSTS (Thousands of 1977 dollars)

Accessibility Cost Component	Rapid Rail	Commuter Rail	Light Rail	Total
Power	$11,804	$ 9,167	$ 636	$21,607
Maintenance	2,915	2,486	439	5,840
Total	$14,719	$11,655	$1,075	$27,447

* May include double counting with Federal Railroad Administration accessibility costs where transit stations are jointly used by Amtrak.

1. *Capital Costs—Facilities.* The proposed regulations require that all new fixed rail facilities constructed with Federal assistance meet the requirements of section 609.13 of the joint UMTA/FHWA regulations on "Transportation for Elderly and Handicapped Persons." [9] The costs of implementing this provision will be incurred irrespective of section 504, and are not considered in this impact statement.

Major new costs will be incurred to make existing rail facilities accessible to the handicapped. The proposed regulations require that all existing passenger facilities be made accessible according to the standards of ANSI within 12 years. In June 1977, UMTA requested transit operators to submit estimates of the "cost of modifying existing fixed facilities to achieve total accessibility for elderly and handicapped individuals, particularly those who are semi- or non-ambulatory and who are confined to wheelchairs." Items identified and costed by operators included station lighting, abrasive warning signs, graphics, fare collection controls, and elevator installations, the latter producing the major portion of total costs.

These survey results have been reanalyzed in light of the requirements of section 504. Transit operators were contacted to discuss their accessibility estimates. In addition, UMTA, with the assistance of an architectural consultant, conducted independent analyses of several facilities to determine accessibility costs. Analyses prepared by the American Public Transit Association were also reviewed.

Based on this comprehensive review, it was estimated that 1,700 rail stations will require 3,710 elevators to achieve full accessibility, as broken down in Table 12, as well as other accessibility measures. For New York, Boston, Philadelphia, and Chicago, the unit cost of elevator installation in rapid rail stations was estimated at $420,000 per elevator, while the unit cost of other necessary rapid rail station measures was estimated at $322,000 per station. For rapid rail stations in all other cities, and for commuter and light rail stations in all cities (including New York, Boston, Philadelphia, and Chicago), the unit cost of elevator installation was estimated at $180,000 per elevator, and the unit cost of other accessibility features at $183,000 per station. Based on these figures, the total estimated cost of rail station accessibility under the proposed regulation is $1.6 billion in 1977 dollars, the bulk of which can be attributed to the four largest rapid rail cities.

The above estimates do not take into account the fact that some rail facilities are jointly used by transit systems and Amtrak. This impact statement has not attempted to analyze these joint use stations, and many of the accessibility costs for these facilities may be double counted.

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[9] See footnotes at end of document.

Table 12

Transit Station Elevators Required for Accessibility Under Proposed Section 504 Regulations

CITIES	STATIONS			ELEVATORS			
	Rapid Rail	Commuter[1] Rail	Light[2] Rail	Rapid Rail	Commuter Rail	Light Rail	TOTAL
New York	482[3]	-[4]	-	1365	334	-	1699
Chicago	142	244	-	380	354	-	734
Philadelphia	54	200	29	136	290	31	457
Boston	41	87	18	88	127	26	241
PATH	13	-	-	13	-	-	13
PATCO	12	-	-	19	-	-	19
Cleveland	18	-	12	23	-	18	41
Connecticut	-	45	-	-	65	-	65
Pittsburgh	-	5	11	-	8	16	24
New Jersey	-	-	4	-	-	6	6
San Francisco	-	-	8	-	-	12	12
Other Commuter Rail	-	275	-	-	399	-	399
TOTAL	762	856	82	2024	1577	109	3710

1 Allocation of Commuter Rail Stations to specific urbanized areas does not necessarily reflect local funding responsibility.
2 Estimate attempts to exclude street stops requiring only vehicle accessibility measures.
3 Includes Staten Island Rapid Transit.
4 Facility Estimate Calculated Separately by Architect for LIRR.

2. *Capital Costs—Vehicles.* Key assumptions used in developing accessibility costs for rail vehicles are that WMATA and BART cars represent a standard of accessibility, and that transit operators will mount lifts on light rail and commuter cars rather than construct platforms which currently have low platform operations. Unit cost estimates were developed for national retrofit cost averages, based on information provided by transit operators and from parallel bus experience, as follows: (1) Lift mounted in step entry cars—$17,500; (2) entryway widened in level entry cars—$12,000; and (3) lift mounted and entryway widened—$20,000. Car purchase dates and accessibility status were obtained from operators for rapid rail, light rail, and commuter rail vehicles, and fleet retirements were projected according to the following: (1) Operator plans for vehicle retirement; (2) cars purchased after 1960 will be retired in 20 years; and (3) cars purchased before 1960 will be retired over the next ten years. Unit costs were applied to anticipated retirement schedules to develop estimated capital costs for rapid, light, and commuter rail vehicles, as discussed below.

Rapid Rail. The proposed regulation requires that all new rapid rail vehicles purchased with Federal assistance be accessible. Since this is already required by joint UMTA/FHWA regulations on "Transportation for Elderly and Handicapped Persons," the incremental cost of applying section 504 to new rapid rail vehicles is zero.

The regulation requires that sufficient existing rapid rail vehicles be retrofitted so that at least one car per train be accessible in five years. All current rapid rail vehicles are now accessible to the handicapped, with the exception of 539 cars in Chicago, which will require removal of a post in the middle of the doorway. The total cost of retrofitting all of these cars is $10.8 million in 1977 dollars. Assuming that retrofit of one-third of these cars will provide accessibility on at least one car per train, the total capital cost is $3.6 million in 1977 dollars, or $0.7 million* per year over the five-year period mandated for achieving accessibility.*

Light Rail. The proposed regulation requires that all new light rail vehicles purchased after October 1, 1979, be accessible to all handicapped individuals. In addition, sufficient existing vehicles must be made accessible so that approximately one-half of the total fleet is accessible in ten years.

It is estimated that 324 lifts would be required on new vehicles; and 664 lifts on existing vehicles would make all such vehicles accessible (see Table 13 for city-by-city breakdown). The total capital cost of installation of lifts on all new and existing vehicles would be $12.7 million in 1977 dollars, or $1.27 million* per year over the ten-year period mandated for achieving accessibility.

*Annual averages were calculated by simply dividing the total by the number of years to achieve program accessibility. Actual annual costs would be lower or higher in many cases, and thus the annual averages are not meant to be predictive of the cost in any given year.

