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federal register

THURSDAY, JULY 13, 1978

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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.

NOTE: As of July 3, 1978, documents from the following agencies in the Department of Health, Education, and Welfare are no longer being assigned to the Tuesday/Friday schedule: Alcohol, Drug Abuse and Mental Health Administration (ADAMHA); Center for Disease Control (CDC); Health Resources Administration (HRA); Health Services Administration (HSA); National Institutes of Health (NIH); and Public Health Service (PHS).

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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H.R. 10730 .....Pub. L. 95–316
To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981. (July 10, 1978; 92 Stat. 380) Price: $.50

H.R. 3447 .....Pub. L. 95–317
To amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant. (July 10, 1978; 92 Stat. 382) Price: $.50

H.R. 3755 .....Pub. L. 95–318
To provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes. (July 10, 1978; 92 Stat. 384) Price: $.50

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[3195-01]

Title 3—The President

PROCLAMATION 4578

Captive Nations Week, 1978

By the President of the United States of America

A Proclamation

By a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week of July in each year as Captive Nations Week.

For more than two hundred years our Nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles. In particular, we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 16, 1978, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence, and basic human rights.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of July, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-19566 Filed 7-12-78; 11:07 am]

rules and regulations

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

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

[6820-49]

Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES

PART 465—NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979—(PRIVACY ACT OF 1974)

Implementation of Regulations

AGENCY: National Commission on the International Year of the Child, 1979.

ACTION: Final rule.

SUMMARY: The Commission adopts regulations implementing the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine what systems of records are maintained by the Commission and procedures on how access may be gained for purpose of review, amendment and/or correction of those records.

DATES: Effective July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Benedict J. Latteri, National Commission on the International Year of the Child, c/o GSA Liaison Division, 18th and F Streets NW., Room G 340, Washington, D.C. 20405, 202-456-6672.

SUPPLEMENTARY INFORMATION: On May 31, 1978 (43 FR 23583) the Commission published its proposed regulations implementing the Privacy Act of 1974. No comments were received. The Commission is adopting the proposed regulations with the following changes: (1) The part heading should read as set forth above; (2) in § 465.4, the reference to § 1800.3 has been changed to read § 465.3.

BENEDICT J. LATTERI,
Administrative Officer, IYC.

Sec.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 465.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Commission on the International Year of the Child, 1979 (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 465.2 Definitions.

For the purpose of these regulations:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 465.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Administrative Officer of the Commission to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Administrative Officer of the Commission which states the individual's desire to review his or her record.

§ 465.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Commission pursuant to Section 465.3 shall present the request at the Commission's offices, c/o of General Services Administration 18th and F Streets NW., Room G340, Washington, D.C. 20405, on any business day between the hours of 8 a.m. and 4:30 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 465.5 Disclosure of requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 465.6 Request for correction or amendment to the record.

The individual should submit a request to the Administrative Officer of the Commission which states the individual's desire to correct or to amend his or her record. This request is to be make in accord with the provisions of § 465.4.

§ 465.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Administrative Officer of the Commission will acknowledge in writing such receipt and promptly either:

(a) Make any correction or amendment of any portion thereof which the

individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 465.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Officer of the Commission to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, National Commission on the International Year of the Child, 1979. The Executive Director will, not later than 30 working days from the date on which the individual requests such review, complete such review and make a final determination unless for good cause shown, the Executive Director extends such 30-day period. If after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 465.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 465.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged 10 cents per page excluding the cost of any search for review of the record in advance of receipt of the pages.

[FR Doc. 78-19364 Filed 7-12-78; 8:45 am]

[3410-02]

Title 7—Agriculture

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

[Valencia Orange Reg. 597]
[Valencia Orange Reg. 596, Amendment 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

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

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

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on July 11, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to be seasonally slow, but there has been some strengthening in the market for small sizes.

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

1. Section 908.897 is added as set forth below:

§ 908.897 Valencia Orange Regulation 597.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 14, 1978, through July 20, 1978, are established as follows: (1) District 1: 234,000 cartons; (2) District 2: 416,000 cartons; and (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.

2. Paragraph (a)(1) in § 908.896 Valencia Orange Regulation 596 (43 FR 29101), is hereby amended to read:

* * * * * *

§ 908.896 Valencia Orange Regulation Regulation 596.

(a) * * *

(1) District 1: 270,000 cartons."

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

Dated: July 12, 1978.

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

[FR Doc. 78-19580 Filed 7-12-78; 11:36 am]

[3410-02]

[Avocado Reg. 20, Amdt. 1]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment revises the maturity requirements for specified varieties of avocados. Maturity

studies indicate these varieties will mature later than previously anticipated because of unseasonal growing conditions in the production area. Specified weights or diameters and picking dates are maturity indices needed to assure that avocados will ripen satisfactorily after picking.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement, and Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South 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 Avocado Administrative Committee, established under the marketing order, and upon other information, it is found that the maturity requirements specified in this amendment, will tend to effectuate the declared policy of the act.

(2) 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 is necessary to prevent the shipment of immature avocados.

Accordingly, it is found that Avocado Regulation 20 should be amended, as hereinafter set forth.

§ 915.320 [Amended]

Order. (1) The provisions of subparagraphs (a)(2) and (8) of § 915.320 (Avocado Regulation 20; 43 FR 22660) are amended by revising in Table I and in subparagraph (a)(8) the dates and minimum weights applicable to specified varieties so that after such revision the portion of Table I and subparagraph (a)(8) relating to such varieties of avocados reads as follows:

Variety (1)	Date (2)	Minimum weight of diameter (3)	Date (4)	Minimum weight of diameter (5)	Date (6)
Dr. DuPuis No. 2	June 19, 1978	16 oz. or 3 9/16 in	July 3, 1978	14 oz. or 3 1/16 in	Aug. 7, 1978.
Pollock	July 3, 1978	18 oz. or 3 1 1/16 in	July 31, 1978	16 oz. or 3 1/16 in	Aug. 21, 1978.
Simmonds	do	16 oz. or 3 9/16 in	do	14 oz. or 3 1/16 in	Do.
Nadir	do	14 oz. or 3 3/16 in	July 24, 1978	12 oz. or 3 1/4 in	Aug. 7, 1978.
Arue	May 29, 1978	16 oz	June 12, 1978	14 oz. or 3 3/16 in	July 24, 1978.
Roland 2-2	June 12, 1978	22 oz	June 26, 1978	20 oz	Do.
Fuchs	June 19, 1978	14 oz. or 3 3/16 in	July 3, 1978	12 oz. or 3 9/16 in	Do.
J. M. Poropat	do	20 oz	June 26, 1978	18 oz	Aug. 7, 1978.
K-5	June 26, 1978	18 oz. or 3 9/16 in	July 24, 1978	14 oz. or 3 9/16 in	July 31, 1978.
Hardee	July 3, 1978	16 oz. or 3 9/16 in	do	14 oz. or 2 1 1/16 in	Aug. 7, 1978.
Katherine	do	16 oz	July 31, 1978	14 oz	Do.
Haile	do	20 oz	do	16 oz	Aug. 21, 1978.
Donnie	July 10, 1978	16 oz. or 3 5/16 in	Aug. 7, 1978	14 oz. or 3 3/16 in	Aug. 28, 1978.
Ruehle	July 17, 1978	18 oz. or 3 1 1/16 in	do	16 oz. or 3 9/16 in	Sept. 4, 1978.
Dawn	do	12 oz. or 3 9/16 in	do	10 oz. or 3 9/16 in	Aug. 21, 1978.
Webb 2	do	18 oz	do	16 oz	Do.
Cash	do	16 oz	Oct. 9, 1978		
Alpha	July 24, 1978	16 oz. or 3 9/16 in	Aug. 21, 1978		
Peterson	do	14 oz. or 3 9/16 in	do	10 oz. or 3 9/16 in	Aug. 28, 1978.
Biondo	do	13 oz	Sept. 4, 1978		
232	July 31, 1978	14 oz	Aug. 28, 1978	12 oz	Sept. 4, 1978.
Gretchen	do	do	do	do	Do.
B. & B	do	16 oz. or 3 9/16 in	Sept. 11, 1978		
Nesbitt	do	22 oz. or 3 13/16 in	Aug. 28, 1978	18 oz. or 3 9/16 in	Sept. 11, 1978.
Pinelli	do	18 oz. or 3 13/16 in	do	16 oz. or 3 1 9/16 in	Sept. 4, 1978.
Miguel	do	22 oz. or 3 13/16 in	do	20 oz. or 3 1 3/16 in	Sept. 18, 1978.
Trapp	do	14 oz. or 3 1 9/16 in	do	12 oz. or 3 1/16 in	Sept. 4, 1978.

(8) Except as otherwise provided in subparagraph (10) and (11) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 3, 1978.

(ii) From July 3, 1978, through August 13, 1978, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 14, 1978, through October 8, 1978, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

* * * * *

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

Dated, July 7, 1978, to become effective July 13, 1978.

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

[FR Doc. 78-19191 Filed 7-12-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Seed Cotton Loan Program Regs., Amdt. 1]

PART 1427—COTTON

Subpart—Seed Cotton Loan Program Regulations

CHANGE IN INTEREST RATE

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the seed cotton loan program regulations to provide that the interest rate on seed cotton loans shall be the same rate applicable to all other commodities except baled upland cotton. This rule is necessary in order to provide as much uniformity between commodities as possible for ease of operation and to keep program provisions as simple as possible.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton J. Ustynik, ASCS, P.O. Box 2415, Washington, D.C. 20013, 202-447-6611.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977 provides that the interest rate on upland cotton loans shall be established quarterly on the basis of the lowest current interest rate on ordinary obligations of the United States. This provision is not applicable to seed cotton loans or loans on other commodities. Therefore, it has been determined that the interest rate on seed cotton loans shall be set at the same rate as the interest rate for other commodities.

FINAL RULE

Accordingly, 7 CFR 1427.173 of the seed cotton loan program regulation is amended to read as follows:

§ 1427.173 Interest rates.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c).)

Signed at Washington, D.C., on July 6, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-19354 Filed 7-12-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Regs. G and U; Docket No. R-0170]

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

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

Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation permits lenders, under certain conditions, to accept a purpose statement through the mail without a face-to-face interview. This replaces an interpretation adopted by the Board in 1965 (12 CFR 221.115). The reconsideration was considered appropriate in light of changes in commercial practice and the law since the publication of the prior interpretation.

EFFECTIVE DATE: June 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Patsy Abelle, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: (1) The Board was recently asked to review its 1965 Interpretation concerning loans by mail on security of mutual fund shares. Under that interpretation, purpose statements taken by the lender to determine whether the proceeds of the loan will be used to buy margin stock were required to be obtained in face-to-face interviews. The Board concluded that a review of the interpretation was desirable in light of the changes in commercial practice and the promulgation of Regulation X which makes the borrower liable for wilful violations of the margin regulations. (2) This action is taken pursuant to the Board's authority under sections 7 and 23 of the Securities Exchange Act, 12 U.S.C. 78(g) and (w).

INTERPRETATION OF REGULATION G

§ 207.110 Accepting a purpose statement through the mail without benefit of face-to-face interview.

(a) The Board has been asked whether the acceptance of a purpose statement submitted through the mail by a lender subject to the provisions of Regulation G will meet the good faith requirement of section 207.1(e). Section 207.1(e) states that in connection with any credit secured by collateral which includes any margin security, a lender must obtain a purpose statement executed by the borrower and accepted by the lender in good faith. Such acceptance requires that the lender be alert to the circumstances surrounding the credit and if further information suggests inquiry, he must investigate and be satisfied that the statement is truthful.

(b) The lender is a subsidiary of a holding company which also has another subsidiary which serves as underwriter and investment advisor to various mutual funds. The sole business of the lender will be to make "non-purpose" consumer loans to shareholders of the mutual funds, such loans to be collateralized by the fund shares. Mutual fund shares are margin securities for purposes of Regulation G. Solicitation and acceptance of these consumer loans will be done principally through the mail and the lender wishes to obtain the required purpose statement by mail rather than by a face-to-face interview. Personal interviews are not practicable for the lender because shareholders of the funds are scattered throughout the country. In order to provide the same safeguards inherent in face-to-face interviews, the lender has developed certain procedures designed to satisfy the good faith acceptance requirement of the regulation.

(c) The purpose statement will be supplemented with several additional questions relevant to the prospective borrower's investment activities such as purchases of any security within the last 6 months, dollar amount, and obligations to purchase or pay for previous purchases; present plans to purchase securities in the near future, participations in securities purchase plans, list of unpaid debts, and present income level. Some questions have been modified to facilitate understanding but no questions have been deleted. If additional inquiry is indicated by the answers on the form, a loan officer of the lender will interview the borrower by telephone to make sure the loan is "non-purpose". Whenever the loan exceeds the "maximum loan value" of the collateral for a regulated loan, a telephone interview will be done as a matter of course.

(d) Although the Board has expressed no views as to the necessity for face-to-face meetings between borrower and lending officer under Regulation G, an interpretation under Regulation U published in 1965 (12 CFR 221.115) on the subject has usually been considered applicable. That view, however, was expressed before the adoption by the Board of Regulation X (12 CFR 224) in 1971. One of the stated purposes of Regulation X was to prevent the infusion of unregulated credit into the securities markets by borrowers falsely certifying the purpose of a loan. The Board is of the view that the existence of Regulation X, which makes the borrower liable for wilful violations of the margin regulations, will allow a lender subject to Regulation G or U to meet the good faith acceptance requirement of §§ 207.1(e) and 221.3(a), respectively, without a face-to-face interview if the lender adopts a program, such as the one described above, which requires additional detailed information from the borrower and proper procedures are instituted to verify the truth of the information received. The 1965 interpretation has therefore been withdrawn. Lenders intending to embark on a similar program should discuss proposed plans with their district Federal Reserve Bank. Lenders may have existing or future loans with the pro-

spective customers which could complicate the efforts to determine the true purpose of the loan. In addition, Regulation U differs from Regulation G in many important respects.

(e) Section 220.7(a) of Regulation T, in general, prohibits a broker/dealer from arranging any credit which he himself cannot extend. Therefore, the Board cautions that any prospectus or sales information for the mutual fund shares may not offer the services of the lending company, as any broker/dealer selling the fund shares would thereby be deemed to have "arranged" a loan in violation of Regulation T.

INTERPRETATION OF REGULATION U

The Board of Governors of the Federal Reserve System has reconsidered the interpretation originally published as § 221.115 on March 24, 1965, at 30 FR 3812. It is hereby rescinded and replaced with a citation to § 207.110, a new interpretation on the subject. The text of § 221.115 now reads as follows:

§ 221.115 Accepting a purpose statement through the mail without benefit of face-to-face interview.

For text of an interpretation on this subject, see § 207.110 of this subchapter (15 U.S.C. 78g).

By order of the Board of Governors, June 29, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-19216 Filed 7-12-78; 8:45 am]

[6210-01]

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. O Docket No. R-0169]

PART 215—LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

Credit Card Indebtedness

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment clarifies the expression "general arrangements" in the Board's Regulation O. The amendment is intended to reflect the Board's position that the expression "general arrangements" precludes any arrangement whereby an executive officer would be able to incur credit card indebtedness on terms more favorable than those offered to the general public.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel 202-452-3274, or Jennifer J. Johnson, Attorney, 202-452-3584, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System has amended its Regulation O in order to clarify a type of indebtedness that is excluded from the definition of extension of credit.

The procedures of section 553(b) of Title 5, United States Code, with respect to notice, public participation and deferred effective date were not followed because this amendment is interpretative in nature.

Effective June 30, 1978, § 215.2(c) is amended to read as follows:

§ 215.2 Definitions.

* * * * *

(c) "Extension of credit" and "extend credit". * * *

* * * * *

Such terms, however, do not include:

* * * * *

(iv) Indebtedness arising by reason of general arrangements [3] under which a bank (a) acquires charge or time credit accounts or (b) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan, except that this subdivision (iv) shall not apply to indebtedness of an executive officer to his own bank to the extent that the aggregate amount thereof exceeds $5,000 or to any such indebtedness to his own bank that involves prior individual clearance or approval by the bank other than for the purpose of determining whether his participation in the arrangement is authorized or whether any dollar limit under the arrangement has been or would be exceeded.

(12 U.S.C. sec. 375(a))

Board of Governors of the Federal Reserve System, June 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary.

[FR Doc. 78-19323 Filed 7-12-78; 8:45 am]

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[3] The expression "general arrangement" is not intended to include an arrangement whereby an executive officer incurs indebtedness under a bank credit card plan, check credit plan, or similar plan under terms more favorable than those offered to the general public.

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-NE-3; Amdt. 39-3262]

PART 39—AIRWORTHINESS DIRECTIVES

Pyrotector, Inc., Radiation Sensing-Type Fire Detectors, P/N's 30-207 -2, -2A, and -2B; 30-207 -3, -3A, and -3B; 30-207 -4, -4A, and -4B; 30-207 -6, -6A, and -6B; 30-207 -7 and -7A; 30-207-8; 30-207-10; 30-207-19; 30-207-20A; 30-215; 30-215 -4 and -4B

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive checks of certain part numbered Pyrotector, Inc., fire detectors to prevent the operation of aircraft with possible inoperative fire detectors.

DATES: Effective Date—August 8, 1978. Compliance schedule—As prescribed in body of the AD.

ADDRESSES: The applicable advisory bulletin may be obtained from Chloride Pyrotector, 333 Lincoln Street, Hingham, Mass. 02043. A copy of the advisory bulletin is contained in the rules docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Donald F. Perrault, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7337.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation regulations to include an airworthiness directive requiring removal of the TSO label from Pyrotector P/N's 30-207, 30-207-4B, 30-212, 30-215, and 30-216 fire detectors and repetitive inspections of the detectors and removal and replacement of affected detectors on those aircraft required to be equipped with a fire detector system was published in the FEDERAL REGISTER at 43 FR 9156. The proposal was prompted by a reported incident which occurred on a new production light airplane

equipped with Pyrotector, Inc., P/N 30-215 fire detectors. The airframe manufacturer's production checkout of the fire detector installation using the self-contained integrity test feature yielded positive results. However, the detector power line had not yet been connected. Review of the system circuitry indicated that a break in the powerline to the detector would render the unit inoperative, but cockpit test procedures would not indicate this condition.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Several comments were received.

Telephone inquiries concerning detector part numbers in the proposed rule led to further research which revealed that the specified part numbers were inadequately defined. The final rule incorporates the specific part numbers affected. The final rule also incorporates language to define "* * * FAA approved * * *" detectors.

The manufacturer of the detectors commented that the proposed rule requiring detector replacement by December 30, 1978, would not be possible due to unavailability of replacement parts. The manufacturer further stated it would require 3½ years, with double the present labor force dedicated solely to the production of replacement detectors, to produce sufficient field replacement units. Based on the above and on the fact that there have been no field incidents of detector failure, the manufacturer has suggested that all affected detectors be subjected to repetitive checks to provide an acceptable level of safety and be replaced only on a field attrition basis. The FAA agrees with the manufacturer's position; hence, the final rule incorporates only the requirement for repetitive checks and the replacement of detectors found faulty.

One commentator suggested that the proposed requirement to remove the "TSO-C79" label from the affected detectors be deleted. The comment was based on the fact, verified by the manufacturer, that although the detectors had been approved to TSO-C79 they were not so identified on the label. The commentator added that removal of the label would preclude further traceability of the detector and possibly lead to extensive recordkeeping complications if subsequent field replacement became necessary. Accordingly, the final rule does not require removal of the identification label from the detectors.

One commentator suggested that P/N 30-215 detectors be replaced by P/N 30-215-8 detectors. Pyrotector Advisory Bulletin No. PY78-1, Revision 1, incorporates a table of directly interchangable detectors by part number.

DRAFTING INFORMATION

The principal authors of this document are Donald F. Perrault, Engineering and Manufacturing Branch, Flight Standards Division, and George L. Thompson, Regional Counsel.

ADOPTION OF THE AMENDMENT

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

PYROTECTOR, INC.: Applies to P/N's 30-207 -2, -2A, and -2B; 30-207 -3, -3A, and -3B; 30-207 -4, -4A, and -4B; 30-207 -6, -6A, and -6B; 30-207 -7 and -7A; 30-207-8; 30-207-10; 30-207-19; 30-207-20A; 30-215, 30-215 -4 and -4B radiation sensing-type fire detectors.

Compliance is required as indicated. To prevent operation of aircraft with fire detectors possibly having undetected open main powerlines, accomplish the following:

1. Check the fire detection system by August 15, 1978, and every 100 hours time in service thereafter, in accordance with Chloride Pyrotector Advisory Bulletin No. PY78-1, Revision 1, dated April 7, 1978, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

NOTE.—The pilot/operator may perform the required checks.

NOTE.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

2. Replace faulty detectors with FAA-approved replacement detectors. Replacement detectors must be determined to be in compliance with the certification requirements of the aircraft and approved by the FAA for installation on the model aircraft.

The manufacturer's advisory bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Chloride Pyrotector, 333 Lincoln Street, Hingham, Mass. 02043. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Mass., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Mass.

This amendment becomes effective August 8, 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 11.85.)

Issued in Burlington, Mass., on June 30, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

(The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.)

[FR Doc. 78-19239 Filed 7-13-78; 8:45 am]

[4910-13]

[Docket No. 77-CE-16-AD; Amdt. 39-3265]

PART 39—AIRWORTHINESS DIRECTIVES

Gates Learjet 23, 24, and 25 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule (revision).

SUMMARY: This amendment revises airworthiness directive (AD) 77-19-02 applicable to Gates Learjet 23, 24, and 25 series airplanes by adding a new paragraph D which allows discontinuance of the AD's mandatory repetitive door inspections and bolt or pin replacement and reporting requirements when Gates Learjet door modification kit AMK 78-2 is installed. The amendment is necessary to grant owners/operators, that have installed the door modification kit, relief from the AD inspection and reporting requirements.

EFFECTIVE DATE: July 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: This amendment amends amendment 39-3040 (42 FR 46920-46923), AD 77-19-02, which currently requires repetitive replacement of a certain bolt or pin in the cabin upper door locking mechanism and repetitive inspections of the door locking mechanism on certain Gates Learjet 23/24/25 series airplanes. Subsequent to issuance of AD 77-19-02 the manufacturer developed and made available door modification kit No. AMK 78-2, with instructions, which provides a fail-safe load path in that portion of the door locking mechanism, the failure of which resulted in issuance of the AD. The FAA has determined that installation of the door modification kit (AMK 78-2) eliminates the need for the mandatory door locking mechanism inspections and bolt or pin replacement required by AD 77-19-02. Therefore, the FAA is revising amendment 39-3040 by adding a new paragraph D which allows discontinuance of the mandatory repetitive door mechanism inspections and bolt or pin replacement and reporting requirements when modification kit No. AMK 78-2 is installed on affected

Gates Learjet 23/24/25 series airplanes.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation regulations (14 CFR 39.13) is amended by amending amendment 39-3040 (42 FR 46920-46923), AD 77-19-02, as follows:

(1) Add a new paragraph "D" which reads:

(D) The actions made mandatory by paragraphs A, B, and C of this AD are no longer required when Gates Learjet door modification kit AMK 78-2 is installed.

(2) Reletter existing paragraphs "D" and "E" of the AD to "E" and "F" respectively.

This amendment becomes effective July 20, 1978.

(Secs. 313(a), 601, and 603 of the 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)); sec. 11.89 of the Federal Aviation regulations (14 CFR sec. 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 Kansas City, Mo., on July 5, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-19240 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-26]

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

Alteration of Transition Area: Fayetteville, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Fayetteville, Ark. The intended effect of the action is to revoke a portion of controlled airspace not being utilized by aircraft executing instrument approach procedures. The circumstance which created the need for the action was the revision of instrument approach procedures for the Rogers Municipal-Carter Field Airport, Rogers, Ark.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

HISTORY

In subpart G of part 71 of the Federal Aviation regulations (14 CFR 71) the Fayetteville, Ark., transition area is designated with a north extension designed to protect aircraft executing procedure turns in conjunction with standard instrument approach procedures at the Rogers Municipal-Carter Field Airport.[1] The procedure turn is no longer authorized in the recently revised procedures and the controlled airspace north extension is unnecessary. Revocation of the controlled airspace extension reduces constraints and lessens the burden on the public. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.T., September 7, 1978, as follows.

In subpart G, 71.181 (43 FR 440), the Fayetteville, Ark., transition area is amended by deleting the last sentence: "and within 5 miles east and 10 miles west of the Fayetteville VORTAC 005° radial extending from the 27.5-mile radius area to 33.5 miles north of the VORTAC."

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)).)

[1]Map filed as part of the original document.

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

Issued in Fort Worth, Tex., on June 29, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-19242 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-23]

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

Designation of Transition Area, Smithfield, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Smithfield, N.C., transition area and will lower the base of controlled airspace in the vicinity of the Johnston County Airport from 1,200 to 700 feet to accommodate instrument flight rule (IFR) operations. A public use instrument approach procedure is being developed for the Johnston County Airport and the additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

EFFECTIVE DATE: 0901 G.m.t., September 7, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, April 13, 1978 (43 FR 15437), which proposed the designation of the Smithfield, N.C., transition area. No objections were received from this notice.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation regulations (14 CFR 71) is amended, effective 0901 G.m.t., September 7, 1978, by adding the following:

SMITHFIELD, N.C.

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

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1384(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in East Point, Ga., on June 27, 1978.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc. 78-19244 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NW-4]

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

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends south alternate route of VOR Federal Airway V-448S from RUBEL Intersection, Wash., to Moses Lake, Wash. The present termination of V-448S at the RUBEL Intersection requires clearance via multiple airway segments for flights proceeding beyond RUBEL.

EFFECTIVE DATE: September 7, 1978.

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:

HISTORY

On April 17, 1978, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend south alternate route of VOR Federal Airway V-448S from RUBEL Intersection, Wash., to Moses Lake, Wash. (43 FR 16192). Interested persons were invited to participate in the rulemaking proceeding by submitting written comment on the proposal to the FAA. No comments were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE RULE

This amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends alternate airway V-448S from RUBEL Intersection, Wash., to Moses Lake, Wash. The extension of V-448S from Yakima, Wash., to Moses Lake, via RUBEL Intersection will improve air traffic service to users by simplifying flight planning. Currently V-448S terminates at RUBEL Intersection thereby requiring pilots who request that route to file multiple airway segments. Extension of the airway to Moses Lake will aid pilots and reduce controller workload.

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.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of subpart C of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., September 7, 1978, to read as follows:

V-448 from Portland, Oreg., via Yakima, Wash., including a south alternate; Moses Lake, Wash., including a south alternate from Yakima to Moses Lake via the INT of Yakima 129° and Ephrata, Wash., 203° radials, and the INT of Ephrata 203° and Moses Lake 231° radials; Spokane, Wash., 45 miles 12 AGL, 21 miles 75 MSL, 20 miles 80 MSL, 59 miles 12 AGL, to Kalispell, Mont.

(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 11.69.)

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

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

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

[FR Doc. 78-19237 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WA-10]

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

Alteration of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the geographical coordinates of reporting points at CRACK, JIMMY and WIDTH, as a result of the slight relocation of the Port Heiden, Alaska, nondirectional radio beacon (NDB). The FAA-owned NDB at the new location will update and replace the present military equipment. Improved reception from this radio beacon will also improve air navigation.

EFFECTIVE DATE: September 7, 1978.

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: The purpose of this amendment to part 71 is to amend the geographical coordinates of three reporting points in Alaska. The location of the new NDB is so close to the present NDB that bearings to the amended reporting points at CRACK, JIMMY and WIDTH do not change. Because this action merely redefines the geographical coordinates of reporting points without changing the bearings describing those reporting points, it is a minor matter and one on which the public would have no particular interest; therefore, notice and public procedure thereon are unnecessary.

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.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.211 and § 71.213 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 643, 645) are amended, effective 0901 G.m.t., September 7, 1978, as follows:

Under CRACK: "Lat. 57°21'23" N., Long. 159°23'14" W." is deleted and "Lat. 57°20'51" N., Long. 159°24'09" W." is substituted therefor.

Under WIDTH: "Lat. 57°21'18" N., Long. 155°59'40" W." is deleted and "Lat. 57°21'23" N., Long. 155°53'17" W." is substituted therefor.

Under JIMMY: "Lat. 57°20'30" N., Long. 159°21'31" W." is deleted and "Lat. 57°19'59" N., Long. 159°22'27" W." is substituted therefor.

(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 11.69.)

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

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

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

[FR Doc. 78-19238 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-47]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates Restricted Area R-5311 as FAA/military joint use airspace and stratifies R-5311 into three subareas from the surface up to but not including 29,000 feet MSL. This action will simplify coordination procedures for the release of the airspace by the military.

EFFECTIVE DATE: September 7, 1978.

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: The purpose of this amendment to subpart B of part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to provide joint use of restricted area R-5311 and stratify it into three subareas. The FAA and U.S. Army have agreed to release R-5311 for public use when the Army has not scheduled training for the area. Also, the restricted area may be used individually, in whole or in part. Partial releases may be by altitude/flight levels or sections within the entire area may be released for public use. There are no changes in the lateral boundaries and the vertical limits of R-5311. Subpart B of part 73 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 697).

Since this amendment is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

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.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart B of part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 697) is amended, effective 0901 G.m.t., September 7, 1978, as follows:

Under § 73.53, North Carolina:

R-5311A—Fort Bragg, N.C.

"Designated altitudes. Surface to but not including 18,000 feet MSL." is deleted and "Designated altitudes. Surface to but not including 7,000 feet MSL." is substituted therefor.

"Controlling agency. Federal Aviation Administration, Washington ARTCC Center." is added.

R-5311B—Fort Bragg, N.C.

"Designated altitudes. From 18,000 feet MSL to 29,000 feet MSL." is deleted and "Designated altitudes. From 7,000 feet MSL to but not including 12,000 feet MSL." is substituted therefor.

Add a new restricted area designation to read as follows:

R-5311C—Fort Bragg, N.C.

Boundaries. Beginning at Lat. 35°10'45" N., Long. 79°01'56" W.; to Lat. 35°08'47" N., Long. 79°02'00" W.; to Lat. 35°07'00" N., Long. 79°02'30" W.; to Lat. 35°05'35" N., Long. 79°01'50" W.; to Lat. 35°02'55" N., Long. 79°05'40" W.; to Lat. 35°02'45" N., Long. 79°20'10" W.; to Lat. 35°07'05" N., Long. 79°22'50" W.; to Lat. 35°09'40" N., Long. 79°20'10" W.; thence along Little River to point of beginning.

Designated altitudes. From 12,000 feet MSL but not including FL 290.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTCC Center.

Using agency. Commanding General, Fort Bragg, N.C. is added.

(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 11.69.)

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

Issued in Washington, D.C., on July 7, 1978.

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

[FR Doc. 78-19236 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WA-1]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Revocation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes certain area high routes which do not respond to area navigation user requirements. This action is consistent with FAA area navigation policy and is taken as a positive step to facilitate area navigation within the existing air traffic control environment by eliminating area navigation routes that are not required nor used by existing area navigation equipped aircraft operators. This action involves routes that lie in part outside the navigable airspace of the United States.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

HISTORY

On April 13, 1978, the FAA proposed to amend subpart D of part 75 of the Federal Aviation Regulations (14 CFR part 75) to revoke 13 area high routes that lie in part outside the navigable airspace of the United States that are not identified as being required by any area navigation user (43 FR 15437). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. However, subsequent to issuance of the notice it was determined that one route that was proposed for revocation is needed and should be retained. Accordingly, no action is taken herein to revoke that route by this amendment. With that exception, this amendment is that proposed in the notice. Section 75.400 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 730).

THE RULE

This amendment to part 75 of the Federal Aviation Regulations (14 CFR part 75) revokes 12 area high routes that are not responsive to user requirements. Most area navigation equipped aircraft are using area navi-

gation in the en route system on a random route basis as direct between two points with radar monitoring when traffic conditions permit such clearances by air traffic control. This amendment revokes those area navigation routes that lie in part outside the navigable airspace of the United States that are not identified as being required by any area navigation user.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart D of part 75 of the Federal Aviation Regulations (14 CFR Part 750 as republished (43 FR 730) is amended, effective 0901 G.m.t., September 7, 1978, as follows:

Under § 75.400, the following area high routes are revoked:

1. J808R New York, N.Y., to Sable Island, Novia Scotia.
2. J809R New York, N.Y., to Yarmouth, Novia Scotia.
3. J831R New York, N.Y., to CODDS.
4. J832R Philadelphia, Pa., to Boston, Mass.
5. J833R Bangor, Maine, to New York, N.Y.
6. J944R MORRO to DINTY.
7. J946R MORRO to FICKY.
8. J947R CAMEL to GATES.
9. J960R DINTY to PARIA.
10. J962R FICKY to PARIA.
11. J963R GATES to PARIA.
12. J965R Coaldale, Nev., to ALCOA.

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

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

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

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

[FR Doc. 78-19241 Filed 7-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SW-11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns jet route No. 15 from Humble, Tex., to Junction, Tex. J-86 and J-15 are presently designated via the same route between Humble and Junction. The new route will help to reduce the congestion in the San Antonio, Tex., area by providing an additional designated route into the terminal area as well as a route that bypasses both Austin and San Antonio VORTAC's.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

HISTORY

On May 11, 1978, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter J-86 in the vicinity of San Antonio, Tex. (43 FR 20240). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objection.

THE RULE

This amendment to part 75 of the Federal Aviation Regulations (14 CFR Part 75) realigns J-15 from Humble, Tex., to Junction, Tex., via the INT of Humble 269° and Junction 112° radials rather than the Austin VORTAC. This route will help to reduce congestion in the San Antonio area. It will also help to reduce delays and fuel consumption. The notice proposed to use J-86 as the designator of the new route and to retain J-15 as its present location; however, because of the added convenience in flight planning, J-15 will be used for the new route segment and J-86 will remain unchanged at Austin.

DISCUSSION OF COMMENTS

One commenter stated that they did not agree with the designation of the realigned segment as J-86. Since J-15 originates at Humble, Tex., they believe it would facilitate flight plan filing to designate the realigned segment as J-15. Thus, traffic overheading Humble VORTAC on J-86 would not have to make the dogleg via MARCS Intersection or alter flight plan filing to proceed overhead Austin. Due consideration has been given to this suggestion. The FAA finds the suggestion valid and reasonable; therefore, it is adopted herein.

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.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) is amended, effective 0901 G.m.t., September 7, 1978, as follows:

Under jet route No. 15, "From Humble, Tex., via Austin, Tex.; Junction, Tex.;" is deleted and "From Humble, Tex., via INT Humble 269° and Junction, Tex., 112° radials; Junction;" is substituted therefor.

(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 11.69.)

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

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

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

[FR Doc. 78-19234 Filed 7-12-78; 8:45 am]

[4910-13]

[Docket No. 18133; Amdt. No. 1115]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

By Subscription—Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office. Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

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

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

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

This amendment to part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

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

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

ADOPTION OF THE AMENDMENT

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

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

** * * Effective September 7, 1978*

Fort Yukon, AK—Fort Yukon Municipal, VOR Rwy 3, Amdt. 3.
Fort Yukon, AK—Fort Yukon Municipal, VOR Rwy 21, Amdt. 3.
Fort Yukon, AK—Fort Yukon Municipal, VOR/DME or TACAN, Rwy 3, Original.
Fort Yukon, AK—Fort Yukon Municipal, VOR/DME or TACAN, Rwy 21, Original.
Altoona, PA—Altoona-Blair County, VOR-A, Original.
Martinsburg, PA—Blair County, VOR-A, Original, cancelled.

** * * Effective August 24, 1978*

Jacksonville, FL—Craig Muni., VOR Rwy 13, Amdt. 3.
St. Petersburg-Clearwater, FL-St. Petersburg-Clearwater Int'l, VOR Rwy 17L, Amdt. 9.
Asheboro, NC—Asheboro Muni., VOR Rwy 20, Amdt. 1, cancelled.
Asheboro, NC—Asheboro Muni., VOR-A, Original.
Burlington, NC—Burlington Muni., VOR Rwy 9, Amdt. 5.
Princeton (Rocky Hill), NJ—Princeton, VOR-A, Amdt. 4.

** * * Effective July 27, 1978*

Grand Canyon, AZ—Grand Canyon Nat'l Park, VOR Rwy 3, Amdt. 3.

** * * Effective June 29, 1978*

Grundy, VA—Grundy Muni., VOR Rwy 4, Amdt. 1.

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

** * * Effective September 7, 1978*

Middletown, PA—Harrisburg Int'l Airport, Olmstead Field, LOC BC Rwy 31, Amdt. 4.
Bristol, TN—Tri-City, LOC Rwy 4, Original.

** * * Effective August 24, 1978*

Jackson, TN—McKellar Field, LOC (BC) Rwy 20, Amdt. 3.

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

** * * Effective September 7, 1978*

Fort Yukon, AK—Fort Yukon Municipal, NDB Rwy 21, Amdt. 6.
Winnemucca, NV—Winnemucca Muni., NDB-A, Original.
Hatteras, NC—Billy Mitchell, NDB Rwy 6, Amdt. 2.
Bristol, TN—Tri-City, NDB Rwy 4, Amdt. 12.
Bristol, TN—Tri-City, NDB Rwy 22, Amdt. 15.

** * * Effective August 24, 1978*

Augusta, GA—Bush Field, NDB Rwy 17, Amdt. 10.
Thomson, GA—Thomson-McDuffie County, NDB Rwy 27, Amdt. 1.
Gaithersburg, MD—Montgomery Co. Airpark, NDB Rwy 14, Amdt. 2, cancelled.
Gaithersburg, MD—Montgomery Co. Airpark, NDB-A, Original.
Burlington, NC—Burlington Muni., NDB Rwy 6, Amdt. 1.
Camden, SC—Woodward Field, NDB Rwy 23, Amdt. 1.
Conway, SC—Conway-Horry County, NDB-A, Amdt. 1.
Ontario, OR—Ontario Municipal Airport, NDB Rwy 32, Amdt. 2.

** * * Effective July 13, 1978*

Billings, MT—Billings Logan Int'l, NDB Rwy 9, Amdt. 16.

** * * Effective June 23, 1978*

Joplin, MO—Joplin Muni., NDB Rwy 13, Amdt. 20.

The FAA published an amendment in Docket No. 18072, Amdt. No. 1114 to Part 97 of the Federal Aviation Regulations (Vol 43, FR No. 126, page 28175, dated June 29, 1978) under § 97.27 effective September 7, 1978, which is hereby amended as follows:

Ketchikan, AL—Ketchikan International, NDV/DME-A, Amdt. 3. Correct State Code is AK vice AL.

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

* * * *Effective September 7, 1978*

Altoona, PA—Altoona Blair County, ILS Rwy 20, Original.
Martinsburg, PA—Blair County, ILS Rwy 20, Amdtl 1, cancelled.
Middletown, PA—Harrisbury Int'l Airport, Olmstead Field, ILS Rwy 13, Amdt. 5.
Bristol, TN—Tri-City, ILS Rwy 22, Amdt. 20.

* * * *Effective August 24, 1978*

Augusta, GA—Bush Field, ILS Rwy 17, Amdt. 1.
Jackson, TN—McKellar Field, ILS Rwy 2, Amdt. 5.

* * * *Effective July 27, 1978*

Joplin, MO—Joplin Muni., ILS Rwy 13, Amdt. 18.

* * * *Effective June 21, 1978*

Covington, KY—Greater Cincinnati, ILS Rwy 27L, Amdt. 4.

5. By amending § 97.31 RADAR SIAP's identified as follows:

* * * *Effective September 7, 1978*

Bristol, TN—Tri-City, RADAR-1, Amdt. 11.

* * * *Effective August 24, 1978*

Augusta, GA—Bush Field, RADAR-1, Amdt. 3.
Sumter, SC—Sumter Municipal, RADAR-1, Amdt. 4.

6. By amending § 97.33 RNAV SIAP's identified as follows:

* * * *Effective September 7, 1978*

Bristol, TN—Tri-City, RNAV Rwy 4, Amdt. 2.

* * * *Effective August 24, 1978*

Olathe, KS—Executive Airport Johnson County, RNAV Rwy 17, Amdt. 1, cancelled.
Princeton (Rocky Hill), NJ—Princeton, RNAV Rwy 10, Amdt. 1.

(Sec. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

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

Issued in Washington, D.C., on July 7, 1978.

JAMES M. VINES, CHIEF,
Aircraft Programs Division.

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

[FR Doc. 78-19235 Filed 7-12-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

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

[Regulations No. 4]

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

Subpart P—Rights and Benefits Based on Disability

SUBSTANTIAL GAINFUL ACTIVITY GUIDELINES FOR PERSON DISABLED BY BLINDNESS

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The amendments will increase the amounts persons disabled by blindness may earn and not lose disability benefits paid under title II of the Social Security Act. This is in conformity with recently enacted legislation which provides that an individual who is blind shall not be regarded as having demonstrated an ability to engage in substantial gainful activity (SGA) on the basis of earnings unless the earnings exceed the exempt amount that applies to retired individuals age 65 or over. A person able to engage in substantial gainful activity is not eligible to receive disability benefits. The new rules apply only to those disabled by blindness and not to other types of disability. The result is that some blind persons who would previously have been denied will receive benefits.

DATES: These amendments will be effective July 13, 1978. Comments must be received on or before August 14, 1978.

ADDRESSES: Consideration will be given to any data, views, or arguments pertaining to these amendments which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to these Amendments will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7414.

SUPPLEMENTARY INFORMATION: The Social Security Act provides for the payment of Federal old-age, survivors and disability insurance benefits to persons insured under the Social Security Act. Disability, for purposes of entitlement to disability benefits, is defined for blind individuals as having central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; an eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

The 1977 Amendments provide that earnings from services performed by persons who are blind will not be considered to show an ability to engage in SGA if the earnings do not exceed the exempt earnings amount applicable to persons age 65 or over who are receiving retirement insurance benefits. These regulations reflect this statutory change. For taxable years ending after 1977, the earnings test exempt amount for 1978 is $333.33 a month; for 1979 the amount will be $375 a month; for 1980, $416.66 a month; for 1981, $458.33 a month; and for 1982, $500 a month. After 1982 the exempt amount is subject to change from year to year depending on increases in the cost of living.

These revised SGA rules do not apply to evaluation of work performed by persons disabled by impairments other than blindness.

The proposed amendments merely reflect the provisions of section 335 of Pub. L. 95-216. The Secretary, therefore, finds that publication of a prior notice of proposed rulemaking is unnecessary (5 U.S.C. 553(b)(B)). Although the notice of proposed rulemaking is being dispensed with, consideration will be given to any data, views, or arguments which are submitted in writing to the Commissioner of Social Security on or before August 14, 1978.

These Regulations are to be issued under the authority of sections 205 and 1102 of the Social Security Act, as amended; 53 Stat. 1368, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302.

(Catalog of Federal Domestic Assistance Program No. 13.802—Social Security—Disability Insurance.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact State-

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

Dated: April 7, 1978.

DON WORETMAN,
Acting Commissioner of Social Security.

Approved: June 21, 1978.

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

Part 404 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

Section 404.1534 is amended by revising paragraph (b) and adding a new paragraph (f) to read as follows:

§ 404.1534 Evaluation of earnings from work.

* * * * *

(b) *Earnings sufficient to demonstrate an ability to engage in substantial gainful activity.* Except for paragraph (f) of this section, unless there is evidence that an individual's work activities establish that the individual does not have the ability to engage in substantial gainful activity under the criteria in §§ 404.1532 and 404.1533 and paragraph (a) of this section, an individual's earnings from work activities shall be deemed to demonstrate ability to engage in substantial gainful activity if:

(1) In calendar years prior to 1976, earnings average more than $200 a month; or

(2) In calendar year 1976, earnings average more than $230 a month; or

(3) In calendar years after 1976, earnings average more than $240 a month.

* * * * *

(f) *Persons disabled by blindness.* Beginning with months in taxable years ending after 1977, a person who is blind shall not be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings unless those earnings exceed the monthly exempt amount that applies to retired persons age 65 or older. The retirement test monthly exempt amount is the amount a retired beneficiary may earn in any month without losing any part of his or her monthly benefit because of excess earnings. For 1978 the monthly amount is $333.33; for 1979, $375; for 1980, $416.66; for 1981, $458.33; and for 1982, $500. Thereafter, an increase in the monthly exempt amount depends on an increase in the cost of living.

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[4310-02]

Title 25—Indians

CHAPTER 1—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 258—INDIAN FISHING—HOOPA INDIAN RESERVATION

Subpart W—Miscellaneous Activities

GOVERNING INDIAN FISHING ON THE HOOPA INDIAN RESERVATION IN NORTHERN CALIFORNIA, INCLUDING THE SQUARE AND THE EXTENSION

AGENCY: Department of the Interior.

ACTION: Interim rule on which comment is solicited.

SUMMARY: The regulation which the Bureau of Indian Affairs published under this part last August for Indian fishing on the Klamath River expired by its own terms on July 1, 1978. By this document the Department of the Interior proposes a new regulation to govern Indian fishing on the Hoopa Indian Reservation in northern California, including the Square and the Extension. Indians of this reservation have a federally reserved fishing right, and litigation has affected the ability of the Indians to establish a uniform system of self-regulation for the entire reservation at this time. The Secretary has concluded that this regulation is a necessary exercise of his trustee responsibility to provide all Indians of the reservation the opportunity to exercise their right to the opportunity to catch the harvestable portion of the fishery, and to assure the conservation of the fishery resource for the future benefit of the Indians of the reservation.

DATES: This rule is published as an interim regulation and is effective on July 15, 1978. Comments on this regulation must be received within 30 days of publication of this notice in the FEDERAL REGISTER. Necessary and appropriate amendments to this regulation will be made following the comment period.

FOR FURTHER INFORMATION CONTACT:

Susan Hvalsoe, Special Assistant to the Assistant Secretary for Indian Affairs, Department of the Interior, Washington, D.C. 20240, 202-343-3163.

SUPPLEMENTARY INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2 and 9, 25 U.S.C. 262, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of federally reserved Indian fishing rights. This regulation reflects the Department's continuing concern for the protection of the federally reserved fishing rights of Indians of the Hoopa Indian Reservation and for the conservation of the fishery resources for which the fishing rights of these Indians was reserved. It is necessary to promulgate this regulation now as an interim rule on which comment is solicited in order that an effective regulation will be in place when the fishing season begins.

The Hoopa Indian Reservation is affected by special and complex problems which have caused the Department to exercise its authority to regulate the fishery on the reservation for the Indians, last year as well as this year. For more than a decade a dispute among Indians of the reservation has raged in the U.S. Court of Claims on the questions of: (1) Whether there exists one or two reservations, and (2) who is entitled to share in the resources of the reservation. *Jessie Short et. al.* v. *United States*, Ct. Cls. No. 102-63. While the first question has been answered by the courts with a decision that the Square and the Extension are one reservation, *Jessie Short*, supra, and that the reservation continues to exist, *Arnett* v. *5 Gill Nets*, 48 Ca. App. 3d 454 (1975), cert. den., 425 U.S. 907 (1976), the question of entitlement remains unresolved. This has raised substantial questions of the nature, the status, and representation of existing tribal government on the reservation. Until these issues are resolved the Department deems it necessary to exercise its trust authority to provide a uniform system of fisheries regulation for the Indians of the reservation in order that the resources for which their right was reserved will be conserved for the future benefit of all who are entitled to share in it. The Department intends this regulation to be temporary in nature, an interim measure which will preserve the status quo for 1 year. When the tribal government issues of the reservation have been resolved, the Indians themselves will undertake the responsibilities of regulation of their on-reservation fisheries.

In 1975, the federally reserved fishing rights of Indians of the Hoopa Indian Reservation were confirmed and recognized as exclusive from State jurisdiction in the case of *Arnett* v. *5 Gill Nets*, supra. Following that decision, California charged that non-Indians, as well as Indians, were engaged in unrestrained fishing on the reservation, thereby dangerously depleting the fishery. The State claimed it was unable to enforce State laws against non-Indians because it could not determine who was and was not an Indian of the reservation. At the same time, ongoing dispute in the *Jessie Short* case prevented the Indians from im-

plementing a reservation-wide regulation of their own fishing. In 1976, in response to the escalating controversy and the threat of permanent damage to the fishery, the Department determined that it should regulate on-reservation fishing by Indians exercising their federally reserved fishing rights.

Proposed regulations were published in the FEDERAL REGISTER in June 1977, and following a 30-day comment period, final regulations were published in August 1977. By their own terms such regulations (25 CFR Part 258) expired on July 1, 1978. This new regulation will replace the 1977 regulation in an effort to provide meaningful protection to the fishery resources of the reservation while providing all eligible Indians an opportunity to fish for the harvestable portion of the fishery as it passes through the reservation.

Extensive comments have been received suggesting that the only regulation needed is a ban on commercial fishing on the reservation and that other forms of fishing do not need regulation. We must disagree with this conclusion for two reasons. First: All kinds of fishing have an impact on the conservation of the resource. Different types of commercial fishing already occur on this resource. Effective management of the resource allowing access to different commercial, consumptive, and sport fisheries has been demonstrated in other areas where ocean fisheries also have a big impact on the fishery, and there is no data to support the premise that such management could not be effective here. Secondly: Based upon the history of Indian fishing on the Klamath, as well as on the substantial case law interpreting Federal fishing rights, the Department has concluded that the Indians' reserved fishing right includes the right to use fish for commercial purposes. Accordingly, under principles established by the Supreme Court, the Indians must be allowed to fish commercially as long as statistics show that there can be effective conservation, with simultaneous regulation of other forms of fishing by all persons.

The best management of the diverse fisheries on the salmon and steelhead stocks of the Klamath and Trinity Rivers can occur only when an appropriate data base exists to assess the run size of each stock against its escapement goal, and determine the relative impact which each user group will have on the harvestable resource. Much of this information has not yet been developed for the fish stocks of these rivers. However, this year's regulation of the Indian fishery will assist in developing this data base, and this year's management system will utilize the best information available. Unfortunately, the total size of the Klamath and Trinity River stocks, and the extent of ocean harvest of these stocks by the troll and recreational fisheries, is unknown. Based upon the best preseason run size information available, the full chinook run of salmon into the Klamath River itself will be approximately 200,000 fish—including about 47,000 precocious males and females, i.e., "jacks" or "grils." Of these, 115,000 adult fall run fish are needed to fulfill the spawning escapement requirements for both natural and hatchery production on the watershed. It is the intention of this regulation to provide, as nearly as possible, equal access to the harvestable portion of this fish run.

Since the intensity of the Indian commercial and consumptive fisheries and the non-Indian sport fisheries is unknown at this time, in-season adjustments may be necessary to assure adequate harvest or proper conservation of the various fish stocks. This may entail the closing of all or part of these fisheries for conservation or the addition of permissible fishing days for Indians. Such adjustments will be made under this regulation by the area manager of the U.S. Fish and Wildlife Service, in consultation with Indians of the reservation. To enable effective management based upon the best current information available, run strength into the river will be calculated during the season through test fisheries conducted in the lower Klamath River above the Highway 101 bridge, also utilizing data obtained through such test fisheries in past years. Other data obtained through tagging studies, and fish catch reporting may also be utilized if fish catch reporting and tag recovery are demonstrated to be sufficiently reliable.

Current knowledge of the pattern and problems of the fishery have raised substantial concern for the management of two areas of the reservation. On the advice of Federal fishery biologists who have reviewed the situation, special treatment in the form of extra protection has been given to these areas. The first area is that part of the Klamath River which is below the Highway 101 bridge at Klamath. In this area, at and near the mouth of the river, fishing has been restricted to two nights a week to improve the opportunity for the fishery managers to test run strength and, more importantly, to reduce the pressure on the fish that mill in this area before they run up the rivers. This is also necessary to assure fish passage to Indian fisheries at other points on the reservation and to promote fish passage to the Trinity River which has experienced serious conservation problems in past years. The second area which has received special treatment is the Trinity River. Here commercial fishing has been prohibited in order to reduce the pressure and still allow some harvest by consumptive users. The water temperature and flow problems have particularly caused concern about the opportunity for fish passage. The limitation of fishing days, placement of set nets, and prohibition of commercial fishing, are intended to assist in overcoming this problem.

Many Indians of the reservation have expressed a desire to establish a staggered-days fishing system which would allow an entire group of individuals in a fish run to pass through the fisheries without experiencing netting pressure. Unfortunately, adequate information does not exist to implement such a system at this time. However, the Department will assess, with eligible Indian fishermen, the information obtained from catch reports, and landing counts as the season progresses, in an effort to determine whether such a system would be feasible to implement later this year. If it is, the Department will work with the Indians of the reservation to implement it. Comments are requested on this proposed in-season approach as well as on the regulation itself.

Regulation of the Indian fishery has been vastly complicated by a number of factors. The ocean troll and recreational fisheries which are regulated without regard to the in-river fisheries and Indian fishing rights also exert severe pressures on the salmon resources of the Klamath and Trinity Rivers. Also, in the past, fishing by non-Indians as well as Indians on the reservation has been relatively unrestrained. Other problems affecting the fishery include the substantial diversions of water from the Trinity River, other environmental problems affecting water temperature, quality, and flow, and the reduced or blocked fish access to many spawning grounds. In combination, these problems and activities pose a substantial threat to the conservation of strong, viable fisheries on the reservation. The desires of Indians with federally reserved fishing rights, as well as other user groups, cannot be met until appropriate control of all fisheries is possible. However, the protection of the resource depends upon successful spawner escapement and at the present time freshwater fisheries must be limited accordingly.

The Department recognizes that regulation of the Indian fishery on the reservation will provide only a small degree of protection for this resource. The State of California has indicated that it will strictly enforce its own laws against non-Indians fishing on and off the reservation. In addition, it is critical that future regulation of the ocean fisheries by the Department of Commerce take account of the federally reserved fishing rights of Indians of the Hoopa Indian Reservation. Finally, a thorough review of the progress

of the Trinity River task force and the other environmental problems of the watersheds which affect the fishery should be undertaken by Federal and State agencies and Indians with interests and responsibility on the rivers and adjacent lands in order to formulate firm recommendations to reduce the negative environmental pressures on the fishery resources of the reservation.

Indians of the reservation have expressed concern about the conservation of the fishery resources, the extent of ocean fishing on these resources, and the many environmental problems contributing to the depletion of these fisheries. In response to this concern many Indians have requested that the regulation include a provision to withhold 10 percent of the total sum paid to the eligible Indian fishermen for fish sold, to be utilized for restocking or similar fisheries enhancement program for the reservation. The Department does not have the authority to make such a provision mandatory and, at best, a provision could be proposed which would allow the eligible Indian who sells fish caught in accordance with this regulation to choose whether or not he or she wants to contribute to such a fund. The fund would be held in a special account, and would be spent for a fish restocking or enhancement program approved by a vote of the majority of the eligible Indian fishermen-contributors, or Indians of the reservation, or similar representative group. Further comments are sought on this proposal.

A number of other changes have also been included which differ from the regulation employed in 1977. Significant among them is the definition of eligible Indian fishermen. The 1977 regulation had incorporated a blood quantum requirement. We received considerable negative comment on the blood quantum requirement as well on the fact that not all named plaintiffs in the *Jessie Short* case were included in the definition of Indian fisherman. Therefore, to avoid prejudicing the interests of the parties to the *Short* case, we have revised the definition to include: (1) Enrolled members of the Hoopa Valley Tribe; (2) plaintiffs in the *Short* case, and (3) Indians who are allotees or direct descendents of allottees on the reservation, and who currently and for 8 of the past 10 years have resided on the reservation or within a 50-mile radius thereof. Persons meeting the specifications of the third test will be allowed to fish on the Klamath River. It was necessary to include the third test of eligibility to ensure that those traditional Indian fishermen of the reservation who did not join in the *Short* litigation would still be protected by these regulations.

This definition of eligible Indian fisherman is not intended to comment on who, in the long run, will be eligible to fish on the Square or on any other part of the reservation, or on who among the Indians is eligible to regulate such fishing. It is our intention, to the greatest extent possible, to keep the problems of the *Jessie Short* litigation separate from and unaffected by the necessary task at hand, namely, protection of the fishery resources of the reservation.

The Department has decided that the scope of this regulation should not be expanded to include the regulation of fishing by non-Indians on the reservation. This is not a legal conclusion on the authority of either the Department or the tribe to so regulate. Rather, it is a practical decision intended to facilitate the temporary job of Federal enforcement, and State cooperation in enforcement of the laws applicable to non-Indian fishing on the rivers. The continuing controversy following the regulations published last August for the Indian fishery has made it clear that the effectiveness of these regulations will depend upon the ability to enforce them. Likewise, the effectiveness of the scheme will depend upon the willingness of the State to strictly enforce the limitations applicable to fishing by non-Indians. The Department intends to invest considerable manpower into the enforcement of these regulations. This in turn should remove any difficulties claimed by the State in enforcing the applicable laws against non-Indians who have been and may be abusing the fishery.

In early June 1978, the Department concluded its environmental assessment under the National Environmental Policy Act of 1969.

Upon review of that assessment it has been concluded that regulation of this on-reservation Indian fishery is not a major Federal action which would significantly affect the environment within section 102(2)(c) of the act. Accordingly, the preparation of an environmental impact statement is not required. The assessment is available for review at the Area Office of the Bureau of Indian Affairs or the U.S. Fish and Wildlife Service, both located in Sacramento, Calif. The Department of the Interior has also determined that this regulation does not contain a major Federal proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The fishing season in the Klamath and Trinity Rivers on the Hoopa Indian Reservation begins in mid-July 1978. This regulation is necessary to establish procedures for the exercise of the fishing rights of Indians of the reservation, consistent with the conservation of the fishery. For these reasons the Secretary of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public interest. This regulation is therefore effective on July 15, 1978.

The primary author of this document is Susan Hvalsoe, Special Assistant to the Assistant Secretary for Indian Affairs, Department of the Interior, Washington, D.C. 20240, 202-343-3163.

Comments from Indians of the reservation and other interested persons are invited at the address indicated above and will be closely considered following the 30-day comment period with respect to amendment of this regulation.

Dated: July 7, 1978.

JAMES A. JOSEPH,
Under Secretary.

Chapter 1 of Title 25 CFR is amended by adding a new Part 258.

Sec.

AUTHORITY: 43 U.S.C. 1457, 25 U.S.C. 2 and 9, 25 U.S.C. 262, and the reorganization plan No. 3 of 1950 (64 Stat. 1262).

§ 258.1 Purpose.

(a) The regulation contained in this part governs commercial and consumptive fishing by eligible Indians on the Hoopa Indian Reservation. The purpose of this regulation is to protect the fishery resources and to establish procedures for the exercise of the fishing rights of Indians of the reservation until such time as the tribal government issues of the reservation have been resolved so that the Indians can regulate themselves. It is intended to promote reasonable access by all interest-holding groups which share in the fishery resources on the reservation, and to assure fish passage through the Indian fisheries for spawning.

(b) The limited extent to which regulation is undertaken by this part is

not intended nor should it be construed as a conclusion that the Secretary does not have the authority to take additional measures to protect the Indian resources on the reservation if it is later determined that such measures are necessary.

§ 258.2 Term of regulation.

This regulation shall be effective for one year, beginning July 15, 1978 and expiring July 15, 1979.

§ 258.3 Application.

(a) The provisions of this regulation and all in-season adjustment orders issued under it shall apply to the waters of the Klamath and Trinity Rivers within the exterior boundaries of the Hoopa Indian Reservation.

(b) To the extent that it is consistent with this part and the in-season and emergency regulations issued hereunder, the Hoopa Valley Tribal Fishing Ordinance is incorporated herein and effective for all purposes as it applies to fishing by members of the Hoopa Valley Tribe on that part of the reservation known as the Square.

(c) Fishermen other than eligible Indians are not regulated under this part at this time and must therefore comply with all other applicable laws when fishing on the Hoopa Indian Reservation.

§ 258.4 Compliance.

Any Indian shall comply with this regulation when fishing for commercial or consumptive purposes on the Hoopa Indian Reservation. Indians who do not have their personal identification cards issued under § 258.7 shall be presumed to be ineligible to exercise Indian fishing rights. Only Indians who are determined to be eligible under § 258.6 may exercise Indian fishing rights on the Hoopa Indian Reservation.

§ 258.5. Definitions.

(a) *Buyer means:* A person who purchases smoked, canned, frozen or fresh fish, or other fish products such as roe from an eligible fisherman-Indian.

(b) *Commercial fishing means:* The taking of salmon or steelhead with the intent to sell them or profit economically from them.

(c) *Consumption or subsistence fishing means:* The taking of salmon or steelhead for personal comsumption by Indians of the reservation and their immediate families.

(d) *Depth of net means:* The total distance between cork and lead lines measured in meshes perpendicular to either cork or lead line.

(e) *Drift net (pole net) means:* A gill net which is not staked, anchored or weighted, but drifts free.

(f) *Drift netting zone means:* That portion of the Klamath River which runs from its mouth to the Highway 101 bridge at Klamath Glen.

(g) *Eligible fisherman—eligible Indian means:* Any Indian who is determined to be an Indian of the reservation under § 258.6.

(h) *Enforcement officer means:*

(1) Any enforcement officer of the Bureau of Indian Affairs;

(2) Any enforcement officer of the U.S. Fish and Wildlife Service;

(3) Any U.S. Marshall;

(4) Any tribal enforcement officer.

(i) *Fish, fishing means:* The fishing for, catching, or taking, or the attempted fishing for, catching, or taking of any salmon or steelhead within the exterior boundaries of the reservation.

(j) *Fisherman identification means:* Identification issued by the Bureau of Indian Affairs, and by the Hoopa Valley Tribe for its tribal members, identifying the holder as a person eligible to fish as an Indian of the reservation. The identification shall include the name, status, address, birthdate, color of hair, color of eyes, height, weight, and identification number of the holder, and holder's photograph, and the disclaimer provided in § 258.6.

(k) *Fishing gear means:* All types and sizes of hooks, nets, traps, lines, appliances, and other apparatus used to take fish.

(l) *Gear identification number means:* An identification number issued by the Bureau of Indian Affairs for marking nets and boats, identifying the owner by the number on his fisherman identification card.

(m) *Gillnet means:* A net of single web construction bound at the top by a float line and at the bottom by a weight line.

(n) *Hand dip net means:* A section of netting distended by a rigid frame operated by a process commonly recognized as dipping. Such nets may be of any size.

(o) *Lawful gear means:* Any dip net, and any set or drift gill net which complies with the length and mesh size restrictions for the management period and the geographic location.

(p) *Management period means:* A time interval during which the majority of individuals of a fish species are accessible to capture. A management period is specific to a species and a single species may have more than one management period during the course of a year, depending upon the life cycle of that species.

(q) *Nonmember means:* Any person who is not an Indian of the reservation as determined under section 258.6.

(r) *Reservation means:* The Hoopa Indian Reservation, including those parts known as the "Extension" and the "Square".

(s) *Set netting zone means:* All that portion of the Klamath and Trinity Rivers within the reservation except for that portion of the Klamath River extending from the Highway 101 bridge at Klamath Glen to the mouth of the Klamath River.

(t) *Sale:* Shall mean sell, barter, or trade, or offer for sale, barter, or trade, fresh fish or fish products.

(u) *Stretched measure means:* The distance between the inside of one knot to the outside of the opposite (vertical) knot on one mesh. Measurement shall be taken when the mesh is stretched vertically while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension.

(v) *Test fishery means:* A fishery allowed on a limited basis under the supervision of a biologist for the purpose of acquiring technical or management information including run strength, timing, composition, gear selectivity, exploitation rate, and enhancement possibilities.

§ 258.6 Eigible fishermen—eligible Indian.

(a) Enrolled members of the Hoopa Valley Tribe or plaintiffs in the case entitled *Jessie Short et al.* v. *United States,* Ct. Cls. No. 102-63, may exercise fishing rights as an Indian of the reservation under the authority of this part. Also, persons who are allottees or direct descendants of allottees on the Hoopa Indian Reservation, who currently and for eight (8) of the past ten (10) years have resided on the reservation or within a 50-mile radius thereof are eligible to exercise Indian fishing rights on the Klamath River, within the reservation boundaries. Such persons are eligible Indians and eligible fishermen for the purposes of this regulation only.

(b) *Disclaimer:* Determination of eligibility to fish under paragraph (a) of this section shall not be considered evidence of entitlement or lack of entitlement or in any way affect eligibility for enrollment or tribal benefits or rights on the Hoopa Indian Reservation as they will ultimately be determined through resolution of the issues in the *Jessie Short* case.

(c) An eligible Indian as determined under paragraph (a) of this section who allows an ineligible person to assist in an Indian fishery on the Hoopa Indian Reservation shall be subject to the penalties set out in § 258.19.

(d) Notwithstanding the provisions in paragraph (c), an eligible fisherman as determined under paragraph (a) of this section may be accompanied and assisted by his or her children.

§ 258.7 Fisherman identification cards required.

(a) Persons qualifying as an "Eligible Fisherman" or "Eligible Indian" under § 258.6 shall obtain an Indian fisherman identification card before exercising any Indian fishing rights on the Hoopa Indian Reservation.

(b) Fishermen must have their identification card in their possession while fishing, while transporting fish, and while engaged in the sale of fish. Fisherman identification cards shall be returned to the BIA upon order of a judge of a court of Indian offenses.

(c) *Fisherman identification card:* A fisherman identification card shall be issued by the Bureau of Indian Affairs or by the Hoopa Valley Tribe (1) upon showing that the applicant is a member of the Hoopa Valley Tribe. Alternatively, a fisherman identification card shall be issued by the Bureau of Indian Affairs (2) upon showing that the applicant is a plaintiff in the *Short* case, or (3) upon showing that the applicant is an allottee or a direct descendant of an allottee, who currently and for eight (8) of the past ten (10) years has resided on the reservation or within a 50-mile radius thereof. The card shall show the name and enrollment number or plaintiff status of the cardholder, his or her address, birthdate, color of hair, color of eyes, height, weight, identification number, and holder's photograph, and it shall note the disclaimer stated in § 258.6(b). The card shall state on its face that it is temporary, and effective only for the 12 months beginning July 15, 1978 and ending July 15, 1979. The card shall be signed by the cardholder. It shall be countersigned by the authorized official of the Bureau of Indian Affairs certifying that the cardholder is recognized as eligible to exercise Indian fishing rights on the Hoopa Reservation. A list of eligible fishermen to whom identification cards have been issued will be furnished to the U.S. Fish and Wildlife Service, to fisheries management and enforcement agencies, and to fish buyers licensed as Indian traders on the reservation and in California and Oregon or on other Indian reservations in the vicinity of the Hoopa Indian Reservation.

§ 258.8 Registration and indentification of gear.

(a) At the time an eligible fisherman applies for a fisherman identification card he or she shall be issued an identification number and shall be required to place the identification number on all of his or her nets and boats used for fishing in the exercise of Indian fishing rights on the Hoopa Indian Reservation. Each net shall be marked on the first front, middle, and last end cork of each net used by each eligible fisherman. Each net must have a float or corks attached which shall be floating and visible at all times. Each boat shall be marked on each side near its bow with luminescent numbers provided by the Bureau of Indian Affairs.

(b) All fishing nets and boats shall be conspicuously marked so that the fisherman's indentification number may be read without removing the gear from the water. All unmarked nets and boats may be seized by any enforcement officer. In the absence of proof to the contrary, unmarked fishing nets and boats shall be presumed not to be used in the exercise of the fishing rights of Indians of the reservation.

§ 258.9 Establishment of fishing locations—fishing areas, gear restrictions.

(a) *Drift netting zone:*

(1) No set netting is allowed at any time in the drift netting zone.

(2) No netting from an anchored boat is allowed in the drift netting zone.

(3) No eligible fisherman shall use more than one drift net while fishing in the river.

(4) No drift net shall exceed three hundred (300) feet in length.

(5) All drift nets must be out of the water between the hours of 6 a.m. and 8 p.m. from July 15, 1978 through October 1, 1978. All drift nets must be out of the water between 6 a.m. and noon from October 1, 1978 through June 30, 1979.

(b) *Set netting zone:*

(1) No drift netting is allowed below Johnson's in the set netting zone.

(2) No fisherman shall use more than two set nets while fishing in the river, and no fisherman may use more than one set net if he or she is using a drift net at the same time in the river.

(3) No set net shall exceed 100 feet in length, and no drift net used in the set netting zone shall exceed 100 feet in length.

(4) No set net or combination of set nets may be placed in the Klamath River in such a way that it (they) cover more than one-third (⅓) of the distance across the wetted area of any channel. No set net or combination of set nets may be placed in the Trinity River in such a way that it (they) cover more then two-thirds (⅔) of the distance across the wetted area of any channel.

(5) No set net may be placed across the mouth of any creek or tributary of either the Klamath or Trinity Rivers. No set nets or drift nets shall be permitted in any creek or tributary of the Klamath or Trinity Rivers.

(6) No set nets shall be permitted within five hundred (500) feet in any direction of the confluence of the Klamath and Trinity Rivers.

(7) All set and drift nets must be out of the water between the hours of 6 a.m. and 8 p.m. from July 15, 1978 through October 1, 1978. All set and drift nets must be out of the water between 6 a.m. and noon from October 1, 1978 through June 30, 1979.

(c) *Set net locations:* Set net locations shall be determined by the individual Indian fishermen based upon historic or aboriginal family use. Disputes over set net locations are to be resolved between the parties. If no satisfactory resolution is reached then all disputes are to be referred by the parties to elders or knowledgeable adults of the community for the particular area in which the unresolved dispute takes place. Unresolved disputes between members of the Hoopa Valley Tribe fishing on the Square may be referred to the business committee or resolved under a mechanism established by the business committee.

(d) *Prohibited gear:* The use of wire, fencing materials, nets set to form a trap, explosives, or caustic or lethal chemicals in any form, is expressly prohibited in all fisheries.

(e) *Research and test fisheries:* Fish traps may be used by biologists of fishery management agencies working on the rivers for biological research, enhancement, or other resource management purposes. Designated Indians of the Hoopa Indian Reservation may observe research and test fisheries upon making arrangements with the agency conducting the research activity. Indians of the reservation shall be provided notice of such uses and allowed access to the information obtained through such activities.

(f) *Noncommercial hook and line fishing:* Eligible Indians may engage in noncommercial fishing by single hook and line at all times on the Hoopa Indian Reservation except when fishing is prohibited for all persons by emergency regulations promulgated hereunder for conservation purposes. Fisherman identification cards shall be carried by all eligible Indians when engaged in hook and line fishing.

(g) *Authorized gear:* Set and drift and dip nets are authorized for use on the Hoopa Indian Reservation pursuant to the limitations established in this regulation or the in-season or emergency regulations promulgated hereunder.

(h) *Special Fishing for Rest Home on Hoopa Square.* Two nets which are used in conformity with the regulations may be used for fishing for the rest home on the Hoopa Square. Such nets shall be clearly marked with a number assigned by the Agency office upon registration of the net. An eligible Indian of the reservation must tend these nets, and all fish caught shall have the upper half of the tailfin clipped immediately upon removal from the net. No fish caught with such nets may be sold.

§ 258.10 Sales of fish.

(a) *Trinity River.* Eligible Indian fishermen fishing on the Trinity River on the Hoopa Indian Reservation shall mark all salmon and steelhead caught on the Trinity River by clipping the top half of the tailfin of each fish immediately upon removing it from the

net or otherwise removing it from the water. No fish caught on the Trinity River and no fish with the top half of the tailfin clipped may be sold.

(b) Eligible Indian fishermen fishing on the Klamath River may sell their fish during commercial fishing seasons. When selling to someone who is on the reservation the buyer must be licensed or have applied for a Federal license to trade with Indians. Sales of fish caught during the following seasons is permitted: (1) July 15 through September 10, sales to be completed before September 12; (2) April 1 through June 30, sales to be completed before July 2.

(c) Eligible Indian fishermen fishing on the Klamath River on the Hoopa Indian Reservation from September 11 through March 31 shall mark all salmon and steelhead caught by clipping or cutting off the top half of the tailfin of each fish immediately upon removing it from the net or otherwise removing it from the water. No fish caught on the Klamath River during this time and no fish with the top half of the tailfin clipped may be sold.

(d) Sale of fish by anyone not possessing their own fishermen identification card issued pursuant to this regulation is prohibited.

§ 258.11 Open fishing days and times and mesh sizes.

The Hoopa Indian Reservation is open to the taking of salmon and steelhead unless specifically closed by this regulation or by properly adopted in-season and emergency regulations promulgated hereunder.

(a) *Below the Highway 101 bridge from July 15 through September 30.* Eligible Indians may fish with drift nets below the Highway 101 bridge from 8 p.m. Friday to 6 a.m. on the following Sunday. Daily fishing hours are prescribed in § 258.9(a)(5). Nets used for fishing must have a mesh size of 7¼ inches stretched measure, or larger. Commercial fishing is allowed until September 10.

(b) *Above the Highway 101 bridge from July 15 through September 30.* Eligible Indians may fish with nets above the Highway 101 bridge from 8 p.m. Thursday to 6 a.m. on the following Monday. Daily fishing hours are prescribed in § 258.9(b)(7). Nets used for fishing must have a mesh size of 7¼ inches stretched measure, or larger. Commercial fishing is allowed on the Klamath River until September 10.

(c) *All reservation consumption fishing: October 1 through March 31.* Eligible Indians may fish for consumptive purposes only with nets with a mesh size of 6 inches stretched measure, or larger, from noon on Monday to 6 a.m. on the following Monday of each week. Daily fishing hours are prescribed in § 258.9 (a)(5) and (b)(7).

(d) *All reservation, April 1 through July 15.* Eligible Indians may fish with nets with a mesh size of 7¼ inches stretched measure, or larger, from noon on Monday to 6 a.m. on the following Monday of each week. Daily fishing hours are prescribed in § 258.9 (a)(5) and (b)(7). Commercial fishing is allowed on the Klamath River only until June 30.

§ 258.12 In-season and emergency regulations.

(a) The area manager of the U.S. Fish and Wildlife Service in Sacramento, Calif., shall have the authority to make in-season and emergency changes in the regulations when necessary to insure proper management of the fisheries resources of the Klamath and Trinity Rivers. This includes the power to close all or part of an Indian fishery when, in his or her judgment, a closure is necessary to meet conservation or enforcement needs. This also includes the power to increase the number of fishing days for all or part of an Indian fishery when, in his or her judgment, this will not jeopardize spawning escapement. The area manager or his authorized representative shall consult with eligible fishermen of the affected areas in making such decisions.

(b) In-season or emergency regulations shall be effective upon their issuance or according to their terms and shall remain effective until modified or rescinded by the area manager or terminated by their terms. No penalty shall be imposed for violations of an emergency regulation unless twenty-four (24) hours have passed since the issuance of the emergency regulation, or unless there has been personal service of the regulation upon the fisherman, whichever occurs first.

(c) All in-season and emergency regulations shall be posted at prominent locations throughout the Hoopa Indian Reservation, and shall be published in local newspapers and in the FEDERAL REGISTER as quickly as possible.

§ 258.13 Fish buyers—Licensing and fish catch reporting.

(a) *On-reservation fish buyers.* Fish buyers desiring to purchase fish from eligible Indians of the Hoopa Indian Reservation may only purchase fish caught in conformity with this regulation. A fish buyer may enter the reservation to purchase fish if the fish buyer is a licensed Indian trader, in accordance with 25 CFR 251 (25 U.S.C. 262), or has applied for such a license and has not yet been denied. Fish buyers may purchase fish caught on the Hoopa Indian Reservation in accordance with this regulation from eligible Indian fishermen who hold a fisherman identification card issued pursuant to this regulation. When purchasing fish from eligible Indians all fish buyers shall:

(1) Verify that the seller is an eligible Indian who has a fisherman identification card in his possession at the time of the sale and shall compare the name and identification number with the list of cardholding eligible fishermen supplied to the fish buyer by the BIA;

(2) Complete a fish ticket for each fish sale, with a copy provided to the fisherman, and copies provided to the U.S. Fish and Wildlife Service on a weekly basis—within three (3) calender days of final weekly net catch.

(3) Record on each fish ticket the name and fisherman identification number of the seller, the date, and time of sale, the number of fish sold by species, size of the fish by category, price paid, whether the fish was smoked, canned, frozen, fresh, or in some other condition. The fish buyer and the eligible Indian fisherman shall each sign the ticket to verify the sale.

(b) *Off-reservation fish buyers.* Sales of fish caught in accordance with this regulation on the Hoopa Indian Reservation may be made to off-reservation fish buyers by eligible Indians holding a fisherman identification card issued pursuant to this regulation. It is the responsibility of each fisherman at the time of each fish sale to make certain that the fish ticket is completed accurately by the fish buyer and sent to the U.S. Fish and Wildlife Service on a weekly basis. Each fisherman shall show his fisherman identification card to the fish buyer on demand, and shall sign the fish ticket, verifying the accuracy of the information contained in the fish ticket.

§ 258.14 Fish catch data—Access and use.

(a) Fish buyers and eligible Indian fishermen shall allow access to harvested fish to biologists and enforcement officers and Indian trainees for the purposes of identifying species and species composition, taking of scale samples, length and weight measurements, and checking for fin clips and tags from the harvested fish. This information may be collected by spot checks of nets on the rivers, by a research check station set up at a landing site, or at a fish buyer's purchasing or storage locations.

(b) Fish catch data shall be compiled by the USFWS upon receipt of information contained on the fish catch tickets for commercial sales, and information extrapolated from fisherman spot checks and landing counts, and creel census or other data collected by State or Federal officials for sport fishing on the reservation. The area manager will summarize and distribute data concerning the harvest. Included in the harvest data will be the estimated sportfish harvest by species for the time limit involved.

§ 258.15 Obstructing officer.

It shall be unlawful to willfully interfere with or obstruct an enforcement officer engaged in enforcement of this regulation or in-season or emergency orders promulgated under it.

§ 258.16 Identification of persons fishing.

Any person fishing shall produce for examination the applicable Indian fisherman identification card required under this regulation upon demand of an enforcement officer. Failure to produce the required forms of identification shall be probable cause to believe that such a person is a nonmember and has no right to exercise Indian fishing rights on the Hoopa Indian Reservation.

§ 258.17 Forcible assault on enforcement officer.

No person shall assault, resist, oppose, impede, intimidate, or interfere with an enforcement officer engaged in enforcing this subpart.

§ 258.18 Enforcement.

Federal enforcement officers may be accompanied by an Indian trainee. Only Federal or Indian enforcement officers defined in section 258.5(h) shall enforce the provisions of this regulation as they apply to eligible Indians.

§ 258.19 Penalties.

(a) Eligible Indians who violate these regulations or any in-season or emergency regulation promulgated hereunder shall be subject to prosecution before a Court of Indian Offenses established on the Hoopa Indian Reservation pursuant to 25 CFR Part 11 and whose jurisdiction shall be limited to enforcement of this regulation. Such persons shall be subject to a civil penalty and/or have his or her fishing gear and fish catch confiscated, and/or have his or her Indian fishing rights suspended. Minimum sentences shall be as follows:

First offense: Fishing rights shall be immediately suspended for 1 month, plus confiscation of fish catch;

Second offense: Fishing rights shall be immediately suspended for 3 months, plus confiscation of fish catch;

Third offense: Fishing rights shall be immediately suspended for 6 months, plus confiscation of fish catch and nets and a fine of no less than $500.

(b) Violation of §§ 258.17 and 258.19, obstructing an officer and forcible assault on an enforcement officer, are criminal offenses and shall be prosecuted under 18 U.S.C. 111 and 1114.

[FR Doc. 78-19284 Filed 7-12-78; 8:45 am]

Title 29—Labor

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1203—APPLICATIONS FOR SERVICE

Investigation of Representation Disputes

AGENCY: National Mediation Board.

ACTION: Interim rulemaking.

SUMMARY: These interim regulations amend § 1203.2 of the National Mediation Board rules. The interim regulations delete the current requirement that the Board's "Application for Investigation of Representation Dispute" (form NMB-3) should include a reference to the number of signed authorizations submitted from employees in each craft or class sought for representation. This amendment is reflected on the revised form NMB-3 currently in the process of initial distribution. The intended effect of this action is to eliminate the necessity of the applicant organization to specify the exact number of authorization cards submitted in support of the organization's application for investigation of representation disputes.

DATES: The regulations are effective on an interim basis on July 13, 1978. However, written comments are invited, and consideration will be given to all written comments received on or before September 11, 1978.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, D.C. 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, telephone 202-523-5920.

SUPPLEMENTARY INFORMATION: These interim regulations are issued pursuant to the authority of 44 Stat. 577, as amended (45 U.S.C. 151, et seq.).

By direction of the National Mediation Board.

Dated: July 7, 1978.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

29 CFR, Chapter X, is amended by revising 1203.2 as follows:

§ 1203.2 Investigation of representation disputes.

Applications for the services of the National Mediation Board under section 2, ninth, of the Railway Labor Act to investigate representation disputes among carriers' employees may be made on printed forms NMB-3, copies of which may be secured from the Board's Executive Secretary. Such applications and all correspondence connected therewith should be filed in duplicate and the applications should be accompanied by signed authorization cards from the employees composing the craft or class involved in the dispute. The applications should show specifically the name or description of the craft of class of employees involved, the name of the invoking organization, the name of the organization currently representing the employees, if any, and the estimated number of employees in each craft or class involved. The applications should be signed by the chief executive of the invoking organization, or other authorized officer of the organization. These disputes are given docket numbers in series "R".

[FR Doc. 78-19359 Filed 7-12-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-75]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Atlantic and Gulf Intracoastal Waterways, South Carolina and Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Change of various section headings for drawbridges across the Atlantic and Gulf Intracoastal Waterways in South Carolina and Florida are made to more clearly identify and locate the bridges concerned. Notice and public procedure have been omitted because this action is merely one of clarification.

EFFECTIVE DATE: This amendment is effective on July 13, 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.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal 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 be amended by revising the headings of the following sections of part 117 to read as follows:

§ 117.365 Sullivans Island Narrows, AIWW, mile 462.2, Ben M. Sawyer Bridge, SR 703 between Sullivan's Island and Mount Pleasant, S.C.

§ 117.370 Wappoo Creek, AIWW, mile 470.8, Wappoo Creek Bridge, SR 171/700, Charleston, S.C.

§ 117.432 Matanzas River, AIWW, mile 777.9, Bridge of Lions, SR A-1-A, St. Augustine, Fla.

§ 117.433 Halifax River, AIWW, mile 824.9, Ormond Beach Bridge, SR 40, and Halifax River, AIWW, mile 835.5, Port Orange Bridge, SR A-1-A, Volusia County, Fla.

§ 117.433a Indian River North, AIWW, mile 846.5, Harris Saxon Bridge, Lytle Avenue, SR A-1-A, New Smyrna Beach, Fla.

§ 117.435 Indian River, AIWW, mile 876.6, Florida East Coast automated railroad bridge near Jay Jay, Fla.

§ 117.436 Indian River, AIWW, mile 878.9, SR 402 Bridge, Titusville, Fla., AIWW, mile 885.0, NASA Causeway Bridge, SR 405, Addison Point, Fla.; AIWW, mile 914.4, Eau Gallie Causeway Bridge, SR 3/518, Eau Gallie, Fla.; and AIWW, mile 918.2, Melbourne Causeway Bridge, SR 516, Melbourne, Fla.

§ 117.438a Indian River, AIWW, mile 951.9, Merrill Barber Bridge, SR 60, Vero Beach, Fla.

§ 117.438c AIWW, mile 1,013.7, Parker Bridge, U.S. 1, North Palm Beach, Fla.

§ 117.440 Lake Worth, AIWW, mile 1,021.9, Flagler Memorial Bridge, SR A-1-A, and AIWW, mile 1,022.6, Royal Park Bridge, SR 704, Palm Beach, Fla.

§ 117.440a Lake Worth, AIWW, mile 1,024.7, Southern Boulevard Bridge, SR 700/80, Palm Beach, Fla.

§ 117.442a Hillsboro River, AIWW, mile 1,055.0, Northeast 14th Street Bridge, Pompano, Fla.

§ 117.443 Hillsboro River, AIWW, mile 1,056.0, Atlantic Boulevard Bridge, SR 814, Pompano, Fla.

§ 117.445 New River Sound, AIWW, mile 1,059.0, Commercial Boulevard Bridge, Northeast 50th Street, SR 870, Lauderdale-by-the-Sea, Fla.

§ 117.446 New River Sound, AIWW, mile 1,062.6, Sunrise Boulevard Bridge, Northeast 10th Street; AIWW, mile 1,065.9, Brook Memorial Bridge, Alternate SR A-1-A and Southeast 17th Street, Fort Lauderdale, Fla.

§ 117.446a Lake Mable-Dumfounding Bay, AIWW, mile 1,072.2, Hollywood Boulevard Bridge, SR 820, Hollywood, Fla.

§ 117.446b Lake Mable-Dumfounding Bay, AIWW, mile 1,074.0, Hallendale Beach Boulevard Bridge, SR 824, Hallendale, Fla.

§ 117.446e Biscayne Bay, AIWW, mile 1,081.4, Broad Causeway Bridge, Northeast 123rd Street between North Miami and Bay Harbor Islands, Fla.

§ 117.446f Biscayne Bay, AIWW, mile 1,089.4, highway and railroad bridges, Dodge Island, Miami, Fla.

§ 117.446g Biscayne Bay, AIWW, mile 1,078.0, Sunny Isle Causeway Bridge, Northeast 163rd Street, SR 826, North Miami Beach, Fla.

§ 117.447 Biscayne Bay, AIWW, mile 1,088.8, MacArthur Causeway Bridge, U.S. 41, SR A-1-A; and AIWW, mile 1,088.6, east and west spans of the Venetian Causeway Bridges, Miami, Fla.

§ 117.447a Biscayne Bay, AIWW, mile 1,091.6, Rickenbacker Causeway Bridge, Miami, Fla.

§ 117.462 Caloosahatchee River, Okeechobee Waterway, mile 134.5, Edison Memorial Bridge, U.S. 41, Fort Myers, Fla.

§ 117.466 Clearwater Harbor, AIWW, mile 136.0, Clearwater Memorial Causeway, SR 60, Clearwater, Fla.

(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: July 3, 1978.

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

[FR Doc. 78-19358 Filed 7-12-78; 8:45 am]

[3710-92]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Seaplane Restricted Area, Corpus Christi Bay, Tex.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule amends regulations which establish a seaplane restricted area in Corpus Christi Bay, Tex. The seaplane restricted area is reduced in size by this action.

DATE: Effective on July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard at 202-693-5070, Office of the Chief of Engineers, Attn. DAEN-CWO-N, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: The proposed amendment was published at 43 FR 10942 on March 16, 1978, with the comment period expiring on April 17, 1978. We received one comment from the National Ocean Survey which questioned the accuracy of the coordinates shown in the notice. We have verified that the coordinates are correct and will remain unchanged. However, we are requesting the FEDERAL REGISTER to change the format for the coordinates only to show them as pairs for clarity.

The amendment is hereby established as set forth below:

§ 8207.188 Corpus Christi Bay, Tex.; seaplane restricted area, U.S. Naval Air Station, Corpus Christi.

(a) *The area.* The waters of Corpus Christi Bay within the area described as follows: Beginning at a point on the south shore of Corpus Christi Bay at the "North Gate" of the U.S. Naval Air Station at longitude 97°17'15.0" W.; thence through points at:

North latitude	West longitude
27°42'34.9"	97°17'09.6"
27°41'46.8"	97°14'23.8"
27°41'15.1"	97°14'35.4"
27°41'27.0"	97°15'16.7"
27°40'41.6"	97°15'33.3"

thence to a point on shore at latitude 27°40'44.9" N.; thence along the shore to the point of beginning.

(b) The regulations: (1) No vessel or watercraft shall enter or remain in the area at any time, day or night, except with express written approval of the enforcing agency, or as a result of force majeure.

(2) The regulations in this section shall be enforced by the Chief of Naval Air Training, U.S. Naval Air Station, Corpus Christi, Tex., and such agencies as he may designate.

(40 Stat. 266; 33 U.S.C. 1.)

Dated: June 29, 1978.

MICHAEL BLUMENFELD,
Deputy Under Secretary of the Army.

[FR Doc. 78-19269 Filed 7-12-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Certifications by Nonprofit Third-Class Bulk Mailers; Correction

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error in the supplementary information for a final rule on nonprofit third-class bulk mailers which appears at page 28199 of the FEDERAL REGISTER of June 29, 1978 (FR Doc. 78-18056).

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold J. Hughes, 202-245-4612.

In FR Doc. 78-18056 appearing at page 28199 in the FEDERAL REGISTER of Thursday, June 29, 1978, the following change should be made: on page 28200, in the first column, in the first full paragraph, the fourth sentence should

read: "This commenter believed that criminal 'false statement' sanctions were inconsistent with the Postal Service's position in litigation with it, and that such sanctions should not be implemented while its lawsuit challenging the Postal Service's jurisdiction to issue § 134.57 was on appeal."

W. ALLEN SANDERS,
Assistant General Counsel.

[FR Doc. 78-19360 Filed 7-12-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER C—DEFENSE MATERIALS

[FPMR Amdt. C-5]

PART 101-14—NATIONAL STOCKPILE

PART 101-15—LEAD AND ZINC STABILIZATION

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule updates regulations applicable to Federal agencies pertaining to the transfer of excess strategic and critical materials to and from the national stockpile to reflect current procedures, references, and GSA mailing addresses. Furthermore, this rule deletes provisions concerning the Lead and Zinc Mining Stabilization program which has expired.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for subchapter C is amended to delete and reserve the entries for part 101-15 and to include the following new and revised entries:

PART 101-14—NATIONAL STOCKPILE

Sec.
101-14.105 Materials not transferred to the national stockpile.
101-14.106 List of strategic and critical materials to be reported to GSA.

Subpart 101-14.2—Transfer of Excess Strategic and Critical Materials for Direct and Indirect Government Use

101-14.202 Definitions.
101-14.202-1 Direct Government use.
101-14.202-2 Indirect Government use.