Table 13

Estimated Number of Lifts for All Rail Vehicles

	LIFTS			
	Light		Commuter[2]	Total
	Retrofit	New	Retrofit	
New York	-	-	380	380
Chicago	-	-	943	943
Philadelphia	248	-	415	663
Boston	229	-	195	424
PATH	-	-	-	-
PATCO	-	-	-	-
Cleveland	57[1]	-	-	57
Connecticut	-	-	-	-
Pittsburgh	30	177	-	207
New Jersey	-	-	150	150
San Francisco	100	100	-	200
Other Commuter Rail	-	-	201	201
Washington[2]	-	-	-	-
Honolulu	-	-	-	-
Atlanta	-	-	-	-
Miami	-	-	-	-
Baltimore	-	-	-	-
Buffalo	-	47	-	47
	664	324	2284	3272

1 Station platform lifts
2 Assuming all step entry vehicles have lifts

Commuter Rail. The proposed regulation requires that all new vehicles purchased after October 1, 1979, be accessible to all handicapped individuals. In addition, sufficient existing vehicles must be retrofitted for accessibility to assure that at least one car per train is accessible within five years. For purposes of costing, it was assumed that retrofit of one-third of existing vehicles would accomplish this objective.

It is estimated that an average of 75 new commuter rail cars will be purchased each year over the next 10 years. Assuming a lift cost of $15,000 per car, the total capital cost for new vehicles is $11.2 million in 1977 dollars, or $1.12 million* per year for the ten-year period (this annual capital cost will continue beyond the tenth year if the assumed rate of purchase continues). The total capital cost of retrofitting one-third of existing commuter rail vehicles is $23.1 million in 1977 dollars, or $4.6 million* per year over the five-year period mandated for retrofit.

3. *Operating Costs—Facilities and Vehicles.*. Rail system operating costs will increase as a result of accessibility measures taken to meet the requirements of section 504. These increases will result from insurance and claim costs, maintenance, decreased capacity per vehicle, added power requirements for equipment, and overhead. Maintenance and power costs are expected to produce the most significant operating costs. Most other items are speculative, and may not be offset by other factors, such as reduced dwell time to board and unboard handicapped passengers.

Estimated power and maintenance costs for rail systems made accessible under the proposed regulations are provided in Table 14. Total elevator operating costs are projected at approximately $27 million in 1977 dollars per year, while vehicle lift operating costs are projected at $0.5 million per year.

*Annual averages were calculated by simply dividing the total by the number of years to achieve program accessibility. Actual annual costs would be lower or higher in many cases, and thus the annual averages are not meant to be predictive of the cost in any given year.

Table 14

Rail Elevator and Lift Operating Costs
Under Proposed Section 504 Regulations
(thousands of 1977 dollars)

	POWER	MAINTENANCE	TOTAL
Cost per elevator per year[1]	$ 5.832	$ 1.440	$ 7.272
Cost per lift per year[2]	-	.285	.285
ELEVATORS[3]			
Commuter Rail (1577 units)	9,197.	2,271	11,468
Light Rail (109 units)	636	157	793
Rapid Rail (2024 units)	11,804	2,915	14,719
LIFTS			
Commuter Rail (754 units)[3]		215	215
Light Rail (988 units)		282	282
TOTALS	$21,637	$5,840	$27,447

1 Based on initial industry experience and usage rates.

2 Assuming a 15% out of service ratio (worse than most vehicle components) requires 1 mechanic per 130 lifts. At $37,000 maintenance expense per mechanic (including materials and fringe benefits per Chicago 1977 records), $\frac{\$37,000}{130} = \$285$.

3 Assumes accessibility of one-third of vehicles. See Tables 12 and 13.

TRANSIT BUS ACCESSIBILITY

The proposed regulations establish accessibility requirements for buses which are purchased with federal assistance. On September 23, 1977, the Secretary of Transportation mandated that all new buses acquired with UMTA assistance, advertised for bid after September 30, 1979, meet the accessibility specifications of "Transbus" (42 FR 48339, 9/30/77). These specifications include a bus floor height of not more than 22 inches, capable of kneeling to 18 inches above the ground, and a ramp for boarding. The proposed section 504 regulation incorporates the Secretary's Transbus decision for all federally assisted bus purchases advertised for bid after September 30, 1979. With respect to the interim period, from the effective date of the proposed regulation until the Transbus decision becomes operative, the Department of Health, Education, and Welfare has required in its section 504 implementation regulations for other federal agencies that:

> The Department of Transportation may defer the effective date for requiring all new buses to be accessible if it concludes on the basis of its section 504 rulemaking process that it is not feasible to require compliance on the effective date of its regulation: *Provided*, that comparable, accessible services are available to handicapped persons in the interim and that the date is not deferred later than October 1, 1979. Federal Register, Vol. 43, No. 9, Friday, January 13, 1978, § 85.58.

The Department of Transportation will make a judgment as to this requirement for the interim period prior to Transbus following analysis of public comments received during the rulemaking. The estimated capital cost of purchasing new accessible buses during this period is $32 million, at an estimated operating cost of $27.4 million per year. The total estimated capital cost of "comparable accessible services" is $30 million, at an operating cost of $33.4 million per year. These estimates are in 1977 dollars.

The estimated costs of purchasing accessible buses and providing comparable accessible services are discussed in more detail below.

Purchase of Accessible Buses. Prior to the availability of Transbus, buses must be equipped with wheelchair lifts if they are to be accessible. It is estimated that the additional cost of a lift for a new bus is $8,000. Transit agencies on a national scale typically purchase 4,000 buses per year. Assuming that 4,000 buses will be purchased during the interim period prior to Transbus (i.e., an estimated one-year interim period), the additional capital cost of accessibility will be $32 million.

Additional operating costs will result from required maintenance, road calls, increased fuel consumption, tire wear, and insurance liability. The California Department of Transportation has estimated that total operating costs will increase by 2 percent as a result of lift operations.[10] The annual operating cost per bus without a lift is $60,000. Again, assuming the purchase of 4,000 buses prior to Transbus, operating costs would increase by an estimated $4.8 million per year, given the California estimates.

The firm of Booz, Allen & Hamilton, in a report prepared for UMTA, has reported that operating costs have increased by 20.8 percent for full-sized buses equipped with handicapped lift systems. This figure is based on current operational experience in St. Louis and San Diego with the "first buys" of lift-equipped standard-size buses tested over the recent winter. A cost breakdown is provided in Table 15. Future operating costs are expected to be somewhat less as mechanical problems are solved and operating adjustments made.

TABLE 15.— *Incremental operating costs for transit buses equipped with handicapped lifts*

	Cents per mile
Maintenance	1.95
Road calls	2.40
Fuel	.88
Tires	.04
Insurance liability	(1)
Total	5.27

[1] Unknown.

Current production bus maintenance, fuel, and tire operating cost (1976 dollars)—25.35¢ per mile.

Percentage increase in operating costs from lift equipped buses—20.8 pct.

Assuming current operating costs to be $60,000 per bus, with an interim period purchase of 4,000 buses, operating costs would increase under the above estimate to $50.0 million per year.

For purposes of summarizing total bus costs, an average of the Caltrans and Booz, Allen & Hamilton estimates was applied.

Comparable Accessible Services. Should non-accessible buses be purchased during the interim perod prior to Transbus, the HEW regulation requires that purchasing transit operators provide services comparable to services provided by the full-size buses had they been accessible. Assuming 4,000 new bus purchases during the interim, operators would be required to provide special services comparable to what these 4,000 buses would provide, if accessible.