PARTS 101-15 [RESERVED]

Part 101-14 is retitled as follows:

PART 101-14—NATIONAL STOCKPILE

Subpart 101-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

1. Section 101-14.101 is revised as follows:

§ 101-14.101 Purpose and authority.

This subpart sets forth the policy and procedures for transferring to the national stockpile excess strategic and critical materials held by Federal agencies. Pursuant to section 3h of Defense Mobilization Order 11 (32A CFR Part 111), GSA reviews agencies' excess holdings of these materials as a potential source to satisfy unfulfilled national stockpile goals.

2. Section 101-14.102-4 is revised as follows:

§ 101-14.102-4 Strategic materials.

"Strategic materials" means materials determined to be strategic and critical by the Federal Preparedness Agency, GSA, pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h).

3. Section 101-14.103-1 and 101-14.103-2 are revised as follows:

§ 101-14.103 Reports of excess to GSA.

§ 101-14.103-1 General requirements of reporting.

Except as hereinafter provided, strategic and critical materials listed in the GSA bulletin entitled "Excess strategic and critical materials required for the national stockpile" (see § 101-14.106) shall, when determined to be excess, be reported by the holding agency to the General Services Administration (FJ), Washington, D.C. 20406. (Interagency report control number 0120-GSA-AR has been assigned to this report.) GSA will determine whether the materials shall be transferred to the national stockpile.

(a) Upon determining that the materials are excess, the holding agency shall report the location, quantity, and description of the materials by letter to GSA. The letter shall contain sufficient details to indicate the nature of each strategic material, including chemical or other composition, specification, size, and other pertinent data. When available, complete purchase specifications or material content analyses shall also be included.

(b) GSA will review the information provided by the holding agency. When it is determined that the materials conform or appear to conform to stockpile requirements and are needed to satisfy unfulfilled stockpile goals, GSA will furnish the holding agency with instructions for transferring the materials to an appropriate stockpile site or, if necessary, for submitting additional information for further review. (See § 101-14.105 for reported materials not accepted for transfer to the national stockpile.)

§ 101-14.103-2 Less than minimum specified quantities.

Each holding agency having excess strategic and critical materials at any one location in lots of less than the minimum quantities specified in the GSA bulletin entitled "Excess strategic and critical materials required for the national stockpile" (see § 101-14.106) shall retain the materials until the specified minimum is accumulated. After accumulation of the minimum, the holding agency shall report the materials to GSA as required in § 101-14.103-1. If the holding agency determines that there is no reasonable prospect of accumulating the minimum quantity within 12 months after the material is determined to be excess, the material shall not be reported as prescribed in § 101-14.103-1 but shall be handled as excess in accordance with the applicable provisions of part 101-43.

4. Section 101-14.105 is revised as follows:

§ 101-14.105 Materials not transferred to the national stockpile.

Excess strategic and critical materials in the following categories shall be handled in accordance with the applicable provisions of part 101-43:

(a) Materials which were reported pursuant to this subpart 101-14.1 but were not accepted for transfer to the national stockpile. (See also § 101-43.311-1 for required annotation of document.)

(b) Materials which are not required to be reported pursuant to this subpart 101-14.1.

5. Section 101-14.106 is revised as follows:

§ 101-14.106 List of strategic and critical materials to be reported to GSA.

The Commissioner, Federal Supply Service, will periodically issue to Federal agencies a revised GSA bulletin entitled "Excess strategic and critical materials required for the national stockpile," which lists the materials and the quantities to be reported under the provisions of this subpart 101-14.1. Additional copies of this bulletin may be obtained upon written request to the General Services Administration (FJ), Washington, D.C. 20406.

Subpart 101-14.2 is retitled as follows:

Subpart 101-14.2—Transfer of Excess Strategic and Critical Materials for Direct and Indirect Government Use

1. Section 101-14.200 is revised as follows:

§ 101-14.200 Scope of subpart.

This subpart concerns the transfer of excess strategic and critical materials from General Services Administration inventories for direct and indirect Government use.

2. Section 101-14.201 is revised as follows:

§ 101-14.201 Purpose and authority.

This subpart sets forth the policy and procedures for transferring excess strategic and critical materials in the inventories of GSA to Federal agencies for direct or indirect use. As prescribed in section 3o of Defense Mobilization Order 11 (32A CFR Part 111), Federal agencies which directly or indirectly use strategic and critical materials shall obtain their requirements for these materials from excess Government inventories when feasible.

3. Section 101-14.202 is revised and §§ 101-14.202-1 and 101-14.202-2 are added as follows:

§ 101-14.202 Definitions.

§ 101-14.202-1 Direct Government use.

"Direct Government use" means use in a Government-owned and Government-operated facility and use in a Government-owned facility which is operated by a contractor for the Government.

§ 101-14.202-2 Indirect Government use.

"Indirect Government use" means use by prime contractors and all tiers of subcontractors in the production of items being procured by the Government.

4. Section 101-14.203 is amended by revising paragraphs (a) and (c) as follows:

§ 101-14.203 Materials available.

(a) The Director, Federal Preparedness Agency, will periodically issue to Federal agencies a GSA bulletin entitled "Transfer of excess strategic and critical materials from GSA inventories," which lists excess materials available for transfer to agencies under the provisions of this subpart 101-14.2. The bulletin will be revised as excess materials become available or as available supplies of excess materials become exhausted. Additional copies of the bulletin may be obtained upon written request to the General Services Administration (EN), Washington, D.C. 20405.

* * * * *

(c) GSA reserves the right to fix the minimum quantity that may be released on a single order.

5. Section 101-14.205 is revised as follows:

§ 101-14.205 Requests for transfers.

Federal agencies shall review the GSA bulletin entitled "Transfer of excess strategic and critical materials from GSA inventories" (see § 101-14.203(a)) and promptly inform GSA of their requirements for any of the materials listed therein. Requests for information concerning transfer of any excess strategic and critical materials from GSA inventories should be directed to the General Services Administration (EN), Washington, D.C. 20405.

PART 101-15—[RESERVED]

Part 101-15 is deleted and reserved.

(Sec. 6, 53 Stat. 812, as amended (50 U.S.C. 98e); sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 704, 64 Stat. 816, as amended (50 U.S.C. App. 2154); EO 11725, 38 FR 17175, 3 CFR, 1971-1975 Comp., p. 779, as amended; DMO 11, 32A CFR Part 111.)

Dated: June 30, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-19151 Filed 7-12-78; 8:45 am]

[6820-24]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. H—111]

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Subpart 101-43.3—Utilization of Excess

REPORTING EXCESS STRATEGIC AND CRITICAL MATERIALS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation requires Federal agencies reporting excess strategic and critical materials to GSA for utilization and disposal which were previously reported for national stockpile purposes to note on the reporting document that the materials were previously reported. Currently, GSA must, by means of intragency document referral or additional contact with the reporting agency, ascertain whether the materials were previously reported in accordance with priority requirements. The inclusion of this information on the document by reporting agencies will permit more expeditious processing by precluding the need for time-consuming verifications.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

Section 101-43.311-1 is revised as follows:

§ 101-43.311-1 Reporting.

Except as set forth in § 101-43.312, excess personal property shall be reported promptly as provided in this § 101-43.311-1 and in accordance with the Federal supply classification groups and classes in § 101-43.4801 with full descriptions when they are available. In the absence of such descriptions, adequate commercial descriptions shall be substituted. Whenever possible, national stock numbers shall be provided as part of the description. It is especially important that the excess property report reflect the true condition of the property as of the date it is reported excess through assignment of the appropriate code designation as defined in § 101-43.4901-120-1. Further, whenever an item of equipment is reported as excess on Standard Form 120, Report of Excess Personal Property, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall be reported on the standard form 120. If the property reported is a prefabricated movable structure that has been installed in a permanent manner and if the reporting agency requires that the site be restored at the expense of the transferee, donee, or purchaser, the nature and estimated cost of restoration shall be included on the standard form 120. When the property being reported is an excess strategic or critical material which was previously reported to GSA in accordance with subpart 101-14.1 but not accepted for transfer to the national stockpile, the fact that the material was previously reported shall be noted on the standard form 120.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: June 30, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-19152 Filed 7-12-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20509]

PART 89—PUBLIC SAFETY RADIO SERVICES

Providing for the Use of frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Services for the Transmission of Certain Kinds of Information to the Traveling Public; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum.

SUMMARY: On June 9, 1978, the FCC released a memorandum opinion and order in docket 20509 denying several petitions for reconsideration. To correct an error appearing in paragraph 9 of the text an erratum is being issued to indicate that frequencies 530 and 1610 kHz are being reserved for travelers information stations, as reflected in the eighth notice of inquiry in docket No. 20217.

EFFECTIVE DATE: July 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Melvin Murray, Spectrum Allocation Division, Office of Chief Engineer, 202-632-6350.

In the matter of amendment of parts 2 and 89 of the rules to provide for the use of frequencies 530, 1606, and 1612 kHz by stations in the local government radio services for the transmission of certain kinds of information to the traveling public. (Docket No. 20509).

Released: June 22, 1978.

Published at page 25127, June 9, 1978.

The text to the Commission's memorandum opinion and order, FCC 78-366, released June 9, 1978, is corrected as follows:

1. Paragraph 9 is amended to read as follows:

* * * * *

9. NAB is correct in its statement that the Commission's fourth and fifth NOI in docket No. 20271 listed broadcasting in the 525-535 and 1605-1805 kHz bands for region 2. However, it is the Commission's current intention to reserve the frequencies 530 and 1610 kHz for travelers information stations as reflected in its eighth NOI in docket No. 20271 released on May 5, 1978.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19255 Filed 7-12-78 8:45 am]

[6712-01]

[Docket No. 21342; RM-2792]

PART 91—INDUSTRIAL RADIO SERVICES

Allowing Transmission of Pulsed Carrier Emissions on the Frequencies 154.570 and 154.600 MHz; Correction

AGENCY: Federal Communications Commission.

ACTION: Errata.

SUMMARY: This errata corrects the business radio service frequency table and associated limitations by reinserting limitation (51) which was dropped when a new limitation was adopted bearing that number. The new limitation is number (54). This relates to the report and order in docket 21342.

EFFECTIVE DATE: April 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Arthur C. King, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

In the matter of amendment of § 91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz, Docket No. 21342, RM-2792.

Released : June 22, 1978.

When the report and order in docket 21342 (FCC 78-150, 43 FR 10368, March 13, 1978, was prepared, the appendix included a new limitation on the frequencies 154.570 and 154.600 MHz which, through inadvertence, was numbered (51) instead of (54). When the report and order was published, the original limitation (51) was deleted from § 91.554(b) and the new limitation inserted. To correct the frequency list and limitations, § 91.554 (a) and (b) should read as follows:

§ 91.554 Frequencies available.

(a) * * *

Frequency or band (MHz)	Class of station(s)	General reference	Limitations
*	*	*	*
154.570	Mobile	Low power general use	13, 14, 44, 54
154.600	do	do	13, 14, 43, 54
*	*	*	*

(b) * * *

(5) The maximum output power of the transmitter may not exceed 1 watt. A1, A2, A9, F1, F2, or F9 emission may be authorized.

* * * * *

(54) This frequency may be used, with the transmitter carrier centered on the designated frequency or 5 kHz above or below the designated frequency with P0 or P2 emission, using a bandwidth of 5 kHz and a power not to exeed 1 watt peak power output.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19258 Filed 7-12-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-144; Amdt. Nos. 173-117, 179-23]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

PART 179—SPECIFICATIONS FOR TANK CARS

Shippers; Specification for Pressure Tank Car Tanks

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: As a result of a series of recent serious railroad accidents involving certain uninsulated pressure tank cars transporting hazardous materials, and to effect early safety im-

provement in the use of these tank cars, the period of time for the retrofit program specified in this docket under amendments numbered 173-108 and 179-19 is shortened as follows:

1. Existing specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane, whose owners have elected to retrofit with jacketed insulation and integral tank head protection (known as the "J" retrofit), are to be retrofitted over a 3-year period ending on December 31, 1980 (former deadline: December 31, 1981).

2. Existing specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane, whose owners have elected to retrofit with a nonjacketed thermal protection system and tank head protection (known as the "T" retrofit) are to be retrofitted with tank head protection over a 2-year period ending December 31, 1979 (former deadline: December 31, 1981), and with the nonjacketed thermal protection system over a 3-year period ending on December 31, 1980 (former deadline: December 31, 1981).

3. Existing specification 112 and 114 tank cars used to transport anhydrous ammonia exclusively (the "S" retrofit) are to be retrofitted with tank head protection over a 2-year period ending on December 31, 1979 (former deadline: December 31, 1981).

4. Existing specification 112 and 114 tank cars, regardless of the hazardous lading being transported, are to be retrofitted with special couplers designed to resist coupler vertical disengagements over a time period ending on December 31, 1978 (former deadline: June 30, 1979).

EFFECTIVE DATE: These regulations are effective July 13, 1978.

ADDRESS: All written comments received in this proceeding are available for examination during regular business hours in room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration, 202-426-2748.

SUPPLEMENTARY INFORMATION: These amendments are the result of the joint efforts of the Federal Railroad Administration (FRA) and the Materials Transportation Bureau (the Bureau). In accordance with internal DOT procedures, the FRA has developed the substantive provisions of these amendments for review and issuance by the Bureau. Accordingly, further information concerning substantive provisions of these amendments may be obtained from the above contact.

Background Information

Emerging need for expedited retrofit

On September 15, 1977, the Bureau published in the Federal Register (42 FR 46306) a final rule concerning specifications for tank cars which included the following timetable:

1. Existing specification 112 and 114 tank cars used to transport flammable gases were to be retrofitted with thermal protection and tank head protection (such as a "head shield") over a 4-year period ending on December 31, 1981.

2. Existing specification 112 and 114 tank cars used to transport anhydrous ammonia were to be retrofitted with tank head protection (such as a head shield) over a 4-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars were to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers were to be retrofitted on all cars by July 1, 1979.

Major accidents at Pensacola, Fla., on November 9, 1977, at Waverly, Tenn., on February 22, 1978, and at Lewisville, Ark., on March 29, 1978, in combination with an incident of apparent vandalism near Youngstown, Fla., on February 26, 1978, focused attention on measures to improve the safety of rail transportation of hazardous materials.

As a result of these accidents and subsequent hearings conducted by Congress, the National Transportation Safety Board and the FRA, the Bureau published a notice of proposed rulemaking, Docket No. HM-144; Notice No. 78-5 (43 FR 20250; May 11, 1978). The purpose of that notice was to elicit public comment on a proposed rule to accelerate the time schedule for the retrofit program specified in this docket under amendments numbered 173-108 and 179-19.

The reasons for adopting a shortened retrofit program were discussed in considerable detail in the notice. Interested persons were invited to participate in the rulemaking proceeding through the submission of written comments. Thirty-nine submissions were received and have been fully considered by the FRA and the Bureau in the development of this final rule.

In response to comments received, four changes have been made in the final rule.

1. In § 173.314 paragraph (c) table, the date in note 24 has been revised. This date is now December 31, 1980, and is consistent with the date in note 23.

2. In § 179.105-1 paragraph (c)(1) has been revised. The date for coupler retrofit for Canadian-owned tank cars moving under load in the United States has been extended 3 months to March 31, 1979, and permission granted for "empty" return movement to Canada of these nonequipped cars until July 1, 1979.

3. In § 179.105-1 paragraph (c)(2) has been revised to make the requirements applicable to Canadian-owned 112 and 114 tank cars consistent with those applicable to United States owned 112 and 114 tank cars when the retrofit program has been completed.

4. In § 179.105-3 paragraph (d)(3)(i) the percentage of "J" retrofits that must be completed by December 31, 1978, has been established at 20 percent. This is the percentage required by amendment 179-19.

Section-by-Section Anaylsis

Section 173.31 qualification, maintenance, and use of tank cars

The notice proposed to reduce the retrofit time period for application of shelf couplers by 6 months from June 30, 1979, to December 31, 1978. Several commenters suggested that, although adequate supplies of shelf couplers might be fabricated by the end of 1978, they doubted that 100 percent of the cars could be equipped by that date. Logistical problems were cited. Several suggestions were offered:

1. Retain the June 30, 1979, date;

2. Use March 31, 1979, as the required date; and

3. Permit "empty" tank cars not equipped with shelf couplers to be transported after December 31, 1978, for either 3 or 6 additional months.

Information available to the FRA and the Bureau indicates that an adequate supply of shelf couplers will be manufactured during 1978 for retrofitting all of the 112 and 114 tank cars. However, it is recognized that getting the couplers to the tank cars may present problems. Shelf couplers manufactured during the last quarter of 1978 will need to be installed rapidly and the railroads have indicated that they will assist in this retrofit installation. They have designated specific repair facilities located along the major 112 and 114 tank car routes to stock these couplers and perform the retrofit. Likewise, in order to reduce this logistical problem of getting the tank car and the shelf couplers together, several car owners are utilizing portable installation equipment and installing their shelf couplers at shipper and consignee facilities.

While an "empty" tank car does not present the same degree of hazard as does a loaded tank car, an "empty" tank car can transport up to 1,000 gallons of product. Puncture of a car containing 1,000 gallons of propane or anhydrous ammonia could cause a serious hazardous materials accident. Tank cars, either in storage or after being unloaded, can be equipped with shelf couplers using portable equipment at the storage and unloading sites.

For these reasons the FRA and the Bureau believe that the December 31, 1978, date is sound and consistent with the goal of upgrading the safety in using these tank cars as quickly as is possible. It is recognized that compliance will require the close cooperation of the coupler suppliers, tank car owners, tank car users, and the railroads but all evidence indicates that this retrofit program can be completed by December 31, 1978, if these parties make a diligent effort.

SECTION 173.314 REQUIREMENTS FOR COMPRESSED GASES IN TANK CARS

Several commenters recommended that in note 24, the date be December 31, 1980, so as to be consistent with the date in note 23 and so as to enable tank cars scheduled for the jacketed ("J") retrofit to be used in anhydrous ammonia service in 1980 while awaiting such retrofit. The FRA and the Bureau concur. Accordingly, note 24 has been amended to prohibit the shipment of anhydrous ammonia in 112 and 114 tank cars not equipped with head shields after December 31, 1980.

SECTION 179.105-1 GENERAL

Paragraph (c) of this section covers specification 112 and 114 tank cars manufactured to specifications promulgated by the Canadian Transport Commission (CTC). Amendment 179-19 required CTC specification 112 and 114 tank cars operating in the United States to comply with the DOT special requirements not later than December 31, 1981. The subsequent notice proposed to require shelf couplers installation not later than December 31, 1978, and require all other retrofitting not later than December 31, 1980.

Information received from Canadian owners and shippers, as well as the CTC, indicates that some 3,300 specification 112 and 114 tank cars were built to CTC specifications. The majority will be retrofitted to the "J" specification.

Two Canadian respondents questioned the December 31, 1980, deadline. They stated that this deadline might cause lessors to take tank cars out of "international" service (service between Canada and the United States) for up to 2 years. The FRA and the Bureau believe that this entire retrofit program must be completed by December 31, 1980, so as to assure adequate safety in the transportation of liquefied flammable gases and anhydrous ammonia in these tank cars. For this reason, the December 31, 1980, date is adopted.

Considerable comments were made concerning the December 31, 1978, shelf coupler retrofit deadline.

Canadian commenters reminded the FRA and the Bureau that under the December 31, 1981, deadline the Canadian tank carowners had approximately 4 years to install shelf couplers. Under the proposed revised deadline, this retrofit must be accomplished within less than 1 year for CTC specification tank cars used in "international" service. Commenters indicated that while approximately 80 percent of the CTC cars were in "international" service, the Canadian goal is 100-percent application of shelf couplers to these cars to provide maximum flexibility in utilization.

Canadian coupler manufacturers have just begun to produce type "E" shelf couplers and indicate that quantity production of type "F" shelf couplers will not begin before December 1978. Canadian tank carowners indicate that approximately 70 percent of their 112 and 114 tank cars require type "E" shelf couplers and 30 percent require type "F" shelf couplers.

This information on Canadian shelf coupler requirements and availability is new. It was not developed at the FRA special safety inquiry held in April and was not available to either the FRA or the Bureau. In light of these Canadian comments and since the proposed revised retrofit schedule compresses the Canadian-owned tank car coupler requirements from 4 years to 1 year, paragraph (c) has been modified:

1. The deadline for loaded CTC specification 112 and 114 tank cars moving in the United States to be equipped with shelf couplers is not later than March 31, 1979; and

2. The deadline for "empty" CTC specification 112 and 114 tank cars moving in the United States returning to Canada is by July 1, 1979.

Although "empty" tank cars present a hazard, the FRA and the Bureau recognize the difficulties in retrofit installing Canadian-manufactured shelf couplers on Canadian-owned tank cars while these cars are in the United States. In addition to logistical problems, such an operation can present unique "international" problems such as customs taxation. To reduce this type of difficulty, it has been decided to extend "empty" tank car movement rights to Canadian tank cars for 3 months so that they may return to Canada for shelf coupler retrofit.

It is recognized that this schedule is tight, but the FRA and the Bureau believe that promulgation of this schedule is essential to upgrade safety when CTC specification 112 and 114 tank cars are traveling in the United States. Further, the FRA and the Bureau are aware that the Canadian railroads have indicated a willingness to assist in the coupler retrofit program and have established a procedure for changing couplers while the tank cars are in rail transportation. Also, portable installation operations can be utilized in Canada.

Another problem mentioned by Canadian commenters was with paragraph (c)(2) of this section. In the notice this paragraph indicated that all compressed gases being transported in CTC 112 and 114 tank cars moving in the United States after December 31, 1980, would have to have such tank cars equipped with thermal protection and tank head puncture resistance. The effect of this requirement would be to place more stringent regulations on CTC 112 and 114 tank car shipments than those imposed on similar DOT specification tank car shipments. This difference was not intended. Accordingly, paragraph (c)(2) in § 179.105-1 has been amended to indicate that after December 31, 1980, CTC specification 112 and 114 tank cars:

1. Transporting flammable compressed gases in the United States shall have the prescribed thermal protection and tank head puncture resistance; and

2. Transporting anhydrous ammonia in the United States shall have the prescribed tank head puncture resistance.

SECTION 179.105-3 PREVIOUSLY BUILT CARS PARAGRAPH (A)

Paragraph (a) of this section covers retrofit installation of shelf couplers. As was stated under the analysis of § 173.31, several commenters stated that they believed that not all of the specification 112 and 114 tank cars could have shelf couplers retrofit installed by not later than December 31, 1978. For the reason stated in the analysis of § 173.31, the FRA and the Bureau believe that the December 31, 1978, deadline can be met with diligent effort by coupler suppliers, tank car owners, tank car users, and the railroads. Further, the FRA and the Bureau believe that complete coupler retrofit by the end of 1978 is necessary in order to quickly upgrade safety when these cars are being used to transport hazardous materials.

PARAGRAPH (D)

Paragraph (d) mandates specific retrofit schedules for performing the "S," "T," and "J" retrofits.

THE "S" RETROFIT SCHEDULE

The notice proposed to require complete retrofitting of all tank cars being converted to the "S" specification by December 31, 1979. One commenter stated that he doubted that all of the head shields could be retrofit installed by the end of 1979. He is concerned with out-of-service time for his anhydrous ammonia cars as well as extra transportation costs associated with empty tank car movements to retrofit repair facilities. Another commenter recommended that all head shields be applied by the end of 1978.

In the notice, the FRA and the Bureau indicated their reasons for selecting the December 31, 1979, deadline. This reasoning included the fact that due to the prolonged cold 1978 spring, many anhydrous ammonia cars were not ready for retrofitting until July and these tank cars will again be needed to store manufactured anhydrous ammonia beginning in early September. The FRA and the Bureau believe that by extending the date through 1979 so as to include two summer periods, the estimated 3,400 tank cars exclusively dedicated to anhydrous ammonia service can be retrofitted with head shields.

The question of who will pay the empty tank car transportation costs is a matter to be resolved between the tank carowners and the railroads.

THE "T" RETROFIT SCHEDULE

In the notice, paragraph (d)(2) proposed for "T" retrofitting that the deadlines for applying the tank head puncture resistance system ("head shields") be December 31, 1979, and for applying thermal protection be December 31, 1980. Considerable comment was received on this proposed revision of the schedule as well as the text of the preamble. Comments addressed to the statement in the preamble concerning "* * * the superior protective qualities of the jacketed retrofit package" will be discussed later in this analysis.

Many comments were received suggesting that the "T" retrofit schedule be the same as the "J" retrofit schedule. In the opinion of the FRA and the Bureau the "T" retrofit, particularly the application of "head shields," is easier to perform than the "J" retrofit. The jacketed method must be accomplished as a unitary process with the tank head protection, jacket shell and insulation being applied at one shop. This work can be performed at only a few locations.

At the National Transportation Safety Board special hearing on April 4, 1977, it was demonstrated that a "head shield" could be installed in approximately 94 minutes. While this example is a most specific case it demonstrates that "head shields" can be installed relatively quickly and easily as compared to full jackets and insulation.

The FRA and the Bureau believe that it is essential to install tank head puncture resistance as quickly as is possible, and that with a determined effort by industry all of these head shields can be applied by the end of 1979.

One commenter recommended that the "head shield" installation part of the "T" retrofit be required to be completed by the end of 1978. The FRA and the Bureau believe that compressing the retrofit deadline to the end of 1978 for "head shield" application would result in a considerable number of tank cars being out-of-service during the first quarter of 1979, just when they are needed the most. By establishing this deadline at December 31, 1979, this retrofit installation can be expeditiously completed with a minimum of out-of-service time.

Several commenters stated that they believed that it is unrealistic to state that "T" type retrofitting would be done in two stages; first, application of "head shields," and, second, application of thermal protection. Instead, these commenters believe that, as a practical matter, these two operations will be done at the same time. These amendments do not preclude such action. However, opportunity is being afforded to tank car owners to perform these two applications at different times. Obviously, the sooner that the entire retrofit is completed, the sooner the tank car will have the completed safety features detailed under this docket.

THE "J" RETROFIT SCHEDULE

In the notice, paragraph (d)(3) proposed that the deadline for performing the jacketed retrofit be compressed from 4 years to 3 years and that the cumulative percentage of tank cars required to be completed at the end of each of the 3 years be 25 percent, 65 percent, and 100 percent, respectively.

A considerable number of comments were received concerning the completion percentage for 1978 (the first year). In amendment 179-19 this percentage was 20 percent; in notice No. 78-5 the percentage was proposed to be increased to 25 percent. Comments were received to the effect that plans and commitments had been made based upon the 20-percent figure. Further, construction of one new facility for performing the jacketed retrofit is not yet complete. However, these commenters believed that the second and third year requirement of 65 percent and 100-percent retrofit could be attained.

The FRA and the Bureau concur that the increased requirement for 25 percent completion by December 31, 1978, may not be attainable. Therefore, the 20-percent figure published under amendment 179-19 has been retained. The December 31, 1979, figure of 65 percent and the December 31, 1980, figure of 100 percent which were proposed in notice No. 78-5 appear to be attainable. Therefore, these percentages have been adopted as proposed in the notice.

COMMENTS CONCERNING ALLEGED "SUPERIOR PROTECTIVE QUALITIES" OF JACKETS

Several commenters have questioned the references in the notice of proposed rulemaking and subsequent departmental statements to the "superior protective qualities" of the jacketed retrofit. The point which was intended by these statements was that the presence of steel jacketing provides additional, if limited, protection against puncture or pressure vessel failure in an accident environment. This conclusion was based on the Department's extensive experience with the performance of steel jacketed insulated tank cars in actual service over a number of years.

Subsequent to the issuance of the notice, a major tank car company conducted tests of the particular thermal coating which it had selected for use in the retrofit program. The results of those tests were submitted for consideration in relation to the present rulemaking. The tests were designed to evaluate the extent to which the particular thermal coating might assist in preventing puncture and weakening of the tank shell. Under the test protocol employed, the resulting data indicated that the thermal coating provided protection at least equivalent to that afforded by a conventional jacketed system.

The FRA and the Bureau believe that the development of this new data underscores the validity of statements made by various commenters to the effect that no official preference should have been expressed in this rulemaking action for any particular system of protective devices which can be shown to meet the minimum thermal and tank head puncture resistance performance standards established by the substantive regulations.

It is the position of the Department that the retrofit should go forward as quickly as is feasible, with each tank carowner making such elections as the owner may deem appropriate in light of overall safety considerations. As pointed out by several commenters, disruptions in retrofit elections will result in a delay of the overall retrofit process. However, it remains true that the jacketed method requires somewhat more time, must be accomplished as a unitary process, and can be installed at only a few locations. For these reasons, the final rule, like the proposed rule, distinguishes between the "J" and "T" retrofits with respect to deadlines for the application of tank head protection.

COMPLIANCE REPORTING

One commenter recommended that tank carowners be required to periodically report their retrofit progress and that this information be published periodically in the FEDERAL REGISTER.

On June 8, 1978, the Bureau published a notice of proposed rulemaking under docket No. HM-144 covering "Compliance Reporting" (notice No. 78-8; 43 FR 24865; June 8, 1978). The

purpose of that notice is to elicit public comment on a proposal requiring DOT specification 112 and 114 tank carowners to provide a listing of those tank cars and report progress toward completion of retrofit plans. Accordingly, this comment will be considered when analyzing the response to notice 78-8.

WITHDRAWAL FROM SERVICE COMPARED TO RETROFITTING

One commenter indicated that he planned to withdraw his 112 and 114 tank cars from service by a combination of conversion (to DOT specification 111) and scrapping. He desired relief from the complete retrofit schedule provided he withdrew tank cars at the rate prescribed by the "J" retrofit schedule. While the FRA and the Bureau understand the problems being encountered by this tank carowner in converting his existing small capacity (12,000-15,000 gallon) uninsulated pressure tank cars to "economic" tank cars, it is believed that early installation of shelf couplers and speedy retrofit conversion of tank cars, according to their intended use, is essential in order to attain an adequate level of safety. Accordingly, no relief is granted to this commenter, or any other carowner, to substitute "withdrawal" from service for retrofitting.

Likewise, another owner of a very few number of 112 tank cars desires relief from the shelf coupler deadline because he is endeavoring to sell or otherwise dispose of these tank cars. Since the purpose of this provision is to achieve safety through the application of coupler vertical separation restraint, and since it is not directed to any one or group of owners, but is instead directed to all tank cars, no exception to the shelf coupler deadline is being granted. It should be noted that 112A and 114A tank cars equipped with shelf couplers may be used for the transportation of nonflammable compressed gases (except anhydrous ammonia) and hazardous liquids without further safety modification.

WAIVER OF FRA PERIODIC INSPECTION DEADLINE

One respondent requested a waiver of the FRA periodic inspection requirements for his hazardous materials laden tank cars. While it is not a part of this rulemaking, the FRA and the Bureau consider the periodic freight car inspection to be an important method of effecting an eventual overall reduction of railroad accidents. It is believed that both the FRA periodic inspection program and the HM-144 retrofit program are essential to safety and both can be carried out at the same time. However, since the railroad safety requirements are administered by the FRA, requests for waiver should be addressed to that Administration.

EFFECT OF STRIKES, ETC.

One commenter has notified the Department that his retrofit activities are at a standstill because of a strike at two of his facilities. Another commenter indicates difficulty due to construction delay of a new facility.

The FRA and the Bureau appreciate that problems develop in any safety program. However, the need to provide for public safety outweighs acquiescence to these problems, and it is believed that solutions are available. It will be the policy of the Department in this retrofit matter not to issue waivers nor exemptions, but rather to assure that these regulations are adhered to in the manner and on the dates prescribed.

ECONOMIC IMPACT

In analyzing the effect of accelerating the retrofit schedule the FRA and the Bureau have attempted to identify additional costs resulting from compression of the schedule. A specific possible increased cost of $900,000 has been identified for nonjacketed thermal protection and separate tank head protection application. Other additional costs are not identifiable in definitive terms, and commenters did not present definitive information on specific costs to be incurred solely as a result of this accelerated schedule. However, the Bureau recognizes that compliance with the compressed retrofit schedule contained in this amendment will result in some additional costs such as overtime payments, second and third shift differential payments, and possible premium payments for components. Also there may be additional transportation costs associated with "double shopping" of a small number of DOT specification 112T and 114T tank cars, as well as some additional labor costs. It is the belief of the FRA and the Bureau that such additional costs will be only a small percentage of the cost of the initial rule and that the benefits to public safety and industry of accelerating the retrofit of these safety features will far outweigh any additional cost.

Primary drafters of this document are William F. Black and Rolf Mowatt-Larssen, Office of Safety, and Edward F. Conway, Jr., Office of the Chief Counsel, Federal Railroad Administration, and George W. Tenley, Jr., Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, parts 173 and 179 of Title 49, Code of Federal Regulations are amended as follows:

1. In § 173.31 paragraph (a)(5) is revised to read as follows:

§ 173.31 Qualfication, maintenance, and use of tank cars.

(a) * * *

(5) After December 31, 1978, each specification 112 and 114 tank car built before January 1, 1978, must be equipped with shelf couplers in accordance with § 179.105-6 of this subchapter.

* * * * *

2. In § 173.314 paragraph (c) table note 23 and note 24 are revised to read as follows:

§ 173.314 Requirements of compressed gases in tank cars.

* * * * *

(c) * * *

NOTE 23.—After December 31, 1980, each specification 112 and 114 tank car built before January 1, 1978, used for the transportation of flammable gases must be equipped with thermal protection and tank head puncture resistance systems in accordance with § 179.105 of this subchapter.

NOTE 24.—After December 31, 1980, each specification 112 and 114 tank car built before January 1, 1978, used for the transportation of anhydrous ammonia must be equipped with a tank head puncture resistance system in accordance with § 179.105 of this subchapter.

* * * * *

3. In § 179.105 paragraph (c) in § 179.105-1 is revised; paragraphs (a) and (d) in § 179.105-3 are revised to read as follows:

§ 179.105 Special requirements for specifications 112 and 114 tank cars.

§ 179.105-1 General.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, no. 112 and 114 tank car manufactured to specifications promulgated by the Canadian Transport Commission may be used:

(1) After March 31, 1979, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system under § 179.105-6, except that an "empty" tank car (paragraph 172.510(c) of this subchapter) may be returned to Canada without a coupler vertical restraint system until July 1, 1979; nor

(2) After December 31, 1980, to transport flammable gases in the United States unless it is equipped with thermal protection under § 179.105-4 and tank head puncture resistance under § 179.105-5; and, to transport anhydrous ammonia in the United States unless it is equipped with tank head puncture resistance under § 179.105-5.

* * * * *

§ 179.105-3 Previously built cars.

(a) After December 31, 1978, each specification 112 and 114 tank car

built before January 1, 1978, shall be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

* * * * *

(d) Each tank car owner shall equip its tank cars which are subject to paragraphs (b) and (c) of this section in accordance with the following schedule:

(1) Each tank car which is being retrofitted in accordance with paragraph (b) shall be retrofitted not later than December 31, 1979.

(2) Each tank car which is being retrofitted in accordance with paragraph (c) with a nonjacketed thermal protective system and a separate tank head puncture resistance system (112T/114T) shall be retrofitted:

(i) With the tank head puncture resistance system not later than December 31, 1979; and

(ii) With thermal protection not later than December 31, 1980.

(3) All tank cars being retrofitted in accordance with paragraph (c) with a thermal protective system enclosed in a metal jacket (112J/114J) shall be retrofitted such that—

(i) At least 20 percent of those cars owned on December 31, 1978, are so equipped by not later than that date;

(ii) At least 65 percent of those cars owned on December 31, 1979, are so equipped by not later than that date; and

(iii) All of those cars owned on December 31, 1980, are so equipped by not later than that date.

(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 preparation of an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on July 7, 1978.

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

[FR Doc. 78-19351 Filed 7-12-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293, Sub. No. 2]

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Report and Amendment of Regulations

AGENCY: Rail Services Planning Office (RSPO), Interstate Commerce Commission.

ACTION: Report on comments received and amendments to the regulations.

SUMMARY: On January 11, 1978, the Rail Service Planning Office (RSPO), reissued the Regional Subsidy Standards to conform with the revised Uniform System of Accounts for Railroad Companies (USOA). At that time RSPO invited comments from persons who believed substantive changes had been made to the regulations; these comments are discussed in this report. Additional comments were made by the parties which constitute petitions to reopen the regulations for substantive change; these are identified and will also be handled in this report, consequently, these regulations have been amended to allow for the inclusion of return on the investment in locomotive.

EFFECTIVE DATE: Changes are retroactive to January 1, 1978. Comments must be received on or before August 10, 1978.

ADDRESS: Submit an original and six copies to: Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036, ATTN: Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: In its invitation to comment on the restatement of the Regional Subsidy regulations, published in the FEDERAL REGISTER on January 11, 1978, 43 FR at page 1692, the RSPO restricted the comments to significant changes caused by the new accounting system adopted by the ICC and to refinement of the apportionment factors used for assigning costs which might be possible because of the finer breakdown of accounts under the new accounting system. Many of the comments received were beyond the scope of the request and it has been decided that they will be handled as petitions to reopen the regulations. For those comments which result in amendments to the regulations, a period of 30 days will be allowed for parties to comment.

Section 1125.3(a)(1), notice of discontinuance, was commented on by the States of Pennsylvania (PADOT) and New York (NYDOT). Both States commented that the request for data should include all data without exception. Certain data dealing with shippers and consignees is privileged and the railroad is required by statue to protect the confidentiality of this data. Excluding data of this nature, the carrier is required to make available all source documents upon which the estimated subsidy amount was based. The regulations as presently in force allow free access to the backup data and records of the carrier sufficient for the needs of any interested party.

NYDOT also requested that all data be submitted to the "Designated State Agency (DSA)" and all notices of discontinuance be submitted to the DSA also. The notices referenced in the regulations were all issued in December 1975; the notices were required of the Trustees of the bankrupt railroads under section 304(a) of the Regional Rail Reorganization Act of 1973. Thus, NYDOT's request for service of these notices is moot. In the event of future discontinuances, the DSA will be aware of the action, because if the subsidy offered by the DSA is withdrawn from a branch line, the service will be automatically stopped. Further, any lines conveyed to ConRail come under the National Abandonment Regulations, section 1121 of the CFR, which include broad notice provisions.

NYDOT has further requested that copies of all data related to estimated subsidy calculations be supplied by the carrier free of charge. The DSA's have free access to the data; RSPO believes that it would be an unjust burden to place the cost of making copies upon the carrier. This suggestion is rejected.

Section 1125.3(a)(3), use of prior subsidy standards, allows the prior regulations to be used for the remainder of the subsidy period covered by the contract in effect on January 1, 1978. NYDOT has requested that, with the conversion to the new accounting system by the railroad, and its related problems, the old regulations be used for one more subsidy period, the 1978-1979 subsidy year. Because the carriers are required to keep the data in such a fashion that the 1978 Annual Report, Form R-1, will reflect the revised accounting system the Commission does not feel it proper to require that the records of subsidized lines be retained on a separate basis. However, the carrier and subsidizer can agree to use the old regulations. If such an agreement is decided upon, the carrier would then have to petition the RSPO for a waiver to file the Branch Line Annual Report, Form R-6, based on the unrevised accounting system for those lines operated under subsidy.

Section 1125.3(c)(4), estimated on-branch costs—transportation, develops, among other transportation costs, the crew wages in the subsidy estimate. PADOT's comments relate to the use of firemen in crew costs, recommending that a strictly avoidable concept be applied to crew members, with firemen not being considered in the avoidable costs. The costs allowed relate to the size of the actual crew that serves the branch. If ConRail had discretion on the assignment of firemen and intentionally used the branch

lines as the work assignments for all firemen, then the firemen should not be included for operating cost purposes. If, however, ConRail does not have an option in the assignment of firemen, and these assignments are based on the labor agreements, then the costs of firemen would be includable as avoidable costs. These guidelines shall govern the inclusion or exclusion of expenses for firemen. The "strictly avoidable" concept has been presented and thoroughly discussed in past proceedings in these regulations. The RSPO position is that the costs developed under the regulations are the cost of providing service, not of abandoning it; therefore, no further comments will be solicited. NYDOT's comment on this section is directed at the system average costs used in estimating the transportation costs. The NYDOT comment is satisfied by reviewing the limited application of system average costs prescribed in § 1125.3(c). Section 1125.3(a)(4) states:

> This interim formula, using 1973 data, is to be employed only for the calculation of initial subsidy agreements; once a subsidy agreement is in place, subsequent years' estimates shall be based on data drawn from the preceding subsidy year.

It was never the intention of RSPO that system average costs be used to estimate an expense account which had been collected on an actual basis after the initial subsidy period. Once actual costs have been collected, they should be used to estimate the costs for the upcoming subsidy period.

Section 1125.3(d), estimated off-branch costs, has been commented on by NYDOT. The comment reiterates NYDOT's position that the off-branch cost formula is inaccurate in its present form. This is the same position that NYDOT has taken in prior comment periods. The record is complete with discussions of off-branch costs and the formula in its present format. There is no need to repeat these discussions. This issue was open for comment on prior occasions, at which time invitations were extended for alternative approaches for handling off-branch costs. No acceptable solutions were forthcoming and the regulations were not changed.

Section 1125.4, interim payments, financial reports, and interpretations, Subsection (b), presently requires the railroad to file quarterly reports. NYDOT would like monthly reports to be required in order to better monitor the financial status of a branch line. Although ConRail is presently submitting monthly reports to the States, RSPO does not believe that it should require this from every railroad operating subsidized service. The carrier and subsidizer are free to agree to monthly, or other mutually-satisfactory, reporting schedules.

ConRail has requested that § 1125.4(b) be adjusted to change the requirement for filing reports within 30 days after the close of a reporting period to 110 days. ConRail states that this time lag is necessary due to interline revenue settlements. The present schedule developed by ConRail (110 days) has been agreed to and accepted by the States for which it operates subsidized service; however, this is not sufficient justification for amending the regulations. If the requested change were incorporated into the regulations, it would also affect the other carriers operating subsidized services.

ConRail has also requested the inclusion of a final report in section 1125.4, to be filed 150 days after the close of the subsidy period. This report would reflect the actual revenues and costs for the subsidy period. Section 1125.5 requires such a final status report. Section 1125.5(a) describes the purpose of the final report and its content. There is no mention of a specific date after the close of the subsidy period by which the final report for that period must be filed. RSPO does not believe that a 150 day period should be established in the regulations.

Section 1125.5(b) describes the procedure for notification by the carrier that expenses based on the actual operations will exceed those used to develop the estimated subsidy. Currently, the railroad must notify the subsidizer in one of the financial status reports issued during the first 10 months of the subsidy year. NYDOT has requested that the determination of a higher subsidy amount be based on 9 months of actual data. With the current lag in producing reports, the 9-month report may not be available to the subsidizer until approximately 20 days before the end of the subsidy year; RSPO does not believe that 20 days gives the subsidizer sufficient time to make adjustments to keep the subsidy payments within an established limit.

Section 1125.6, revenue and income attributable to branch lines, includes any subsidy payment from pre-existing agreements as an element of revenue. NYDOT has raised the point that it would prefer that this item be included after the net revenue or loss has been calculated. Although this item is the same as any other non-operating or miscellaneous income, a separate line will be added at the bottom of the formats established in appendixes I and II of these regulations showing any amounts included in the revenues for this item.

The avoidable costs described in § 1125.7 were the source of several comments by PADOT, NYDOT and ConRail.

The problem of allowing for inflation was discussed by ConRail, relating to both on-branch and off-branch costs included in section 1125.7. ConRail requests that an indexing procedure be allowed to account for inflation that occurs during the subsidy period but is not reflected in the determination of the operating costs. While the office agrees with ConRail that inflation has an effect on costs and must be dealt with, the existing standards contain provisions that could eliminate this problem. The subsidy process starts with an estimate of the operating costs for the upcoming subsidy period, developed under section 1125.3. There is nothing in the regulations, nor was it the office's intention, to preclude the railroad from using the actual cost data from the prior year and projecting it up through the close of the next subsidy year. Unless there is some consideration for inflation built into the estimate, it is doubtful that the estimate will not be exceeded by the actual costs. Under the § 1125.5 year-end adjustment, the operating carrier has an additional opportunity to update his cost factors. The Annual Report—Form R-1 will be available for a period which coincides with the predominate portion of the subsidy year. The regulations as presently in force require the use of actual costs, including the most recent Form R-1 data. If the railroad chooses to use year-old Form R-1 data rather than apply the new data which reflect the actual inflation experienced, RSPO does not intend to then permit the use of an estimated indexing procedure, which would be less accurate. This same approach is applicable to the off-branch costs. When the Commission completes its revised costing procedure for railroads, a decision will be made on its applicability to the costing of subsidized branch lines. At the present time, it is estimated that the costing procedure will be completed by November 1978. The revised off-branch costing procedure will be available in April 1979 for use with the 1978 Annual Report, Form R-1, data. As in the case of the on-branch costs, an estimated amount for off-branch costs for the April 1978-March 1979 subsidy period should include some inflation allowance. When estimating any allowance for inflation, whether on-branch or off-branch, any anticipated changes in service level must also be considered. The regulations will not be amended to incorporate an indexing procedure for updating costs because actual costs records are available for year-end adjustments.