One possible definition of "comparable accessible services" could include those services with equivalent origin-destination range and flexibility, equivalent trip decision time, equivalent travel time, and no greater fare. It is extremely difficult to estimate how many or what type of special service vehicles and service operations will be required in individual cities to achieve these objectives. A complete city survey of anticipated full-size bus purchases during the interim period, as well as other unique characteristics, would be required to predict comparable service costs under this as well as other definitions. Such a survey is beyond the scope of this impact statement.

The California Department of Transportation has estimated in general that to provide equivalent accessibility for the elderly and handicapped with a segregated special service, one special vehicle (van, small bus, etc.) would be required for every six full-size buses. This ratio is based on a comparison of special vehicle seat space versus full-size bus set space, given the assumption that handicapped persons will use accessible bus service in the same proportion as the general population. Applying the ratio to the anticipated nationwide purchase of 4,000 buses during the interim period, some 667 special vehicles would be required to provide the required degree of special service at any given time. Since full-size bus life is generally around 12–15 years, while special vehicle life is about 5 years, an estimated 2,000 special vehicles would be required in order to provide comparable services, if they were required over the life cycle of the full-size bus. Assuming a $15,000 cost per vehicle, the total capital cost of such a requirement would be $30 million, at an annual capital cost over 15 years of $2 million. If the comparable services were required for only six years, the total capital cost would be approximately $10 million.

The California Department of Transportation estimates that the operating cost of each special vehicle will average $50,000 per year. Assuming that 667 vehicles will be in operation during any given year, the estimated annual operating costs of comparable services will be $33.4 million.

Overall Fleet Accessibility. In addition to mandating future Transbus purchases, as well as detailing accessibility requirements during the interim period prior to Transbus, the proposed regulation requires that transit operators make one-half of their bus fleets accessible within six years. On the average, the full bus fleet turns over approximately every 12 years simply on the basis of normal vehicle retirement. Operators could likely meet the six-year requirement simply through normal turnover and replacement purchases of Transbus.

There may be a few cases, however, where transit operators have recently made large fleet purchases. These op-

[10] See footnotes at end of document.

erators would be unable to replace one-half of their fleet in six years through normal retirement, and would likely have to retrofit existing buses. Little data is available to determine how many operators would face this situation. However, we estimate that a total of 2,000 buses nationally will require retrofit within the six-year period. At a cost of $10,000 per lift, the total estimated capital cost is $20 million in 1977 dollars, or $3.3 million* per year over the six-year period. Additional operating costs will range from $2.4 million per year under the Caltrans estimate to $25.0 million per year under the Booz, Allen & Hamilton estimate. For summary purposes, the average of these two estimates, totalling $13.7 million, was applied.

One regulatory alternative considered but not adopted is to require that transit operators retrofit their entire existing bus fleets to make them accessible to the handicapped. The estimated $460 million cost in 1977 dollars of such a requirement (discussed below), particularly in light of anticipated vehicle replacement cycles and provision of handicapped services through new accessible buses or special services, was found unreasonable and not required by section 504 and HEW guidelines.

The entire urban bus fleet numbers somewhere around 48,000 buses. An estimated 28,400 of these vehicles have been purchased with UMTA funds. The cost of retrofitting a bus with a lift is $10,000 (the basic difference from the $8,000 cost of equipping a new bus with a lift is the retrofit kit). The total capital cost of retrofitting UMTA-purchased buses would be $284 million. The cost of retrofitting all buses would be $480 million. Both estimates are in 1977 dollars.

Additional operating costs resulting from retrofit of UMTA-funded buses would range from $34.1 million per year under the Caltrans estimate to $358 million per year under the Booz, Allen & Hamilton estimate. Additional operating costs of retrofitting the entire urban fleet would range from $57.6 million to $599 million per year, respectively.

Paratransit. The proposed regulation requires that each paratransit system be operated so that, when viewed in its entirety, it is accessible to handicapped persons. New paratransit vehicles shall be accessible unless sufficient existing vehicles are accessible to provide the same level of handicap service as is provided to non-handicapped persons. Some additional costs may be incurred as a result of this requirement. However, these costs will depend on the current accessibility status of each local paratransit system. Absent a complete survey of local systems, which is beyond the scope of this impact statement, the total cost of the proposed requirement cannot be determined. The Department of Transportation welcomes comments as to the potential incremental costs of this section.

Interim Accessible Transportation. The proposed regulation requires that each recipient who cannot achieve program accessibility in three years must: (1) determine, in cooperation with the MPO, whether other accessible modes of transportation are available; and (2) propose, document, and ensure the provision of supplemental service where necessary to assure that service levels provided are reasonable. The costs of additional services which might be required will vary considerably from area to area. As with paratransit services, these costs are difficult to estimate absent further information on local needs and service plans. Such information will be detailed in local transition plans required under the proposed regulation. In the meantime, DOT welcomes comments on the potential cost of this section.

VI. Program Accessibility—The Federal Highway Administration

The proposed regulations require that (a) all new highway rest area facilities constructed with federal aid meet standards set by ANSI; (b) all pedestrian crosswalks constructed with federal assistance have curb cuts or ramps; (c) all pedestrian over- and under-passes have gradients no steeper than 10 percent; and (d) all existing rest area facilities be made accessible within three years.

These requirements are expected to result in little incremental cost. FHWA is already constructing new rest area facilities to ANSI standards, and essentially all existing rest areas built with federal aid have been brought up to standards. Curb cuts are currently required by section 228 of the Federal-Aid Highway Act of 1973. FHWA believes that there will not be any significant cost increment to constructing all new pedestrian under- and over-passes at gradients of ten percent or less.

VII. Administrative and Compliance Costs

The proposed regulations required that recipients conduct specified administrative and procedural tasks such as self-evaluations of policies and practices relating to the handicapped. All recipients will have to undertake some additional planning activities to achieve program accessibility for the handicapped. In addition, the regulations require that recipients of aid from FRA and UMTA, who must make structural changes to existing facilities, prepare transition plans detailing steps needed to achieve accessibility, with timetables and the amount and sources of funding. DOT anticipates that most if not all of these handicapped planning activities will be carried out through the established planning process, using existing staff and funding. The proposed regulation should thus result in minimal additional planning costs to recipients.

Some costs will be incurred by DOT in implementing the compliance procedures detailed in Subpart E of the proposed regulation, including the processing of complaints, investigations, and other procedural matters. Based on experience with compliance procedures under other civil rights laws, these costs are expected to be minimal.

*Annual averages were calculated by simply dividing the total by the number of years to achieve program accessibility. Actual annual costs would be lower or higher in many cases, and thus the annual averages are not meant to be predictive of the cost in any given year.