ConRail's comment on the costs related to moving overhead from a yard to and from the branch line (§ 1125.7(f)) centers on the need for these costs being collected and identified separately. ConRail does not disagree with the type of costs allowed, but only with the recording of these costs as a separate cost area. The standards were constructed requiring

this separation in order for the subsidizer to assure himself, with relative ease, that costs of this nature are not double counted, i.e., also included in the off-branch costs. If the railroad can develop a system that will eliminate the possibility of double counting and obtains the subsidizer's agreement then the office would have no objection. If the cost of collecting the data are substantial and agreement with the subsidizer cannot be reached, then these overhead movements will be costed under the off-branch cost procedure. The office does not believe that it can change the regulations to omit the separate accountability on the basis of Conrail's submission.

ConRail has requested that the calculations of the return on investment in freight train cars in § 1125.7(g) be amended to reflect (1) a more appropriate investment base and (2) a rate of return equal to the interest rate for the latest equipment trust certificates. On the first point, ConRail refers to the investment base used as the liquidation value.

If the net depreciated value of the entire car fleet is not acceptable, the alternative would be to calculate the net book value of each ConRail car that is used in transporting goods to or from a branch line. The concept of using replacement costs regardless of the age of the equipment furnished the shipper on a subsidized line is not equitable. Under this scenario, if a foreign line car is used, the actual per diem rate for that car would have to be calculated. If the subsidizer and the operating railroad wish to agree to develop the costs for freight cars under this procedure, they are free to do so.

The second comment relates to using the interest rate from the latest equipment trust certificates, as is the case for the national subsidy program, rather then the imbedded debt cost. The national standards are based on legislation which differed from the regional standards in certain areas; the cost of capital is one of these. In Ex Parte 338 (Standards and Procedures For the Establishment of Adequate Railroad Revenue Levels), the Commission has recognized the debt/equity separation for the purpose of calculating the cost of capital. This cost of capital is designed for determining the overall revenue need of a carrier, not for determining the cost of providing service to branch lines. At this time, the cost of providing service as determined in the revised costing procedure of the Commission (Rail Form A) still reflects the imbedded debt rate. Until it is changed, the subsidy standards will not be amended.

ConRail has suggested that the Administrative Fee, § 1125.7(j), be changed to reflect the results of an annual audit by RSPO for determination of the amount for that subsidy period. This would be accomplished by RSPO estimating the revenues and administrative costs for the period and establish the rate from this data. RSPO has reservations about this approach for the following reasons: (1) It would apply to every carrier in the region, not just ConRail; (2) it would restrict the railroads and subsidizers in the flexibility of this item; and (3) the RSPO would be compelled to perform this exercise for every carrier. The present approach to this item has been acceptable in the past and the RSPO sees no reason to change.

Both PADOT and NYDOT commented on the applicability of including off-branch costs in the calculation of operating subsidies. In addition, PADOT questions the use of ton-mile cost in calculating off-branch costs. Both of these issues have been submitted for comment on numerous occasions in this proceeding. RSPO was upheld in the courts on the use: (1) Off-branch costs and (2) Rail Form A as a basis of calculation. RSPO has previously asked for alternative solutions to using off-branch costs and none that have been submitted are acceptable. There does not appear to be any justification for submitting this item for further comment.

ConRail has pointed out that the cost of capital included in the off-branch costs should acknowledge both debt and equity on a composite basis. This approach is the same as that described in the earlier discussion of freight train car costs. For these same reasons, the proposed change is denied for further consideration.

One further comment was received from PADOT concerning the off-branch costs for class II railroads. PADOT states that the 0.78 factor currently used is in error and that in the past the Commission has used a 0.50 factor. The "0.50" referred to by PADOT is the "50 percent rule" formerly used by the Commission in abandonment cases. This rule made the assumption that the off-branch costs were equal to 50 percent of the off-branch portion of the revenue and had nothing to do with variability. The factor of 0.78 is used to determine the variable portion of the carriers total operating expenses, rents and taxes. This factor is not applied directly to an individual shipment for the purpose of determining the off-branch costs.

ConRail has requested that a return on the investment in locomotives be included under section 1125.7. ConRail points out that this item is included in the national subsidy standards and is a proper cost element. ConRail further requests that the cost of capital applied to the net investment be based on the interest rate of the latest equipment trust certificates. The cost would then be assigned to the branch line on a locomotive unit hour basis. These are the same bases as are used in the national program. Section 1125.7 will be amended for the inclusion of this item as an avoidable cost but the rate of interest applied to the net investment will not be that suggested by ConRail. The rate that is applied to the net book investment will be the imbedded debt rate for the entire carriers' system.

The apportionment factors in section 1125.8 have been questioned by PADOT. Specifically, the inclusion of locomotive depreciation has been questioned and the applicability of using locomotive unit hours to assign fuel costs. Locomotive depreciation is considered by RSPO as a legitimate cost of providing service.

Both the NYDOT and the PADOT have questioned the apportionment of train fuel costs to the branch line on a locomotive unit hour basis in section 1125.8(c)(ii). The NYDOT recommends that the actual costs be developed from the carrier's accounting records. The PADOT asserts that locomotive fuel costs are only one-third avoidable on a locomotive unit hour basis and the other two-thirds should be on a car-mile basis. The NYDOT proposed change to actual fuel consumption is not a feasible solution. The Office is not aware of any carrier records that would permit direct measurement of the actual consumption of fuel for a locomotive operating on a specific branch line. Such a measurement would entail the installation of fuel meters on each locomotive and would require readings to be taken immediately prior to serving the branch and again when leaving the branch line. The PADOT suggestion that only one-third of the fuel cost is as a result of the hours factor while two-thirds is better measured by car-miles is not substantiated by any data. When the present service unit category was selected, several alternative bases were considered and rejected. A number of different types of service units could be used to measure this expense. The problem of finding a unit to measure an account that contains the effects of local trains as well as through or manifest freight trains is very difficult. For example, if locomotive unit miles were used to assign fuel costs, the expense would be lower because the miles traveled do not reflect the hours in service and the significant time spent in switching cars at a team track or shipper sidings. There is nothing to subtantiate the locomotive hour/car mile separation as submitted by PADOT.

NYDOT has recommeded that servicing train locomotives "Section 1125.8(c)(iv) be assigned on an actual basis as opposed to the existing locomotive unit mile basis. This account consists of items that do not lend

themselves to easy identification on an individual locomotive basis. Many of these cost elements are general in nature and apply to many locomotives on an equal basis. To attempt to account for these expenses on an actual basis is not feasible. No change will be made to the regulations.

Part 1125, subchapter B of chapter X of title 49 of the Code of Federal Regulations is amended by making the changes set forth below to the regulations issued on January 11, 1978.

1. Section 1125.7 is amended by adding paragraph (p) to read as follows:

§ 1125.7 Calculation of avoidable costs and management fee.

* * * * *

(p) *Return on investment—locomotives.* The return on investment in locomotives shall be separated between yard and road with a further separation between diesel and other (electric). The return on investment for each category of locomotives shall be calculated in accordance with the following procedure.

(1) The net investment for each category of locomotives shall be determined from the carrier's records.

(2) The cost of capital used in the calculation of return on investment for locomotives shall be the rate of interest developed for use in form 2 of the unrevised rail form A of the railroad.

(3) The return on investment for all categories of locomotives is calculated by multiplying the net investment in step (1) above by the costs of capital as determined in step (2).

(4) The return on investment shall be assigned to the branch on the basis of the ratio of locomotive unit hours on the branch to total locomotive unit hours on the system for the appliable classification of locomotive.

2. Appendix I is amended by adding line 12 to read as follows:

APPENDIX I—FORMAT FOR PRESENTS OF SUBSIDY ESTIMATE

* * * * *

12. Preexisting subsidy agreement payments included in line 2 above.

3. Appendix II is amended by adding line 12 to read as follows:

APPENDIX II—FORMAT FOR FINANCIAL STATUS REPORTS

* * * * *

12. Preexisting subsidy agreement payments included in line 2 above.

Persons interested in expressing their views on the amendments listed in this report should submit an original and six copies of their statements on or before August 10, 1978 to: Rail Services Planning Office, 1900 L Street NW., Suite 500, Washington, D.C. 20036, Attention: Regional Subsidy Standards.

This decision does not significantly affect the quality of the human environment.

Issued July 7, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

NANCY WILSON,
Acting Secretary.

[FR Doc. 78-19327 Filed 7-12-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Errata sheet.

SUMMARY: This errata sheet corrects the amendment to the foreign fishing regulations published on Monday, June 26, 1978, which established three sanctuary areas closed to foreign trawling, and expanded the area closed to foreign longline fishing for sablefish in the fishery conservation zone in the Gulf of Alaska.

EFFECTIVE DATE: These corrections are effective July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1169, Juneau, Alaska 99802, telephone 907-586-7721.

SUPPLEMENTARY INFORMATION: On June 26, 1978, an amendment to the foreign fishing regulations was published (43 FR 27547) establishing three sanctuary areas closed to foreign trawling, and expanding the area closed to foreign longlining for sablefish in the fishery conservation zone in the Gulf of Alaska. The amendment was intended to reduce gear conflicts between fishing vessels of foreign nations and fishing vessels of the United States.

Section 611.92(b)(3) "(vi) Three sanctuary areas * * *" is incorrect. It should read § 611.92(b)(3) "(vii) Three sanctuary areas * * *"

This errata sheet corrects that mistake so that the subparagraph designator "(vi)" is changed to "(vii)."

Signed at Washington, D.C., this 7th day of July 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-19248 Filed 7-12-78; 8:45 am]

proposed rules

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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Notice of Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1978-79 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due July 28, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, 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. 149 and Order No. 967, both as amended (7 CFR 967) regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 7.

The committee recommended a Marketable Quantity of 8,433,388 crates of fresh celery for the 1978-79 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

The recommended 8.4 million crate Marketable Quantity is 40 percent more than the approximately 6 million crates expected to be marketed during the current season ending July 31, 1978. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is authorized for new producers and for increases by existing producers, with 276,705 crates to be allotted to each category. After consideration of applications submitted pursuant to § 967.151 the committee allocated 100,000 crates to a new producer and 50,000 crates each to two existing producers.

On the basis of all considerations it is believed that this proposed regulation would tend to effectuate the declared policy of the act.

The proposal is as follows:

§ 967.314 Handling Regulation; Marketable Quantity; and Uniform Percentage for the 1978-79 Season beginning August 1, 1978.

(a) The Marketable Quantity is established under § 967.36(a) as 8,433,388 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders with 276,705 crates allotted to each category.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: July 10, 1978.

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

[FR Doc. 78-19355 Filed 7-12-78; 8:45 am]

[3410-02]

[7 CFR Part 1133]

[Docket No. AO-275-A30]

MILK IN THE INLAND EMPIRE MARKETING AREA

Hearing on Proposed Amendments To Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a dairy farmer cooperative's proposal to amend certain provisions of the Inland Empire milk marketing order. The proposed amendments would relax the requirements as to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The cooperative association contends that the requested order changes are needed to reflect changed marketing conditions and to insure orderly milk marketing in the area.

DATE: July 27, 1978.

ADDRESS: Ramada Inn, Spokane International Airport, Spokane, Wash.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Ramada Inn, Spokane International Airport, Spokane, Wash., beginning at 9:30 a.m., local time, on July 27, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the eco-

nomic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY NORTHWEST DAIRYMEN'S ASSOCIATION

PROPOSAL NO. 1

In § 1133.13, revise paragraph (c) to read as follows:

§ 1133.13 Producer milk.

* * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 90 percent in any of the months of September through March of its total member milk received at all pool plants or diverted therefrom during the month. No percentage shall apply during the months of April through August. Two or more cooperative associations may have their allowable diversions computed on the basis of combined deliveries of milk of their producer-members if each association has filed a written request for such computation with the market administrator prior to the first day of the month in which it is to become effective;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 90 percent in any of the months of September through March of the milk received at such pool plant or diverted therefrom during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph. No percentage limit shall apply during the months of April through August;

(3) Milk diverted in excess of the limit specified shall not be considered as producer milk, and the diverting handler shall specify those producers whose milk is ineligible as producer milk. If the handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at a pool plant prior to diversion from such plant (but not necessarily in the current month); and

(5) For the purpose of location adjustments pursuant to §§ 1133.52 and 1133.75, diverted milk shall be considered to have been received at the location of the plant to which diverted.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, James A. Burger, West 1028 Rosewood Avenue, P.O. Box 7504, Spokane, Wash. 99208 or from the Hearing Clerk, room 1077-South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Inland Empire Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on July 10, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-19356 Filed 7-12-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

IRS Qualification of Limited Partnership SBIC's

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The proposed rule would require a limited partnership SBIC to furnish a ruling from the Internal Revenue Service that it qualifies as a partnership for tax purposes, prior to the extension of any leverage by SBA. If, however, the delay while obtaining an IRS ruling would cause a hardship to the SBIC, SBA may extend leverage pending receipt of the ruling.

DATES: Comments must be received on or before August 14, 1978.

ADDRESS: Written comments, in duplicate, are to be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6584.

SUPPLEMENTARY INFORMATION: In a partnership, the tax effects of transactions are passed through by the partnership to the partners without recognition at the partnership level. If the Internal Revenue Service determines that a partnership does not qualify as a partnership for tax purposes, such decision would result in a tax liability to the partnership as an association. Where SBA has already granted leverage to the SBIC, such tax liability could jeopardize SBA's creditor or guarantor position. To avoid this jeopardy, SBA will require a limited partnership SBIC to furnish an IRS ruling that it is classifed as a partnership for tax purposes prior to the extension of any leverage. If, however, the delay while obtaining an IRS ruling would cause a hardship to the SBIC, SBA may extend leverage pending receipt of the ruling where satisfactory financial protection is offered SBA. An identical provision has been adopted for SBIC's participating in the motion picture financing pilot program, 43 FR 21441.

Accordingly, pursuant to authority in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 687, it is proposed to amend Part 107 of Chapter I, Title 13 of the Code of Federal Regulations by adding at the end of § 107.201(a)(1) a new sentence which would read as follows:

§ 107.201 Funds to Licensee.

(a) * * *

(1) * * * Prior to the extension of any Leverage, an Unincorporated Licensee must furnish SBA with a ruling by the Internal Revenue Service that it qualifies as a partnership for tax purposes, *Provided, however,* That where a delay in obtaining an IRS ruling would cause a hardship to the SBIC, SBA may, pending receipt of such a ruling, make leverage funds available to the SBIC under interim financial arrangements which, in SBA's judgment, are satisfactory to protect SBA's creditor or guarantor position from an adverse IRS determination.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-19259 Filed 7-12-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-GL-12]

TRANSITION AREA

Proposed Designation

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 Lebanon, Ohio to accommodate a new [NDB] instrument approach procedure into the Lebanon-Warren County Airport established pursuant to a request from the Lebanon-Warren County Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before August 14, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-12, 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 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the 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-12, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before July 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 G of Part 71 of the Federal Aviation Regulations [14 CFR Part 71] to establish a 700 foot controlled airspace transition area near Lebanon, Ohio. 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 Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 [43 FR 440], the following transition area is added:

LEBANON, OHIO

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Lebanon-Warren County Airport [latitude 39° 27′ 30″ N, longitude 84° 15′ 15″ W] excluding the portions which overlie the Dayton, Ohio and Middleton, Ohio transition areas.

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

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

Issued in Des Plaines, Ill., on June 26, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-19243 Filed 7-12-78; 8:45 am]

[1505-01]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-37]

CONTROL ZONE: LAKEHURST, N.J.

Proposed Alteration

Correction

In FR Doc. 78-18050 appearing on page 28207 in the issue of Thursday, June 29, 1978, in the middle column, under the paragraph entitled, "THE PROPOSED AMENDMENT", paragraph 1, the 1st line should read, "1. Amend § 71.171 of Part 71 of the * * *.".

[4910-13]

[14 CFR Part 121]

[Docket No. 17326; Reference Notice No. 77-26]

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

Compensation for Required Security Measures in Foreign Air Transportation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting; reopening of comment period.

SUMMARY: This notice announces a public meeting for the purpose of discussing certain issues that have been raised by the comments submitted in response to notice No. 77-26 which proposed a procedure for compensating air carriers for the cost of the required screening of passengers moving in foreign air transportation. It also requests information from the public in order to resolve these issues. This meeting is necessary because these

issues must be resolved before a decision can be made as to further rulemaking action.

DATES: The meeting will be held on August 3, 1978, at 9:30 a.m. Comments in response to this notice submitted prior to the meeting should be received on or before July 26, 1978. Comments submitted after the meeting must be received on or before August 10, 1978.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW., Room 1010, Washington, D.C. Submit comments to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Robert P. Jones, Regulations Branch (ACS-130), Air Operations Security Division, Civil Aviation Security Service, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8798.

SUPPLEMENTARY INFORMATION:

I. Background

Section 24 of Pub. L. 94-353 (49 U.S.C. 1356a) directs the Secretary of Transportation to compensate any air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) for the cost of screening passengers moving in foreign air transportation. In order to implement this statutory requirement, the FAA issued notice of proposed rulemaking No. 77-26 (42 FR 56957; October 31, 1977) proposing a precedure for compensating air carriers for this cost.

The FAA received five comments in response to the notice. Two comments were from professional associations, supporting the proposal. Two were from U.S. air carriers. Both air carriers supported the proposal, and one suggested changes in the proposed formula and procedure for payment.

The fifth comment was from the Civil Aeronautics Board (CAB) which expressed the belief that the plan for payment which was proposed in the notice is essentially unworkable. The CAB also expressed the view that its current policies have been "adequate to permit recovery of foreign security costs and that, if implemented, the FAA's program has a good chance of providing duplicate payment for costs that were recouped as part of the carrier's passengers fares." The other comments submitted do not address this point in any detail.

II. Public Meeting

Before a decision can be made as to further rulemaking action in the matter, the substantive problems with the notice raised by the CAB must be resolved. To assist in this, the FAA proposed to hold a public meeting on March 21, 1978 (43 FR 9159; March 6, 1978), for the purpose of discussing with the commenters, and any other interested person, the points raised by the CAB in its comment. The meeting was postponed (43 FR 10938; March 16, 1978), to allow more time for the development and publication of specific agenda items, and will now be held on August 3, 1978, in Room 1010 of FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

III. CAB Comments

The CAB raised the following points in their comments:

A. Fare effectiveness

In commenting generally on the notice, the CAB challenged what it considered to be the assumption implicit in the proposal, "that the fares the airlines are permitted to charge have been ineffectual in permitting the recovery of costs incurred in connection with foreign security precautions." The CAB stated it is confident that it has considered these costs in determining the reasonableness of fare changes, "because each fare increase authorized in air transportation, both domestic and foreign, in recent years was based on a complete cost justification in which all of the carriers' normal operating expenses (including various categories for traffic servicing expense into which security cost would logically fall) were considered."

B. Accounting system

Proposed section 2(a) would call for establishing total dollar amounts expended for security at each airport in accordance with the accounting procedures in 14 CFR Part 241, referred to as the uniform system of accounting. The CAB contends that under this proposal, the concept of matching security revenues and costs is geared to a regulatory cost accounting system for security costs that was later terminated, eliminating the requirement to separately report these costs. For this reason, the CAB concludes that the uniform system of accounts would not call for the detailed information needed to determine the reasonableness of the costs submitted to the FAA.

C. Revenue from domestic screening

In order to establish what revenue received by air carriers is attributable to domestic security screening, the FAA proposed a formula in section 2(a)(2) under which revenue computation would be based on recent fare increases approved by the CAB and the total number of passengers enplaned during the fiscal year in which the application for compensation is submitted. In its comment the CAB pointed out that the formula is based upon percentage general fare increases for the years involved. It contends that, because the carriers were not required to segregate security costs to support these fare increases, it cannot be determined whether there was in fact a direct correlation between changes in overall operating costs and changes in security costs for those periods. For this reason, the CAB questions whether the proposed formula can accurately reflect revenue from security screening.

D. Revenue from foreign screening

To assist in establishing revenue from the screening of passengers moving in foreign air transportation, under proposed section 2(a)(3) the air carrier would be required to list fare increases, if any, obtained during the applicable year to cover the cost of that required screening. The CAB points out that there have been no specific security-related surcharges authorized in foreign air transportation. The CAB states that, although security costs were reflected in the total carrier operating expenses which it relied on as justification for increased foreign passenger fares, the rule contains no percentages, formulae, or other guidelines on which the applicant could rely to develop the required figures. The CAB does state that, theoretically, that portion of a fare increase attributed to security functions could be isolated, but notes that allocation from unrefined data could produce inaccurate results.

IV. Comments Invited

Comments are solicited from all parties on these issues raised by the CAB. All parties are requested to submit information which supports or contravenes the points raised by the CAB. In addition, all parties are asked to submit information in the following areas:

1. Comments are solicited as to whether the air carriers' fare structures as approved by the CAB have in fact provided compensation for costs attributed to the screening of passengers moving in foreign air transportation. In this connection, carriers are requested to submit copies of their IATA fare justifications as submitted to the CAB for the periods July 1, 1975, through September 30, 1977. Carriers should explain specifically to what extent, if at all, the screening costs are included in those costs the CAB used in ruling on fare requests, and further explain to what extent dollar amount revenue increases granted by the CAB did not compensate for the screening costs attributable to moving passengers in foreign air

transportation. All cost allocations and statistics are to be fully sourced and explained.

2. Comments are solicited as to what system of accounting should be used to establish the dollar amounts expended for security at each airport. Air carrier participants are requested to provide examples of how these costs would be established for audit purposes for sample airports.

3. Air carrier participants are requested to comment on the workability of the formula in section 2(a)(2) for establishing revenue from domestic security screening. All participants are invited to suggest a workable method of establishing revenue attributed to the cost of domestic security screening facilities and procedures.

4. All participants are requested to recommend workable guidelines for establishing revenue from required screening functions in foreign air transportation.

Submission of Comments

Participants are requested to submit their comments and supporting information by July 26, 1978. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. To provide for further submissions of written data, views, or arguments by interested persons in response to notice No. 77-26, to the notice of meeting, and to the public meeting, the comment period for notice No. 77-26 is hereby reopened until August 10, 1978. All communications received on or before August 10, 1978, will be considered by the Administrator before taking action on the proposed rule. All comments will be available, both before and after the closing date for comments, in rules docket No. 17326 for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Record of Meeting

A transcript of the meeting will be made and placed in the rules docket for examination by interested persons. Copies of the transcript will be available from the reporter.

Drafting Information

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

(Sec. 24, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a); sec. 1.47(f)(3), regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3).)

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 July 7, 1978.

JOSEPH K. BLANK,
Acting Director, Civil Aviation Security Service.

[FR Doc. 78-19247 Filed 7-12-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 20]

[LR-203-76]

PROCEDURE FOR VARIOUS ESTATE TAX ELECTIONS UNDER THE TAX REFORM ACT OF 1976

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed estate tax regulations under sections 2032A, 6166, and 6324A of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect all estates for which elections are made to—

1. Value certain real property according to its actual use,

2. Defer the time for payment of the estate tax under section 6166, or

3. Grant a lien on property as security for deferred payments of estate tax.

The regulations provide the guidance needed to make the elections allowed by law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 14, 1978. The amendments are proposed to be effective for estates of decedents dying after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-203-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-6624 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments relating to elections allowed under sections 2032A, 6166, and 6324A, of the Internal Revenue Code of 1954, as added by sections 2003(a), 2004(a), and 2004(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1856, 1862, and 1868).

Special Use Valuation

Section 2032A provides for valuation of certain real property used as a farm for farming purposes, or in another trade or business, according to its value for its actual use ("special use valuation") rather than its fair market value determined on the basis of highest and best use where that is greater. Except for estate tax returns due and timely filed before September 15, 1978, the executor must elect special use valuation by attaching a notice of election to a timely filed estate tax return.

If an executor has made an election under section 2032A in the absence of these regulations and has paid a lower tax based on special use valuation than valuation at full fair market value would have produced, he may, during the 6-month period following the date of publication of this notice, revoke the election and pay any additional tax due. If the executor does not desire to revoke the election, he must, during the 6-month period following the date of publication of this notice, conform the election to the requirements of this section.

To conform a previously made election, the executor is to attach a notice of election as required under these proposed regulations to an amended estate tax return. These documents are to be filed with the Internal Revenue Service office where the original estate tax return was filed. If no action is taken within the prescribed 6-month period, the election will be deemed never to have been made. Estates of nonresident aliens are not eligible to make the election.

An agreement signed by all parties with an interest in the property subject to the special use valuation election is also required under section 2032A. This agreement must accompany the notice of final election. The parties to the agreement must consent to personal liability for the additional estate tax imposed under section 2032A(c) in the event of an early disposition or cessation of qualified use of the property.

Section 20.2032A-8 defines a person with an interest in the property to include all persons in being as of the date of death of the decedent who receive any vested or contingent interest in the property, who receive a power of appointment over the property, who are beneficiaries of a gift over in default of exercise of any such power, or who, under applicable State law,

have any legal right which would affect the ultimate disposition of the property by the estate. The proposed regulations take this broad interpretation in order to protect executors who elect the special use valuation from any liability to potential heirs at a later time.

The notice of election provided in this section is applicable only to estates where the specially valued real property is directly owned by the decedent. Where the property is indirectly owned through a trust, a partnership, or a corporation, as provided in section 2032A(g), the executor is also to file a notice of election with the estate tax return. That notice is to specify all of the information requested in this section and is also to detail the manner in which the specially valued property affected the value of the closely held business interest.

Regulations providing complete procedures for making an election under section 2032A for indirectly owned property will be published at a later date, and executors who have made timely elections before the date of that publication will be allowed an appropriate time from the date of publication to conform those elections to the final requirements.

Alternate Extension of Time for Payment of Estate Tax

Section 6166 allows an executor to elect to defer payment of a percentage of the total estate tax, including the amount of certain deficiencies. The maximum percentage of tax which may be deferred corresponds to the percentage of the adjusted gross estate which is comprised of a closely held business interest (as defined in section 6166(b)).

Normally, the election is made at the time the estate tax return is filed; however, an election may subsequently be made to pay certain deficiencies in installments. Additionally, where the estate does not initially qualify for the election to defer payment of tax or where no estate tax is due, a protective election may be made when the estate tax return is filed.

If a protective election is made, the final election is to be made within 60 days after final values, which cause the estate to qualify, are determined. Executors who have made elections under section 6166 before September 15, 1978, must conform those elections to the new requirements within 6 months following the date of publication of this notice. To conform a previously made election, the executor must file a letter containing a revised notice of election which meets the requirements of these regulations with the Internal Revenue Service office where the estate tax return was filed.

Special Lien for Deferred Amount of Estate Tax

Section 6324A allows the executor of a decedent's estate to elect a lien in favor of the United States in lieu of bond or personal liability if an election under section 6166 or section 6166A is made. The election under section 6324A will not be effective unless all parties having an interest in the property subject to the lien sign an agreement in which they consent to the creation of the lien.

The agreement must be filed with the notice of election of the lien. The election may be filed at any time prior to payment of the full amount of the estate tax. Executors who have made elections under section 6324A before September 15, 1978, must conform those elections to the new requirements by filing a letter containing a revised notice of election which meets the requirements of these regulations within 6 months following the date of publication of this notice. This letter is to be filed with the Internal Revenue Service office where the estate tax return was filed.

Reliance on Proposals

Because of the need for immediate guidance, the rules contained in these proposed regulations may be relied on to the extent that they relate to the procedure for making the elections permitted under sections 2032A, 6166, and 6324A. This is true, however, only for elections made before the date which is 30 days after publication of final regulations detailing the procedures for making these elections.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 20 are as follows:

Paragraph 1. The following new section is added following § 20.2032-1:

§ 20.2032A-8 Election and agreement to have certain property valued under section 2032A for estate tax purposes.

(a) *Election of special valuation.*— (1) *In general.* Under section 2032A, an executor may, for estate tax purposes, make a special election concerning the valuation of qualified real property (as defined in section 2032A(b)) used as a farm for farming purposes, or in another trade or business. Once made, this election is irrevocable; however, see paragraph (d) of this section for a special rule for estates for which an election has been made before September 15, 1978. If the election is made, the property will be valued on the basis of value for its actual use in farming or such other trade or business, rather than on the basis of its fair market value determined on the basis of highest and best use (if other than the use in farming or other business). Under section 2032A(a)(2), this special valuation may not reduce the value of the decedent's estate by more than $500,000. This election is available only if, at the time of death, the decedent was a citizen or resident of the United States.

(2) *Time and manner of making election.* An election under this section is exercised by attaching to a timely filed estate tax return the agreement described in paragraph (c) and a notice of election which contains the following information:

(i) The decedent's name and taxpayer identification number as they appear on the estate tax return;

(ii) The relevant qualified use;

(iii) The items of real property shown on the estate tax return to be specially valued pursuant to the election (identified by schedule and item number);

(iv) The fair market value of the real property to be specially valued under section 2032A and its value based on its qualified use (both values determined without regard to the adjustments provided by section 2032A(b)(3)(B));

(v) The adjusted value (as defined in section 2032A(b)(3)(B)) of all real property which is used in a qualified use and which passes from the decedent to a qualified heir;

(vi) The items of personal property shown on the estate tax return that pass from the decedent to a qualified heir and are used in a qualified used under section 2032A (identified by schedule and item number) and the total value of such personal property adjusted as provided under section 2032A(b)(3)(B);

(vii) The adjusted value of the gross estate, as defined in section 2032A(b)(3)(A);

(viii) The method used in determining the special value based on use;

(ix) Copies of written appraisals;

(x) The date on which the decedent (or a member of his family who held the property before the decedent) acquired the property and on which he or a member of his family commenced the qualified use (if different from the date of acquisition);

(xi) Any periods following commencement of the qualified use during which the decedent or a member of his family did not own the property, use it in a qualified use, or materially participate in the operation of the farm or other business within the meaning of section 2032A(e)(6); and

(xii) The name, address, taxpayer identification number, and relationship to the decedent of each person taking an interest in each item of specially valued property, and the value of the property interests passing to each such person based on both fair market value and qualified use.

(b) *Protective election.* Where an estate does not qualify for special use valuation because the tests of section 2032A(b)(1) are not satisfied, or where no estate tax is due at the time of the initial return, a protective election may be made to specially value qualified real property. The availability of special use valuation pursuant to this election is contingent upon values as finally determined (or agreed to following examination of a return) meeting the requirements of section 2032A. A protective election does not, however, extend the time for payment of any amount of tax. Rules for such extensions are contained in sections 6161, 6163, 6166, and 6166A. The protective election is to be made by a notice of election filed with a timely estate tax return stating that a protective election under section 2032A is being made pending final determination of values. This notice is to include the following information:

(1) The decedent's name and taxpayer identification number as they appear on the estate tax return;

(2) The revelant qualified use; and

(3) The items of real and personal property shown on the estate tax return which are used in a qualified use, and which pass to qualified heirs (identified by schedule and item number).

If it is subsequently determined that the estate qualifies for special use valuation or that estate tax is due, an additional notice of election must be filed within 60 days after the date of such determination if the executor desires to use the special use valuation under section 2032A. This notice must set forth the information required under paragraph (a)(2) of this section and is to be attached, together with the agreement described in paragraph (c), to an amended estate tax return. The new return is to be filed with the Internal Revenue Service office where the original return was filed.

(c) *Agreement to special valuation by persons with an interest in property.*—(1) *In general.* The agreement required under this section must express consent to personal liability under section 2032A(c) in the event of certain early dispositions of the property or early cessation of the qualified use. The agreement must be executed by all parties receiving any interest in the property being valued based on its qualified use. The agreement is to be in a form that is binding on all parties under applicable local law. It must designate an agent for the parties for all dealings with the Internal Revenue Service on matters arising under section 2032A.

(2) *Persons having an interest in designated property.* An interest in property is an interest which, as of the date of the decedent's death, can be asserted under applicable local law so as to affect the disposition of the specially valued property by the estate. Any person in being at the death of the decedent who has any such interest in the property, whether present or future, or vested or contingent, must enter into the agreement. Included among such persons are owners of remainder and executory interests, the holders of general or special powers of appointment, beneficiaries of a gift over in default of exercise of any such power, and trustees of trusts holding any interest in the property. An heir who has the power under local law to caveat (challenge) a will and thereby affect disposition of the property is not, however, considered to be a person with an interest in property under section 2032A solely by reason of that right. Likewise, creditors of an estate are not such persons solely by reason of their status as creditors except that creditors having security interests in or judgment liens against any specially valued property are persons with an interest in the property if, upon the making of the election, such interests or liens are subordinate to the lien imposed by section 6324B.

(3) *Consent on behalf of interested party.* If any person required to enter the agreement provided for by this paragraph either desires that an agent act for him or cannot legally bind himself due to infancy or other incompetency, a representative authorized under local law to bind such person in an agreement of this nature is permitted to sign the agreement on his behalf.

(d) *Special rule for estates for which elections under section 2032A are made before September 15, 1978.* An election to specially value real property under section 2032A that is made before September 15, 1978, will be treated as a notice of intention to elect under the provisions of this section. For the election to be effective, the executor must file an amended notice of election which meets the requirements of this section before January 15, 1979. The amended notice of election is to be attached to an amended estate tax return and is to be filed with the Internal Revenue Service office where the original estate tax return was filed. If no action to conform the election to the requirements of this section is taken by the executor before the prescribed date, the election will be deemed never to have been made, and payment of any additional tax will be due upon notice and demand.

§ 20.6081-1 [Amended]

Par. 2. The third sentence of paragraph (c) of of § 20.6081-1 is amended by striking out the first word and inserting in lieu thereof "Except as provided in § 20.2032A-8(d) and § 20.6166-1(h), the".

§ 20.6166 [Deleted]

Par. 3. Section 20.6166 is deleted.

§§ 20.6166-1—20.6166-4 Redesignated as §§ 20.6166A-1—20.6166A-4

Par. 4. Sections 20.6166-1, 20.6166-2, 20.6166-3, and 20.6166-4 are redesignated §§ 20.6166A-1, 20.6166A-2, 20.6166A-3, and 20.6166A-4 respectively.

Par. 5. The following new section is added following § 20.6165-1:

§ 20.6166-1 Election of alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

(a) *In general.* Section 6166 allows an executor to elect to extend payment of part or all of the portion of the estate tax which is attributable to a closely held business interest (as defined in section 6166(b)(1)). Where it is made at the time the estate tax return is filed, the election is applicable both to the tax originally determined to be due and to certain deficiencies. If no election is made when the estate tax return is filed, the full amount of certain later deficiencies (but not any tax originally determined to be due) may be paid in installments.

(b) *Time and manner of election.* The election provided under this section is made by attaching to a timely filed estate tax return a notice of election containing the following information:

(1) The decedent's name and taxpayer identification number as they appear on the estate tax return;

(2) The amount of tax which is to be paid in installments;

(3) The date selected for payment of the first installment;

(4) The number of annual installments, including the first installment, in which the tax is to be paid;

(5) The properties shown on the estate tax return which constitute the closely held business interest (identi-

fied by schedule and item number); and

(6) The facts which formed the basis for the executor's conclusion that the estate qualifies for payment of the estate tax in installments.

(c) *Treatment of certain deficiencies.*—(1) *No election before assessment of deficiency.* Where a deficiency is assessed and no election, including a protective election, has been made under section 6166 to pay any tax in installments, the executor may elect to pay the portion of the deficiency attributable to the closely held business interest in installments. However, this is true only if the estate qualifies under section 6166 based upon values as finally determined (or agreed to following examination of a return). Such an election is exercised by filing a notice of election with the Internal Revenue Service office where the estate tax return was filed. The notice of election must be filed within 60 days after issuance of notice and demand for payment of the deficiency, and it must contain the same information as is required under paragraph (b) of this section. The notice of election is to be accompanied by payment of the amount of tax and interest, the date for payment of which has arrived as determined under paragraphs (e) and (f) of this section, plus the amount of unpaid tax and interest which is not attributable to the closely held business interest.

(2) *Election made with estate tax return.* If the executor makes an election under section 6166 (other than a protective election) at the time the estate tax return is filed and a deficiency is later assessed, the portion of the deficiency which is attributable to the closely held business interest (but not any accrued interest thereon) will be prorated to the installments payable pursuant to the original section 6166 election. Any part of the deficiency prorated to an installment the date for payment of which has arrived is due upon notice and demand. Interest for any such period, including the deferral period, is payable upon notice and demand.

(3) *Portion of deficiency attributable to closely held business interest.* Only that portion of any deficiency which is attributable to a closely held business interest may be paid in installments under section 6166. The amount of any deficiency which is so attributable is the difference between the amount of tax which the executor has previously elected to pay in installments under section 6166 and the maximum amount of tax which the executor could have elected to pay in installments on the basis of a return which reflects the adjustments that resulted in the deficiency.

(d) *Protective election.* Where an estate does not qualify under section 6166 or where no tax is due at the time of the initial return, a protective election may be made to defer payment of any portion of tax remaining unpaid at the time values are finally determined (or agreed to following examination of a return) and any deficiencies attributable to the closely held business interest (within the meaning of paragraph (c)(3) of this section). Extension of tax payments pursuant to this election is contingent upon final values meeting the requirements of section 6166. A protective election does not, however, extend the time for payment of any amount of tax. Rules for such extensions are contained in sections 6161, 6163, and 6166A. A protective election is made by filing a notice of election with a timely estate tax return stating that the election is being made. Within 60 days after values are finally determined (or agreed to following examination of a return), a letter containing a final notice of election which sets forth the information required under paragraph (b) of this section must be filed with the Internal Revenue Service office where the estate tax return was filed. That notice of final election is to be accompanied by payment of any amount of previously unpaid tax and interest, the date for payment of which has arrived as determined under paragraphs (e) and (f) of this section, plus any amount of unpaid tax and interest which is not attributable to the closely held business interest.

(e) *Special rules*—(1) *Effect of deficiencies and protective elections upon payment.* Upon election to extend the time for payment of a deficiency or upon final determination of values following a protective election, the executor must prorate the unpaid tax or deficiency attributable to the closely held business interest among all installments. All amounts attributed to installments which would have been due had the election been made at the time the tax was due to be paid under section 6151(a) and all accrued interest must be paid at the time the election is made.

(2) *Determination of date for payment of first installment.* The executor may defer payment of tax (but not interest) for any period up to 5 years from the date determined under section 6151(a) for payment of the estate tax. The date chosen for payment of the first installment of tax is not required to be on an annual anniversary of the original due date of the tax; however, it must be the date within any month which corresponds to the day of the month determined under section 6151(a).

(f) *Rule for computing interest.* Section 6601(j) provides a special 4 percent interest rate for the amount of tax (including deficiencies) which is to be paid in installments under section 6166. This special interest rate applies only to that amount of tax which is to be paid in installments and which does not exceed the limitation of section 6601(j)(2). Where payment of a greater amount of tax than is subject to section 6601(j)(2) is extended under section 6166, each installment is deemed to be comprised of both tax subject to the 4 percent interest rate and tax subject to the rate otherwise prescribed by section 6621. The percentage of any installment subject to the special 4 percent rate is equal to the percentage of the total tax payable in installments which is subject to the 4 percent rate. Where an election is made under the provisions of paragraphs (b) or (c)(1) of this section, the 4 percent rate applies from the date on which the estate tax was originally due to be paid. If only a protective election is made, section 6601(j) does not apply to any amount of tax the payment of which is extended under any other section of the Code until the date on which that other extension is terminated and a final election under section 6166 is made. The 4 percent interest rate does, however, apply from the original due date for payment of the estate tax to otherwise qualifying deficiencies which are assessed following a protective election and which are paid in installments also containing any amount payment of which was previously extended under another provision of the Code.

(g) *Relation of sections 6166 and 6166A.* No election may be made under section 6166 if an election under section 6166A applies with respect to an estate. For example, no election can be made under section 6166(h) where an executor has made an election under section 6166A. If an election is timely made under either section 6166 or section 6166A, however, a protective election can be made under the other section at the same time. If the executor then files a timely notice of final election under the section protectively elected any pays any amounts determined to be currently due following final determination of (or agreement as to) estate tax values, the original election under the other provision will be deemed never to have applied to the estate.

(h) *Special rule for estates for which elections under section 6166 are made before September 15, 1978.* An election to extend payment of estate tax under section 6166 that is made before September 15, 1978, will be treated as a notice of intention to elect under the provisions of this section. For the election to be effective, the executor must file a letter containing a revised notice of election which meets the requirements of this section before January 15, 1979. This revised notice of election is to be accompanied by payment of

any amount of tax and interest determined to be currently due and must be filed with the Internal Revenue Service office where the estate tax return was filed. If no action is taken by the executor to conform the original election to the requirements of this section before the prescribed date, the election will be deemed never to have been made, and payment of the full amount of tax previously extended, plus any accured interest, will be due upon notice and demand.

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

Example (1)—(i). Based upon values shown on decedent A's timely filed estate tax return, 60 percent of the value of A's adjusted gross estate consisted of a farm which was a closely held business within the meaning of section 6166. A's executor, B, made a protective election under section 6166 when he filed A's estate tax return. B also applied for an extension of time to pay $15,000 (50 percent) of the estate tax shown on the return under section 6161. The requested extension was granted and was renewed at the end of 1 year. Eighteen months after the return was filed and after examination of A's estate tax return, the value of the farm was found to constitute 67 percent of the adjusted gross estate. B entered into a agreement consenting to the values as estabiished on examination and to a deficiency of $5,000. B then filed a final notice of election under section 6166, choosing a 5-year deferral followed by 10 annual installment payments and thereby terminated his extenstion under section 6161. B could have extended payment of 67 percent of the total estate tax, or $23,450; however, only $20,000 of tax remained unpaid so section 6166 applies only to that amount.

(ii) Had B been granted an extension of time under section 6161 to pay $20,000 of tax, $25,000 would remain unpaid when the final section 6166 election is made. Payment of the full $23,450 (67 percent) of tax which is attributable to the closely held business interest could, therefore, be extended under section 6166. The balance of unpaid tax ($1,550) is due with the notice of final election since B terminated the estate's section 6161 extension. Had B chosen to do so, and the estate qualified under section 6161, he could have applied for an additional extension under that section for tax not attributable to the closely held business interest after the section 6166 election was made final.

(iii) B must pay all unpaid accrued interest with his notice of final election. Additionally, had the 5-year deferral period passed, B would have been required to pay any installments of tax for which the due date had passed. Since only 18 months have passed, however no installments of tax are due. Interest has accrued during the 18 months and that interest must be paid. Interest on the $5,000 deficiency is computed at 4 percent per annum for the entire 18 months. Interest on the $15,000 of tax extended under section 6161 is computed at the rate determined under section 6621 until the date of the final section 6166 election. After that date, the interest on that amount will also accrue at 4 percent per annum.

Example (2). Assume the facts as in example (1), except B initially made an election under section 6166A and made no protective election under section 6166. Following final determination of values, B is not permitted to make any election under section 6166; however, had B protectively elected section 6166 at the time he made the 6166A election, he could have terminated the section 6166A election and finally elected under section 6166. In such a case, the full $23,450 of tax attributable to the farm (or any lesser amount that remained unpaid) would have been eligible for extension under section 6166. The 4 percent interest rate would apply to the $5,000 deficiency from the originial due date of the tax, and, as with the extension under section 6161, it would apply to the amounts extended under section 6166A only from the date on which the election under section 6166 was finalized.

Example (3). C died in 1977. His estate owes Federal estate taxes of $750,000, $500,000 of which is attributable to a closely held business interest. Payment of the $500,000 was extended under section 6166. A 5-year deferral followed by 10 annual installment payments was chosen by C's executor. Under paragraph (f) of this section, only 63.16 percent of each installment will be subject to the special 4 percent interest rate and the remainder will be subject to the rate determined under section 6621. The same rule applies in computing interest for the 5 years during which payment of tax is deferred. (This is so because the 4 percent interest rate applies only to a maximum of $345,800 of tax less the amount of credit allowable under section 2110(a).)

Par. 6. The following new section is added following § 20.6324-1:

§ 20.6324A-1. Election of and agreement to special lien for estate tax deferred under section 6166 or 6166A.

(a) *Election of lien.* If payment of a portion of the estate tax is deferred under section 6166 or 6166A of the Code, an executor of a decedent's estate who seeks to be discharged from personal liability may elect a lien in favor of the United States in lieu of the bond required by section 2204. This election is exercised by applying to the Internal Revenue Service office where the estate tax return is filed at any time prior to payment of the full amount of estate tax and interest due. The application is to be a notice of election requesting the special lien provided by section 6324A and is to be accompanied by the agreement described in paragraph (b).

(b) *Agreement to lien*—(1) *In general.* A lien under this section will not arise unless all parties having any interest in any property to which the lien is to attach sign an agreement in which they consent to the creation of the lien. The agreement is to be attached to the notice in which the lien under section 6324A is elected. It must be in a form that is binding on all parties under local law and must contain the following:

(i) The decedent's name and taxpayer identification number as they appear on the estate tax return;

(ii) The amount of the lien;

(iii) The fair market value of the property to be subject to the lien as of the date of the decedent's death and the date of the election under this section;

(iv) The amount, as of the date of the decedent's death and the date of the election, of all encumbrances on the property, including mortgages and any lien under section 6324B;

(v) A clear description of the property which is to be subject to the lien, and in the case of property other than land, a statement of its estimated remaining useful life; and

(vi) Designation of an agent for the beneficiaries of the estate and the consenting parties to the lien for all dealings with the Internal Revenue Service on matters arising under section 6166 or 6166A, or under section 6324A.