APPENDIX A

PROJECTED COST OF MODIFYING
SELECTED EXISTING STATIONS
TO ACCOMMODATE HANDICAPPED PASSENGERS

IMPROVEMENTS NEEDED TO BE BARRIER FREE	STATION (RR) SIZE LOCATION SPOKANE, WA (BN) L BG	KANSAS CITY, MO (UN) L AG	BUFFALO, NY (CR) L BG	NEW ORLEANS, LA (UN) L ATG	BLOOMINGTON, IL (ICG) M BG	ALEXANDRIA, VA (RFP) M ATG	OAKLAND, CA (SP) M ATG	DALLAS, TX (MP) M BG	CANTON, OH (NJR) S ATG	RHINECLIFF, NY (CR) S AG	SYRACUSE, NY (CR) S ATG	ROME, NY (CR) S BG
	COST ($ THOUSANDS)											
PASSENGER ARRIVAL - ADEQUATE PLACE $300	ok	ok	ok	ok	ok	ok	ok	ok	ok	0.3	ok	ok
PARKING - SPECIAL STALL $1000	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
PARKING - RAMPED TO BLDG. $500	ok	ok	ok	ok	ok	ok	ok	ok	ok	0.6	ok	ok
WALKS - CURB CUTS $300 EACH	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	ok	0.6	0.6	0.6
WALKS - LEVEL PLATFORM AT DOORS $2000	ok	ok	ok	ok	ok	4.0	ok	ok	ok	4.0	ok	4.0
DOORS - 32" WIDE CLEAR OPENING $500	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	ok	1.0	1.0	1.0
DOORS - KICKPLATES 16" HIGH $100	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
DOORS - HANDLES MAX. 42" HGT. $50	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
DOORS - VISION PANELS 36" MAX. ABOVE FLOOR $200	ok	ok	ok	ok	0.4	ok	0.4	0.4	ok	0.4	ok	0.4
STAIRS - NON-SLIP TREADS $500	0.5	0.5	0.5	ok	0.5	0.5	ok	0.5	0.5	0.5	ok	0.5
STAIRS - HANDRAILS 32" HIGH, 18" BEY TOP & BTM STEPS $1000	1.0	1.0	1.0	ok	1.0	1.0	ok	1.0	1.0	1.0	ok	1.0
STAIRS - WELL ILLUMINATED $500	ok	ok	ok	ok	ok	ok	ok	ok	ok	0.5	ok	0.5
ELEVATORS - COMPLETE $60,000 EACH	# Plat-form 60.0	# Plat-form 60.0	# Plat-form 60.0	ok	ok	ok	ok	ok	# Plat-form 120.0	# Plat-form 60.0	ok	# Plat-form 60.0
TOILET FACILITIES - MEN $5000	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	ok	5.0	5.0	5.0
TOILET FACILITIES - WOMEN $5000	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	ok	5.0	5.0	5.0
DRINKING FOUNTAIN COMPLETE $500	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	ok	0.5	0.5	0.5
PUBLIC TELEPHONE $100	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	ok	0.1	0.1	0.1
CONTROLS - ALARMS, SWITCHES, 48" OFF FLOOR $5000	ok	ok	ok	ok	ok	ok	ok	ok	ok	5.0	ok	ok
IDENTIFICATION & WARNINGS - RAISED, ADHESIVE $1000	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
TOTALS FOR EACH STATION	76.0	76.0	76.0	14.5	16.4	20.0	14.9	16.4	123.8	86.8	14.5	80.9
AVERAGE FOR EACH SIZE (TOTALS OF EACH 4:4)	69.625	Includes Average of 3 Stations which require one elevator each		15.625 without elevator * 60.0 for any station which requires one elevator					76.5 Includes average of 3 stations which require four elevators		16.5 without elevator	

NOTES: (RR) = Owning Railroad Location = BG is Below Grade, AG is Above Grade,
ATG is at Grade (Entrances are Below, At, Above)
(Track Grade)
Size = L is Large, M is Medium, S is Small

APPENDIX B

Estimated cost of barrier-free requirements for stations being designed or under construction:

LOCATION	Station Type	COST HandicapAid	Access Sta.-Platform	COST Access Means	TOTAL Additional Cost
Altoona, PA	50-C	25,935.00	Level	-	$ 25,935.00
Auburn, WA	50-C	25,935.00	Level	-	25,935.00
Charleston, WV	50-C	25,935.00	Level	-	25,935.00
Dearborn, MI	50-C	25,935.00	Ramp	3,000.00	28,935.00
El Paso, TX	50-C	24,435.00	Level	-	24,435.00
Little Rock, AR	50-C	25,935.00	Level	-	25,935.00
Memphis, TN	150-B	27,635.00	Elevator	50,000.00	77,635.00
Miami, FL	300-A	79,000.00	Level	-	79,000.00
Rochester, NY	150-B	27,635.00	Level	-	27,635.00
San Antonio, TX	150-B	25,835.00	Level	-	25,835.00
Schenectady, NY	50-C	25,935.00	Elevator	50,000.00	75,935.00
St. Louis, MO	300-A	81,500.00	Level	-	81,500.00
St. Paul, MN	300-A	81,500.00	Level	-	81,500.00
Tampa, FL	50-C	24,435.00	Level	-	24,435.00

Footnotes

1. *Further Action Needed to Make All Public Buildings Accessible to the Physically Handicapped*, General Accounting Office, FPCD-75-166, July 15, 1976, p. 88.

2. Discrimination Against Handicapped Persons: The Costs, Benefits, and Economic Impact of Implementing Section 504 of the Rehabilitation Act of 1973 Covering Recipients of HEW Financial Assistance, p. 18.

3. See *Airport Activity Statistics of Certificated Route Air Carriers*, 1976, Civil Aeronautics Board.

4. See *The Transportation Handicapped Population, Definition & Counts*, U.S. Department of Transportation, Urban Mass Transportation Administration, August 1976, Vol. 1.

5. See *Access Travel: Airports, A Guide to Accessibility of Terminals*, U.S. Department of Transportation, Federal Aviation Administration, October 1977.

6. See *The Transportation Handicapped Population, Definition & Counts*, DOT Urban Mass Transportation Administration, August 1976.

7. Ibid, p. 39.

8. *Transit Fact Book*, 1976-77 Edition, American Public Transit Association, p. 27.

9. FEDERAL REGISTER, Vol. 41, No. 85, Friday, April 30, 1976, p. 18240.

10. See "Agreement Between Department of Transportation and Department of Rehabilitation, California", together with cost estimates for implementing this agreement.

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federal register

THURSDAY, JUNE 8, 1978
PART VI

COPYRIGHT ROYALTY TRIBUNAL

■

TERMS AND RATIO OF ROYALTY PAYMENTS

[1410-01]

Title 37—Patents, Trademarks and Copyrights

CHAPTER III—COPYRIGHT ROYALTY TRIBUNAL

PART 304—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING

Terms and Rates of Royalty Payments

AGENCY: Copyright Royalty Tribunal (CRT).

ACTION: Final rule.