(2) *Persons having an interest in designated property.* An interest in property is any interest which as of the date of the election can be asserted under applicable local law so as to affect the disposition by the estate of any property designated in the agreement required under this section. Any person in being at the date of the election who has any such interest in the property, whether present or future, or vested or contingent, must enter the agreement. Included among such persons are owners of remainder and executory interests, the holders of general or special powers of appointment, beneficiaries of a gift over in default of exercise of any such power, and trustees of trusts holding any interest in the property. An heir who has the power under local law to caveat (challenge) a will and thereby affect disposition of the property is not, however, considered to be a person with an interest in property under section 6324A solely by reason of that right. Likewise, creditors of an estate are not such persons solely by reason of their status as creditors except that creditors having a security interest in or judgment lien against any property designated in the agreement required under this section are persons with an interest in the property, if, upon the making of the election, such interests or liens are subordinate to the lien imposed by section 6324A.

(3) *Consent on behalf of interested party.* If any person required to enter the agreement provided for by this paragraph either desires that an agent act for him or cannot legally bind himself due to infancy or other incompetency, a representative authorized under local law to bind the interested party in an agreement of this nature is permitted to sign the agreement on his behalf.

(c) *Partial substitution of bond for lien.* If the amount of unpaid estate tax plus interest exceeds the value (determined for purposes of section 6324A(b)(2)) of property listed in the agreement under paragraph (b) of this section, the Internal Revenue Service

may condition the release from personal liability upon the executor's submitting an agreement listing additional property or furnishing an acceptable bond in the amount of such excess.

(d) *Relation of sections 6324A and 2204.* The lien under section 6324A is deemed to be a bond under section 2204 for purposes of determining an executor's release from personal liability. If an election has been made under section 6324A, the executor may not substitute a bond pursuant to section 2204 in lieu of that lien. If a bond has been supplied under section 2204, however, the executor may, by filing a proper notice of election and agreement, substitute a lien under section 6324A for any part or all of such bond.

(e) *Relation of sections 6324A and 6324.* If there is a lien under this section on any property with respect to an estate, that lien is in lieu of the lien provided by section 6324 on such property with respect to the same estate.

(f) *Special rule for estates for which elections under section 6324A are made before September 15, 1978.* If a lien is elected under section 6324A before September 15, 1978, the originally filed election shall be treated as a notice of intention to elect under the provisions of this section. For the election to be effective, the executor must file a revised notice of election which meets the requirements of this section before January 15, 1979. A letter containing this revised notice of election is to be filed with the Internal Revenue Service office where the original notice of election was filed. If no action is taken by the executor before the prescribed date, the election will be deemed never to have been made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-19361 Filed 7-11-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 553]

[Ar 290-5]

ARMY NATIONAL CEMETERIES

Restrictions for Bicyclists

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to amend its regulations to include restrictions for bicylists who use the roads in Arlington National Cemetery. This proposed rule informs the public that bicyclists will be restricted to certain specific roads within the cemetery which will not interfere with the direct route used by bicyclists who commute between Virginia and the District of Columbia. The inconsiderate behavior of some bicyclists who use the cemetery roads for recreational purposes has created serious problems in the cemetery.

DATES: Comments must be received on or before August 5, 1978.

ADDRESS: Comments must be submitted to HQDA(DAAG-PED), Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Ellsworth S. Clarke, area code 202-693-0882.

By authority of the Secretary of the Army.

Dated: July 7, 1978.

W. J. WINTER, Jr.,
Colonel, U.S. Army, Director, Personal Affairs, TAGCEN.

Accordingly, it is proposed to amend 32 CFR § 553.22 by adding a reference to paragraph (h) in the 14th line of § 553.22(b) and by adding a new paragraph (h) to the section as follows:

§ 553.22 Visitors' rules for the Arlington National Cemetery.

(a) * * *

(b) Scope * * * in paragraphs (c), (d), (e), (f), (g), and (h) of * * *.

* * * * *

(h) Bicycle traffic will be restricted within the cemetery to Meigs Drive, Sherman Drive, and Schley Drive. All other bicycle traffic will be directed to the Visitors' Center where bicycle racks will be provided. Individuals coming to the cemetery to visit a relative's gravesite will be issued a temporary pass which will permit the bicyclist to proceed to the gravesite.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

(24 U.S.C. 281.)

[FR Doc. 78-19270 Filed 7-12-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 927-1]

PROPOSED REVISION OF MARYLAND STATE IMPLEMENTATION PLAN

Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule—Extension of comment period.

SUMMARY: This notice is a follow-up to previous extension notices which appeared in the FEDERAL REGISTER on April 11, 1978 (43 FR 15167) May 26, 1978 (43 FR 22748) and June 29, 1978 (43 FR 28214). The purpose of this notice is to further extend the public comment period for the notice of proposed rulemaking issued by EPA Region III on March 6, 1978 (43 FR 9162) pertaining to a proposed revision of the Maryland State Implementation Plan (SIP). The proposed plan revision refers to an exception request submitted to EPA by the State of Maryland on behalf of the Westvaco Corporation, Luke, Md.

DATE: The public comment period has been extended to August 7, 1978.

ADDRESSES: Copies of the proposed revision, together with supporting documentation and correspondence, are available for public inspection during normal business hours at the offices of:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Md. 21201, ATTN: Mr. George P. Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Israel Milner, Manager, Plans Management Group, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106, telephone 215-597-8174.

SUPPLEMENTARY INFORMATION: On March 6, 1978 (43 FR 9162), EPA issued a notice of proposed rulemaking pertaining to a proposed revision of the Maryland State Implementation Plan and on April 11, 1978 (43 FR 15167) the public comment period for this notice was extended to May 8, 1978. On May 26, 1978 (43 FR 22748) the public comment period was further extended to June 7, 1978 and on June 29, 1978 (43 FR 28214) the comment period was again extended to July 7, 1978. The proposed plan revision refers to an exception request submitted to EPA by the State of Maryland on behalf of the Westvaco Corporation, Luke, Md. The request would except Westvaco from the applicable State and Federal sulfur content-in-fuel regulations and at the same time, limit sulfur dioxide emissions from all fuel-burning equipment located at this facility to 49 tons per day.

This notice is to advise the public that the comment period on this exception request is extended until August 7, 1978. All comments submitted on before that date will be considered as a basis for the Administrator's final determination with regard to this proposed SIP revision.

(Authority: 42 U.S.C. 7401.)

Dated: June 30, 1978.

JACK SCHRAMM,
Regional Administrator.

[FR Doc. 78-19254 Filed 7-12-78; 8:45]

[6560-01]

[40 CFR Part 120]

[FRL 873-6]

WATER QUALITY STANDARDS

Navigable Waters of the State of Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On July 25, 1977, EPA disapproved the dissolved oxygen criteria of the water quality standards adopted by the Mississippi Air and Water Pollution Control Commission for the State of Mississippi. The Environmental Protection Agency hereby proposes a rule establishing dissolved oxygen criteria for the navigable waters of Mississippi.

DATES: All written comments received on or before August 28, 1978, will be considered in the preparation of the final rule.

FOR FURTHER INFORMATION CONTACT:

Charles W. Ferst, Water Quality Standards Coordinator, EPA, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3012.

SUPPLEMENTARY INFORMATION: Section 303(c) of the Clean Water Act, as amended (hereinafter the act), provides that in any case where it is determined that a revised or new water quality standard is necessary to meet the requirements of the act, the Administrator shall publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved. The Administrator shall promulgate a new or revised standard not later than ninety days after he publishes the proposed standard unless prior to promulgation the State adopts a revised or new water quality standard which the Regional Administrator determines to be in accordance with the act.

On January 27, 1975, the Regional Administrator, region IV, wrote to the Executive Director, Mississippi Air and Water Pollution Control Commission, highlighting the Agency's concern over the low dissolved oxygen standard. On March 6, 1975, the Regional Administrator again notified the executive director of his concern about the dissolved oxygen standard and indicated that a revision should be made. Reaction by the State was positive and it was EPA's understanding that a revision would be proposed which would apply a dissolved oxygen criterion of 5.0 mg/l at the 7-day, 10-year low flow consistent with its previous recommendation.

On June 24, 1976, Mississippi submitted draft proposed water quality standards to EPA and comments were provided to the State by EPA which specifically addressed dissolved oxygen criteria and suggested modifications which would make Mississippi water quality standards consistent with Quality Criteria for Water (G.P.O. No. 055-001-01049-4; notice of availability published at 43 FR 2665; January 18, 1978). In September 1976, Mississippi developed revised proposed water quality standards and on December 6, 1976, EPA comments concerning the inadequacy of the proposed dissolved oxygen criteria were reiterated.

On March 9, 10, and 11, 1977, the Mississippi Air and Water Pollution Control Commission (hereinafter "the Commission") held public hearings to receive comments on proposed revised water quality standards. EPA was represented at the hearing and supported the proposals recommended by the staff of the Commission which included a minimum daily average dissolved oxygen criterion of 5.0 mg/l applicable at the 7-day, 10-year low flow and all greater flows. EPA subsequently forwarded additional information to be included in the hearing record to further support the proposed dissolved oxygen criterion. On April 12, 1977, following the close of the public record, the Commission elected to retain the dissolved oxygen criterion of 4.0 mg/l as a minimum daily average applicable at the 7-day, 10-year low flow. Pursuant to section 303(c)(3) of the act, on April 22, 1977, the Commission submitted to the Regional Administrator, Region IV, revised water quality standards as contained in the document entitled "State of Mississippi's Water Quality Criteria for Intrastate, Interstate, and Coastal Waters."

On June 9, 1977, the Regional Administrator, Region IV, notified the Executive Director, Mississippi Air and Water Pollution Control Commission, that the dissolved oxygen criterion found in sections III(1)(a), III(2)(a), III(3)(a), and III(4)(a) was not sufficient to insure the protection of a balanced population of fish in Mississippi and represented a statewide exception to the criterion recommended in Quality Criteria for Water. In his letter, the Regional Administrator advised the Commission that establishment of a less stringent criterion than that recommended in the section 304(a) document should be accompanied by an adequate technical justification as provided by chapter 5 of Guidelines for State and Areawide Water Quality Management Program Development (41 FR 48777, November 5, 1976). He requested that additional data supporting such a deviation be submitted as soon as possible.

On July 21, 1977, EPA received from the Commission the requested documentation entitled "A Justification Report for the State of Mississippi's Dissolved Oxygen Criteria." The Regional Administrator disapproved the dissolved oxygen criteria in the Mississippi standards on July 25, 1977. He added in the letter that his disapproval would be reconsidered pending evaluation of the justification report.

On August 24, 1977, the Regional Administrator notified the Commission that the July 25, 1977, disapproval would remain in effect since the justification report did not adequately demonstrate that Mississippi waters should be exempt from achieving the EPA recommended criterion for dissolved oxygen. He further advised the Commission that in the event the Commission did not adopt dissolved oxygen criteria necessary to support a balanced fish population in Mississippi within 90 days, EPA would be required to publish and subsequently promulgate appropriate water quality standards.

Since the State failed to take appropriate action, the Administrator of the EPA is proposing a regulation establishing dissolved oxygen criteria for the State of Mississippi in accordance with section 303(c)(4)(B) of the act, and 40 CFR 130.17.

If the State fails to adopt appropriate revisions within 90 days of this notice, the Administrator shall promulgate alternative water quality standards in accordance with the requirements of the Act.

BASIS AND PURPOSE

Section 303(c) of the act requires that State water quality standards, "* * * be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this act. Such standards shall be established taking into consideration their use and value for propagation of fish and wildlife, * * *" The emphasis in this statutory section is upon the enhancement of water quality and the protection of the propagation of fish and not simply their maintenance. The ultimate purpose of water quality standards as with the other sections of the act, is to achieve by 1983, the national goal, wherever attainable, of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for

recreation in and on the water (section 101(a)(2)).

In support of its proposal herein, the Agency hereby incorporates by reference the dissolved oxgyen criterion rationale included in Quality Criteria for Water and the statement by Dr. William A. Brungs entitled "Effects of Reduced Dissolved Oxygen Concentrations on Warmwater Fish." The technical materials cited herein are excerpted from these references.

Among the more important quality criteria describing water quality suitable for the maintenance and propagation of fish is dissolved oxygen. As noted herein the Agency has published in Quality Criteria for Water, dissolved oxygen criteria for the propagation and maintenance of desirable fish and other aquatic life which would include sport fish inhabiting the waters of Mississippi. Such species as large and small mouth bass, striped bass, bream, and crappie, are all inhabitants of the waters of Mississippi and require substantial concentrations of dissolved oxygen to provide an environment favorable to their propagation. The EPA criterion for dissolved oxygen recommends that the minimum daily dissolved oxygen be not less than 5.0 mg/1 to support a well-balanced population of fish and shellfish including the game fish species cited above. A principal basis for this recommendation is the work of M. M. Ellis who correlated the existing populations of fish at various locations throughout the country (including Mississippi) with the ambient dissolved oxygen in such waters throughout the diurnal cycle. Ellis' observations supported his recommendation that balanced fish populations occur in ambient waters at dissolved oxygen concentrations greater than 5.0 mg/1 (Ellis' work is summarized in Quality Criteria for Water). Other studies have shown that fish fry growth is a function of minimum daily dissolved oxygen concentrations rather than daily average values and that growth rates are reduced when minimum daily dissolved oxygen concentrations are less than 5.0 mg/1 (Stewart, et al., 1967, cited in Quality Criteria for Water). The Agency is aware that fish can survive dissolved oxygen concentrations of less than 5.0 mg/1 although such conditions favor the survival of rough and forage fish rather than the sport fish cited previously.

Dr. Brungs conducted a review of important laboratory and field investigations limited to warmwater species in his statement on behalf of the EPA. He concluded that, in general, the more sensitive warmwater species have dissolved oxygen requirements similar to the more sensitive coldwater fish and that the data from both field and laboratory investigations are consistent with the criteria presented by EPA in Quality Criteria for Water.

Several factors support the Agency's disapproval of the Mississippi Air and Water Pollution Control Commission dissolved oxygen criterion of 4.0 mg/1 as a minimum daily average applicable at the 7-day, 10-year low flow for the waters of Mississippi.

First of all, the act mandates the protection of fish propagation. As noted above, available evidence indicates that balanced fish populations which include sport fish require dissolved oxygen concentrations of 5.0 mg/1 or greater.

In addition, the dissolved oxygen criterion included in the standards applies to all waters of the State, many of which presently exceed Mississippi's 4.0 mg/1 dissolved oxygen criterion. The Agency recognizes that certain waters may not achieve its recommended dissolved oxygen criterion for various justifiable reasons, but believes that such protection should be afforded as a general rule for all waters of the State. Thus the Agency proposes a dissolved oxygen criterion of a minimum of 5.0 mg/1 for all waters designated for fish and wildlife protection. If such a uniform standard is finally promulgated, EPA will on a case-by-case basis accept modifications to the water quality standards specifying a lesser criterion for specific waters with a proper justification in accordance with the Agency procedures contained in 40 CFR 130.17.

Finally, the Agency's regulations (40 CFR 130.17) reflect the requirements of the act and require the achievement of the National water quality goal specified in section 101(a)(2), wherever attainable. In practice these goals will be achieved by the installation of point and nonpoint source pollution abatement facilities. Point source controls are regulated through the national pollutant discharge elimination system permit program established in section 402 of the act. The act requires dischargers to reduce point source pollution loadings so as to achieve water quality standards (section 301(b)(1)(C)). These allowable discharges are quantified by a waste load allocation process which calculates allowable loadings which will meet water quality standards at a design flow. The Mississippi provision would provide for waste load allocations based on 4.0 mg/1 dissolved oxygen; the proposed rule herein would provide for waste load allocations based on 5.0 mg/1 dissolved oxygen. The Mississippi provision could provide for greater waste emissions and consequent water degradation for parameters in addition to dissolved oxygen and is thereby contrary to the precepts of the act.

The Proposed Criteria

The Agency's proposed rule would establish a three-part standard. For flowing streams the minimum dissolved oxygen concentration is set at 5.0 mg/1. A 5.0 mg/1 minimum dissolved oxygen concentration is also established for estuarine waters including the tidally affected portions of streams. The minimum dissolved oxygen concentration is set at 5.0 mg/1 in the epilimnion (surface layer) in impoundments and lakes that are thermally stratified or 5 feet from the water's surface in impoundments and lakes that are not thermally stratified.

The lake and impoundment requirements establish a separate classification for those which are thermally stratified. The proposed standard allows the dissolved oxygen to be measured in the epilimnion which is the layer of water lying above the thermocline and whose surface is in direct contact with the atmosphere. The other portions of these water bodies lying below the thermocline are cut off from atmospheric reaeration and may contain lower dissolved oxygen concentrations.

The proposed regulation assumes that streams and estuaries will be sampled in accordance with the provisions in section I(2) of the Mississippi water quality standards. The sampling procedures for lakes and impoundments are essentially equivalent to that specified by the State for thermal measurements (e.g., see section III(c) of the standards) with the exception of the epilimnetic sampling. That sampling procedure will require the definition of the lake or impoundment's thermal profile in order to define the thickness of the epilimnion.

Since Mississippi includes exactly the same dissolved oxygen criterion for all recognized water uses, the proposed rule herein follows the same format and includes the above described dissolved oxygen standards for the designated water uses of public water supply, shellfish-harvesting areas, recreation, and fish and wildlife.

Public Hearings

The Agency plans to hold two public hearings. Tentative locations for these hearings are in Jackson and Biloxi, Miss. The Agency will publish in the Federal Register a notice with the exact location and time of the hearings and the format to be followed during the hearings. It should be stressed that this notice sets forth a proposed regulation. The current State standards for dissolved oxygen remain in effect unti EPA finally promulgates more stringent standards. EPA will carefully consider all oral and written comments in developing dissolved oxygen criteria for final promulgation.

Availability of Record.

The entire administrative record concerning the Mississippi water qual-

ity standards which includes correspondence briefly described in this preamble, the criteria document and accompanying references from the Quality Criteria for Water, and the statement of Dr. Brungs are all available for public inspection and copying at the Environmental Protection Agency, Region IV office, Water Division, 345 Courtland Street NE., Atlanta, Ga. 30308, during normal business hours of 8 a.m. to 4:30 p.m. The water quality standards submitted by the Mississippi Air and Water Pollution Control Commission for Mississippi, selected correspondence between the Commission and Region IV of EPA, the proposed standards, and supporting technical information are available for inspection and copying at the U.S. Environmental Protection Agency Library, 401 M Street SW., Washington, D.C. 20460, during normal business hours of 8 a.m. to 4:30 p.m.

(Sec. 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c)).)

Dated: June 30, 1978.

BARBARA BLUM,
Acting Administrator.

Section 120.34 of part 120 of chapter I, Title 40 of the Code of Federal Regulations is proposed as follows:

§ 120.34 Mississippi.

The water quality standards applicable to intrastate, interstate, and coastal waters of Mississippi, adopted by the Mississippi Air and Water Pollution Control Commission on April 12, 1977, are amended as follows:

SECTION III. SPECIFIC WATER QUALITY CRITERIA

1. *Public water supply.*—a. *Dissolved oxygen.* Dissolved oxygen concentrations shall be maintained at a minimum of 5.0 mg/l in streams; shall be maintained at a minimum of 5.0 mg/l in estuaries and in the tidally affected portions of streams; and shall be maintained at a minimum of 5.0 mg/l in the epilimnion (i.e., the surface layer) of lakes and impoundments that are thermally stratified or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate midpoint of that zone (i.e., the midpoint of the distance from the water's surface to the thermocline) or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

2. *Shellfish-harvesting areas.*—a. *Dissolved oxygen.* Dissolved oxygen concentrations shall be maintained at a minimum of 5.0 mg/l in streams; shall be maintained at a minimum of 5.0 mg/l in estuaries and in the tidally affected portions of streams; and shall be maintained at a minimum of 5.0 mg/l in the epilimnion (i.e., the surface layer) of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate midpoint of that zone (i.e., the midpoint of the distance from the water's surface to the thermocline) or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

3. *Recreation.*—a. *Dissolved oxygen.* Dissolved oxygen concentration shall be maintained at a minimum of 5.0 mg/l in streams; shall be maintained at a minimum of 5.0 mg/l in estuaries and in the tidally affected portions of streams; and shall be maintained at a minimum of 5.0 mg/l in the epilimnion (i.e., the surface layer) of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may collected at the approximate midpoint of that zone (i.e., the midpoint of the distance from the water's surface to the thermocline) or if the epilimnion if more than 5 feet in depth, then at 5 feet from the water's surface.

4. *Fish and wildlife.*—a. *Dissolved oxygen.* Dissolved oxygen concentrations shall be maintained at a minimum of 5.0 mg/l in streams; shall be maintained at a minimum of 5.0 mg/l in estuaries and in the tidally affected portions of streams; and shall be maintained at a minimum of 5.0 mg/l in the epilimnion (i.e, the surface layer) of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate midpoint of that zone (i.e., the midpoint of the distance from the water's surface to the thermocline) or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

[FR Doc. 78-19246 Filed 7-12-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21474; RM-1968; RM-2810; RM-2978; FCC 78-468]

BROADCAST EQUAL EMPLOYMENT OPPORTUNITY

Rules and FCC Form 395

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: FCC proposes to include the handicapped in its equal employment opportunity rules applicable to broadcast stations as part of an ongoing proceeding concerning those rules and a revision of form 395 (Annual Employment Report).

DATES: Comments must be received on or before August 29, 1978, and reply comments on or before September 13, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 28, 1978.

Released: July 7, 1978.

Originally published at 43 FR 11836.

By the Commission: Commissioner Quello absent.

1. On November 18, 1977, we issued a notice of proposed rulemaking (42 FR 60168, November 25, 1977), in this proceeding to amend Form 395 (Annual Employment Report) with respect to minorities and women. The comment and reply comment dates for that notice were April 24, and May 24, 1978.

2. Before us is a petition for rulemaking, RM-2978, filed by the California Association of the Physically Handicapped, Inc., to require licensees to include qualified handicapped persons in their equal employment opportunity (EEO) programs and to provide reasonable accommodation for handicapped employees and requesting other relief, including that the Commission explore methods of increasing broadcast ownership and management by physically handicapped persons.

3. Comments supporting the petition were filed by Galesburg Broadcasting Co. and the Citizens Group for the Physically Handicapped, the Department of Rehabilitation of the State of California, KPBS-FM-TV, San Diego, Calif., and the Denver Commission on the Disabled. Opposing pleadings were filed by the American Broadcasting Co.'s, Inc. and replies were filed by the petitioner.

4. We believe that the issues of whether to include the handicapped in our EEO rules and, if so, how to go about it, could best be explored in this proceeding revising our EEO form. Accordingly, NOTICE is hereby given that we propose to amend our broadcast EEO rules, §§ 73.125, 73.301, 73.599, 73.680, and 73.993 to include the handicapped and to amend Form 395 to the extent necessary to carry out the purpose of the amended rules. Comments on any aspect of this proposal are welcome. We would specifically like comment on whether or not the handicapped should be included in our EEO rules. We would like comments supporting this to suggest definitions and state what categories of persons should be included or excluded. To what extent should a licensee be required to modify its facilities to accommodate a physically handicapped employee? Are there other laws affecting these licensees requiring such accommodations? Reference to other laws and regulations

dealing with the employment of the handicapped and their practical application would also be helpful.[1]

5. Authority for the actions taken herein is contained in sections 4(i), and 303 of the Communications Act of 1934, as amended.

6. Pursuant to procedures set out in §§ 1.4, 1.415 and 1.419 of the Commission's rules and regulations, interested parties may file comments on issues pertaining to the inclusion of the handicapped only, on or before August 29, 1978, and reply comments on or before September 13, 1978.[2] 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.

7. In accordance with § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number.

8. 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.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19250 Filed 7-12-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-204; RM-3032]

FM BROADCAST STATIONS IN KLAMATH FALLS, OREG. AND WEED, CALIF.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the substitution of one class C FM channel for another at Klamath Falls, Oreg., and the substitution of one class A channel for another at Weed, Calif. Petitioner, Klamath Broadcasting Co., states that this would eliminate the interference being caused by the Klamath Falls FM station to the service of the channel 10 Medford, Oreg., television station which occurs in the Klamath Falls area.

DATES: Comments must be received on or before August 28, 1978, and reply comments must be received on or before September 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 29, 1978.

Released: July 10, 1978.

In the matter of amendment of § 73.202(b) table of assignments, FM Broadcast Stations, (Klamath Falls, Oreg. and Weed, Calif.) (BC Docket No. 78-204, RM-3032).

By the Chief, Broadcast Bureau:

1. The Commission herein considers a petition for rulemaking[1] filed by Klamath Broadcasting Co. ("petitioner"), licensee of station KAGM(FM), Klamath Falls, Oreg., which seeks the substitution of FM channel 258 for channel 253 at Klamath Falls. In order to make the substitution, petitioner also requests that one of four available class A channels, 265A, 272A, 276A, 296A, be substituted for unoccupied and unapplied for channel 257A at Weed, Calif. Supporting comments were filed by Sierra Cascade Communications, Inc. ("Sierra"), licensee of television station KTVA (formerly KMED-TV), channel 10, Medford, Oreg. The proposed substitution of channels could be made in compliance with the minimum distance separation requirements.

2. Klamath Falls (pop. 14,300), seat of Klamath County (pop. 50,021),[2] is located in south central Oregon, approximately 384 kilometers (240 miles) southeast of Portland, Oreg. It is served locally by FM stations KJSN (channel 223), KAGM (channel 253), full-time AM stations KAGO and KFLS, and daytime-only AM station KLAD.

3. Weed (pop. 2,983), in Siskiyou County (pop. 33,225) is located approximately 111 kilometers (69 miles) southeast of Medford, Oreg. channel 257A (unoccupied and unapplied for) is assigned to Weed.

4. Petitioner states the substitution of Klamath Falls channels is proposed to eliminate interference which is being caused to the television service of Medford, Oreg., station KTVL (channel 10), in the Klamath Falls area. It asserts that the interference is due to the closeness of station KAGM's second harmonic frequency at 197 MHz to the channel 10 chrominance subcarrier frequency at 196.839545 MHz. Petitioner notes that in the vicinity of Klamath Falls, 96 kilometers (60 miles) from the KTVL transmitter and separated from it by rugged terrain, the television signal is weakened to the point where it is vulnerable to interference from the KAGM second FM harmonic signal. It states that attempts have been made to remedy the situation by the use of filters, but they have not been successful. Petitioner claims that, by shifting its operation from channel 253 to channel 258, the possibility of interference to station KTVL (channel 10) would be eliminated. It adds, however, that the channel 258 assignment would be short-spaced to channel 257A in Weed, Calif. (105 miles is required). Consequently petitioner proposes the substitution of one of four available alternate channels (265A, 272A, 276A or 296A) for the unoccupied channel 257A at Weed.

5. *Preclusion studies:* A preclusion study indicates that 25 communities of over 1,000 population would sustain preclusion as a result of assigning channel 258 to Klamath Falls, Oreg. Seven of the communities[3] have no FM channel assignments and no AM stations. However, this is not an obstacle as FM channels would be available to the precluded communities as a result of the deletion of channel 253 in Klamath Falls, where preclusion occurred in the same general areas.

6. In supporting comments, Sierra agrees with petitioner that the only effective solution to the interference problem appears to be for station KAGM to shift to a frequency which does not involve the second harmonic relationship with that of station KTVL (channel 10). Sierra states that, in order to cooperate in facilitating the solution, it will bear a portion of the cost of station KAGM's frequency change.

7. Since the proposed substitute channel for Klamath Falls could well eliminate interference to station KTVL, channel 10, Medford, Oreg., and a substitute class A is available for channel 257A at Weed, Calif., we believe that consideration of the proposal described above is warranted.

8. An order to show cause to the petitoner will not be necessary since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for rulemaking.

§ 73.202 [Amended]

9. In view of the above, the Commission proposes to amend the FM table

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[1] Comments should be limited to the issue of the handicapped.

[2] The Commission does not contemplate granting any extensions of time, to avoid delay in revising form 395.

[1] Public notice of the petition was given on January 19, 1978, report No. 1096.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Oregon:* Central Point (pop. 4,004), Jacksonville (1,611); *California:* Dunmuir (2,214), Greeville (1,073), Chester (1,551), Summit City (1,000), Corning (3,573).

of assignments (§ 73.202(b) of the Commission's rules) with regard to the cities listed below as follows:

City and Channel No.

Weed, Calif.: Present, 257A; proposed, 265A.
Klamath Falls, Oreg.: Present, 223 and 253; proposed 223 and 258.

10. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

11. Interested persons may file comments on or before August 28, 1978, and reply comments on or before September 18, 1978.

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

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this is attached. Proponents(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. *Cut-off 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) oc 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 roceeding, 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 considerd in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 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 rulemaking to which this is attached. All submissions by parties to ths 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 section 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. 78-19253 Filed 7-12-78; 8:45 am]

[6712-01]

[47 CFR Part 74]

[Docket No. 19918; RM-2235]

FM RADIO BROADCAST TRANSLATOR STATIONS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning rules pertaining to FM radio broadcast translator stations. The additional time is given so that parties may complete the task of preparing comments.

DATES: Comments must be filed on or before August 4, 1978, and reply comments on or before September 5, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 74, subpart L, of the Commission's rules pertaining to FM radio broadcast translator stations (Docket No. 19918, RM-2235).

ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

Adopted: July 3, 1978.

Released: July 6, 1978.

Originally published at 43 FR 23619.

By the Chief, Broadcast Bureau.

1. On March 22, 1978, the Commission adopted a memorandum opinion and order and further notice of proposed rulemaking, 43 FR 14695, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are July 3 and August 2, 1978, respectively.

2. A motion for extension of time was filed by Robert A. Jones, P.E. ("Jones"), requesting an extension of time for filing comments and reply comments to and including November 5 and November 25, 1978, respectively. Jones states that he wants to make two surveys of his clients and others who have purchased his model of FM translator to see if the trends alluded to by the FCC are in fact the real case. He asserts that he also wants to determine whether nonlicensee owned FM translators have ever received financial or other assistance from FM primary station licensees since they began operation. Jones states that, for these and other reasons, the additional time is needed.

3. On the basis of the reasons represented in the above mentioned request for extension of time, we are persuaded that some additional time is warranted in order to assure development of a sound and comprehensive record on which to base a final decision in this proceeding. We believe that 30 additional days is sufficient for the filing of comments. Since other interested parties may wish additional time to respond to these comments, we shall extend the reply comment date the same amount of time to facilitate their making submissions.

4. Accordingly, *It is ordered*, that the request for extension of time filed by Robert A. Jones, P.E., is granted to the extent that the dates for filing comments and reply comments are extended to and including August 4 and September 5, 1978, respectively, and is denied in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

[FR Doc. 78-19257 Filed 7-12-78; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 531]

[Docket No. LVM 77-02; 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 and to establish alternative standard.

SUMMARY: This notice is being issued in response to a petition by Rolls-Royce Motors Inc. (Rolls-Royce) 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 10.7 mpg be established for Rolls-Royce.

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

ADDRESS: Comments on this notice must refer to docket LVM 77-02 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 prescribes 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 petition.

Rolls-Royce originally filed a petition in July 1977 for exemption from the generally applicable standards for 1978-80 model year passenger automobiles. By letter of September 23, 1977, the agency informed Rolls-Royce that its petition was incomplete and identified the additional information needed by the agency. Rolls-Royce submitted further information in a letter dated October 13, 1977. This letter essentially completed Rolls-Royce's petition for exemption from the affected model years' standards.

Accordingly, NHTSA issued a notice announcing the receipt of a petition for exemption from the 1978-80 model year standards (42 FR 64171; December 22, 1977). That notice summarized the Rolls-Royce petition and invited public comment on it.

Only one comment on the notice of receipt was submitted. That commenter urged that Rolls-Royce be exempted "in the name of common sense."

This agency has decided to issue a proposed decision on the Rolls-Royce petition for the 1978 model year separate from the proposed decision for the 1979 and 1980 model years. This will expedite reaching a final decision on the request for exemption from the 1978 standard. No purpose would be served by delaying the publication of this proposed decision until the analysis for the 1979 and 1980 model year requests is complete. A separate notice will soon be published announcing NHTSA's proposed decision for those future model years.

Requested alternative standard. Rolls-Royce requested that its alternative standard for model year 1978 be set at 10.9 mpg, the same level it had achieved in model year 1977. This request by Rolls-Royce was premised on the assumption that it could carry over its 1977 certification for emissions. If this were permitted, it would not be required to conduct new fuel economy testing, and its 1978 model year average fuel economy would be identical with its 1977 average.

Since this agency issued its notice of receipt, it has learned of events which have invalidated Rolls-Royce's premise. 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 1978 model year Rolls-Royce vehicles were tested, lower fuel economy values were achieved. In its original petition, Rolls-Royce indicated that its 49-State Automobiles would achieve a combined fuel economy of 11.6 mpg and its California specification would achieve a combined fuel economy of 9.7 mpg. Rolls-Royce also projected that its 1978 sales mix would be about 66 percent 49-State vehicles and 33 percent California vehicles.

The fuel economy values for 1978 Rolls-Royce automobiles, as reported by EPA, are a combined fuel economy of 11.4 mpg for the 49-State specifications and 10 mpg for the California specifications. Rolls-Royce has also indicated that its 1978 sales mix will be 50 percent 49-State vehicles and 50 percent California vehicles.

The combined net effect of both these changes is to lower Rolls-Royce's projected 1978 average fuel economy to 10.7 mpg. The NHTSA has used this as a base figure, and determined this proposed maximum feasible average fuel economy for Rolls-Royce by adding to this base all fuel economy improvements which are feasible for the 1978 model year.

Technological feasibility and economic practicability. In considering whether Rolls-Royce 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 1981-84 passenger automobiles (42 FR 33534; June 30, 1977) and for model year 1980-81 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 Rolls-Royces. There will be even less leadtime when the final decision on the exemption petition is issued.

To use most of these methods, Rolls-Royce would have to discard components that it has already made or purchased (Rolls-Royce Purchases its transmissions from General Motors) and produce or purchase new components. NHTSA has no information regarding Rolls-Royce's ability to produce or purchase and incorporate the new components before the end of the 1978 model year. It seems extremely unlikely, however, that this could be accomplished.

In addition to this substantial uncertainty and the very short leadtime, there is a possibility that changes to Rolls-Royce's components to improve fuel economy in the 1978 model year could create a need to recertify the automobiles for compliance with the 1978 model year emissions standards. 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. It would take at least 60 days to complete the testing if both tests were necessary. Until the Rolls-Royces were recertified, Rolls-Royce 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 Rolls-Royce, or (3) continuing to produce Rolls-Royces as currently certified. Regardless of which course were selected, only a small portion of the entire Rolls-Royce fleet woud 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 Rolls-Royce. 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 benefit. Indeed, none of the courses would produce much of a fuel economy benefit since only a small portion of the entire Rolls-Royce fleet would have the changes and thus have improved fuel economy.

Finally, mix shifts were considered. As stated previously, Rolls-Royce projected in its original petition that 33 percent of its sales would be California specification vehicles and 66 percent of sales would be the 49-State specification vehicles. In a supplemental filing Rolls-Royce indicated that this original projection was incorrect, and that in fact 50 percent of its American sales would be California specification vehicles. This change was explained as necessary to achieve "an acceptable degree of marketing flexibility."

A mix shift back to the original proportion of California and 49-State vehicles could be achieved by increasing the production and sales of the 49-State vehicles and curtailing sales of the California configuration. Since Rolls-Royce sales experience thus far in the 1978 model year indicated the need for more, rather than fewer, California vehicles, a decrease in the production and sales of those California vehicles is judged not to be economically practicable for the 1978 model year.

Based on the foregoing considerations, the NHTSA concludes that running changes and mix shifts to improve the fuel economy of Rolls-Royce's model year 1978 passenger automobiles are not technologically feasible and economically practicable.

The effect of other Federal motor vehicle standards. The other motor vehicle standards are important for the current model year only in determining whether these standards could be complied with in a more fuel efficient manner. Any fuel economy penalty which might be imposed by these standards in the current model year would be reflected in the model year 1978 Rolls-Royces, and would already have been considered.

In determining whether the Federal standards could be complied with in a more fuel efficient manner, the leadtime available to the manufacturer is a critical factor. In this case, it is extremely unlikely that a different means of complying with the emissions, safety, or damageability standards could be incorporated on 1978 Rolls-Royce automobiles before the end of the model year.

Based on the foregoing, NHTSA tentatively concludes that no more fuel efficient means of compliance with the other Federal motor vehicle standards is available to Rolls-Royce in the 1978 model year.

The need of the Nation to conserve energy. The daily extra U.S. demand for petroleum that will result from Rolls-Royce achieving an average fuel economy level of 10.7 mpg is rather than the generally applicable level of 18 mpg is estimated to average 30.4 barrels per day over the life of the model year 1978 Rolls-Royces. 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.

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 separate 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 Rolls-Royce. The analyses of the petitions submitted by other low volume manufacturers have not been completed, so the agency cannot practicably use the second or third approaches described in the preceding paragraph.

Proposed alternative standard. Based on the agency's tentative conclusions stated above, the agency believes that the maximum feasible average fuel economy for Rolls-Royce for model year 1978 is 10.7 mpg. Therefore, the agency proposes to exempt Rolls-Royce from the generally applicable standard of 18.0 mpg and to establish an alternative standard of 10.7 mpg for Rolls-Royce for model year 1978.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by adding § 531.5(b)(2) reading as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7

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.

NHTSA typically allows at least 45 days for the public to comment on its proposals. With respect to this decision, however, the agency has shortened the comment period to 30 days. There are a number of reasons for taking this action. First, it is very desirable for a final decision on the Rolls-Royce petition for the 1978 model year to be published before the end of the model year. To do this, it will be necessary to move expeditiously on this decision. Second, the agency already provided a 30-day period to comment on the petition when the agency published its notice of receipt. Third, this agency's experience thus far with fuel economy exemptions indicates that there will be few, if any, comments on this proposal. This proposal is fairly simple, and should not require a great deal of analysis to prepare comments.

All comments received before the close 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.

NOTE.—The agency has reviewed the impacts of this proposal and determined that they are minimal and that the proposal is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this proposed regulation are Douglas Pritchard and Stephen Kratzke respectively.

AUTHORITY: 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.

Issued on July 5, 1978

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-19099 Filed 7-12-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P&S Docket No. 5252]

IN RE TRAVIS MCGEE D.B.A. ATKINS LIVESTOCK AUCTION

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on May 6, 1977 (36 A.D. 764), authorizing the respondent, Travis McGee d.b.a. Atkins Livestock Auction, Atkins, Ark., to assess the current schedule of rates and charges.

By a petition filed June 30, 1978, the respondent requested authority to modify, as soon as possible, the current schedule of rates and charges. Respondent requested that a value-based tariff be constructed or in the alternative, that Revision No. 1 to the rate order be approved. The proposed rate schedule in Revision No. 1 is set forth below:

A. REGULAR SELLING-YARDAGE CHARGES

Ordinary Cattle:
Weighing less than 300 lbs., $3.00 per head.
Weighing 300 lbs. and more, $4.55 per head.
Bulls:
All bulls 800 lbs. and more, $9.00 per head.
Cow and calf sold as pair, $9.75 per pair.
Horses, Ponies and Mules, $8.00 per head.
Hogs:
Weighing less than 150 lbs., $1.50 per head.
Weighing 150 lbs. and more, $2.50 per head.
Sows and Pigs sold as a unit, $3.50 per unit.
Sheep and Goats, $1.25 per head.

B. RESALE AND NO-SALE CHARGES

There are no charges:
(1) On livestock resold which do not leave the premises;
(2) When a consignor declares his consignment no-sale on price bid, bids in his consignment or withdraws the same prior to actual sale.

C. FEED

The charges for all feed sold shall be the average monthly cost F.O.B. the market plus $0.005 per lb., $0.50 per cwt.

D. VETERINARY SERVICES

The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniformed per head rates, pursuant to company agreement with the veterinarian performing such services and does not contain any charges retained by the market.

E. SPECIAL SALES OR SERVICES

Special sales or unusual stockyard services such as are included in featured registered cattle and calf sales, annual 4-H sales and sale for one consignor sold on other than regular sale days which required special services and handling will be charged for under special arrangements agreed to between the parties prior to the special sales.

Either alternative or other modifications, if authorized, would produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in this matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before July 28, 1978.

Done at Washington, D.C., this 10th day of July 1978.

CHAS B. JENNINGS,
Deputy Administrator,
Packers and Stockyards-AMS.

[FR Doc. 78-19350 Filed 7-12-78; 8:45 am]

[3410-02]

[P&S Docket No. 5251]

IN RE BILL RICE AND LOIS RICE D.B.A. CLEBURNE COUNTY LIVESTOCK AUCTION SALE

Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on May 6, 1977 (36 A.D. 764), authorizing the respondents, Bill Rice and Lois Rice d.b.a. Cleburne County Livestock Auction Sale, Heber Springs, Ark., to assess the current schedule of rates and charges.

By a petition filed June 28, 1978, the respondents requested authority to modify, as soon as possible, the current schedule of rates and charges. Respondents requested that a value-based tariff be constructed or in the alternative, that Revision No. 1 to the rate order be approved. The proposed rate schedule in Revision No. 1 is set forth below:

A. REGULAR SELLING-YARDAGE CHARGES

Ordinary Cattle:
Weighing less than 300 lbs., $3.00 per head.
Weighing 300 lbs. and more, $4.55 per head.
Bulls:
All bulls 800 lbs., $9.00 per head.
Cow and calf sold as pair, $9.75 per pair.
Horses, Ponies and Mules, $8.00 per head.
Hogs:
Weighing less than 150 lbs., $1.50 per head.
Weighing 150 lbs. and more, $2.50 per head.
Sows and Pigs sold as a unit, $3.50 per unit.
Sheep and Goats, $1.25 per head.

B. RESALE AND NO-SALE CHARGES

There are no charges:
(1) On livestock resold which do not leave the premises;
(2) When a consignor declares his consignment no-sale on price bid, bids in his consignment or withdraws the same prior to actual sale.

C. FEED

The charges for all feed sold shall be the average monthly cost F.O.B. the market plus $0.005 per lb., $0.50 per cwt.

D. VETERINARY SERVICES

The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniform per head rates, pursuant to company agreement with the veterinarian performing such services and does not contain any charges retained by the market.

E. SPECIAL SALES OR SERVICES

Special sales or unusual stockyard services such as are included in featured registered cattle and calf sales, annual 4-H sales and sale for one consignor sold on other than regular sale days which required special services and handling will be charged for under special arrangements agreed to between the parties prior to the special sale.

Either alternative or other modifications, if authorized, would produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in this matter shall notify

the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before July 28, 1978.

Done at Washington, D.C., this 10th day of July 1978.

CHAS B. JENNINGS,
Deputy Administrator
Packers and Stockyards-AMS.

[FR Doc. 78-19349 Filed 7-12-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Delegation of Authority to the State of South Carolina

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "act"), the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegatng such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the act.

The Department of Agriculture of the State of South Carolina made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of South Carolina.

FGIS has conducted the required investigation of the State of South Carolina which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of South Carolina. All investigations showed that the inspection and weighing operations of the State are in compliance with the act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of South Carolina was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevator where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation is the South Carolina State Port Authority grain elevator at North Charleston. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreementof FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Commissioner of Agriculture of the State of South Carolina, effective May 3, 1978.

Done in Washington, D.C. on July 7, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-19262 Filed 7-12-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Florida

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "act"), the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the act.

The Department of Agriculture and Consumer Services of the State of Florida made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Florida.

FGIS has conducted the required investigation of the State of Florida which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Florida. All investigations showed that the inspection and weighing operations of the State are in compliance with the act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Florida was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevator where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation is the Cargill, Inc., Hookers Point Terminal at Tampa. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Commissioner of Agriculture of the State of Florida, effective May 4, 1978.

Done in Washington, D.C., on July 7, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-19261 Filed 7-12-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Virginia

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "act"), the Administrator of the Federal Grain Inspection Service (FGIS), may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegating such authority to a State agency, the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the act.

The Department of Agriculture and Commerce of the State of Virginia made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Virginia.

FGIS has conducted the required investigation of the State of Virginia which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Virginia. All investigations showed that the inspection and weighing operations of the State are in compliance with the act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Virginia was declared eligible for delegation to per-

form the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Cargill, Inc., and Davis Grain Co. at Chesapeake; and the N. & W. Elevator at Norfolk. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Administrator of FGIS and the Commissioner of Agriculture of the State of Virginia, effective May 1, 1978.

Done in Washington, D.C., on July 7, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-19260 Filed 7-12-78; 8:45 am]

[3410-11]

Forest Service

LUMBER PRICE TRENDS INDEX

Ponderosa Pine

AGENCY: Forest Service, Department of Agriculture.

ACTION: Notice of intent.

SUMMARY: Each month Western Wood Products Association (WWPA) publishes a lumber price trends index for seven western species or species combinations. These data are used by Government agencies in the appraisal of public timber offered for sale and to adjust prices paid for timber under certain timber sale contracts. Procedures used to compile the WWPA index are subject to periodic audits by the Forest Service and have been found to properly reflect changes in the selling price of lumber. This proposal sets forth alternatives for replacing the single WWPA ponderosa pine index with two indices based upon geographical areas.

DATE: Comments must be received on or before August 4, 1978.

ADDRESS: Submit comments to: Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

M. E. Chelstad or George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTAL INFORMATION: The Western Wood Products Association proposes to replace the current ponderosa pine index with two indices. One called the Rocky Mountain index for the States of Arizona, New Mexico, Colorado, Wyoming, South Dakota, Utah, southeast Idaho, and the east side of the Rocky Mountains in Montana; the other called the coast-north inland index will be representative of ponderosa pine lumber grade recovery in States of California, Oregon, Washington, Nevada, and the rest of Idaho and Montana.

The proposal to replace the current index is based on a 1975-76 Grade Recovery Study by WWPA which shows that the mix of products from logs products from logs produced in the Rocky Mountain area is significantly different than the mix of products produced in the balance of the species growth range. For example:

Percent of log

Grade	Present Index (1971 basis)	Proposed Coast-North Inland Index (1975-76 basis)	Proposed Rocky Mountain Index (1975-76 basis)
C Select:			
4/4 and Thkr C and Btr, Select	2.63	2.37	0.23
D Select:			
4/4 and Thkr Mldg and Btr D and Btr Select	6.27	5.87	5.04
Moulding Stock	2.59	3.18	2.34
Stained Select:			
Short, Pitchy, and Aust. Clears	.36	.35	
4/4 and Thkr Factory Select	1.37	1.22	.39
4/4 Nos. 1 and 2 Shop	3.10	2.83	2.21
5/4 and Thkr No. 1 Shop	3.61	3.01	.91
5/4 Thkr No. 2 Shop	12.03	12.13	6.02
5/4 and Thkr No. 3 Shop	7.51	8.82	8.43
Stained Shop:			
4/4 No. 2 and Btr Common	6.36	8.02	2.39
4/4 No. 3 and Btr Common	14.38	19.50	18.09
4/4 No. 4 and Btr Common	7.80	8.67	12.47
4/4 and Thkr No. 5 Common and Dunnage	1.80	1.05	2.97
Thick Common:			
5/4 and Thkr Nos. 1, 2, 3, and 4	8.10	(1)	(1)
Short Common:			
Box Lumber, Shop Short and Rejects	5.93	4.75	2.25
Std and Btr. No. 2 and Btr, Dim, Tbrs	8.70	11.55	27.37
Uty and Btr, No. 3 and Btr, Dim Tbrs	2.84	2.38	4.93
Economy All	1.40	1.43	3.96
Studs All (except Economy)	3.2	2.87	
Total	100.00	100.00	100.00

[1]Spread to grade.

The study indicates that the current index overstates actual lumber grade recovery in the Rocky Mountain area. It also indicates that the proposed Rocky Mountain Index would more accurately reflect changes in average grade recovery in that area. As an example, differences in the indices during 1977 and the first 3 months of 1978 are:

	Present Index	Proposed Coast-North Inland Index	Proposed Rocky Mountain Index
1977:			
January	261.23	260.72	215.19
February	265.06	264.31	215.00
March	275.63	274.60	222.70
Quarter	(267.31)	(266.54)	(217.63)
April	281.63	280.07	226.10
May	280.17	277.69	225.55
June	274.29	270.90	220.70
Quarter	(278.70)	(276.22)	(224.12)
July	273.97	272.05	23.76
August	275.77	274.26	224.00
September	281.81	279.67	233.75
Quarter	(277.18)	(275.33)	(227.17)
October	282.38	279.12	233.31
November	284.48	281.05	232.95
December	293.97	291.31	239.40
Quarter	(286.94)	(283.83)	(235.22)
Year	(277.77)	(275.71)	(226.24)
1978:			
January	306.75	305.18	256.76
February	321.45	321.22	262.56
March	333.63	332.70	274.54
Quarter	(320.61)	(319.70)	(264.62)

When an index change takes place, existing timber sale contracts must be modified unless the index being used continues to be published. In the latter case, new sales are tied to the new index and existing sales continue on the old index until they expire or are converted at some later date.

When contract modification is used, transition from old to new contracts is based upon differences in the indices for a representative base period.

The following are two alternatives for implementing the new indices on National Forest timber sales:

(1) Discontinue the present ponderosa pine index after publication of the October 1978 data. Use the new indices for all sales sold after that date. The base index for ponderosa pine in existing timber sale contracts would be converted to the new index for the area in which the timber sale contract is located. Three transition base periods are being considered: 12, 15, and 24 months. In each case, the transition formula would include the most recent calendar quarter in the transition base period. For example, based upon the most currently available 15-month period, including all of 1977 and the first 3 months of 1978, the base index for ponderosa pine in existing timber sale contracts in the Rocky Mountain area would be decreased by $50.77. For the coast-north inland area, the ponderosa pine base index in existing contracts would be increased by $0.49.

(2) Use the new indices for sales offered after October 1, 1978. Existing sales would continue on the old index until the majority of contracts had expired over a 3-year period. As of July 1, 1981, any remaining older contracts would be converted to the new indices based upon a transition period determined at the time to be most appropriate.

Copies of the 1975-76 grade recovery study are available for review in the Western Regional Offices of the Forest Service.

June 28, 1978.

R. A. KESLER,
Associate Chief, Forest Service.

[FR Doc. 78-19157 Filed 7-12-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 29430; Order 78-7-24]

EMPRESA GUATEMALTECA DE AVIACION

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 7th day of July, 1978.

Empresa Guatemalteca de Aviacion (Aviateca) holds a permit authorizing foreign air transportation of persons, property, and mail over three routes: between a point or points in Guatemala to the terminal points Miami, Fla.; New Orleans, La., via the intermediate point Merida, Mexico;[1] and San Juan, P.R. via the intermediate point Kingston, Jamaica. It may also perform charter trips in foreign air transportation under Part 212 of the Board's Economic Regulations.[2]

Aviateca is presently operating a scheduled nonstop combination service from Guatemala to Miami using B-707 equipment and a onestop service to New Orleans with BAC 1-11 equipment. It also operates an all-cargo service to these points using DC-6 aircraft.

By application filed on June 21, 1976, as amended on August 17, 1976, Aviateca requests renewal of its foreign air carrier permit. It also requests amended authority to add Dallas-Fort Worth and Chicago, Ill., to its permit as coterminals with New Orleans on Route 2.[3] Aviateca further requests that Santo Domingo, Dominican Republic, be substituted for Kingston, Jamaica, as the intermediate point to San Juan on Route 3.

Two petitions requesting leave to intervene were filed—one from the City of New Orleans, La., and the Chamber of Commerce of the New Orleans Area and the other from the City of Dallas, Tex., the Dallas Chamber of Commerce, the City of Fort Worth, Tex., and the Fort Worth Area Chamber of Commerce and the North Texas Commission.

No answers to Aviateca's application have been received.

In Order 73-7-13, the Board found that Aviateca was substantially owned and effectively controlled by nationals of Guatemala. The information provided in the instant application for renewal and amendment continue to support this finding. It is therefore tentatively found that Aviateca is substantially owned and effectively controlled by nationals of Guatemala.

It is also tentatively found that Aviateca is fit, willing and able to provide the service for which renewed and amended authority is sought, and to conform with the provisions of the Federal Aviation Act, and related rules, regulations, orders and requirements. In Order 73-7-13 the Board previously found that Aviateca met the fitness standards of the Act. Its operations under the authority there granted support the continued validity of those findings. In addition, Aviateca has no formal history of violations of Board regulations.

An opportunity for reciprocity exists for U.S. air carriers seeking to perform similar operations to Guatemala.[4] The principles of comity and reciprocity warrant grant of the requested authority. Moreover, Aviateca's service should benefit the traveling and shipping public.

In view of the above the Board tentatively finds and concludes:

1. That Empresa Guatemalteca de Aviacion is substantilly owned and effectively controlled by citizens of Guatemala;

2. That it is in the public interest to renew and amend the foreign air carrier permit held by Empresa Guatemalteca de Aviacion authorizing the carrier, for a period of five years;

(a) to engage in foreign air transportation of persons, property, and mail, subject to conditions, over the following routes:

(1) Between a point or points in Guatemala and the terminal point Miami, Fla.

(2) Between a point or points in Guatemala; the intermediate point Merida, Mexico; and the coterminal points New Orleans, La., and Dallas-Fort Worth, Tex.

(3) Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico; and

(b) to engage in charter trips in foreign air transportation, subject to the

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[1] Authority between Guatemala and New Orleans via Merida is subject to the condition that flights that serve Merida and New Orleans shall originate or terminate in Guatemala (Order 73-7-13).

[2] Aviateca's permit, last issued under Order 73-7-13, June 13, 1973, terminated on September 10, 1976, but remains in effect due to the timely filing for renewal.

[3] By letter dated February 6, 1978, counsel for Aviateca advises that the carrier will not prosecute that portion of its application pertaining to the proposed addition of Chicago, Ill., as a coterminal point on Route 2.

[4] Pan American World Airways, Inc., currently provides service between points in the U.S. and Guatemala City, Guatemala, and beyond.

terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

3. That the public interest requires that the exercise of the privileges granted by such amended permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit 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;

4. That Empresa Guatemalteca de Aviacion is fit, willing and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

5. That the amendment of Empresa Guatemalteca de Aviacion's foreign air carrier permit 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 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPCA), as defined in § 313.4(a)(1) of the Board's regulations.[5]

6. That an oral hearing is not required in the public interest; and

7. That except to the extent granted, the application of Empresa Guatemalteca de Aviacion in Docket 29430 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 a foreign air carrier permit in the form of the attached specimen permit should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Empresa Guatemalteca de Aviacion;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached permit shall, within 15 days after the 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 therin by the objector before further action is taken by the Board. The Board may, nevertheless, 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 foreign air carrier permit to the applicant in the specimen form attached; and

5. This order shall be served upon Empresa Guatemalteca de Aviacion; the Ambassador of Guatemala in Washington, D.C.; the U.S. Departments of State and Transportation; the City of New Orleans, La., and the New Orleans Chamber of Commerce; and the City of Dallas, Tex., the Dallas Chamber of Commerce, the City of Ft. Worth, Tex., the Ft. Worth Area Chamber of Commerce and the North Texas Commission; Pam Am World Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [7]

PHYLLIS T. KAYLOR,
Secretary.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

EMPRESA GUATEMALTECA DE AVIACION

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation of persons, property, and mail as follows:

1. Between a point or points in Guatemala and the terminal point Miami, Fla.

2. Between a point or points in Guatemala; the intermediate point Merida, Mexico; and the coterminal points New Orleans, La. and Dallas/Ft. Worth, Tex.

3. Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico.

The holder is authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations, prescribed by Part 212 of the Board's Economic Regulations.

This permit is subject to the condition that all flights which serve Merida, Mexico, and New Orleans, La., or Dallas/Ft. Worth, Tex., shall originate or terminate at a point or points in Guatemala.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Guatemala for Guatemalan international air services.

This permit shall be subject to all applicable provisions of any treaty, conventions, or agreement affcting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Guatemala shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However,* this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, as amended, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit, as amended.

The exercise of the privileges here granted 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 permit shall be effective on ——, and shall terminate on five years later, except that it shall be subject to termina-

[5] Our tentative findings are based upon Aviateca's Environmental Evaluation filed February 28, 1978. Specifically, it appears that amendment and renewal of Aviateca's foregin air carrier permit will not result in (1) a significant increase in civil aviation operation at U.S. points, and (2) the annual 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 except Member O'Melia who disapproved.

tion at any time if the authority to conduct flight operations to and from Guatemala granted by the Government of Guatemala to any air carrier designated by the United States is canceled or restricted: *However,* if in the period during which this permit shall be effective the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and Guatemala are or shall become parties, then and in that event, this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed the seal of the Board on ——.

.....
Secretary.

Issuance of this permit to the holder approved by the President of the United States on —— in order ——.

[FR Doc 78-19326 filed 7-12-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between June 1, 1978, and June 30, 1978.

Dated: July 7, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Alma, city	Crawford	Mar. 27, 1978	2,548
Gassville, city	Baxter	May 30, 1978	786
Lakeview, town	do	Mar. 16, 1978	484
Sherwood, city	Pulaski	May 1, 1978	9,302
Smackover, city	Union	Apr. 11, 1978	2,336
Colorado:			
Eagle County		Jan. 25, 1978	12,452
Florida:			
Cape Coral, city	Lee	Feb. 23, 1978	23,830
Illinois:			
Lakewood, village	McHenry	Apr. 26, 1978	1,185
Orland Park, village	Cook	Apr. 21, 1978	18,035
Roselle, village	Cook and Du Page	Apr. 5, 1978	13,819
South Pekin, village	Tazewell	May 10, 1978	1,235
Indiana:			
Chesterton, town	Porter	Apr. 6, 1978	7,427
Versailles, town	Ripley	Apr. 26, 1978	1,480
Iowa:			
Crescent, town	Pottawattamie	May 8, 1978	487
Grimes, city	Polk	Apr. 11, 1978	1,700
Oakville, city	Louisa	May 31, 1978	445
Maryland:			
Ocean City, town	Worcester	Apr. 25, 1978	3,559
Mississippi:			
Florence, town	Rankin	Apr. 17, 1978	1,003
Nebraska:			
Waverly, city	Lancaster	May 1, 1978	1,737
New Jersey:			
Lacey, township	Ocean	Apr. 4, 1978	13,014
North Dakota:			
West Fargo, city	Cass	Apr. 11, 1978	8,448
Ohio:			
Pickerington, city	Fairfield and Franklin	Apr. 4, 1978	3,417
Pennsylvania:			
Hollenback, township	Luzerne	Apr. 17, 1978	916
Pennsbury, township	Chester	Apr. 18, 1978	2,358
South Franklin, township	Washington	May 8, 1978	2,975
Tennessee:			
Brentwood, city	Williamson	Apr. 19, 1978	8,747

[FR Doc. 78-19266 Filed 7-12-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-616]

AMERICAN PRESIDENT LINES, LTD.

Application

Notice is hereby given that American President Lines, Ltd., by letter of June 5, 1978, as amended by letter of June 21, 1978, has applied for amendment of the service description of its subsidized Line B Transpacific Service so as to delete certain restrictions on California service which the operator may provide. This is an amendment to the operator's existing operating-differential subsidy agreement, contract MA/MSB-417.

The pertinent paragraph in the service description is quoted below, with the requested deletion enclosed in brackets:

Line B. A minimum of 54 and a maximum of 80 sailings per annum between a port or ports in Washington-Oregon and a port or ports in the following described area:

Required: Japan, Korea, Taiwan, Hong Kong, Philippines, Vietnam, Cambodia, Thailand.

Privilege: A port or ports in: China; U.S.S.R. in Asia; Brunei; Alaska (only for overseas carriage); British Columbia (only for overseas carriage); California [on a maximum of 16 sailings for the purpose of discharging cargo loaded in the Philippines and loading or discharging cargo from ports on the Line B extension except cargoes may not be loaded for Indonesia].

The requested deletion has the effect of requesting the addition of the services formerly restricted by the deleted language, namely the addition of the privilege of providing service between California and all Trade Route 29 ports described in APL's Line B service description on up to 80 voyages annually, and the privilege of providing service from California to Indonesia on up to 80 voyages annually.

APL is currently operating four C-6 full containerships and five C-5 breakbulk type ships on Line B and Line B Extension services.

This application is a modification of a previous application by American President Lines of October 20, 1977, which has not been previously Noticed.

Any person, firm, or corporation having an interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230 by the close of business on July 21, 1978.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Maritime Subsidy Board.

Dated: July 7, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-19212 Filed 7-12-78; 8:45 am]

[3510-13]

National Bureau of Standards

SIMPLIFIED PRACTICE RECOMMENDATION

Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Simplified Practice Recommendation R 163-48, "Coarse Aggregates (Crushed Stone, Gravel, and Slag)."

It has been tentatively determined that this standard is technically inadequate, no longer used to any extent, and not in the public interest to maintain. In view of the existence of the American Society for Testing and Materials' (ASTM) D448, "Standard Sizes of Coarse Aggregate for Highway Construction," and various other industry standards, revision of this Simplified Practice Recommendation would serve no useful purpose.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before August 14, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: July 10, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-19352 Filed 7-12-78; 8:45 am]

[3510-18]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Monday, July 31, 1978 from 9:30 a.m. until 5 p.m. and on Tuesday, August 1, 1978 from 9 a.m. until 12 noon at the Carriage House on the Quissett Campus, Woods Hole Oceanographic Institution, Woods Hole, Mass.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Continuation of discussion of Federal policies on innovation.
2. Discussion of study of policies of other governments in support of industrial technologies.
3. Status report on the study of Federal policy on entrepreneurship of technology-based industries.
4. Discussion of experimental technology incentives program (ETIP).
5. Presentation on service delivery functions of the National Oceanic and Atmospheric Administration (NOAA).

The meeting will be open to public observation. The public may submit written statements or inquiries to the chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first served basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the chairman, in accordance with the Federal Advisory Committee Act, at the Office of the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5065.

Dated: July 6, 1978.

FRANCIS W. WOLEK,
Acting Assistant Secretary for Science and Technology.

[FR Doc. 78-19281 Filed 7-12-78; 8:45 am]

[3510-25]

COTTON, WOOL AND/OR MAN-MADE FIBER TEXTILES

Exempting Shipments Valued at $250, or Less

JULY 10, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending directive of November 30, 1972 concerning the exclusion from coverage of any directives establishing quantitative limitations on cotton, wool and/or man-made fiber textiles and textile products, of shipments, valued at $250, or less, which are imported for non-commercial, personal use of the individual importing the merchandise.

SUMMARY: Under the terms of certain textile bilateral agreements, shipments valued at $250, or less, are excluded from agreement coverage. This directive amends, but does not cancel, the November 30, 1972 directive by incorporating the new textile category system into the directive. It also provides special provisions for such shipments from Hong Kong under the United States-Hong Kong Textile Agreement.

EFFECTIVE DATE: August 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4212.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on November 30, 1972 by the Chairman, Committee for the Implementation of Textile Agreements, concerning the exclusion from coverage of any directives establishing quantitative limitations on cotton, wool and/or man-made fiber textiles and textile products, of shipments, valued at $250, or less, which are imported for the non-commercial, personal use of the individual importing the merchandise.

This amendment provides for exclusion from coverage of any directive establishing quantitative limitations, now or hereafter put into effect, on cotton, wool and man-made fiber textiles and products satisfying the following requirements:

Cotton textiles and cotton textile products in Categories 300-369, wool textile products in Categories 400-469, man-made fiber textile products in Categories 600-669 and any additional cotton, wool and man-made categories hereafter incorporated into the textile category system, entered into the United States for consumption and withdrawn from warehouse for consumption in quantities, valued at $250, or less, which are imported for non-commercial, personal use of the individual importing the merchandise with the exception of those directives relating to Hong Kong which provide for the exclusion from agreement coverage only of those shipments "accompanying a traveler for personal use" and those which are entered as "exempt from duty as bonafide gifts."

A detailed description of the categories in terms of the TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884) as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828) and June 22, 1978 (43 FR 26773).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the administration of controls on imports of cotton textiles and cotton textile products, wool textile products, and man-made fiber textile products, produced or manufactured abroad, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs func-

tions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

This letter will be published in the FEDERAL REGISTER and effective August 15, 1978.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-19375 Filed 7-12-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Energy Information Administration

FINANCIAL REPORTING SYSTEM

Correction

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Correction notice.

SUMMARY: The purpose of this notice is to correct omissions in the "Notice of (i) Transmittal of Form to the Office of Management and Budget, (ii) Public Hearing and (iii) Opportunity for Written Comment" which the Energy Information Administration (EIA) of the Department of Energy issued on June 16, 1978 (43 FR 27056, June 22, 1978). Section I of the Notice, "Legislative Authority For Financial Reporting System" (43 FR at 27056), should have referred to the EIA's information-gathering powers set forth in section 13(b) of the Federal Energy Administration Act of 1974, as amended (FEA Act, Pub. L. 93-275). Section 13(b) of the FEA Act also should have been cited in the statutory authority legend (43 FR 27060) of the proposed final version of the Financial Reporting System form (Form EIA-28) and in the "Purpose and Legislative Authority" section of the instructions with the form (43 FR at 27120), both of which were appended to the June 22 notice. Section 13(b) is set forth in the appendix to this notice. As part of the Office of Management and Budget (OMB) review and clearance procedure, the EIA and OMB request written comments by July 24, 1978 and will receive oral statements at a public hearing on July 17, 1978 in Washington, D.C., concerning the Financial Reporting System.

FOR FURTHER INFORMATION CONTACT:

Arthur T. Andersen (Director, Financial Reporting System Project), Energy Information Administration, 12th and Pennsylvania Avenue NW., room 8443, Washington, D.C. 20461, 202-566-7815.

Louis Kincannon (Reviewing Officer, Office of Management and Budget), New Executive Office Building, 726 Jackson Place NW., room 10215, Washington, D.C. 20503, 202-395-3211.

Robert C. Gillette (Comment Procedures), Department of Energy, 2000 M Street NW., room 2214B, Washington, D.C. 20461, 202-254-5201.

William D. Luck (Office of General Counsel), Department of Energy, 12th and Pennsylvaina Avenue NW., room 6144, Washington, D.C. 20461, 202-566-9296.

Issued at Washington, D.C. on July 11, 1978.

LINCOLN E. MOSES,
Administrator,
Energy Information Administration.

APPENDIX

Section 13(b) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended, provides as follows:

(b) All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumpton shall make available to the Administrator such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development, as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.

[FR Doc. 78-19412 Filed 7-12-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. IS78-3]

MOBIL PIPE LINE CO. AND EIGHTEEN PARTICIPATING CARRIERS[1]

Order Accepting for Filing and Suspending Proposed Rate Increases, Requiring the Submission of Adequate Justification, Instituting an Investigation and Initiating Procedures

JUNE 30, 1978.

Mobil Pipe Line Co. (Mobil) has tendered for filing thirty-nine new tariffs containing increases in rates for gathering and transportation of crude oil and petroleum products. An effective date of July 1, 1978 is requested. Additionally, eighteen carriers, which participate in gathering and transmission services with Mobil, have filed tariffs that reflect the rate increases proposed by Mobil.[1]

Sixteen of Mobil's tariffs reflect rate increases above 7 percent. The average rate increase for these 16 tariffs is 24.7 percent. It is the Board's policy to require adequate justification for tariffs proposing rate increases above 7 percent. However, the Board believes that an investigation of all of the proposed rate increases, including those filed by other participating carriers to reflect Mobil's proposed increases, is appropriate and necessary in this case.[2]

Mobil has not submitted any data to justify the proposed rate increases. Mobil has reported that transportation revenues for 1977 exceeded 1976 revenues by 10.7 percent. Further, Mobil has reported a revenue increase of 2 percent for the first quarter of 1978 over the first quarter of 1977, despite a decrease of 14 percent in the volume of oil and products originated on line or received from connections. Mobil will be ordered to provide within twenty days complete justification data as detailed in appendix B to this order.

The Board finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. A hearing on the lawfulness of the proposed rate increases may be ordered following the completion of the procedures outlined below. The proposed rate increases in the tariffs listed in appendix A will be accepted for filing and suspended for 7 months, until February 1, 1979, when these shall be permitted to become effective, subject to refund upon final decision on the lawfulness of the proposed rate increases.

The Board orders: (A) Pursuant to 49 U.S.C. 15(7), an investigation will be instituted into the lawfulness of the proposed rate increases in the tariffs listed in appendix A, and pending hearing and decision on their lawfulness, the proposed rate increases in the tariffs listed in appendix A, shall be accepted for filing and suspended for 7 months, until February 1, 1979, when they shall be permitted to become effective subject to refund.

(B) Within 20 days Mobil shall file complete data in justification of the proposed rate increases and in the proper form outlined appendix B to this order.

(C) Within 30 days following receipt of proper and complete justification data, the Commission staff shall convene a conference of all interested parties to discuss resolution of this proceeding. If an agreement in principle on a proper resolution is not reached within 90 days after the initial conference is convened, then the Commission staff counsel shall file a motion requesting that the Board establish

[1] These carriers and their applicable tariffs are listed in appendix A to this order.

[2] The portions of these tariffs that do not reflect rate increases will not be suspended. All rate increases in these tariffs will be suspended and investigated, including those increases that have not been so designated by the carriers in their tariffs, such as Mobil's gathering charge applicable to McFarland East, 4700' Field, Andrews County, Tex.

procedures for a formal hearing in this docket.

By the Board.

KENNETH F. PLUMB,
Secretary, FERC.

APPENDIX A

TARIFFS FILED IS78-3

(1) Mobil Pipe Line Co., [2 3] FERC tariff Nos. A-820 through A-825, A-827 through A-834, A-836, A-837, A-839 through A-861.

(2)Amoco Pipeline Co.,[2 3] FERC tariff Nos. 929 through 936.

(3) Arco Pipe Line Co.,[2] FERC tariff Nos. 1244 through 1247.

(4) Ashland Pipe Line Co.,[2] FERC tariff No. 258.

(5) Buckeye Pipe Line Co.,FERC tariff No. 297.

(6) Cities Service Pipe Line Co.,[2] FERC tariff No. 424.

(7) Gulf Refining Co.,[2] FERC tariff No. 556.

(8) Marathon Pipe Line Co.,[2 3] FERC tariff Nos. 991 through 993.

(9) Mid-Valley Pipeline Co., FERC tariff No. 290.

(10) Ohio River Pipe Line Co., FERC tariff Nos. 12 and 13.

(11) Platte Pipe Line Co.,[3] FERC tariff Nos. 1137 through 1141.

(12) Pure Transportation Co.,[2] FERC tariff Nos. 647 through 649.

(13) Shell Pipe Line Corp.,[3] FERC tariff Nos. 1940 through 1942, 1945.

(14) Sohio Pipe Line Co.,[2] FERC tariff No. 807.

(15) Southcap Pipe Line Co., FERC tariff No. 150.

(16) Texaco-Cities Service Pipe Line Co., FERC tariff No. 207.

(17) Texas-New Mexico Pipe Line Co.,[2] FERC tariff Nos. 1854 through 1857.

(18) The Texas Pipe Line Co., FERC tariff Nos. 1562 and 1563.

(19) Texoma Pipe Line Co., FERC tariff Nos. 251 and 252.

APPENDIX B.—*Data required to justify rate increases*

	1976	1977	Estimated 1978 Without increase	Estimated 1978 With increase
Operating revenues (this data to be submitted by individual tariff)				

Data required to justify rate increases

	Estimated 1978 [1] Base period	Adjustment	As adjusted
Cost of service:			
Operating expense			
Depreciation			
Return [2]			
Taxes:			
Federal income			
State income [3]			
Other than income			
Other revenue (credit)			
Total			
Computation of Federal income tax:			
Return			
Less:			
Interest on long-term debt			
Tax base			
Federal income tax at .048/0.52			

[1] Adjustments to actual experienced costs should be shown separately, and a justification of the proposed adjustment should be included. The base period shall consist of a recent 12 months of actual experience.

[2] Eight (8) or ten (10) percent, whichever is appropriate, on valuation rate base. In addition, the applicant shall submit a schedule setting forth net original cost investment, with details. Appropriate working capital may be included in rate base. The applicant may propose an appropriate rate of return for this rate base.

[3] Should be computed on basis of applicable statute for each State.

Operating expenses—1977 actual versus 1978 budget [1]

	1977	1978
Pipeline G&A expense:		
Operations		
Maintenance		
Engineering		
Right-of-way		
Marketing		
Materials		
Planning		
Administrative		
Donations		
Legal		
Publicity and advertising		
Professional services		
Rentals		
Pensions and benefits		
Insurance		
Casualty		
Total G&A		
Pipeline operating expense:		
Operations		
Maintenance		
Materials		
Taxes other than F.I.T		
Power:		
Electric		
Liquids		
Gas		
Lease rentals		
Product shortage		
Communications		
Fractionation		
Other		
Total operating		
Depreciation expense		
Corporate G&A expense		
Grand total		

[1] Basis of budget estimates to be supplied.

[FR Doc. 78-19117 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. IS78-2]

TEXACO-CITIES SERVICE PIPE LINE CO., ET AL

Order Accepting for Filing and Suspending Proposed Rate Increases, Requiring the Submission of Adequate Justification, Instituting an Investigation and Initiating Procedures

JUNE 30, 1978.

In the matter of Texaco-Cities Service Pipe Line Co., Amoco Pipeline Co., Marathon Pipe Line Co., Mobil Pipe Line Co., Platte Pipe Line Co., Shell Pipe Line Corp., and Texas Pipe Line Co.

On May 31, 1978, Texaco-Cities Service Pipe Line Co. (Texaco) tendered for filing ten new tariffs containing increases in rates for the gathering and transportation of crude oil and petroleum products.[1] An effective date of July 1, 1978, is requested. The six carriers listed above, which participate in joint gathering and transmission service with Texaco, have filed rate tariffs to be effective July 1, 1978, that reflect the increases proposed by Texaco. These are listed in appendix A to this order.

Eight of Texaco's ten tariffs reflect rate increases above 7 percent. The average rate increase for these eight tariffs is 14.2 percent. It is the Board's policy to require adequate justification for tariffs proposing rate increases in excess of 7 percent. However, the Board believes that an investigation of all of the proposed rate increases, including those filed by other carriers to reflect Texaco's proposed increases, is appropriate and necessary in this case.[2]

Texaco has reported that annual transportation revenues for 1977 exceeded 1976 revenues by over 50 percent. For the first quarter of 1978 Texaco has reported a 14-percent increase in revenues despite a 1-percent decline in the volumes transported. In its letter stating justification for its rate increases, Texaco alleges increases in various operating expenses but does not provide any data quantifying the specific amounts. Texaco

[1] Texaco's FERC tariffs Nos. 204 through 218.

[2] The portions of these tariffs which do not reflect rate increases will not be suspended. All rate increases in these tariffs will be suspended and investigated, including those increases that have not been so designated by the carriers in their filings, such as the gathering charge by Mobil Pipe Line Co. applicable to McFarland East, 4700' Field, Andrews County, Tex.

[2] The Board is suspending and will investigate all rate increases reflected in the tariff(s) filed by this carrier, whether or not the carrier has properly designated all rate increases in the tariff(s).

[3] Some or all of these tariffs reflect rate increases proposed by Texaco-Cities Service Pipe Line Co. in docket No. IS 78-2.

will be ordered to provide within 20 days complete justification data as detailed in appendix B to this order.

The Board finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. A hearing on the lawfulness of the proposed rate increases may be ordered following the completion of the procedures outlined below. The proposed rate increases in the tariffs listed in Appendix A will be accepted for filing and suspended for 7 months, until February 1, 1979, when these shall be permitted to become effective, subject to refund upon final decision on the lawfulness of the proposed increases.

The Board orders: (A) Pursuant to 49 U.S.C. 15 (7), an investigation shall be instituted into the lawfulness of the proposed rate increases in the tariffs listed in appendix A, and pending hearing and decision, the proposed rate increases in the tariffs listed in appendix A, shall be accepted for filing and suspended for 7 months, until February 1, 1979, when they shall be permitted to become effective subject to refund.

(B) Within 20 days Texaco shall file complete data in justification of the proposed rate increases and in the proper form outlined in appendix B to this order.

(C) Within 30 days following receipt of proper and complete justification data, the Commission staff shall convene a conference of all interested parties to discuss resolution of this proceeding. If an agreement in principle on a proper resolution is not reached within 90 days after the initial conference is convened, then the Commission staff counsel shall file a motion requesting that the Board establish procedures for a formal hearing in this docket.

By the Board.

KENNETH F. PLUMB,
Secretary, FERC.

APPENDIX A

TARIFFS FILED DOCKET NO. IS78-2

(1) Texaco-Cities Service Pipeline Co. FERC tariffs Nos. 209 through 218.

(2) Amoco Pipeline Co.,[2] [3] FERC tariffs Nos. 934 through 938.

(3) Marathon Pipe Line Co.[2] [3] FERC tariffs Nos. 991, 994, 995.

(4) Mobil Pipe Line Co.,[2] [3] FERC tariffs Nos. 851 through 853.

(5) Platte Pipe Line Co.,[3] FERC tariffs Nos. 1138 through 1140.

(6) Shell Pipe Line Corp.,[3] FERC tariff No. 1945.

(7) Texas Pipe Line Co.,[2] FERC tariff No. 1564.

[2]The Board is suspending and will investigate all rate increases reflected in the tariff(s) filed by this carrier, whether or not this carrier has properly identified each rate increase.

[3]Some or all of the tariffs filed by this carrier reflect rate increases proposed by Mobil Pipe Line Co. in docket No. IS78-3.

APPENDIX B.—*Data required to justify rate increases*

	1976	1977	Estimated 1978 Without increase	Estimated 1978 With increase
Operating revenues (this data to be submitted by individual tariff)				

Data required to justify rate increases

	Estimated 1978 [1] Base period	Adjustment	As adjusted
Cost of service:			
Operating expense			
Corporate G&A expense			
Depreciation			
Return [2]			
Taxes:			
Federal income			
State income [3]			
Other than income			
Other revenue (credit)			
Total			
Computation of Federal income tax:			
Return			
Less:			
Interest on long-term debt			
Tax base			
Federal income tax at .048/0.52			

[1]Adjustments to actual experienced costs should be shown separately, and a justification of the proposed adjustment should be included. The base period shall consist of a recent 12 months of actual experience.

[2]Eight (8) or ten (10) percent, whichever is appropriate, on valuation rate base. In addition, the applicant shall submit a schedule setting forth net original cost investment, with details. Appropriate working capital may be included in rate base. The applicant may propose an appropriate rate of return for this rate base.

[3]Should be computed on basis of applicable statute for each State.

Operating expenses—1977 actual versus 1978 budget [1]

	1977	1978
Pipeline G&A expense:		
Operations		
Maintenance		
Engineering		
Right-of-way		
Marketing		
Materials		
Planning		
Administrative		
Donations		
Legal		
Publicity and advertising		
Professional services		
Rentals		
Pensions and benefits		
Insurance		
Casualty		
Total G&A		

Operating expenses—1977 actual versus 1978 budget [1]—Continued

	1977	1978
Pipeline operating expense:		
Operations		
Maintenance		
Materials		
Taxes other than F.I.T		
Power:		
Electric		
Liquids		
Gas		
Lease rentals		
Product shortage		
Communications		
Fractionation		
Other		
Total operating		
Depreciation expense		
Corporate G&A expense		
Grand total		

[1]Basis of budget estimates to be supplied.

[FR Doc. 78-19119 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. IS78-1]

PHILLIPS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed Rate Increases, Requiring the Submission of Adequate Justification, Instituting an Investigation and Initiating Procedures

JUNE 30, 1978.

On May 25, 1978, Phillips Pipe Line Co. (Phillips) tendered for filing 15 new tariffs containing increases in rates for the gathering and transportation of crude oil and petroleum products.[1] An effective date of July 1, 1978, is requested.

The Board's review of the filing indicates that the proposed tariffs reflect an average rate increase of 16 percent. It is the Board's policy to require adequate justification for tariffs proposing rate increases in excess of 7 percent.

In justification of the proposed increases Phillips alleges increases in its cost of labor, materials, fuel and electricity, but does not quantify the amount of these cost increases. Phillips' justification letter does not provide data on gross revenues, operating expenses and taxes for 1978. It is not possible to make a proper comparative analysis of Phillips' financial status resulting from collection of the present and proposed rates. Accordingly, Phillips will be ordered to provide within 20 days the comparative information detailed in the appendix to this order.

The Board finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discrimi-

[1]Phillips' FERC tariffs Nos. 352 through 366. Tariff Nos. 359, 361, and 362 reflect increases for gathering services but not for trunkline transmission. We are suspending and will investigate only the portions of those tariffs that reflect increases in rates.

natory or otherwise unlawful. A hearing on the lawfulness of the proposed rate increases may be ordered following the completion of the procedures outlined below. Phillips proposed rate increases will be accepted for filing and suspended for 7 months, until February 1, 1979, when these shall be permitted to become effective, subject to refund upon final decision on the lawfulness of the proposed increases.

The Board orders: (A) Pursuant to 49 U.S.C. 15 (7), an investigation shall be instituted into the lawfulness of the proposed rate increases reflected in the tariffs tendered by Phillips on May 25, 1978, and pending hearing and decision on their lawfulness, the proposed rate increases reflected in the tariffs tendered by Phillips on May 25, 1978, shall be accepted for filing and suspended for 7 months, until February 1, 1979, when they shall be permitted to become effective subject to refund.

(B) Within 20 days Phillips shall file complete data in justification of the proposed rate increases and in the proper form outlined in the appendix to this order.

(C) Within 30 days following receipt of proper and complete justification data, the Commission Staff shall convene a conference of all interested parties to discuss resolution of this proceeding. If an agreement in principle on a proper resolution is not reached within 90 days after the initial conference is convened, then the Commission staff counsel shall file a motion requesting that the Board establish procedures for a formal hearing in this docket.

By the Board.

KENNETH F. PLUMB,
Secretary, FERC.

APPENDIX B.—*Data required to justify rate increases*

	1976	1977	Estimated 1978 Without increase	Estimated 1978 With increase
Operating revenues (this data to be submitted by individual tariff)				

Data required to justify rate increases

	Estimated 1978 [1] Base period	Adjustment	As adjusted
Cost of service:			
Operating expense			
Corporate G&A expense			
Depreciation			
Return [2]			
Taxes:			
Federal income			
State income [3]			
Other than income.			
Other revenue (credit)			
Total			
Computation of Federal income tax:			
Return			
Less:			
Interest on long-term debt			
Tax base			
Federal income tax at .048/0.52			

[1] Adjustments to actual experienced costs should be shown separately, and a justification of the proposed adjustment should be included. The base period shall consist of a recent 12 months of actual experience.

[2] Eight (8) or ten (10) percent, whichever is appropriate, on valuation rate base. In addition, the applicant shall submit a schedule setting forth net original cost investment, with details. Appropriate working capital may be included in rate base. The applicant may propose an appropriate rate of return for this rate base.

[3] Should be computed on basis of applicable statute for each State.

Operating expenses—1977 actual versus 1978 budget [1]

	1977	1978
Pipeline G&A expense:		
Operations		
Maintenance		
Engineering		
Right-of-way		
Marketing		
Materials		
Planning		
Administrative		
Donations		
Legal		
Publicity and advertising		
Professional services		
Rentals		
Pensions and benefits		
Insurance		
Casualty		
Total G&A		
Pipeline operating expense:		
Operations		
Maintenance		
Materials		
Taxes other than F.I.T		
Power:		
Electric		
Liquids		
Gas		
Lease rentals		
Product shortage		
Communications		
Fractionation		
Other		
Total operating		
Depreciation expense		
Corporate G&A expense		
Grand total		

[1] Basis of budget estimates to be supplied.

[FR Doc. 78-19118 Filed 7-12-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI77-728]

AMOCO PRODUCTION CO.

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

JULY 5, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DoE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary 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 and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On August 12, 1977, Amoco Production Co. (Amoco) filed an application in docket No. CI77-728 for authorization to make sales to Sea Robin Pipeline Co. (Sea Robin) from block 231, East Cameron area, offshore Louisiana (Federal domain), all as more fully set forth in the application. By letter filed on October 25, 1977, Amoco advised that it was willing to accept a certificate conditioned to the national rate.

Amoco's interest in block 231 is subject to an advance payment agreement and a letter agreement, both dated December 14, 1973, between Midwest Oil Corp., Amoco's predecessor-in-interest, and Southern Natural Gas Co. (South-

ern). Subsequently, Southern assigned one-half of its rights and obligations under the advance payment agreement and the letter agreement to United Gas Pipe Line Co. (United). Southern and United later assigned their interest under the letter agreement to Sea Robin.[1] Southern and United each advanced $1,875,000 to Amoco prior to the issuance of opinion No. 770-A. The letter agreement stipulates terms and conditions which are to be contained in any gas purchase contract covering reserves developed by the advance payments.

We note that the contract submitted as the proposed rate schedule contains terms and provisions which differ, in some respects substantially from the terms and conditions stipulated by the December 14, 1973, letter agreement. A comparison of the differences follows:

Item No.	Letter agreement	Contract filed as rate schedule
1	Provides for 20 year term	Provides that term will be lesser of 15 years or life of reserves.
2	Seller agrees to deliver gas at a pressure not to exceed 1,050 p.s.i.g. Either party has option to install compressors. If Amoco elects to install compressors, the pipeline will purchase and deliver compressors for installation by seller needed to boost gas from 600 p.s.i.g. to required pressure.	Seller agrees to deliver gas at natural flowing well pressures but not in excess of 1,050 p.s.i.g. Either party has option to install compressors. If Amoco elects to install compressors, the pipeline will purchase and deliver compressors for installation by seller at buyer's expense. Seller will maintain and operate compressors at buyer's expense.
3	The gas shall not contain more than 2 pct by volume of carbon dioxide.	The gas shall not contain more than 3 pct by volume of carbon dioxide.
4	The gas shall contain not less than 1,000 Btu per cubic foot	The gas shall contain not less than 950 Btu per cubic foot.
5	Amoco's interest in all developed gas reserves will be committed down to a depth of 100 feet below the base of the deepest formation which has been penetrated.	Commits down to and including the FG sand (encountered at depths of 10,987 to 11,108 feet).
6	Buyer will take-or-pay for 100 pct of seller's delivery capacity during first 3 years; 85 pct during 4th through 7th years and 80 pct thereafter.	Buyer will take-or-pay for 100 pct of seller's delivery capacity during first 3 years and 85 pct thereafter.
7	Price will increase to any higher just and reasonable rate determined by FPC or successor governmental authority.	Does not limit price increase to only just and reasonable rate.
8	Price will escalate 2 cents annually	Price will escalate 6.14 pct annually.

We believe that the terms and provisions stipulated in the December 14, 1973, letter agreement were part of the considerations for which Southern agreed to make advance payments. Since Amoco received advances for the subject block, we believe it is not in the public interest to permit the parties to change the terms and provisions relating to contract length, quality standards and the maintenance and operation of compressors since such changes result not only in a shorter contract term and lower quality gas but also require the pipeline to bear the expenses associated with maintaining and operating compression facilities which the seller was previously obligated to bear. Accordingly, Amoco will be required to amend its contract so that the length of term the quality standards and the provisions relating to compression (items 1-4 identified above) are identical to those contained in the December 14, 1973, letter agreement. We will not require the provisions relating to the annual escalations and the escalation to the area rate to be changed since the initial rate and subsequent escalations will be governed by opinion No. 770, as amended. Similarly, we will not require the depth limitation to be changed since Amoco is obligated by the advance payment agreement to dedicate any gas found below the depth limitation in the contract to Sea Robin. Lastly, since the difference in the take-or-pay volumes after the third year is not significant, we will not require an amendment so that the contract is consistent in this respect with the letter agreement.

Additionally, the proposed rate schedule provides that buyer has 5 years to make up volumes of gas paid for but not taken. However, since buyer is required to take or pay for volumes of gas-well gas equal to 100 percent of seller's delivery capacity during the first 3 years, the buyer cannot make up any volumes during the first 3 years. Therefore, consistent with past Commission action in similar situations, Amoco will be required to submit a contract amendment so that the take-or-pay provisions comply with section 154.103 of the regulations.

Sea Robin is required to transport liquids for Amoco without a charge initially. However, if Sea Robin is excluded by a governmental authority from including the facilities in its jurisdictional rates, Amoco and Sea Robin will negotiate a charge for the transportation of seller's liquids.

Amoco filed a waiver of refund credits and contingent escalations required by § 2.56a(i) of the rules but did not demonstrate the applicability of the proposed rate. Accordingly, we will require the submittal of a written statement demonstrating the applicability of the national rate.

In several recent orders,[2] the Commission has noted its concern with contractual provisions which appear to be a developing trend for producers to attempt to shift an increasing amount of production related expenses to the pipeline purchasers. This is being done without a concurrent reduction in the rate charged by the producers for the gas. In effect, the producers may be attempting to increase their allowed rate return received for each Mcf of gas sold above that rate which was found just and reasonable in opinion No. 770-A. In that price determination, the FPC took into account an allowance for production expenses, including those associated with processing and conditioning the gas. To permit these costs to be borne by the gas purchaser would be contrary to the justification for the just and reasonable rate as determined in opinion No. 770-A. The Commission cannot find that such a shift of production costs to the purchaser can be permitted under section 4 of the Natural Gas Act, in the absence of a showing, supported by record evidence, that these additional costs should be carried by the gas purchaser and that to do so would not be in contravention of the price established in opinion No. 770-A. Alternatively an application for special relief would have to be pursued to permit the producer to recover these costs in excess of the determined national rate.