SUMMARY: Copyright Royalty Tribunal adopts rule establishing the terms and rates of royalty payments for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works by public broadcasting entities as required by 17 U.S.C. 118(b). The rule also establishes procedures by which copyright owners may receive reasonable notice of the use of their works, and for the keeping by public broadcasting entities of records of such use.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 118(b) provides that the Copyright Royalty Tribunal (CRT) shall publish a notice in the FEDERAL REGISTER of the initiation of proceedings for the determination of reasonable terms and rates of royalty payments for the use of published nondramatic musical works and published pictorial, graphic and sculptural works by public broadcasting entities. It is further provided that such rates and terms shall be adopted and published in the FEDERAL REGISTER not later than six months after the date of the notice. The required notice was published in the FEDERAL REGISTER of December 8, 1977 (42 FR 62019).

17 U.S.C. 118(b) also requires the CRT to adopt regulations by which copyright owners may receive reasonable notice of the use of their works and for the keeping by public broadcasting entities of records of such uses. Notice of the proposed rulemaking was published in the FEDERAL REGISTER of December 8, 1977 (42 FR 62019).

The CRT conducted public hearings to receive testimony on the establishment of rates and terms of royalty payments, and the regulations required by 17 U.S.C. 118(b), on March 7, 8, 9, 13, 14, 15, and April 6, 1978. In addition to the material presented at these hearings, the CRT received additional written statements and documentary evidence submitted in accordance with the rules of the CRT. The CRT met in public session on May 4 and 31, and June 5 and 6 to consider these matters. The schedule of rates and terms of royalty payments and the regulations were adopted on June 6, 1978.

17 U.S.C. 803(b) requires that every "final determination" of the CRT shall be published in the FEDERAL REGISTER and shall state "in detail the criteria that the Tribunal determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination."

Before adopting the schedule of rates, the CRT carefully reviewed the legislative history of 17 U.S.C. 118. The CRT found the congressional committee reports (S.R. 94-473 and H.R. 1476) to be particularly useful. The Senate report states that section 118 "requires the payment of copyright royalties reflecting the fair value of the materials used." The House report states that Congress did "not intend that owners of copyrighted material be required to subsidize public broadcasting."

The CRT is required by the legislative history of section 118 to consider the "general public interest in encouraging the growth and development of public broadcasting." The record of this proceeding contains considerable data concerning the size and nature of public broadcasting audiences, the sources of public broadcasting funding, public broadcasting program practices, and the operational structure of public broadcasting. The CRT examined each of these factors in formulating the schedule of rates. The CRT is satisfied that the royalty payments required by the schedule will not have any significant impact upon the ability of noncommercial broadcasting to perform its functions.

The CRT has been impressed by the nature and quality of public broadcasting programming. Public broadcasting affords much of the American public its only opportunity to watch on television live performances of opera or ballet, regular presentations of quality drama, and direct live coverage of important public proceedings. The desire of millions of Americans to view such programs is not being adequately served by commercial broadcasting or cable television.

While aware of the special contribution of public broadcasting to American life, the CRT has also been mandated by the Congress to consider the public interest in "encouragement of musical and artistic creation." Many authors, composers, other artists and copyright owners have made generous contributions of talent and funds to public broadcasting. Both the Copyright Act and equity require that they now receive reasonable compensation for the use of their works by public broadcasting.

The CRT, after study of section 118 and its legislative history, has concluded that it has wide discretion in determining the structure of the rate schedule, and providing for different treatment of copyright owners or public broadcasting entities on the basis of reasonable distinctions rooted in relevant considerations. The CRT has also determined that it has the authority, which it has chosen to exercise, to establish separate schedules of rates for the repertory of certain performing rights licensing associations.

The CRT has adopted the schedule of rates and terms after examination of the justification for proposed rates and terms advanced during the proceedings of the CRT. Offers made by representatives of copyright owners and public broadcasting entities in an effort to execute the voluntary agreements authorized by 17 U.S.C. 118(b)(2) were excluded from consideration. The CRT has determined that the consideration of offers made for the purpose of obtaining voluntary agreements could 0Pi142°frustrate the intent of Congress, reflected in several sections of the copyright statute (17 U.S.C. 111(d)(5)(A), 17 U.S.C. 116(c)(2), and 17 U.S.C. 118(e)(1)), to encourage voluntary agreements.

Section 118(b)(3) provides that the CRT "may consider the rates for comparable circumstances under voluntary license agreements negotiated." Several voluntary license agreements have been executed and filed in the Copyright Office. As provided in 118(b)(2) such agreements shall be given effect in lieu of any determination by the CRT if the agreements are filed with the Copyright Office within thirty days of execution.

The CRT has examined the voluntary agreements which have been filed with the Copyright Office as to rates and terms for performing and recording rights in musical works. The CRT found that generally the voluntary agreements provided limited guidance in the disposition of the more important issues presented in this proceeding. Concerning performing rights in musical works, the CRT found that the agreement between Broadcast Music, Inc. (BMI) and Public Broadcasting Service and National Public Radio (NPR) neither in its structure or rate of royalty payment was of assistance to the CRT in establishing a royalty schedule for the repertory of the American Society of Composers, Authors and Publishers (ASCAP). The BMI agreement is subject to an adjustment related to the ratio of perfor-

mances of BMI music to total performances of copyrighted music. That ratio is to be applied to the total fees paid for music and, if appropriate, an adjustment is to be made in the fees paid to BMI. It would be the equivalent of traveling in a circle for the CRT to now utilize the BMI agreement as the basis for establishing a reasonable royalty schedule for the use of ASCAP music.

The record of this proceeding indicates that public broadcasting and SESAC did not reach agreement on the amount of the payment in their voluntary license agreement by employing the same formula for establishing a reasonable payment. The SESAC payment, however, is of value as a guide to the reasonableness of the payment to be made to ASCAP under the CRT schedule. SESAC's annual royalty collections are estimated to be between $3 and $4 million, compared to $100 million by ASCAP. The SESAC payment of slightly under $50,000 for performance rights in music can thus be compared to the estimated total payment under this schedule for the use of ASCAP repertory.

In the determination of reasonable royalty payments for the performance of ASCAP musical compositions, the CRT examined a number of formulas. These included an annual flat payment, a fee determined on the basis of market population or size of audience, formulas related to the usage of music, and formulas geared to copyright payments made by commercial broadcasters. In examining possible formulas, the CRT has considered copyright licensing practices by United States commercial broadcasting and foreign public broadcasting systems.

The CRT finds that there is no one formula that provides the ideal solution, especially when the determination must be made within the framework of a statutory compulsory license. Any formula that was chosen would be subject to certain limitations in the absence of appropriate qualifications.

At the outset of this proceeding, public broadcasting recommended that the payment for ASCAP music be on a per composition basis. ASCAP testified that such an approach was not in accord with traditional practice for the licensing of performing rights in music. Public broadcasting subsequently withdrew its per composition proposal. The CRT has determined that a blanket license is the most suitable method for licensing public broadcasting to perform musical works.

The CRT has determined that a payment of $1,250,000 per year is a reasonable royalty fee for the performance by PBS, NPR and their stations of ASCAP music. This payment was adopted on the basis of the entire record of this proceeding and the application of the statutory criteria. The amount of the total payment was not determined by the application of a particular formula, since the CRT had concluded that all formulas examined by it suffered from inherent limitations. The CRT notes, however, that the amount of the payment is approximately what would have been produced by the application of several formulas explored by this agency during its deliberations.

The CRT has adopted this schedule on the basis of the record made in this proceeding. When this matter again comes before the CRT, the CRT will have the benefit of several years experience with this schedule. The CRT does not intend that the adoption of this schedule should preclude active consideration of alternative approaches in a future proceeding.

In addition to establishing terms and rates of royalty payments for National Public Radio and its local stations, the CRT was required to establish rates and terms for several hundred other noncommercial radio stations, the majority of which are licensed to colleges, universities or other nonprofit educational institutions. The CRT has adopted separate schedules of rates for the stations licensed to colleges or other educational institutions, and for those not affiliated either with NPR or colleges.

The record of this proceeding reflects that BMI and SESAC have reached agreement with national representatives of colleges and universities concerning the performance of copyrighted musical compositions by such institutions, including certain noncommercial radio stations. However, no such license agreements have been filed in the Copyright Office, and the time period for filing some agreements may have expired. It is clear that Congress sought to encourage voluntary license agreements. Therefore, to implement this public policy and to remove technical bars to the implementation of such agreements, the CRT provides in this Rule that the rates and terms of such agreements shall apply in lieu of the rates and terms adopted by the CRT. A similar provision applies to any agreements between copyright owners and unaffiliated radio stations.

In establishing the schedule of rates for the performance of copyrighted musical compositions by college and the unaffiliated stations, the CRT in effect was required to establish a relationship among the several performing rights societies as to the value of their repertory and the use of their music. The public broadcasting proceeding was not an appropriate occasion for making such judgments. Accordingly, the ratio resulting from this schedule of rates is not intended in any respect to establish a precedent for any other rate proceeding, including any future proceeding pursuant to 17 U.S.C. 118.

The schedule of rates and terms does not apply to carrier-current stations. The jurisdiction of the CRT is limited to a "public broadcasting entity" as defined in section 397 of title 47. The CRT has not been satisfied that it has jurisdiction to establish rates for carrier-current stations.

The Harry Fox Office was authorized by several hundred music publishers to act on behalf of such publishers in negotiations with PBS and NPR seeking agreement on the licensing of recording rights to certain musical works. A license agreement was executed and filed in the Copyright Office according to 17 U.S.C. 118(b)(2). However, according to the record before the CRT some 17,000 music publishers have not adhered to the license agreement.

The CRT has reviewed the rates and terms of the voluntary agreement and determined that, subject to the jurisdictional limitations of the CRT and the requirements imposed on the CRT by the provisions of section 118, it provides useful guidance to the CRT. The CRT has decided that the copyright owners of musical works which are recorded under the statutory compulsory license by local stations and regional networks of PBS and NPR and other public broadcasting entities shall be compensated for such uses and receive reasonable notice of such uses, as contemplated by the provisions of 17 U.S.C. 118.

The schedule of royalty rates in the Harry Fox agreement applies only to national programs, but the license extends to recordings for all PBS and NPR stations. The testimony by both Harry Fox and PBS witnesses reflects that the royalty rate was determined after negotiations "at great length" and was achieved as part of a general understanding involving issues in addition to the rate of compensation. The record also indicates that there was considerable bargaining over the amount of the recording fees. With this background, the CRT determined that it would be appropriate to retain the Harry Fox rates for recordings of national programs, while establishing a lower rate for all other recordings. The CRT has been persuaded that the royalty rates in the Harry Fox agreement while reasonable as part of an overall settlement were less than could be justified if the rates had been determined solely on the basis of the reasonable value of the copyrighted works recorded.

No voluntary agreements have been executed concerning the use of pictorial, graphic and sculptural works by public broadcasting entities. In addi-

tion, neither past broadcasting practice nor the record of this proceeding provided much useful data for the adoption of a rate schedule by the CRT. Consequently, the payment schedule adopted should not be regarded as a guide to future rate determinations. The current fragmented structure of the visual arts precluded the consideration by the CRT of any form of blanket licensing.

Public broadcasting urged that the CRT require payment and reports of use only for PBS and NPR programs. They argued that local fees would be so low as not to warrant the necessary administrative machinery. The representatives of the visual artists argued that the exemption of local stations and regional networks would exclude payments for at least 30% of public broadcast hours. The CRT has determined that both the Copyright Act and equity require payments for local and regional programs.

The Congress in enacting the Copyright Act has barred any review by CRT of the terms and rates of royalty payments until June 30, 1982, and any change of the schedule adopted in this proceeding until January 1, 1983. The CRT believes that it would be unfair to copyright owners if the schedule did not make some provision for changes in the cost of living. Accordingly, at one year intervals a revised schedule of rates will become effective to reflect the rise in the cost of living, as determined by the Consumer Price Index.

17 U.S.C.(e)(2) requires the Register of Copyrights to submit a report to the Congress on January 3, 1980 advising the Congress concerning voluntary licensing arrangements which have been reached with respect to the use of nondramatic literary works by public broadcast stations. The report is to present legislative or other recommendations, if warranted.

The CRT has determined that it would be appropriate, and perhaps useful to the Congress, if it also on January 3, 1980 presented to the Congress a report of its experience with the operation of section 118. Consequently, the Final Rule provides, after such proceedings as the CRT may determine to conduct, that the CRT shall transmit such a report. The report would not include recommendations or views concerning specific rates and rates of royalty payments since the Congress has determined that such matters shall not be further considered until June 30, 1982.

MINORITY VIEWS OF COMMISSIONERS JAMES AND GARCIA TO SECTION 304.3

We disagree with the opinion reached by the majority in promulgating § 304.3. It is our belief that the record adequately supports a revenue method, not a flat rate. In our opinion the most logical bench mark to establish a rate for Public Broadcasting was to compare it to the established industry practice of commercial broadcasting, where the revenue measure of music has been a negotiated arm's length transaction. The arguments that the revenue proposal would generate too much money for ASCAP is without merit in face of the legislative history. Those most affected by the adoption of this Section are the artists of America.

Accordingly, pursuant to 17 U.S.C. 118(b)(3), 37 CFR Chapter III is amended as follows:

By adding a new Part 304, to read as follows:

Sec.

304.1 General.
304.2 Definition of public broadcasting entity.
304.3 Performance of ASCAP musical compositions by PBS and NPR and their stations.
304.4 Performance of other musical compositions by PBS and NPR and their stations.
304.5 Performance of musical compositions by public broadcasting entities licensed to colleges or universities.
304.6 Performance of musical compositions by other public broadcasting entities.
304.7 Recording rights, rates, and terms.
304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.
304.9 Unknown copyright owners.
304.10 Cost of living adjustment.
304.11 Notice of restrictions on use of reproductions of transmission programs.
304.12 Amendment of certain regulations.
304.13 Issuance of interpretative regulations.
304.14 Report to Congress.

AUTHORITY: 17 U.S.C. 118(b)(3).

§ 304.1 General.