Accordingly, we will issue a certificate at the applicable national rate subject to opinion No. 770-A, as amended, and any further orders issued thereunder. However, applicant and the buyer are advised that issuance of the certificate and acceptance

[1] Sea Robin is a partnership composed of Southern and United and resells all of the gas it purchases to Southern and United on a 50-50 basis.

[2] Order issued on December 9, 1977, in *Phillips Petroleum Company*, docket No. CI77-412, and on December 30, 1977, in *United Gas Pipe Line Company*, docket No. CP77-558 and *Michigan Wisconsin Pipe Line Company*, docket No. CP77-577.

of the related rate schedule do not constitute approval of such contractual provisions. In the event the buyer incur costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the buyer will be required to prove that such costs have not been compensated for in the applicable national ceiling rate. Applications for rehearing have been filed in connection with the imposition of a similar condition in *Phillips Petroleum Company*, docket No. CI77-412, *United Gas Pipe Line Comnpany*, docket No. CP77-558, and *Michigan Wisconsin Pipe Line Company*, docket No. CP77-577. The attachment of this condition here is subject to whatever action is taken by the Commission in those cases. In each case, the Commission has granted rehearing solely for the purpose of further consideration.

Moreover, since the pipeline's customers do not receive any benefits from the transportation of the producer's liquids, there is no justification to make them bear the entire cost of the transmission facilities. Therefore, the pipeline is advised that when the cost of its transmission facilities are included in its rates, the pipeline will be required to allocate the cost of such facilities between the transportation of gas and the transportation of liquids and demonstrate that such costs have been properly allocated.

After due notice by publication in the FEDERAL REGISTER, no protests or petitions to intervene have been filed.

At a hearing held on June 28, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and petitions and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorization hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sale by applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission.

(4) The sales of natural gas by applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FERC gas rate schedule related to the authorization hereinafter granted should be accepted for filing to be effective on the date of initial delivery.

The Commission orders: (A) A certificate of public convenience and necessity is issued to applicant in docket No. CI77-728 subject to opinion No. 770, as amended, and any further orders issued thereunder and conditioned to the lesser of the contract rate or the national rate applicable to the commencement date of each well involved.

(B) The grant of the certificate issued in ordering paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of part 154 or part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions, in the gas purchase contract herein involved. The grant of the certificate aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contract, particularly as to the cessation of the service upon termination of said contract as provided by section 7(b) of the Natural Gas Act. The grant of the certificate aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificate.

(C) The certificate of public convenience and necessity issued in ordering paragraph (A) authorizes sales by applicant of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(D) Section 154.93 of the regulations is hereby waived to the extent necessary to permit the filing of the proposed rate schedule. Applicant is advised that the granting of such waiver does not constitute approval of such provisions and any rate increase based thereon to the extent it is inconsistent with the provisions of § 154.93 of the regulations is subject to rejection.

(E) The related rate schedule is designated as Amoco Production Co. FERC Gas Rate Schedule No. 746 and is accepted for filing as of the date of initial delivery. Applicant shall advise the Commission in writing of such date within 10 days thereof.

(F) Applicant shall submit a revised billing statement, within 30 days from the date of initial delivery, which clearly reflects the components of the authorized rate (base rate, Btu adjustment and gathering allowance) in the event the previously filed billing statement does not reflect the national rate in effect when deliveries commence.

(G) Applicant is advised that the authorized rate cannot be changed without an appropriate filing under § 154.94 of the Commission's regulations.

(H) Issuance of the certificate and acceptance of the related schedule do not constitute approval of the provisions discussed herein. In the event the pipeline purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the pipeline purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. This condition is subject to whatever action is taken by the Commission on rehearing in docket Nos. CI77-412, CP77-558, and CP77-577.

(I) The pipeline purchaser is advised that the costs associated with facilities constructed and utilized to transport the producer's liquids must be allocated to the transportation of liquids and natural gas consumers must not be required to bear such costs.

(J) Pursuant to order No. 539-B, Order Clarifying Prior Orders And Amending Section 157 of The Commission's Regulations Under The Natural Gas Act, docket No. RM76-8 (issued July 30, 1976), the Commission's regulations were amended to include new section 157.41, which requires the following language be inserted as a condition in all certificates of public convenience and necessity issued on or after July 30, 1976:

All persons making jurisdictional sales pursuant to the authority granted by this certificate are hereby given notice that the contractual obligations between the buyer and the seller are

incorporated into the certificate obligations, and that the certificate is further conditioned to require that the seller shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder.

This provision is void unless the decision of the United States Court of Appeals for the Fifth Circuit in *Shell Oil Company, et al.* v. *F.E.R.C.*, Nos. 76-3066, et al. decided January 20, 1978, which reversed the Commission's order No. 539-B, is vacated upon further judicial review.

(K) Amoco shall submit, within 45 days from the date of this order, a contract amendment which provides for the contract term and the quality standards (including the operation and maintenance of compression facilities by seller) stipulated in the December 4, 1973, letter agreement.

(L) Within 30 days hereof, Amoco shall submit a statement demonstrating the applicability of the authorized rate.

(M) Amoco shall submit within 45 days from the date of this order, three copies of a contract amendment so that the take-or-pay provisions comply with § 154.103 of the regulations.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19290 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER77-331]

CENTRAL POWER & LIGHT CO.

Order Granting Rehearing

JULY 5, 1978.

By orders issued July 21, 1976 and September 17, 1976, in docket No. E-9558, the Commission[1] determined that Central Power & Light Co. (CPL) is a "public utility" subject to the Commission's jurisdiction under section 201 of the Federal Power Act. In compliance with the requirements of these orders, CPL tampered for filing executed service agreements for electric service to 10 wholesale customers including South Texas Electric Cooperative (South Texas), Medina Electric Cooperative (Medina), and the city of Brownsville (Brownsville). By order issued May 9, 1978, in this docket, the Commission, inter alia, accepted the service agreements for filing effective May 4, 1976 and ordered CPL to file within 30 days fuel clauses applicable to South Texas, Medina, and Brownsville that conform to the Commission's regulations (18 CFR 35.14). On June 5, 1978, CPL filed an application requesting rehearing of the fuel clause filing requirement of the May 9 order.[2] Specifically, CPL requests, inter alia,[3] that the date for filing the new fuel clause with respect to South Texas and Medina be extended to July 30, 1978[4] and that the filing requirement of a new fuel clause with respect to Brownsville be deferred.

In support of its request for an extension of time to file a new fuel clause applicable to South Texas and Medina, CPL states that its agreement with those customers expired January 1, 1978, and that the parties are presently negotiating the terms and conditions of a new agreement. CPL states that it intends to file with the Commission a new agreement with a conforming fuel clause on or before July 30, 1978, for service to South Texas and Medina.

The unique circumstances of this case require us to grant rehearing with respect to CPL's filing requirements pertaining to the South Texas and Medina agreements. In this case, CPL's filing was made to comply with a finding that its sales for resale were jurisdictional and the agreements for such sales were required to be on file with this Commission. CPL's agreements with South Texas and Medina were executed prior to the promulgation of section 35.14 of our regulations. Additionally, the base rates set in those agreements were conformed to the fuel clauses as written therein. Accordingly, the requirement to conform CPL's fuel clauses for South Texas and Medina may imbalance the rates set forth in those agreements. Additionally, CPL's statement that it will file new rates with a conforming fuel clause on or before July 30, 1978, would appear to minimize any adverse effect that may accrue through our action here. If no filing is made by July 31, 1978, CPL will be required to file a conforming fuel clause in compliance with the May 9, 1978, order.

In respect to the Brownsville situation, CPL alleges that the power purchase agreement by and between CPL and Brownsville is a fixed rate contract which does not expire until January 1, 1982. CPL states that the agreement contains a fixed rate, which in turn includes a partial reimbursement for base fuel cost. CPL further indicates that there is a fuel adjustment clause formula for recovery of fuel cost over and above the increment of base fuel recovery provided for in the fixed rate. As a result, CPL asserts that it does not believe the service agreement can be changed absent *Sierra-Mobile* findings,[5] since the contract contains a fixed rate, along with fixed terms and conditions.

CPL's petition for rehearing concerning the Brownsville fuel adjustment clause raises a valid point. In *The Electric and Water Plant Board of the City of Frankfort* v. *Kentucky Utilities Co.*, opinion No. 760, docket No. E-9532, (issued April 29, 1976),[6] the Commission determined that section 35.14 of regulations is not applicable retroactively to fixed rate contracts. Since the clauses are an integral part of fixed rate contracts,[7] the decision to require the modification of a non-conforming fuel clause can be required under section 206 of the act after a determination is made that the operation of that clause results in the total rate paid exceeding the just and reasonable level. No such determination has been made here. Thus, it was error to order CPL to file a conforming fuel adjustments clause applicable to Brownsville in this proceeding.

The Commission orders: (A) CPL's petition for rehearing is hereby granted.

(B) In the event that CPL does not file new rates applicable to South Texas and Medina on or before July 31, 1978, then CPL is hereby required to file on July 31, 1978, a conforming fuel clause in accordance with ordering paragraph (D) of our May 9th order in this proceeding.

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

By the Commission. Chairman Curtis voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19291 Filed 7-12-78; 8:45 am]

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[1] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the Federal Power Commission; when used otherwise, the reference is to the Federal Energy Regulatory Commission, which succeeded to the powers and duties of the FPC pertinent here by operation of the Department of Energy Act.

[2] By notice issued June 16, 1978, the Secretary extended the time for CPL's compliance with ordering paragraph (D) in our May 9, 1978 order to July 31, 1978.

[3] CPL's request for a conference with Commission staff is moot because of the action taken herein.

[4] Since July 30, 1978 is a Sunday, the date requested will be construed as July 31, 1978 (19 CFR 1.13(a)).

[5] A contractual rate cannot be increased until this Commission first determines that it is "so low as to conflict with the public interest". *FPC* v. *Sierra Power Company*, 350 U.S. 348 (1956); *FPC* v. *Mobile Gas Service Corporation*, 350 U.S. 332 (1956).

[6] Affirmed, *Electric and Water Plant Board of the City of Frankfort* v. *FERC*, No. 76-1886, (DCCA—1977).

[7] See also, *St. Michaels Utilities Commission* v. *Eastern Shore Public Servise Company of Maryland*, 31 F.P.C. 1161, 1164 (1964).

[6740-02]

[Project No. 2842]

CITY OF IDAHO FALLS

Application for License

JULY 5, 1978.

Take notice that an application was filed with the Federal Energy Regulatory Commission by the city of Idaho Falls (correspondence to: G. S. Harrison, Manager, Electric Light Division, P.O. Box 220, Idaho Falls, Idaho 83401; and copy to International Engineering Co., Inc., 220 Montgomery Street, San Francisco, Calif. 94104) on March 20, 1978, for the proposed Idaho Falls Hydroelectric project (FERC project No. 2842). The proposed project would be located on the Snake River near the city of Idaho Falls, Idaho at the site of an existing hydroelectric project. The project would affect lands of the United States.

The proposed project would consist of three separate developments:

Upper Plant at River Mile 805: This development would include (1) a 600-foot long and 23-foot high concrete and earthfill dam across the east channel of the Snake River at an existing dam site, with a 30-inch square sluice gate, two 150-foot by 10-foot Pelican gates, and a spillway crest elevation of 4,734.7 feet (USGS datum); (2) a 470-foot long and 33-foot high concrete and earthfill dam across the west channel of the river about 1,800 feet downstream from the existing dam site, with a 40-foot by 11-foot Pelican gate, an integral powerhouse, and spillway crest elevation of 4,734.0 feet; and (3) a 2-mile long, 800 acre-foot gross capacity reservoir with a normal surface area of 100 acres.

City Plant at River Mile 800: This development would include (1) a 1,970-foot long and 30-foot high concrete dam at an existing dam site, with a 40-foot by 5-foot Bascule gate and a spillway crest elevation of 4,694.7 feet; (2) a 126-foot by 20-foot trashrack located across the east channel of the river about 600 feet upstream of the powerhouse; (3) a new powerhouse in the river's east channel, adjacent to the existing powerhouse; (4) a spillway, adjacent to the proposed powerhouse, equipped with a 20-foot by 5-foot Bascule gate, with crest elevation at 4,694.0 feet; (5) a 1-mile long, 400 acre-foot gross capacity reservoir with a normal surface area of 50 acres; and (6) a 50-foot by 115-foot control building-maintenance shop adjacent to the powerhouse.

Lower Plant at River Mile 798: This development would include (1) a 930-foot long concrete dam across the west channel of the river at an existing dam site, with a crest elevation of 4,674.5 feet; (2) an existing structure across the east channel of the river consisting of the remains of an old powerhouse, a spillway with a crest elevation of 4,674.0 feet and containing eight 20-foot by 14-foot radial gates with a 42-foot by 12-foot Pelican gate to be added, and an 85-foot by 80-foot powerhouse with two 1,500 kW generating units; and (3) a 2-mile long, 900 acre-foot gross capacity reservoir with a normal surface area of 100 acres.

Applicant proposes to construct a new 140-foot by 38-foot concrete powerhouse, containing a 7,200 kW horizontal bulb turbine-generator with associated mechanical and electrical appurtenances, at each of the above developments. The energy generated would be used locally in applicant's existing service area.

Any person desiring to be heard or to make any protest with reference to the 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 September 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party 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. 78-19292 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-19, RP78-20]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

Order Denying Applications for Rehearing

JULY 6, 1978.

By letter order issued April 28, 1978, the Commission accepted for filing "interim rates" tendered by Columbia Gas Transmission Corp. (Columbia) to be effective from the date of commencement of LNG deliveries to Columbia, through May 31, 1978. These interim rates were permitted to become effective subject to refund and to a condition that Columbia file revised tariff sheets removing from the rates originally filed in these dockets on November 30, 1977,[1] the costs of any facilities and services not certificated and placed in service by April 30, 1978, the end of the test period. On May 26, 1978, Columbia filed an application for clarification or rehearing of that letter order. Columbia requested permission to revise the rates filed November 30, 1977 to remove the sales volumes which Columbia states are associated with facilities and services to be eliminated from those rates. This proposed revision had already been reflected in a revised tariff filing which was tendered on May 1, 1978, and which also adjusted the rates under suspension to reflect several other changes including elimination of costs and services not in service by April 30, 1978.

In an order issued May 31, 1978, the Commission rejected these revised tariff sheets "* * * without prejudice to the resubmission of revised tariff sheets to be effective June 1, 1978 which are based on the cost of service in the filing of May 1, 1978, that was revised to reflect certain actual costs at the end of the test period and on the sales volume level included in Columbia's original filing * * *." On June 8, 1978, Columbia filed an application for rehearing of that order and a motion for stay pending action on the rehearing application. For the reasons set forth below, we shall deny Columbia's May 26, 1978, and June 8, 1978, applications for rehearing.[2]

DISCUSSION

Columbia's two applications for rehearing emphasize that its reduction to the sales level is consistent with a longstanding Commission policy, the synchronization over a given period of facilities and services reflected in a cost of service with the sales volumes associated with such facilities. The second rehearing application filed June 8, 1978, further states that the order of May 31, 1978, unfairly penalizes Columbia by accepting the adjustements that reduced the originally proposed rates while rejecting the adjustments that tended to offset the reductions. Columbia also responds that the attachment of new supplies shown in its recently filed form 16 will involve additional costs that are not reflected in the current rate, and that the reduced sales level in the filing of May 1, 1978 exceeds its sales estimates for the 12 months ending March, April and May, 1978, as adjusted to eliminate volumes associated with facilities and transportation services that were not reflected in the revised filing of May 1, 1978. Finally, Columbia contends that filing of May 1, 1977, including the rejected 50 Bcf reduction to the test period sales level, produces a rate decrease for every customer.

[1] By order issued November 30, 1977, the Commission accepted for filing and suspended for 5 months, until June 1, 1978, rate increases proposed by Columbia and Columbia Gulf Transmission Co. These dockets were consolidated and a hearing was ordered.

[2] In light of our action on the application for rehearing, the motion for stay pending that action is moot.

Columbia does not directly contest our attachment of the condition requiring revision of its proposed rates under suspension to eliminate the costs of facilities and services not in service by the end of the test period. This condition reflects a consistent FPC policy followed by the FERC and reoccurs throughout our recent orders suspending pipeline rate filings. Section 154.63(e)(2)(ii) of our regulations governing major rate increases provides that adjustments to actual costs experienced over the twelve month base period may be made only for those facilities that have been certificated by the date of filing of the rate increase and will be in service by the end of the test period. Thus, the proper alternative to the attachment of this facility and service condition would be the immediate rejection of any rate increase tender including facilities that have not been certificated on the filing date but may be in service prior to the close of the test period.

Rather, Columbia attacks our failure to authorize a further adjustment of its proposed rates to reduce the estimated sales level from 1,007 Bcf per year to 957 Bcf per year. Section 154.66 of the regulations clearly states that changes to suspended rate tariffs may be made only upon "special permission" of the Commission for "good cause shown". Upon review of Columbia's allegations on rehearing, we are persuaded that the May 31, 1978, order should not be modified because Columbia has failed to demonstrate "good cause" to make its proposed downward 50 Bcf volume adjustment to the November 30, 1977, rates, as adjusted.

The Commission's April 28, 1978, order reflected standard Commission policy in dealing with costs associated with uncertified facilities. That order gave Columbia until the end of the 9 month adjustment period to get the facilities in the proposed rates (which were not certified as of the date the rate case was filed (November 30, 1977)) certified and in service by the end of the 9 month adjustment period (April 30, 1978). This action was predicated upon a waiver of § 154.63(e)(ii) which requires facilities to be certified by this Commission under section 7 of the Natural Gas Act as of the filing date of the rate case.

In granting waiver of § 154.63(e)(ii) of the regulations as discussed above, it has also been this Commission's policy to not permit cost adjustments to the suspended rates which would offset the costs associated with facilities which are ultimately not certified and in service at the end of the 9 month adjustement period unless "good cause" pursuant to § 154.66 of the regulations has been demonstrated.[3] "Good cause" has been found only in the most extraordinary of circumstances.

In practice, the Commission has rarely found "good cause" to permit such offsetting adjustments in the suspended rates because of the difficulty in ascertaining their appropriateness in the 30 or less days available to the Commission to act upon the revised suspended rate filings containing the offsetting adjustments. Such issues because of their complexity (such as the "volumes offset" issue presented in this case) are better left to resolution in the evidentiary proceeding ordered in this case. In sum, the Commission's waiver of § 154.63(e)(ii) of the regulations has been granted in light of the Commission's policy of not permitting offsetting adjustments to the suspended rates if the pipeline is unable to get all of the facilities (which are uncertified at the date the rate case is filed) certified and in service by the end of the 9 month adjustment period. Nothing presented by Columbia in its pleadings persuades us that we should deviate from that policy in this proceeding.[4] Accordingly, Columbia shall be required to continue to predicate its suspended rates on the sales estimate which Columbia developed and filed in this docket on November 30, 1977, pending the resolution of this docket in the evidentiary proceeding ordered by the Commission's December 30, 1977, suspension order. Of course, Columbia is now free to file a new rate tariff reflecting fully revised estimates of sales volumes and the costs of new facilities and services.

Accordingly, the Commission finds that Columbia's applications for rehearing state no facts or legal principles warranting any change or modification of the letter order issued April 28, 1978, and the order issued May 31, 1978, in these dockets.

The Commission orders: (A) Columbia's applications for rehearing filed in these dockets on May 26, 1978, and June 8, 1978, are hereby denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19294 Filed 7-12-78; 8:45 am]

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[3] See: Consolidated Gas Supply Corp., Docket No. RP77-140, order issued March 31, 1978.

[4] Requiring the uncertificated facilities adjustment to be made without permitting offsets is consistent with *F.P.C.* v. *Tennessee Gas Co.* 371 U.S. 145 (1962).

[6740-02]

[Docket No. ER78-456]

DUKE POWER CO.

Supplement to Electric Power Contract

JULY 5, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on June 26, 1978, a supplement to the company's electric contract with Laurens Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. rate scheduled FPC No. 144.

Duke Power further states that the company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following termination and reallocation of SEPA demand and energy: Terminate delivery point No. 24 and transfer load and SEPA allocation to delivery point No. 25.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for 12 months immediately preceeding and for the 12 months immediately succeeding the effective date. Duke Power proposes an effective date of June 20, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Duke Power copies of this filing were mailed to Laurens Electric Cooperative, Inc., and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19293 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-415]

DUKE POWER CO.

Order Accepting for Filing and Suspending Rate Increase, Providing for Hearing, and Granting Interventions

JUNE 30, 1978.

Duke Power Co. (Duke) on June 1, 1978, tendered for filing a proposed rate increase applicable to all of its wholesale customers.[1] Duke indicates that the proposed tariff would increase wholesale revenues approximately $15,339,000 (9.43 percent) based on the 12-month period ending December 31, 1978. In its filing Duke requests that the rates become effective July 1, 1978, although in the transmittal letter accompanying its filing Duke suggests a 2-month suspension period with rates being effective September 1, 1978, subject to refund.

The present and proposed rates are multistep load factor type (charge per kWh per kW billing demand) subject to a fuel clause which appears to conform to the requirements set forth in order No. 517.

Notice of this filing was given on June 7, 1978, with comments due on or before June 19, 1978. On June 19, 1978, petitions to intervene were filed by ElectriCities of North Carolina and municipal wholesale customers in South Carolina[2] (ElectriCities) and by the public works of the city of Greenwood, South Carolina (Greenwood). On June 20, 1978, late petitions to intervene were filed by the city of Clinton, S.C. (Clinton) and by Electric Membership Corp., Blue Ridge Electric Membership Corp., and the following South Carolina Electric Cooperatives: Blue ridge, Broad River, Laurens, Little River, and York (EMC).

ElectriCities and EMC disagree with several aspects of Duke's proposed revenue requirement and they request a 2-month suspension of the proposed rates. Greenwood and Clinton each state that they have a substantial interest in this proceeding which cannot adequately be represented by any other party.

The Commission is unable to conclude that the proposed rates are just and reasonable and lawful in all other respects. Accordingly, and considering the consensus among Duke and the petitioners, we shall suspend the effectiveness of the proposed rate increase for 2 months and establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing Duke's proposed rate schedules and suspend their effectiveness for 2 months until September 1, 1978, when they shall be permitted to become effective subject to refund, pending the outcome of a hearing and decision thereon.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of Duke's rates as proposed to be revised herein.

(3) Participation by petitioners in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act particularly sections 204 and 206 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the justness and reasonableness of Duke's proposed rates.

(B) Pending a hearing and a final decision thereon, Duke's filing is hereby accepted and suspended for 2 months to become effective on September 1, 1978, subject to refund.

(C) The staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 1, 1978 (see administrative order No. 157).

(D) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose (see delegation of authority, 18 CFR 3.5(d)), shall convene an initial conference in this proceeding on a date certain within 10 days after service of top sheets by the staff, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said presiding administrative law judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) Petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19287 Filed 7-12-78; 8:45 am]

[1] The proposed tariff consists of schedule No. 10 applicable to municipals and public utilities, and schedule No. 11 applicable to cooperatives.

[2] Abbeville, Clinton, Due West, Easley, Gaffney, Greenwood, Greer, Laurens, Newberry, Prosperity, Rock Hill, Seneca, and Westminster, S.C.

[6740-02]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Notice of Annual Application

JULY 3, 1978.

Take notice that on June 30, 1978, Gas Research Institute (GRI) filed its annual application, including its updated 5-year R. & D. plan, requesting advance approval of its 5-year plan and, specifically, of its 1979 R. & D. program and the funding thereof, pursuant to the Natural Gas Act and the Commission's regulations thereunder, particularly 18 CFR 154.38(d)(5).

The first GRI application, dealing with GRI's first 5-year R. & D. plan and initial R. & D. program was filed on March 11, 1977, and approved by the Commission in opinion No. 11, *Opinion and Order Approving the Initial Research, Development and Demonstration Program of Gas Research Institute,* Docket No. RM77-14, issued March 22, 1978. In opinion No. 11, the Commission found GRI to be a "R.D. & D. organization" within the meaning of § 154.38(d)(5) of the Commission's regulations. The Commission approved GRI's initial application with the understanding that GRI will review, annually, and update its 5-year plan and funding requirements for presentation to the Commission together with annual applications for advance approval pursuant to the Commission's regulations.

The Commission's regulations state that the principal tests for the adequacy of the proposed application shall be the following guidelines:

1. Evidence that GRI's R.D. & D. objectives have been clearly established.

2. Evidence that the plan evolves from these R.D. & D. objectives and adequately utilizes the viewpoints of scientific, engineering, industry, economic, consumers, and environmental interests.

3. Evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope.

4. Evidence that the program and plan are well conceived and have a reasonable chance of benefiting the ratepayer in a reasonable period of time, having due regard to the basic, exploratory or applied nature of each submitted R.D. & D. project.

5. Evidence that whatever achievements may result, including the

knowledge gained or technology developed from the R.D. & D. effort, if any, will accrue to the benefit of the sponsoring jurisdictional companies and their customers.

GRI states that its second application follows the principles considered by the Commission in opinion No. 11 and order No. 566, order prescribing changes in accounting and rate treatment for research, development, and demonstration expenditures, issued June 3, 1977, in docket No. RM76-17. In its second application, GRI seeks advance approval for its 1979 R. & D. program which proposes that $39,700,000 be collected during the twelve (12) months ending December 31, 1979, to support R. & D. activities in five technical areas, i.e., supply, supply economics and systems analysis, operations-distribution, conservation, and basic research and to cover the cost of planning and administration. Applicant states that its application was filed in accordance with the provision of order No. 566 which requires "R.D. & D. organizations" to submit, annually, a 5-year program plan at least 180 days prior to the commencement of the 5-year period of the plan, which is scheduled to commence on January 1, 1979.

Applicant further states that its 1979 R. & D. activities fall into three general classes: (1) The continuation of projects approved for initial funding by the Commission in opinion No. 11; (2) projects previously conducted through American Gas Association auspices, which have been transferred to GRI and which, while fully described in GRI's initial application and included in the 1977 R. & D. program, are now, for the first time, being proposed for funding by GRI through jurisdictional rates; and (3) new projects which have not previously been funded but which were, with minor exception, fully described in GRI's initial 5-year plan as projects to be included for funding in GRI's second annual R. & D. program.

GRI states that the proposed unit cost of GRI's 1979 R. & D. program is 3.6 mills per Mcf or equivalent to become effective January 1, 1979. This general R. & D. funding unit is proposed to be applied to the services included in GRI's program funding services in 1979 which include jurisdictional, direct sale and intrastate volumes of GRI's members and which are estimated to be 11,183 Bcf.

The Appendix hereto contains a list of GRI members and state regulatory commissions which were served with a copy of GRI's application on June 30, 1978. Such members and commissions are hereby permitted to participate in this proceeding as intervenors and need *not* file formal petitions to intervene or notices of intervention.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a comment, protest, or petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure and the regulations under the Natural Gas Act (18 CFR 157.70). All comments or 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, other than those listed in the Appendix who are automatically entitled to participate, must file a petition to intervene in accordance with the Commission's rules.

Copies of GRI's filing was accompanied by workpapers providing detail about its application. These workpapers are available for inspection in the Commission's Office of Public Information.

Additionally, take notice that a Commission staff report on GRI's filing will be served on all parties and filed with the Commission as a public document on August 11, 1978, and comments on the staff report as well as any further comments on GRI's application shall be filed by September 1, 1978.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Bath Electric, Gas & Water System
Citizens Gas & Coke Utility
Duluth Department of Gas & Water
Memphis Light, Gas & Water Division
Metropolitan Utilities of Omaha
Norwich Department of Public Utilities
Philadelphia Gas Works
Colorado Springs Department of Public Utilities
Algonquin Gas Transmission Co.
Cities Service Gas Co.
Colorado Interstate Gas Co.
Columbia Gas Transmission Corp.
Consolidated Gas Supply Corp.
East Tennessee Natural Gas Co.
The El Paso Co.
Florida Gas Transmission Co.
Great Lakes Gas Transmission Co.
Kentucky West Virginia Gas Co.
Michigan Wisconsin Pipeline Co.
Midwestern Gas Transmission Co.
Mississippi River Transmission
National Fuel Gas Supply Corp.
Natural Gas Pipeline Co. of America
Northern Natural Gas Co.
Northwest Pipeline Corp.
Pacific Gas Transmission Co.
Panhandle Eastern Pipe Line Co.
South Georgia Natural Gas Co.
Southern Natural Gas Co.
Tennessee Gas Transmission Co.
Texas Eastern Gas Pipeline Co.
Texas Gas Transmission Corp.
Transco Energy Co.
Transwestern Pipeline Co.
Trunkline Gas Co.
United Gas Pipe Line Co.
Alabama Gas Corp.
Arizona Public Service Co.
Atlanta Gas Light Co.
Baltimore Gas & Electric Co.
Battle Creek Gas Co.
Bay State Gas Co.
The Berkshire Gas Co.
Boston Gas Co.
The Brooklyn Union Gas Co.
Cascade Natural Gas Corp.
Central Hudson Gas & Electric
Citizens Gas Fuel Co.
Columbia Gas Distribution Cos.
Commonwealth Gas Co.
Connecticut Natural Gas Corp.
Consolidated Edison Co. of New York, Inc.
The Consumers' Gas Co.
Consumers Power Co.
The Dayton Power & Light Co.
The East Ohio Gas Co.
Elizabethtown Gas Co.
Entex, Inc.
Equitable Gas Co.
Fitchburg Gas & Elec. Light Co.
Gainesville Gas Co.
Gas Light Co. of Columbus
Gas Service, Inc.
Gasco, Inc.
Haverhill Gas Co.
Hoosier Gas Corp.
Indiana Gas Co., Inc.
Intermountain Gas Co.
Iowa-Illinois Gas & Electric
Iowa Power & Light Co.
Kansas-Nebraska Natural Gas Co.
Keokuk Gas Service Co.
Laclede Gas Co.
Lone Star Gas Co.
Long Island Lighting Co.
Madison Gas & Electric Co.
Manchester Gas Co.
Michigan Consolidated Gas Co.
Minnesota Gas Co.
Mississippi Valley Gas Co.
Missouri Power & Light Co.
Montana-Dakota Utilities Co.
Mountain Fuel Supply Co.
National Fuel Gas Distribution
New Bedford Gas & Edison Light
New York State Electric & Gas
Niagara-Mohawk Power Corp.
North Penn Gas Co.
The Peoples Gas Light & Coke Co.
Northern Illinois Gas Co.
Northern Indiana Public Service
Northwest Natural Gas Co.
Oklahoma Natural Gas Co.
Orange & Rockland Utilities
Pacific Gas & Electric Co.
Pennsylvania Gas & Water Co.
Peoples Natural Gas Division
The Peoples Natural Gas Co.
Philadelphia Electric Co.
Piedmont Natural Gas Co., Inc.
Pioneer Corp.
The Providence Gas Co.
Public Service Co. of Colorado
PSE&G Research Corp.
Roanoke Gas Co.
Rochester Gas & Electric Corp.
San Diego Gas & Electric Co.
Sierra Pacific Power Co.
South Jersey Gas Co.
Southern California Gas Co.
The Southern Connecticut Gas Co.
Southern Union Gas Co.
Southwest Gas Corp.
TransCanada Pipe Lines
UGI Corp.
Valley Gas Co.
Virginia Electric & Power Co.
Washington Gas Light Co.
Washington Natural Gas Co.

Willmut Gas & Oil Co.
Wisconsin Fuel & Light Co.
Wisconsin Gas Co.
Wisconsin Natural Gas Co.
Wisconsin Power & Light Co.
Wisconsin Public Service Corp.
Wisconsin Southern Gas Co.
Union Gas, Ltd.
Union Electric Co.
The Washington Water Power Co.
Pennsylvania & Southern Gas Co.
Cheyenne Light, Fuel & Power Co.
Western Slope Gas Co. (same as Public Service Co. of Colorado)
North Shore Gas Co. (same as Peoples Gas Light & Coke Co.)
Alabama Public Service Commission
Alaska Public Utilities Commission
Arizona Corporation Commission
Arkansas Public Service Commission
California Public Utilities Commission
Colorado Public Utilities Commission
Connecticut Public Utilities Control Authority
Delaware Public Service Commission
District of Columbia Public Service Commission
Florida Public Service Commission
Georgia Public Service Commission
Hawaii Public Utilities Commission
Idaho Public Utilities Commission
Illinois Commerce Commission
Indiana Public Service Commission
Iowa State Commerce Commission
Kansas State Corporation Commission
Kentucky Public Service Commission
Louisiana Public Service Commission
Maine Public Utilities Commission
Maryland Public Service Commission
Massachusetts Department of Public Utilities
Michigan Public Service Commission
Minnesota Public Service Commission
Mississippi Public Service Commission
Missouri Public Service Commission
Montana Public Service Commission
Nebraska Public Service Commission
Nevada Public Service Commission
New Hampshire Public Utilities Commission
New Jersey Board of Public Utilities
New Mexico Public Service Commission
New York Public Service Commission
North Carolina Utilities Commission
North Dakota Public Service Commission
Ohio Public Utilities Commission
Oklahoma Corporation Commission
Oregon Public Utilities Commission
Pennsylvania Public Utilities Commission
Rhode Island Public Utilities Commission
South Carolina Public Service Commission
South Dakota Public Utilities Commission
Tennessee Public Service Commission
Texas Railroad Commission
Utah Public Service Commission
Vermont Public Service Board
Virginia State Corporation Commission
Washington Utilities and Transportation Commission
West Virginia Public Service Commission
Wisconsin Public Service Commission
Wyoming Public Service Commission

[FR Doc. 78-19295 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ES78-45]

IOWA PUBLIC SERVICE CO.

Notice of Application

JULY 6, 1978.

Take notice that on June 15, 1978, Iowa Public Service Co. (applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $25,000,000 principal amount of first mortgage bonds (new bonds). Applicant proposes to sell the new bonds at competitive bidding in accordance with the applicable requirements of § 34.1a of the Commission's regulations. The interest rate and the price to be paid for the new bonds will be determined by the successful bidder.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north-central, and east-central Iowa and a few small communities in South Dakota.

Applicant proposes to use the net proceeds from the sale of the securities (1) to meet expenditures for the construction program and (2) to pay off short-term loans, if any, incurred prior to the sale of the new bonds to secure funds for construction purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19296 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. RP78-71]

NATURAL GAS PIPELINE CO. OF AMERICA

Order Rejecting Proposed Rate Increase Filing

JUNE 30, 1978.

On May 31, 1978, Natural Gas Pipeline Co. of America (Natural) tendered for filing proposed changes to its FERC gas tariff, which would increase its jurisdictional revenues by $85.2 million based on costs and sales volumes for the 12 months ended February 28, 1978, as adjusted for known and measurable changes for the 9-month period ending November 30, 1978. For the reasons set forth below, the Commission shall reject Natural's filing.

Public notice of Natural's filing was issued on June 5, 1978, providing for the filing of protests or petitions to intervene on or before June 19, 1978. Timely petitions to intervene were filed by those parties listed in appendix A to this order. The Commission finds that all listed petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

Natural has included in its filing approximately $32.5 million dollars reflecting Natural's estimate of the cost impact which would result from passage of the Louisiana first use tax on certain gas produced outside the territorial limits of Louisiana. As of the date of Natural's filing, the tax had not been made effective.

Section 154.63(e)(i) of the regulations requires, in pertinent part, that major natural gas pipeline rate increases be based upon a:

> "• • • test period which shall consist of a base period of 12 consecutive months of most recently available actual experience, adjusted for changes in revenues and costs which are *known* and are *measureable* with *reasonable accuracy* at the *time* of the *filing; Provided, however,* That for good cause shown, upon application of the natural gas company made to the Commission *30 days* in *advance* of the *rate filing*, the Commission may allow reasonable deviation from the prescribed test period (emphasis added) • • •"

Since the proposed Louisiana first use tax was not effective as of the date of Natural's filing and had no definite effective date as of the date of Natural's filing and had no reasonably projectable dollar impact,[1] it is neither "known" nor "measurable with reasonable accuracy at the time of the filing" as contemplated by § 154.63(e)(i) of the regulations. Furthermore, Natural did not file a request for waiver of the regulations 30 days prior to the date of the rate filing as required by § 154.63(e)(i) of the regulations. In addition, Natural's rate filing contains no suitable basis for granting waiver to permit inclusion of so speculative a cost in its rate filing. Accordingly, the Commission shall reject Natural's filing because it does not meet the filing requirements set forth in § 154.63(e)(i) of the regulations. This rejection is without prejudice to Natural's right to make rate in-

[1] In fact, it is not known now whether the tax will ever become effective.

crease filings pursuant to section 4 of the Natural Gas Act which meet the filing requirements prescribed in § 154.63 of the regulations.[2]

The Commission notes that its filing requirements for natural gas pipelines set forth in § 154.63 of the regulations, reflect a good faith effort to permit pipelines to project changes in its 12-month period of actual experience over a 9-month period. The purpose of this 9-month adjustment period is to make the pipeline's filing reflect as nearly as possible what the experience of the pipeline will be during the period the proposed rates will actually be in effect. In providing for the 9-month adjustment period, however, this Commission has no intention of permitting proposed rate increase filings containing extremely speculative costs (such as the proposed Louisiana tax costs contained in Natural's filing) to take effect subject to refund. This Commission intends to continue to enforce the filing requirements set forth in § 154.63 of the regulations and to not accept for filing and suspend rate filings containing speculative costs not permitted by those Regulations.

The Commission orders: (A) Natural's May 31, 1978, rate filings is rejected, without prejudice as discussed in the body of this order.

(B) The petitioners to intervene noted in appendix B are permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—NATURAL GAS PIPELINE CO. OF AMERICA

[Docket No. RP78-71]

PETITIONERS FOR INTERVENTION

Interstate Power Co.
Northern Illinois Gas Co.
Iowa-Illinois Gas & Electric Co.
Iowa Power & Light Co.
Mississippi River Transmission Corp.
Central Illinois Public Service Co.
Public Service Commission of Wisconsin.
The Peoples Gas Light & Coke Co. and North Shore Gas Co.
Central Illinois Light Co.
Associated Natural Gas Co.
North Central Public Service Co., division of Donovan Companies, Inc.
Peoples Natural Gas Division of Northern Natural Gas Co.
City of Chicago, a Municipal Corporation.
Iowa State Commerce Commission.
Colorado Interstate Gas Co.
Columbia Gas Transmission Corp.
Illinois Power Co.
Iowa Electric Light & Power Co.
Iowa Southern Utilities Co.
Northern Indiana Public Service Co.
United Cities Gas Co.
Wisconsin Southern Gas Co., Inc.

[FR Doc. 78-19288 Filed 7-12-78; 8:45 am]

[2] Compare: El Paso Natural Gas Co. order issued December 30, 1977, in docket No. RP78-18; modified in part on rehearing, order issued February 27, 1978.

[6740-02]

[Docket No. ER 78-216]

UTAH POWER & LIGHT CO.

Order Accepting Submittal for Filing, Suspending Proposed Agreement, Providing for Hearing, Granting Intervention, and Granting Request for Waiver

JUNE 30, 1978.

On February 13, 1978, Utah Power & Light Co. (Utah) submitted for filing an agreement, dated October 24, 1973, for the supply of capacity and energy between Utah, as seller, and Idaho Power Co. (Idaho), as buyer, together with an amendment thereto, dated January 25, 1978. The October 24, 1973 agreement provides that Idaho purchase varying portions of the output of three generating units planned for commercial operation by Utah in 1977, 1978, and 1979.[1] On February 23, 1978, Idaho filed its certificate of concurrence. Utah was informed by Commission letters that its filing was deficient. By June 1, 1978, Utah had submitted the additional data needed to satisfy the Commission's regulations.

In its February 13, 1978 filing, Utah states that the rates contained in the proposed agreements are based on two components: a transmission and generation readiness-to-supply charge (fixed costs) and an energy charge (average fuel costs). The proposed agreement [2] and the 1978 amendment thereto [3] provide for the sale by Utah of specified amounts of capacity and related energy from the two generating units located at Utah's Huntington Generating Station. The first unit became commercially operable on June 1, 1977, and the second on June 1, 1978. Utah proposes to sell capacity and related energy in specified amounts ranging from 12.5 percent to 27.5 percent (about 50 Mw and 110 Mw respectively) from the 1977 unit, and in amounts varying from 67.5 percent to 25 percent (about 280 Mw and 100 Mw respectively) from the 1978 unit. The term of the agreement covers the period from June 1, 1977 through March, 1982.

Utah states that the contract was not filed on a timely basis since negotiations to modify the agreement were underway before the 1977 unit went into service. According to Utah, Idaho has been taking less from the 1977 unit than anticipated at the time the 1973 agreement was signed. Negotiations continued to January, 1978, with respect to the 1978 unit, and culminated in the execution of the amendment dated January 25, 1978. For these reasons, Utah requests waiver of the 30-day notice requirements of § 35.3 of the Commission's regulations and requests that the rates be given a June 1, 1977 effective date, which was the date of first delivery. In view of the fact that we shall suspend Utah's proposed filing as hereinafter ordered and thus make it subject to refund, we shall grant Utah's request for waiver and accept the filing as of the May 31, 1977, date.

Public notice of Utah's February 13, 1978 filing was issued for publication in the FEDERAL REGISTER on February 17, 1978, with comments, protests or petitions to intervene due on or before March 6, 1978. On April 1, 1978, the Idaho Public Utilities Commission filed an untimely notice of intervention. The Idaho Commission gave notice of intervention for the purpose of participation, but did not request a formal hearing. This Commission believes that the interests of the petitioner are sufficient to warrant intervention and that such intervention will not in any way delay this proceeding.[4]

Our review indicates that the rates proposed herein have not been shown to be just and reasonable any may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we will accept the submittal for filing,[5] make it effective

[1] According to the application, at Idaho's request, the 1979 unit was deferred and the contract remains applicable only to the 1977 and 1978 units.

[2] Designated as: Utah Power & Light Co., (1) rate schedule FERC No. 122, (2) supplement No. 1 to rate schedule FERC No. 122.

[3] The January 25, 1978 amendment reflects Utah's deferral of the 1979 generating unit and revises percentage amounts of capacity to be sold to Idaho from the 1977 and 1978 units.

[4] In addition, on June 16, 1978, Idaho filed with this Commission a request for ruling on the filing in the docket herein at the earliest possible time. Idaho states its intention to file with the appropriate State regulatory agency, having jurisdiction over its retail rates, applications which will include the charges incurred by Idaho under its contract with Utah.

[5] Utah submits this filing pursuant to § 35.12 of the Commission's regulations as an initial rate. However, in light of recent Commission decisions, we shall treat the filing herein as a supplemental rate and shall suspend its use accordingly. See: Order

Footnotes continued on next page

subject to refund, and establish hearing procedures to determine its lawfulness.

The Commission finds: (1) Good cause exists to waive 18 CFR 35.3 to permit Utah's submittal to become effective subject to refund as hereinafter ordered.

(2) It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its responsibilities under section 205 of the Federal Power Act.

(3) Participation in this proceeding by the Idaho Public Utilities Commission may be in the public interest.

The Commission orders: (A) Waiver of 18 CFR 35.3 notice requirements pertaining to Utah's February 13, 1978 filing is hereby granted.

(B) Utah's proposed agreement filed on February 13, 1978, is hereby accepted for filing as of May 31, 1977, and suspended for 1 day until June 1, 1977, when it shall become effective subject to refund.

(C) The Idaho Public Utilities Commission is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of the intervenor shall be limited to the matter affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402 of the DOE Act and under the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act, a public hearing will be held to determine the justness and reasonableness of the proposed rates, charges, terms, and conditions of service. The administrative law judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Utah shall, within 45 days of the date of issuance or this order, file with this Commission its case-in-chief.

(F) The Federal Energy Regulatory Commission staff shall serve top sheets in this proceeding within 60 days of the submittal of Utah's case-in-chief as ordered in ordering paragraph (E) herein above.

(G) That nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

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

By the Commission. Commissioner Hall voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19289 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-461]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Filing

JULY 6, 1978.

Take notice that on June 26, 1978 Central Louisiana Electric Co., Inc. (CLECO) tendered for filing a letter agreement with the City of Alexandria, Louisiana (City), dated April 19, 1978, which provides for sale by CLECO to City of fuel conservation energy.

CLECO states that the fuel conservation energy is scheduled surplus power and energy to be provided from its generating units, which are larger and more efficient than those of the City. CLECO further states that the City will arrange with its fuel supplier for delivery to CLECO of fuel required for generating of fuel conservation energy by CLECO will conserve approximately 494,029 MMBTU of fuel annually.

CLECO proposes an effective date of June 15, 1978, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing were served upon the City and upon the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.10). All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19303 Filed 7-12-78; 8:45]

[6740-02]

[Docket Nos. CP71-68, et al.]

COLUMBIA LNG CORP., ET AL.

Conference

JULY 6, 1978.