This Part 304 establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning on the effective date of this Part and ending on December 31, 1982. Upon compliance with 17 U.S.C. 118, and the terms and rates of this Part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(d).

§ 304.2 Definition of public broadcasting entity.

As used in this Part, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(d)(2).

§ 304.3 Performance of ASCAP musical compositions by PBS and NPR and their stations.

(a) Public Broadcasting Service (PBS) and its stations and National Public Radio (NPR) and its stations shall pay the American Society of Composers, Authors, and Publishers (ASCAP) in each calendar year the total sum of $1,250,000 for the performance by PBS, NPR and their stations of copyrighted published nondramatic musical compositions in the repertory of ASCAP. However, for such use from the effective date of this schedule through December 31, 1978, 56 percent of the above sum shall be paid not later than December 31, 1978.

(b) The payment required by paragraph (a) shall be made in two equal payments on July 31 and December 31 of each calendar year.

(c) In the event that in the future an unaffiliated or new radio station becomes a member of NPR, the basic rate described in paragraph (a) hereof shall be increased by the amount ASCAP would have received from said station under § 304.5 and § 304.6 for the balance of the term remaining. In the event a current member of NPR should leave that membership, the basic rate described in paragraph (a) hereof shall be decreased by the amount ASCAP would have received from said station if they had been an unaffiliated station under § 304.5 and § 304.6.

(d) In the event that a station becomes a member or ceases to be a member of PBS, the basic rate described in paragraph (a) shall be increased or decreased by $4,000 for the balance of the term.

(e) Records of use. (1) PBS and NPR shall maintain and quarterly furnish to ASCAP copies of their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs during the preceding quarter (including the title, composer and author, type of use, and manner of performance thereof, in each case to the extent such information is reasonably obtainable by PBS and NPR in connection therewith). No such cue sheets need be furnished prior to October 1, 1978.

(2) PBS and NPR stations shall furnish to ASCAP upon the request of ASCAP a music-use report during one week of each calendar year. No more than 20 percent of the total number of PBS stations, and no more than 20 percent of the total number of NPR stations shall be required to furnish such reports to ASCAP in any one calendar year.

§ 304.4 Performance of other musical compositions by PBS and NPR and their stations.

The following schedule of rates and terms shall apply to the performance by PBS, by NPR, by stations of PBS, and by stations of NPR, of copyrighted published nondramatic musical compositions, other than compositions in the repertory of ASCAP and other

than such compositions subject to the provisions of 17 U.S.C. 118(b)(2).

(a) *Determination of royalty rate.*

For the performance of such a work in a feature presentation of PBS, $100.
For the performance of such a work as background or theme music in a PBS program, $25.
For the performance of such a work in a feature presentation of NPR, $10.
For the performance of such a work as background or theme music in an NPR program, $2.50.
For the performance of such a work in a feature presentation of a station of PBS, $35.
For the performance of such a work as background or theme music in a program of a station of PBS, $10.
For the performance of such a work in a feature presentation of a station of NPR, $5.
For the performance of such a work as background or theme music in a program of a station of NPR, $2.

For the purposes of this schedule series theme music rates shall be double the single program rate for the entire series.

(b) *Payment of royalty rate.* The required royalty rate shall be paid to each copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year. However, the payment of the royalty fees for uses in 1978, subsequent to the effective date of this schedule, need not be made until January 31, 1979.

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that is required by § 304.3(e)(2) to prepare a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

§ 304.5 Performance of musical compositions by public broadcasting entities licensed to colleges or universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by nonprofit radio stations which are licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with NPR.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established by this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by nonprofit radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

For all such compositions in the repertory of ASCAP, $90 annually.
For all such compositions in the repertory of Broadcast Music, Inc. (BMI), $90 annually.
For all such compositions in the repertory of SESAC, Inc., $20 annually.
For the performance of any other such composition, $1.

For performances of the repertory of ASCAP, BMI, and SESAC from the effective date of this schedule through December 31, 1978 a fee of 56% of the above rates shall be paid.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each calendar year. For performances from the effective date of this schedule through December 31, 1978, the required fee shall be paid not later than September 1, 1978. The required fee for the performance of all other musical compositions shall be paid not later than the end of the calendar year in which the work was performed.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, and SESAC upon request a music-use report during one week of each calendar year. ASCAP, BMI, and SESAC each shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 304.6 Performance of musical compositions by other public broadcasting entities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to colleges, universities or other nonprofit educational institutions, and not affiliated with NPR.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and nonprofit radio stations within the scope of this section concerning the performance of copyrighted musical compositions, including performances by nonprofit radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For radio stations with no more than 20 watts transmitter power output:

For all such compositions in the repertory of ASCAP, $180 annually.
For all such compositions in the repertory of BMI, $180 annually.
For all such compositions in the repertory of SESAC, Inc., $40 annually.
For the performance of any other such composition, $1.

For performances of the repertory of ASCAP, BMI, and SESAC from the effective date of this schedule through December 31, 1978, a fee of 56 percent of the above rates shall be paid.

(2) For radio stations with more than 20 watts transmitter power output:

For all such compositions in the repertory of ASCAP, $450 annually.
For all such compositions in the repertory of BMI, $450 annually.
For all such compositions in the repertory of SESAC, Inc., $100 annually.
For the performance of any other such composition, $1.

For performances of the repertory of ASCAP, BMI, and SESAC from the effective date of this schedule through December 31, 1978, a fee of 56 percent of the above rates shall be paid.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than January 31 of each calendar year. For performances from the effective date of this schedule through December 31, 1978, the required fee shall be paid not later than September 1, 1978. The required fee for the performance of all other musical compositions shall be paid not later than the end of the calendar year in which the work was performed.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, and SESAC upon request a music-use report during one week of each calendar year. ASCAP, BMI, and SESAC each shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 304.7 Recording rights, rates and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduc-

tion, and distribution of copies and phonorecords of public broadcasting programs containing such recorded nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities, as defined in 17 U.S.C. 118(g). The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.*

(1) For uses described in subsection (a) of a musical work in a PBS distributed program:

Feature	$50.00
Feature (concert) (per minute)	15.00
Background	25.00
Theme:	
Single program or first series program	25.00
Other series program	10.00

(2) For such use of a musical work in a NPR produced program. For purposes of this schedule "National Public Radio" programs includes all programs produced in whole or in part by NPR, or by any NPR station or other nonprofit institution or organization under contract with NPR:

Feature	$10.00
Feature (concert) (per ½-hour)	15.00
Background and theme	2.50

(3) For such uses other than in a PBS distributed television program:

Feature	$20.00
Feature (concert) (per minute)	5.00
Background	10.00
Theme:	
Single program or first series program	10.00
Other series program	5.00

(4) For such uses other than in a NPR produced radio program:

Feature	$5.00
Feature (concert) (per ½-hour)	7.50
Background and theme	2.00

For the purposes of this schedule, a "concert" feature shall be deemed to be the nondramatic presentation of all or part of a symphony, concerto, or other series work originally written for concert or opera performance.

(5) The schedule of fees covers broadcast use for a period of three years following the first broadcast. Succeeding broadcast use periods will require the following additional payment: second three-year period—50 percent; each three-year period thereafter—25 percent; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover broadcast use during all subsequent broadcast use periods without limitation. Such succeeding uses which are subsequent to December 31, 1982 shall be subject to the rates established in this schedule.

(c) *Payment of royalty rates.* PBS, NPR, or other public broadcasting entity shall pay the required royalty fees to each copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year. *Provided, however,* That payment of fees for uses in 1978, subsequent to the effective date of this schedule, need not be made until January 31, 1979.

(d) *Records of use.* (1) Maintenance of cue sheets, PBS and its stations, NPR and its stations, or other public broadcasting entity shall maintain and furnish to copyright owners whose musical works are recorded pursuant to this schedule copies of their standard cue sheets listing the recording of the musical works of such copyright owners. Such cue sheets shall be furnished not later than July 31 of each calendar year for recordings during the first six months of the calendar year, and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. No such furnishing of cue sheets shall be required before January 31, 1979.

(2) Content of cue sheets. Such cue sheets shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For concert music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

(e) *Filing of use reports with the Copyright Royalty Tribunal* (CRT)—(1) *Deposit of cue sheets.* PBS and its stations, NPR and its stations, or other broadcasting entity shall deposit with the CRT copies of their standard music cue sheets listing the recording pursuant to this schedule of the musical works of copyright owners. Such cue sheets shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year, and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. No such deposit of cue sheets shall be required before January 31, 1979.

(2) *Content of cue sheets.* Such cue sheets shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For concert music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

§ 304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

(a) *Scope.* This section establishes rates and terms for the use of published pictorial, graphic, and sculptural works by public broadcasting entities for the activities described in 17 U.S.C. 118. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

For such uses in a PBS distributed program:
For a featured display of a work, $30.
For background and montage display, $15.
For use of a work for program identification or for thematic use, $60.
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule, $20.
For such uses in other than PBS distributed programs:
For a featured display of a work, $20.
For background and montage display, $10.
For use of a work for program identification or for thematic use, $40.
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule, $10.

(2) "Featured display" for purposes of this schedule means a full-screen or substantially full-screen display. Any display less than full-screen or substantially full-screen is deemed to be a "background or montage display".

(3) "Thematic use" is the utilization of the work of one or more artists where the works constitute the central theme of the program or convey a story line.

(4) "Display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced" means a transparency or other reproduction of an underlying work of fine arts.

(c) *Payment of royalty rate.* PBS or other public broadcasting entity shall pay the required royalty fees to each copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year. *Provided, however,* That payment of fees for uses in 1978, subsequent to the effective date of this schedule, need not be made until January 31, 1979.

(d) *Records of use.* (1) PBS and its stations or other public broadcasting entity shall maintain and furnish either to copyright owners, or to the offices of generally recognized organi-

zations representing the copyright owners of pictorial, graphic, and sculptural works, copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later than July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year. No such furnishing of listings shall be required before January 31, 1979.

(e) *Filing of use reports with the CRT.* (1) PBS and its stations or other public broadcasting entity shall deposit with the CRT copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later that July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year. No such furnishing of listings shall be required before January 31, 1979.

(f) *Terms of use.* (1) The rates of this schedule are for unlimited broadcast use for a period of three years from the date of the first broadcast use of the work under this schedule.

(2) Pursuant to the provisions of 17 U.S.C. 118(f), nothing in this schedule shall be construed to permit, beyond the limits of fair use as provided in 17 U.S.C. 107, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works.

§ 304.9 Unknown copyright owners.

If PBS and its stations, NPR and its stations, or other public broadcasting entity is not aware of or unable to locate a copyright owner who is entitled to receive a royalty payment under this Part they shall retain the required fee in a segregated trust account for a period of three years from the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the CRT, upon request, information concerning fees deposited in trust funds.

§ 304.10 Cost of living adjustment.

(a) On August 1, 1979 the CRT shall publish in the FEDERAL REGISTER a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to the effective date of this schedule of royalty payments to the last Index published prior to August 1, 1979. On each August 1 thereafter the CRT shall publish a notice of the change in the cost of living during the period from the first Index published subsequent to the previous notice, to the last index published prior to August 1 of that year.

(b) On the same date of the notices published pursuant to paragraph (a), the CRT shall publish in the FEDERAL REGISTER a revised schedule of rates which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a). Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates shall become effective thirty days after publication in the FEDERAL REGISTER.

§ 304.11 Notice of restrictions on use of reproductions of transmission programs.

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of no more than seven days from the specified date of transmission, that the reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.

§ 304.12 Amendment of certain regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time amend, modify or repeal regulations in this Part adopted pursuant to 17 U.S.C. 118(b)(3) by which "Copyright owners may receive reasonable notice of the use of their works" and "under which records of such use shall be kept by public broadcasting entities."

§ 304.13 Issuance of interpretative regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time, either on its own motion or the motion of a person having a significant interest in the subject matter, issue such interpretative regulations as may be necessary or useful to the implementation of this Part. Such regulations may not prior to January 1, 1983, alter the schedule of rates and terms of royalty payments established by this Part.

§ 304.14 Report to Congress.

On January 3, 1980 the CRT, after conducting such proceedings as it may deem appropriate, shall transmit a report to the United States Congress making such recommendations concerning 17 U.S.C. 118 that it finds to be in the public interest.

Effective date: This part becomes effective on June 8, 1978.

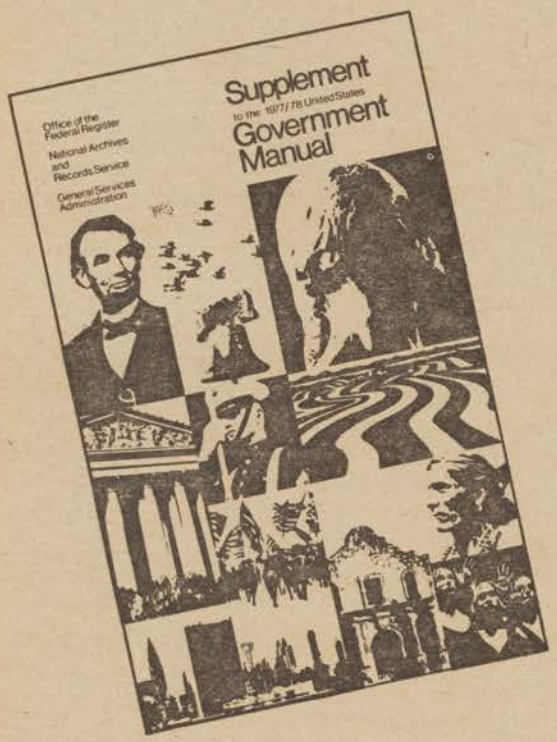
Adopted: June 6, 1978.

THOMAS C. BRENNAN,
Chairman,
Copyright Royalty Tribunal.

[FR Doc. 78-16158 Filed 6-7-78; 12:03 pm]



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