Take notice that on Tuesday, July 18, 1978, the Commission Staff will hold a conference with the parties to the proceeding for the purpose of discussing a proposal to increase liquefied natural gas (LNG) deliveries at Cove Point, Md. The conference will be held at 1:30 p.m. in room 3200, North Building, Federal Energy Regulatory Commission, 941 North Capitol Street, Washington, D.C. 20426. Staff has been advised that Columbia LNG Corp. and Consolidated System LNG Co. has jointly applied to the Economic Regulatory Administration for authority under section 3 of the Natural Gas Act to import LNG from Iran. The ERA application notes that applications for certificates of public convenience and necessity authorizing the transportation and sale of the regasified LNG in interstate commerce have not yet been submitted. The purpose of the conference is to discuss the timing of such certificate applications, as well as the content of the environmental reports required of each applicant under the Commission's regulations.

The Cove Point LNG facility was approved for construction and operation by the Federal Power Commission to receive LNG from Algeria. Receipt of the Iranian LNG, should it be approved, would increase the output of the facility by approximately 40 percent.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19304 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-455]

KANSAS POWER & LIGHT CO.

Filing

JULY 6, 1978.

Take notice that Kansas Power & Light Co. (KP&L) on June 28, 1978, tendered for filing a newly executed renewal contract date June 19, 1978, with the city of Lindsborg, Kans. for wholesale electric service to that community. KP&L proposes an effective date of July 1, 1978 and therefore requests waiver of the Commission's notice requirements.

Footnotes continued from last page

Granting Intervention and Denying Rehearing, issued by this Commission on February 22, 1978 in docket Nos. ER78-70 and ER78-71, *Pennsylvania Power & Light Company.*

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19305 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-425]

MINNESOTA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Interventions, Denying Motion to Reject, Granting Motion for Summary Disposition, Providing for Hearing, and Establishing Procedures

JULY 3, 1978.

On June 6, 1978, Minnesota Power & Light Co. (MPL) submitted for filing proposed rate schedules which would increase rates for firm wholesale electric service to 17 municipalities, 2 rural electric cooperatives, and to 1 privately owned electric system, Superior Water, Light & Power Co. MPL also is filing for an increase in the rate for transmission service to the city of Wadena, Minn.[1]

The proposed revisions provide for total increased charges to customers of $5,200,159 (19.4 percent) for the test year ending June 30, 1979. MPL proposes that these rates be allowed to become effective as of June 6, 1978.

Notice of the filing was issued June 15, 1978, with protests or petitions to intervene due on or before June 26, 1978. On June 26, 1978, petitions to intervene, protests and requests for rejection or, in the alternative, for 5-month suspension were filed by the city of Wadena Minn. and jointly by the village of Aitkin, city of Biwabik, city of Brainerd, village of Buhl, city of Ely, city of Gilbert, village of Grand Rapids, village of Hibbing, village of Keewatin, village of McKinley, village of Mountain Iron, village of Nashwauk, city of Staples, city of Two Harbors, and city of Virginia (hereinafter designated as the "Wholesale Customers"). Each of the petitioners states that it receives service from MPL and that it has an interest in the proceeding that is not adequately presented by any other party. We will grant intervention to each petitioner.

In its pleading, the Wholesale Customers' request rejection of the filing on grounds of its inconsistency with the Commission's determinations made in Opinion No. 12. However, the filing substantially complies with our Regulations and, consequently, does not warrant rejection. See, *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341 (D.C. Cir., 1971). The Wholesale Customers, alternatively, argue that the Commission should summarily dispose of the issue of the derivation by MPL in its filing of the allocation factors used to allocate costs to firm service. In support, they state that the derivation used is inconsistent with the Commission's determination in Opinion No. 12. We agree and further note that MPL's compliance filing for Opinion No. 12 was consistent with that Opinion and, therefore, is different from the instant filing. Additionally, the testimony filed by MPL in support of its proposed allocation factor did not identify any change in facts or circumstances that would justify any different treatment of this issue in the instant filing from the Commission's recent determination in Opinion No. 12. Accordingly, we will grant the motion for summary disposition and require MPL to file substitute revised tariff sheets and revisions to its rate filing to comply with this determination.

Petitioners' request for a 5-month suspension of MPL's filing should be granted. Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Therefore, the Commission shall accept the submittal for filing and suspend the proposed rates for five months from the effective date, after which the rates and services will go into effect as of December 7, 1978, subject to refund. Our review also indicates that MPL's application does not disclose whether its "Rider For Standby Service", which is applicable to existing firm power rates, is intended to remain effective for any of the new rate schedules for firm power rates proposed in this docket. Therefore, the Commission shall order MPL to supplement its application by disclosing the status, operation and effect, if any, of the "Rider For Standby Service" in the proposed rate schedules.

In addition to their other contentions, the Wholesale Customers allege that MPL's proposed wholesale rates place them in a price squeeze. Accordingly, we will establish procedures to determine that issue in conformity with Order No. 563 and section 2.17 of our regulations.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rate increase submitted for filing by MPL, establish procedures for that hearing, and that the proposed rate increase be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by MPL in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by MPL on June 6, 1978, adjusted as required by paragraph (D), are hereby accepted for filing, suspended and the use thereof deferred until December 7, 1978, when they shall become effective, subject to refund.

(C) Petitioners' requests that MPL's filing be rejected is hereby denied.

(D) The motion for summary disposition filed by the Wholesale Customers is granted and MPL is required to file revised tariff sheets and revisions to the rate filing to comply with this summary determination within 30 days from the date of the issuance of this order.

(E) Within 30 days of this order, MPL shall supplement its application by notifying the Commission whether its "Rider For Standby Service" is to remain effective in the proposed rate schedules and, if so, shall attach suitable amendments to the proposed schedules.

(F) The Federal Energy Regulatory Commission Staff shall serve top sheets in this proceeding on or before September 12, 1978.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on October 3, 1978, at 10:00 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Judge is author-

[1] The rate schedules are designated in Attachment hereto.

ized to establish procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(H) The Petitioners, Wholesale Customers and City of Wadena, hereby are permitted to intervene in this proceeding subject to the Rules and Regulatios of the Commission. *Provided, however,* That participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(I) The Presiding Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Wholesale Customers' request for data required to present its case, including a *prima facie* showing, on the price-squeeze issue.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT

MINNESOTA POWER & LIGHT CO., RATE SCHEDULE DESIGNATIONS, DOCKET NO. ER78-425, FILED: JUNE 6, 1978

Designations and Descriptions

(1) Supplement No. 11 to Rate Schedule FPC No. 103 (Supersedes Supplement No. 9), city of Biwabik—Schedule 01.

(2) Supplement No. 11 to Rate Schedule FPC No. 96 (Supersedes Supplement No. 9), city of Brainerd—Schedule 01.

(3) Supplement No. 11 to Rate Schedule FPC No. 104 (Supersedes Supplement No. 9), city of Ely—Schedule 01.

(4) Supplement No. 11 to Rate Schedule FPC No. 106 (Supersedes Supplement No. 9), city of Gilbert—Schedule 01.

(5) Supplement No. 11 to Rate Schedule FPC No. 106 (Supersedes Supplement No. 9), village of Grand Rapids—Schedule 01.

(6) Supplement No. 11 to Rate Schedule FPC No. 107 (Supersedes Supplement No. 9), village of Keewatin—Schedule 01.

(7) Supplement No. 11 to Rate Schedule FPC No. 117 (Supersedes Supplement No. 9), village of McKinley Schedule 01.

(8) Supplement No. 11 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 9), village of Mountain Iron—Schedule 01.

(9) Supplement No. 11 to Rate Schedule FPC No. 116 (Supersedes Supplement No. 9), village of Naskwauk—Schedule 01.

(10) Supplement No. 11 to Rate Schedule FPC No. 98 (Supersedes Supplement No. 9), village of Pierz—Schedule 01.

(11) Supplement No. 11 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 9), village of Proctor—Schedule 01.

(12) Supplement No. 11 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 9), village of Rondall—Schedule 01.

(13) Supplement No. 16 to Rate Schedule FPC No. 111 (Supersedes Supplement No. 14), city of Staples—Schedule 01.

(14) Supplement No. 13 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 11), Superior Water, Light & Power Company—Schedule 03.

(15) Supplement No. 3 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 2), city of Two Harbors—Schedule 01.

(16) Supplement No. 14 to Rate Schedule FPC No. 119 (Supersedes Supplement No. 12), village of Aitkin—Schedule 01.

(17) Supplement No. 11 to Rate Schedule FPC No. 121 (Supersedes Supplement No. 9), village of Buhl—Schedule 01.

(18) Supplement No. 10 to Rate Schedule FPC No. 105 (Supersedes Supplement No. 9), village of Hibbing—Schedule 01.

(19) Supplement No. 8 to Rate Schedule FPC No. 112 (Supersedes Supplement No. 7), Stunz Cooperative Light & Power Association—Schedule 02.

(20) Supplement No. 5 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 4), city of Wadena—Rate for Transmission Service.

(21) Supplement No. 11 to Rate Schedule FPC No. 52 (Supersedes Supplement No. 10), United Power Association—Schedule 02.

(22) Supplement No. 11 to Rate Schedule FPC No. 53 (Supersedes Supplement No. 10), United Power Association (Itasca)—Schedule 02.

[FR Doc. 78-19297 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. RI72-250; Rate Schedule Nos. 318 and 415]

MOBIL OIL CORP.

Order Denying Rehearing

JULY 5, 1978.

On October 1, 1978, 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 and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR—, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On March 27, 1978, Mobil Oil Corp. (Mobil) filed an application for rehearing of our February 27, 1978, "Order Terminating Suspension Proceeding and Directing Refunds" wherein we required Mobil to make refunds based upon amounts collected by it in excess of the applicable flowing gas ceiling rates [1] prescribed in Opinion No. 595.[2] On April 25, 1978, we granted rehearing for purposes of further consideration.

On May 25, 1972, the Commission [3] issued an order in Docket No. RI72-250 suspending unilateral rate increases filed by Mobil up to the 24 cents per Mcf new gas ceiling and permitting Mobil to collect this rate subject to refund pending a determination of the applicability of the new gas rate to the subject sales. It was Mobil's view that the gas sold by it subsequent to the expiration of its contracts was surplus gas and therefore qualified for the new gas rate as a new dedication. The suspension order made it clear that the purpose of the proceeding was not to determine a just and reasonable flowing gas rate for such sales, but rather to determine whether the flowing or new gas ceiling under Opinion No. 595 was applicable to such sales.

On December 12, 1972, the Commission issued Opinion No. 639[4] and announced therein its intention to apply literally the vintaging provisions of previous area rate opinions. It determined that the new gas ceiling would apply upon execution of a new contract to gas previously dedicated under a contract which had expired by its own terms. Thus, under the vintaging policy set forth in Opinion No. 639, Mobil was not entitled to collect the new gas price for the subject sales until it executed replacement contracts with its purchasers and such contracts were filed with and accepted by the Commission. Accordingly, from the date Mobil was permitted to collect the 24 cents rate subject to refund to the date of acceptance of the replacement contracts by the

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[1] The ceiling rate was 19 cents until October 1, 1973, and 20 cents thereafter.

[2] *Opinion And Order Determining Just And Reasonable Rates For Natural Gas Produced In The Texas Gulf Coast Area,* issued May 6, 1971, in Docket Nos. AR64-2, et al.

[3] Prior to October 1, 1977, the "Commission" refers to the Federal Power Commission; subsequent to that date, it refers to the Federal Energy Regulatory Commission.

[4] *Area Rates For The Appalachian And Illinois Basin Areas,* Docket No. R-371.

Commission,[5] Mobil was collecting an above-ceiling rate.

In its application for rehearing Mobil states that in Opinion No. 749-C[6] the Commission consolidated certain pending section 4(e) proceedings, including Docket No. RI72-250, and ruled that "refunds will be determined on the basis of the adjusted national rate prescribed in Opinion No. 749 or the otherwise applicable higher area rate." [7] As a result, Mobil claims, the Commission erred in failing to determine on the basis of the unambiguous provisions of Opinion No. 749-C that refunds must be calculated by amounts collected in excess of 23.5 cents per Mcf rather than the lower rates specified in the Commission's February 27, 1978 order. Mobil asserts that the order of February 27, 1978, is thus unlawful, arbitrary, and capricious, and that such order denies Mobil just and reasonable rates in contravention of sections 4 and 5 of the Natural Gas Act and the Fifth Amendment of the Constitution of the United States.

We will deny rehearing. While Docket No. RI72-250 was among those dockets listed in the Appendix to Opinion No. 749-C, the inclusion of that docket was inadvertent and erroneous. The only section 4(e) proceedings involving producers which had collected above-ceiling rates subject to refund for sales in areas not covered by a moratorium on rate filings. The purpose of those proceedings, unlike the *Mobil* case here, was to determine the just and reasonable flowing gas rate for such sales. Since those producers were clearly entitled to file for rates in excess of the then-applicable just and reasonable area rate, it was wholly appropriate that such just and reasonable flowing gas rate and the related refund obligations be determined by reference to the flowing gas ceiling rate established in Opinion No. 749.

By contrast, the sales of Mobil at issue here were explicitly subject to a rate filing moratorium pursuant to the provisions of Opinion No. 595. Hence, Mobil, like all producers selling gas in the Texas Gulf Coast Area, could file for no rate higher than the applicable just and reasonable area rate prescribed by that opinion. When Mobil filed for a rate above the just and reasonable flowing gas rate for the subject sales, it did so under a claim of entitlement to the just and reasonable new gas rate. Since the Commission needed additional time to consider the merits of Mobil's claim, it chose to suspend the applied-for rate for one day and permit Mobil to thereafter collect that rate subject to refund pending determination of the applicable ceiling.

Subsequently, Opinion No. 639 made clear that Mobil's sales did not qualify for the new gas ceiling rate. As a consequence, for the locked-in period here in question, Mobil was collecting a rate for its flowing gas in excess of the rate for which it was entitled to file under Opinion No. 595.[8] Accordingly, it is entirely proper that Mobil's refund liability be computed on the basis of the area rates prescribed in Opinion No. 595 and not the national rate established by Opinion No. 749. To do otherwise would simply countenance the unjust enrichment of Mobil.[9]

Mobil requests that the time for disbursing refunds and filing the refund report and release required by Ordering Paragraphs (B) and (C) of the February 27, 1978 order be deferred until 30 days after the matters raised by its rehearing application are resolved by Commission order. Such request will be granted.

The Commission orders:

(A) Mobil's application for rehearing of our February 27, 1978 order, filed March 27, 1978, is hereby denied

(b) Within 30 days hereof Mobil shall disburse refunds and file a refund report and release in accordance with Ordering Paragraphs (B) and (C) of the February 27, 1978 order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19298 Filed 7-12-78; 8:45 am]

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[5] The replacement contract filed by Mobil under its Rate Schedule NO. 318 was accepted and made effective by the Commission on November 16, 1973. The replacement contract filed under Rate Schedule No. 415 was accepted and made effective on June 21, 1974.

[6] *Just And Reasonable National Rates For Sales Of Natural Gas From Wells Commenced Prior To January 1, 1973, Opinion And Order On Rehearing,* issued July 19, 1976, in Docket No. R-478.

[7] *Id.* at 30.

[8] Unlike the situation in the Rocky Mountain and Permian II Areas, the producers in the Texas Gulf Coast Area were precluded from filing for any increase in excess of the applicable just and reasonable ceiling.

[9] In a footnote to its application for rehearing Mobil contends that the Commission is without jurisdiction to take any action which would have the effect of modifying Opinion No. 749-C since that opinion is under court review in *Tenneco Oil Co., et al.* v. *FERC* (CA5 No. 76-2960). We note that on April 18, 1978, the Court of Appeals issued its decision in the *Tenneco* case. We further note that the Court's mandate in *Tenneco* was received by the Commission on May 9, 1978. Accordingly, Mobil's contention in this regard has been rendered moot.

[6740-02]

[Docket No. ER78-463]

MONTAUP ELECTRIC CO.

Proposed Tariff Change

JULY 6, 1978.

Take notice that Montaup Electric Co. (Montaup), on June 28, 1978, tendered for filing proposed changes in the FERC Electric Tariff No. 1 for service to Brockton Edison Co. (Brockton), Fall River Electric Light Co. (Fall River), Blackstone Valley Electric Co. (Blackstone), and the Tiverton Division of the Narragansett Electric Co., and proposed changes in its FERC Rate Schedules Nos. 33, 34, and 36 for service to Newport Electric Corp., Pascoag Fire District and the town of Middleborough, respectively. Brockton, Rall River, and Middleborough are located in Massachusetts and the remaining customers are located in Rhode Island.

Montaup indicates that the proposed changes create a new M-4 rate which would increase revenues from the jurisdictional sales and service by $3,720,697, or 3.4 percent, based on the 12 month period ending June 30, 1979. Montaup states that the M-3 rate is necessary for it to recover its cost of providing electric service and requests an effective date of July 29, 1978.

Montaup states that copies of the filing were served upon the public utility's jurisdictional customer's, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission, the Rhode Island Consumer's Council and the office of the Attorney General of each of the two States.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19306 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket Nos. CP76-285, et al.]

MOUNTAIN FUEL RESOURCES, INC. ET AL.

Order Accepting Late Filing of Answer, Setting Issues for Hearing, Amending Procedural Dates, Granting Intervention, and Granting Temporary Certificates

JULY 3, 1978.

This matter was originally set for hearing by order issued September 30, 1977, and subsequently clarified by orders issued October 14, and December 6, 1977. The proceeding "represents both an underlying long-term plan for the development and use of storage facilities with short-term transportation arrangements and, a limited interim project".[1] The subject storage field is the Clay Basin Field (Field) in Daggett County, Utah, a substantially depleted producing field.

The so-called underlying matter is set-out in the original applications of Mountain Fuel Resources, Inc. (Resources), Docket No. CP76-285, Mountain Fuel Supply Co. (Supply), Docket No. CP76-388, and Northwest Pipeline Corp. (Northwest), Docket No. CP76-389. These applications involve the acquisition, construction, and operation of facilities necessary to convert the field into a gas reservoir and to render storage service. After initial sale by displacement to Resources of cushion and excess gas owned by Supply, Northwest would deliver Canadian gas to Resources for injection into storage each summer for later winter withdrawal through 1986.

A separate, but related, interim project is set-out in the applications of El Paso Natural Gas Co. (El Paso), Docket No. CP77-289, Clay Basin Storage Co. (Clay Basin), Docket No. CP77-512, and Northwest, Docket No. CP77-511, as well as various amendments to the applications in Docket Nos. CP76-285, CP76-388, and CP76-389. This arrangement would provide for the limited participation in the Field by El Paso by means of a displacement and transportation arrangement with Northwest. Clay Basin, an independent gas holding company, would hold title to all gas delivered by Northwest for El Paso's account for later pre-determined sale to four of El Paso's East-of-California (EOC) customers.[2] The interim project is scheduled to expire by December 31, 1979, and is designed for the protection of El Paso's EOC high-priority load.

The underlying project began functioning under temporary authorization first issued by the Federal Power Commission (FPC) on July 19, 1976. The Order of September 30, 1977, setting all six applications for hearing, also granted the requested temporary authorization to all parties regarding the interim project.[3]

The first prehearing conference was held on November 15, 1977, at which time the Presiding Administrative Law Judge ordered the filing of pretrial briefs on December 12, 1977, and set a further prehearing conference for January 5, 1978. Pretrial briefs were filed by the several applicants, Pacific Gas & Electric Co., the Public Utilities Commission of the State of California, and Commission staff. At the prehearing conference on January 5, 1978, certain procedural dates were determined for the filing of testimony and July 11, 1978, was set for the start of hearings. The dates for filing of testimony have twice been changed after requests for such changes were filed by Mountain Fuel and staff. The hearing date of July 11, 1978, has not changed.

Northwest and Mountain Fuel filed amendments to their applications on April 3, 1978. On April 6, 1978, El Paso and Clay Basin also filed amendments. Mountain Fuel filed testimony on the limited issues of rate of return and depreciation on April 3, 1978.

The notices of these amendments invited comments, and Arizona Electric Power Cooperative, Inc., and the city of Willcox, Ariz. (AEPCO) have filed variously titled protests, motions to reject, and motions to attach conditions to permanent and temporary certificates.[4] Answers to these pleadings were filed individually by El Paso and Clay Basin on May 23, 1978.[5]

El Paso states all four pleadings of AEPCO present overlapping and interrelated arguments and, so, requests that its answer be accepted as timely filed as to all four pleadings even though it is, strictly speaking, late filed as to two pleadings.

We find that no prejudice to any party would arise by accepting El Paso's answer as timely filed, and as no party has opposed El Paso's request, we will accept it as timely filed in all four dockets.

The amendments of Mountain Fuel, Northwest, Clay Basin, and El Paso request an extension of the interim participation of El Paso to September 30, 1980. This would result in an enlargement of the volumes to El Paso and the continued use of temporary compressors now in place. El Paso states that the only effect on cost resulting from the amendments would be a slight increase in its surcharge necessitated by an increase in the line of credit extended to Clay Basin. In sum, El Paso would participate through Clay Basin for a longer period than originally proposed, to a greater extent, and at a slightly higher cost.

The pleadings of AEPCO, El Paso, and Clay Basin raise a multitude of issues, certain of which we find should be addressed in a hearing in this proceedings. Specifically:

(1) Whether applicants have shown a need for this extended project for the protection of El Paso's East-of-California (EOC) high-priority customers?

(2) What conditions, if any, should be attached to a certificate in this matter if one should issue?

(3) Will this extended project benefit the four named EOC customers in a discriminatory manner in relation to other EOC customers?

(4) Is El Paso's rate and surcharge procedure fair and equitable?

We herein set these issues for hearing, and therefore establish the date of July 11, 1978, previously set as a hearing date in this matter, as the date on which a prehearing conference shall be convened to establish procedures to expedite the orderly conduct of the formal hearing and to further define issues.

Our order herein should not be understood, however, to authorize relitigation of issues pending in other procedures as explained in our order of September 30, October 14, and December 6, 1977. The hearing in this matter should address this project and its impact alone and should not overlap with on-going system-wide proceedings, specifically Docket Nos. RP72-6, et al.

An additional timely petition to intervene in this matter was filed by Citizens Utilities Co. (Citizens), a natural gas and electric company serving Santa Cruz County, Arizona. Citizens is wholly reliant on El Paso for its natural gas requirements. Therefore, we find that participation by Citizens in these proceedings may be in the public interest.

Applicants request temporary authorization to continue their arrangement and expand it as described herein. We find that applicants have demonstrated that an emergency need exists, but we find that the requested temporary authorization should be subject to a condition, to wit: A refund of volumes to those customers of El Paso whose supply will be curtailed to provide the natural gas for this interim arrangement will be required if it is finally determined that there was, in fact, no emergency need.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Nat-

[1] Order of Sept. 30, 1977, mimeo at 2.

[2] Arizona Public Service Co., Southern Union Co., Southwest Gas Corp., Tucson Gas & Electric Co.

[3] Said temporary authorization was amended as to Docket No. CP77-512 on October 4, 1977.

[4] May 2, 1978, in Docket No. CP77-289; May 5, 1978, in Docket No. CP76-285; May 8, 1978, in Docket No. CP77-512; and May 9, 1978, in Docket No. CP77-511.

[5] On June 5, 1978, AEPCO filed a reply to the Answers of El Paso and Clay Basin which fails to state reasons or cite authority which would allow this unauthorized, supplemental pleading to be accepted.

ural Gas Act that a public hearing be held on the matters involved and the issues presented as hereinbefore described and limited.

(2) Because no prejudice has been shown and no party has objected, we find that El Paso Natural Gas Co. answer of May 23, 1978, should be recevied as timely filed in all dockets.

(3) Participation in these proceedings by the Citizens Utilities Co. may be in the public interest.

(4) Because a present emergency exists, the public convenience and necessity requires that temporary authorization be issued as hereinbefore conditioned.

The Commission orders:

(A) A prehearing conference is to be convened on July 11, 1978, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to discuss procedural and substantive issues. The Presiding Judge has authority to establish and change all procedural dates and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(B) The answer of El Paso Natural Gas Co. filed on May 23, 1978, is received as timely filed in all dockets.

(C) Citizens Utilities Co. is permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such petitioner shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene, and *Provided, further,* That the admission of such petitioner shall not be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in this proceeding.

(D) The temporary certificates requested shall be issued subject to the conditition hereinbefore described.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19299 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. RI78-13]

MULLINS & PRICHARD

Amended Petition for Special Relief

JULY 6, 1978.

Take notice that on May 24, 1978, Mullins & Prichard (Petitioner), 416 Oil and Gas Building, New Orleans, La. 70112, filed an amended petition for special relief in Docket No. RI78-13 pursuant to Section 2.76 of the Commission's Rules of Practice and Procedure.

Petitioner now seeks authorization to charge $1.89 per Mcf for gas currently being sold at $.31 per Mcf from Wells No. 1 and No. 2 on State Lease 2864, Mallard Bay Field, Cameron Parish, Louisiana to Texas Gas Transmission Company. In Petitioner's initial filing made on November 21, 1977, authorization to charge a rate of $2.16 per Mcf was sought.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 17, 1978, file 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19307 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-459]

NORTHERN STATES POWER CO.

Filing

JULY 6, 1978.

Take notices that Northern States Power Co. (Northern States), on June 26, 1978, tendered for filing Supplement No. 2, dated June 12, 1978, to the Interconnection and Interchange Agreement, dated September 12, 1977, with the city of Kenyon.

Northern States indicates that Supplement No. 2 terminates Supplement No. 1 and amends Article IV of the Interconnection and Interchange Agreement deleting sections no longer needed because Kenyon has agreed to purchase its power and energy requirements from Northern States.

Northern States further indicates that Supplement No. 2 adds a new § 4.09 Services to Be Rendered, providing the following services schedules: 'A' Load Pattern Power; 'B' Emergency and Scheduled Outage Energy; 'E' Economy Energy; and 'H' Peaking Power.

Northern States requests an effective date of July 21, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19308 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-469]

PENNSYLVANIA ELECTRIC CO., ET AL.

Filing of Proposed Schedule to Power Pooling Agreement

JULY 6, 1978.

In the matter of Pennsylvania Electric Co., Metropolitan Edison Co., and Jersey Central Power & Light Co.

Take notice that on June 30, 1978 the GPU Service Corp. tendered for filing, on behalf of the above listed utilities, proposed Schedule 5.03, to the existing Agreement among them dated July 21, 1969.

The GPU Service Corp. states that the proposed revised schedule Transmission Charges for Delivery of Three Mile Island Unit No. 2 Output, proposes that the transmission charge for the delivery of the output of that portion of Three Mile Island Unit No. 2 that is the entitlement of Pennsylvania Electric and Jersey Central Power be revised to reflect the revised Three Mile Island No. 2 entitlement of Pennsylvania Electric and Jersey Central Power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19309 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-457]

PENNSYLVANIA POWER & LIGHT CO.

Filing

JULY 6, 1978.

Take notice that on June 26, 1978, Pennsylvania Power & Light Co. (PP&L) filed, pursuant to section 35 of the Commission's Rules and Regulations, a new contract relating to a change in statues in the resale service to the Borough of Quakertown, Bucks County, Pa.

PP&L indicates that the purpose of this filing is to reflect a change in status in the service to Quakertown from service through 2-66 KV and 1-12 KV lines to service through only 2-66 KV lines. PP&L further indicates that Quakertown does not currently take any of its energy requirements through the 12 KV line and PP&L desires to remove said line. PP&L further indicates that Quakertown has indicated its concurrence to said removal and the new contract has been executed. PP&L proposes that the new contract become effective upon acceptance by the Commission.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19310 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-464]

POTOMAC ELECTRIC POWER CO.

Proposed Change in Delivery Points

JULY 6, 1978.

Take notice that Potomac Electric Power Co. (Pepco) on January 29, 1978, tendered for filing, pursuant to section 205 of the Federal Power Act, a proposed change in its resale electric rate schedule FPC No. 32 for service to its sole resale customer, Southern Maryland Electric Cooperative, Inc. (SMECO). Pepco indicates that the change would amend the specifications of certain delivery points to reflect the sale of a section of transmission line by Pepco to SMECO on an effective date of June 6, 1978 for the proposed changes and requests that the Commission waive the prior notice requirement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before July 14, 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 be proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19311 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-462]

SOUTHWESTERN PUBLIC SERVICE CO.

Proposed Tariff Change

JULY 6, 1978.

Take notice that Southwestern Public Service Co. (SPSC) on June 27, 1978 tendered for filing proposed changes in its Interconnection Agreement between Lea County Electric Cooperative, Lovington, N. Mex. and in its Interconnection Agreement between New Mexico Electric Service Co., Hobbs, N. Mex.

SPSC states that for contracting purposes, Lea County and New Mexico Electric Service Co. have joined together to form one entity. These two parties have agreed to interconnect their two systems by the construction of a 115,000 volt transmission line between Lovington and Hobbs, N. Mex., according to SPSC.

Copies of this tendered filing have been served on the cities of Brownfield, Tex. and Canadian, Tex., according to SPSC.

SPSC proposes an effective date of October 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19312 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. CP78-376]

TOWN OF METCALFE, MISS., AND TEXAS GAS TRANSMISSION CORP.

Application

JULY 6, 1978.

Take notice that on June 19, 1978, town of Metcalfe, Miss. (Applicant), Town Hall, Metcalfe, Miss. 38760, filed in Docket No. CP78-376 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Gas Transmission Corp. (Respondent) to establish physical connection of its transportation facilities with the proposed facilities of Applicant, and to sell natural gas to Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it requests connection to an 18-inch transmission line owned by Respondent and located approximately 0.7 mile west of Applicant's corporation limits. Applicant asserts that it would construct a connection with Respondent's 18-inch line and 4.8 miles of transmission line which would make up its distribution system in order to provide natural gas service to the town of Metcalfe. Applicant further states that Respondent's 18-inch line enters Mississippi in Washington County from Arkansas and travels north through Mississippi to Tennessee.

Applicant estimates its 3d year peak day natural gas requirements to be 345.5 Mcf with an estimated third year annual requirement of 24,610 Mcf. Applicant indicates that it utilizes a 2-percent growth factor after the initial 3-year period ending in 1981.

Applicant asserts that the estimated cost of the proposed gas system to be constructed is $270,000 which it proposes to finance with a bond issue. Applicant further indicates that the securities will be underwritten by Thorn,

Alvis, Welch, Inc. Investment Securities, when and if they become available.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 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 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19313 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. OR78-1 (Formerly I&S Docket No. 9164)]

TRANS-ALASKA PIPELINE SYSTEM

Request for Release of Documents Obtained by Staff

JULY 6, 1978.

Take notice that on June 7, 1978, the State of Alaska and the Alaska Pipeline Commission staff submitted a letter to the Commission requesting the release of certain documents in the above captioned proceeding.

The documents in question are presently maintained by FERC Staff as part of its investigative files relating to a management audit of the planning, design and construction of the Trans-Alaska pipeline system. The documents, in large measure, were obtained by Staff's contractor, Touche Ross & Co., from the Alyeska Pipeline Service Co. during the period of January 1 through July 31, 1977.[1]

Any person wishing to do so may submit comments in writing concerning the release of documents to the requesting parties. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 27, 1978. Copies of the letter are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19314 Filed 7-12-78; 8:45 am]

[1] At the time the subject records were obtained, Touche Ross & Co. was acting as an agent for the Interstate Commerce Commission (ICC). On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the investigation instituted into those matters by the ICC was transferred to the Federal Energy Regulatory Commission, which has continued the engagement of Touche Ross & Co. to act as its agent.

[6740-02]

[Docket No. RP78-11]

TRUNKLINE GAS CO.

Informal Conference

JULY 5, 1978.

Take notice that an informal conference in the above-captioned proceeding will be held on July 13, 1978, at 10 a.m. e.d.t. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. The conference is being convened in accordance with the agreement of the parties established at an earlier settlement conference in this rate proceeding.

Customers and other interested persons will be permitted to attend, but if such persons have not been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the terms of a proposed settlement agreement which is being circulated.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19300 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-310]

UNION ELECTRIC CO.

Order Granting Motion To Accept Withdrawal of Notice of Cancellation and To Terminate Proceedings

JULY 6, 1978.

On May 25, 1978, pursuant to §§ 1.34 and 1.13 of the Commission's rules of practice and procedure, Union Electric Co. (Union) filed a motion requesting that the Commission reconsider its order of May 12, 1978, in this docket by setting aside its order of May 12; granting an extension of time to file an answer to the May 1, 1978, petition to intervene and protest of Associated Electric Cooperative, Inc. (Associated) and accepting for filing Union's answer, a copy of which was attached to the motion. In its answer, Union requests that Associated's petition to intervene be denied.

Our order of May 12, 1978, in this docket granted Associated's May 1, 1978, petition to intervene; accepted for filing Union's April 14, 1978, notice of cancellation of Union FPC Rate Schedule No. 69[1] effective as of June 1, 1978, as requested by Union; suspended it for five months to become effective on November 1, 1978, unless a final Commission order issues before such date, and instituted an investigation and hearing to determine if the proposed cancellation was in the public interest. We further ordered Union to continue to serve Associated under Union Rate Schedule FPC No. 69 during the suspension period, or until further order of the Commission prior to the expiration of the suspension period. Our action was predicated on the belief that "the reliability and adequacy of electric service to electric consumers in Missouri and surrounding states may be adversely affected by Union's April 14 filing."

By letter dated May 30, 1978, and addressed to the Secretary of the Commission, Union tendered for filing a withdrawal of notice of cancellation, a motion to accept withdrawal of notice of cancellation, and a motion addressed to the Presiding Administrative Law Judge requesting a stay of the proceedings pending Commission action on the motion to accept withdrawal. By order issued May 31, 1978, the Presiding Judge granted Union's motion to stay proceedings pending our action on Union's May 30 motion to accept withdrawal and to terminate. For the reasons stated below, we shall grant Union's motion to accept withdrawal of notice of cancellation and to terminate the proceedings. Such action eliminates the need for us to address the requests contained in Union's May 25 filing.

After a hearing has commenced in a proceeding, a party may withdraw a pleading by Commission order for good cause shown pursuant to 18 CFR 1.11(d)(1). Termination of a proceeding must also be consistent with the public interest. In its transmittal letter to the Secretary of the Commission, dated May 30, 1978, Union states that the filings attached to the letter "are being made to allow Associated Electric Cooperative, Inc. (Associated) and Union Electric (UE) time to complete their negotiations for a new interchange agreement". In support of the requests contained in the attached May 30 filings, Union represents that "pending their negotiations, the terms and conditions of the March 27, 1968, interchange between UE and Associated (UE's Rate Schedule FPC No. 69) will cover transactions between the parties." Union states that it filed its withdrawal of notice of cancellation without prejudice to its right to refile pursuant to 18 CFR 35.15 should nego-

[1] Interchange agreement dated May 27, 1968, between Union and Associated.

tiations not be successful. However, Union states in its motion to accept withdrawal and to terminate the proceedings that it believes that negotiations for a new interchange agreement will be successful and that such new agreement will be in the public interest. We note that Associated and the Commission staff support the grant of Union's May 30 motion to accept withdrawal and to terminate.

In its May 25 motion for reconsideration, Union states, inter alia, that Associated's May 1, 1978, filing contained incorrect facts pertaining to the history of negotiations between the two parties to obtain a new interchange agreement. Union then summarizes its view of the pertinent facts which do conflict with the alleged facts set forth in Associated's May 1 filing. We note that Associated has not filed a response to Union's May 25 answer, but has concurred in Union's May 30 motion requesting acceptance of withdrawal of notice of cancellation and termination of the proceedings. We view the foregoing development with favor and believe that a grant of Union's May 30 motion to accept withdrawal and to terminate is in the public interest. Accordingly, we need not act on the requests contained in Union's May 24 filings, as they are mooted by our action herein.

Our order of May 12 required that Associated be provided electric service under the March 27, 1968, interchange agreement at least until November 1, 1978, and called for the expenditure of time and resources by the parties and the staff to conduct an investigation into the public interest effects of Union's proposed termination. By our action herein, valuable resources may be conserved and Associated will continue to receive service under Union Rate Schedule FPC No. 69 indefinitely until a new interchange agreement is negotiated or Union files a new notice of cancellation pursuant to 18 CFR 35.15.

The Commission finds: (1) Good cause exists to grant Union's May 30, 1978 motion to accept withdrawal of notice of cancellation and to terminate the proceedings.

The Commission orders: (A) Union's May 30, 1978, motion to accept withdrawal of notice of cancellation and to terminate the proceedings is hereby granted.

(B) Union's May 30, 1978, notice of withdrawal of cancellation is hereby granted and the proceedings instituted by the Commission's order of May 12, 1978 are hereby terminated.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19301 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. CP78-362]

UNITED GAS PIPE LINE CO.

Pipeline Application

JULY 5, 1978.

Take notice that on June 2, 1978, United Gas Pipe Line Cp. (United), P.O. Box 1478, Houston, Tex. 77001 filed an application in Docket No. CP78-362, pursuant to section 7(c) of the Natural Gas Act, as amended, requesting temporary and permanent authorization to transport gas for Southern Natural Gas Co. (Southern), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission.

United states that pursuant to a transportation agreement dated May 16, 1978, between United and Southern, Southern will deliver or cause to be delivered to United for transportation volumes of natural gas of up to 40,000 Mcf per day at a point of receipt on United's offshore pipeline system in Eugene Island Area, Block 51, Offshore Louisiana. United will redeliver equal volumes (Mcf-for-Mcf basis), less fuel and company-used gas, to Southern at various existing points of interconnection between United and Southern.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 19, 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 (19 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. 78-19302 Filed 7-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-458]

WISCONSIN POWER & LIGHT CO.

Filing of Proposed Wholesale Power Contract

JULY 6, 1978.

Take notice that on June 26, 1978, Wisconsin Power & Light Co. (WPL) tendered for filing a wholesale power contract dated June 6, 1978, between the city of Shullsburg, Wis. and WPL. WPL states that this contract will supersede an existing contract for wholesale electric service dated June 18, 1968, and designated WPL Rate Schedule FPC No. 104.

WPL requests a proposed effective date of July 30, 1978. WPL indicates that a copy of the wholesale power contract and the filing have been provided to the city of Shullsburg and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before July 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19315 Filed 7-12-78; 8:45 am]

[3128-01]

Office of the Secretary

ENERGY TECHNOLOGY; SOLAR, GEOTHERMAL, ELECTRIC, AND STORAGE SYSTEMS

Meeting

Notice is hereby given that the Department of Energy, Office of Solar, Geothermal, Electric, and Storage Systems (ETS), in conjunction with the Solar Energy Research Institute, is inviting public interest groups, private industries, governmental organizations, and interested individuals to a

public meeting in Washington, D.C., August 8 and 9, 1978. The purpose of the meeting is to participate in the program planning process for the solar energy program under the responsibility of the Assistant Secretary for Energy Technology. The meeting will be held at the National Guard Auditorium, 1 Massachusetts Avenue NW., Washington, D.C., from 9:30 a.m. to 12:30 p.m. and from 2 to 5 p.m. each day. This meeting is aimed at soliciting as much direct comment, criticism and concrete suggestions for solar energy program planning as can be obtained. The meeting is also designed to serve as a pilot project as can be obtained. The meeting is also designed to serve as a pilot project for similar meetings for other ETS technologies to be held in the future. Anyone wishing to attend is asked to advise Dr. John E. Mock, Senior Science Adviser, ETS, and to provide him with any suggestions as to topics which might be discussed at the meeting, as well as specific ideas for the meeting's format and agenda. The focus of the meeting will be on the solar energy fiscal year 1979 program and follow-on years. Information on the current program will be sent to those who advise of their intention to attend, along with a request to submit written comments in advance if they so desire.

It is stressed that the aim of this public meeting is to promote open review of ETS solar energy program and to solicit genuine public participation in dealing with the development of solar energy as a most valuable basic national resource. Information with respect to the meeting and comments should be addressed to: Dr. John E. Mock, Senior Science Adviser, Department of Energy, 600 E Street NW., Washington, D.C. 20545, 202-376-4105.

Issued in Washington, D.C., on July 7, 1978.

WILLIAM P. DAVIS
Deputy Director of Administration.

[FR Doc. 78-19249 Filed 7-12-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 926-7]

CLEAN AIR ACT

Notice of Proceeding; Hearings

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of proceedings under section 125 of the Clean Air Act.

SUMMARY: The Environmental Protection Agency has been petitioned by the United Mine Workers of America, District 6, The Ohio Mining and Reclamation Association, Senator Metzenbaum of the State of Ohio and Governor Rhodes of the State of Ohio to initiate proceedings pursuant to section 125 of the Clean Air Act as amended in 1977 (42 U.S.C. 7401 et seq.).

Section 125(a) of the Act authorizes the Governor of any State, or the Administrator of the Environmental Protection Agency (EPA), or the President (or his designee), after notice and opportunity for public hearing, to determine whether action under section 125(b) and (c) is necessary to prevent or minimize significant local or regional economic disruption or unemployment which would otherwise result from use by any major fuel burning source of fuels other than locally or regionally available coal to comply with State Implementation Plan (SIP) requirements. Such action may include requirements that such source enter into long-term contracts for supplies of regionally available coal or coal derivatives and that such source acquire additional means of limiting emissions, including stack gas scrubbing, to comply with the requirements of the plan. The source may also be required to comply with such schedules and timetables as may be necessary to meet these plan requirements. EPA has decided to collect information and hold public hearings pursuant to section 125 with respect to the following fuel burning utilities in Ohio: Cincinnati Gas and Electric Co., Cleveland Electric Illuminating Co., Columbus and Southern Ohio Electric Co., Dayton Power and Light Co., Ohio Edison Co., Ohio Power Co., Ohio Valley Electric Corp. and Toledo Edison Co.

The purpose of this notice is to solicit public comment on the issues, request the submission of factual information and to give notice that public hearings will be held for the purpose of assisting the Administrator of EPA to determine whether there would be significant local or regional economic disruption or unemployment from use of other than locally or regionally available coal and whether rules or orders pursuant to section 125 (b) and (c) should be proposed.

DATES: Public Hearings: August 15 and 22, 1978. Requested deadline for submission of notice of appearance at public hearings: July 31, 1978. Requested deadline for submission of written comments and factual information for incorporation into public hearings presentations and discussions: July 31, 1978. Requested deadline for submission of written materials and closing of public hearing records: October 16, 1978. Expected Administrator's proposed determination under section 125(a): November 15, 1978. Expected final determination: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

F. J. Biros, Chief, Techncial Support Branch, Division of Stationary Source Enforcement, EN-341, U.S. EPA, 401 M Street SW., Washington, D.C. 20460; 202-755-2560.

SUPPLEMENTARY INFORMATION: The Clean Air Act of 1970 required each State to adopt and carry out an implementation plan to reduce air pollution to a nationwide health protective primary standard level by mid-1975. By 1976, Ohio had failed to adopt an approvable plan for sulfur dioxide pollution (emitted mostly from coal burning commercial and industrial power plants). On August 27, 1976, EPA, pursuant to the requirements of the Clean Air Act, promulgated a sulfur dioxide plan for Ohio which was challenged by Ohio industries and the State and was upheld with respect to the major general issues by the U.S. Court of Appeals for the Sixth Circuit on February 13, 1978. On June 29, 1978, the Court disapproved the limits set for certain isolated, rural power plants and ordered EPA to reconsider the technical basis for those limits.

Prior to EPA's promulgation, Ohio remained the one major industrialized State in the Nation totally lacking an enforceable implementation plan for sulfur dioxide. We are now fully 6 years after an implementation plan was due in Ohio under the 1970 Clean Air Act, and 3 years after utilities and industries should have been required to be in compliance with such a plan. Furthermore, final compliance dates for many fossil fuel fired power plants, including several which are the subject of the present "local or regional coal" petitions, are a minimum of 15 months in the future. Plan provisions permit a power plant to elect either low-sulfur coal or stack gas scrubbing as a compliance method. The final compliance date for most power plant parties to the suit choosing low sulfur coal as a means of compliance is October 19, 1979, and the final compliance date for such power plants choosing stack gas scrubbing as a method to achieve compliance is June 13, 1980. As explained below, it is because most power plants in the State are choosing low-sulfur coal as a compliance method that the present "local or regional coal" petitions were initiated.

HISTORY OF THE SO_2 PLAN DEVELOPMENT IN OHIO

The State of Ohio submitted a plan for approval by the Administrator of EPA as required by the Clean Air Act on January 30, 1972. EPA approved the provisions of the plan with certain exceptions on May 31, 1972; full approval occurred on September 22, 1972. This approval was timely challenged pursuant to the Act and re-

manded by the Sixth Circuit Court of Appeals for a federal rulemaking hearing in *Buckeye Power Co.* v. *EPA*, 481 F. 2d 162 (6th Cir., 1973). Before the hearing, however, the Governor of Ohio withdrew the SO_2 portion of the plan on August 27, 1973; all other portions of the plan were approved on April 15, 1974. Ohio then prepared a new SO_2 plan which was submitted to EPA for comment. State hearings on this plan were held in November, 1973. The Governor submitted the second plan for EPA approval on May 30, 1974. The plan was challenged at the State level, however, and was voided on procedural grounds by the Ohio Environmental Board of Review on September 12, 1974. There were no further State revisions submitted to EPA, and finally, the Governor of Ohio withdrew the plan a second time on July 16, 1975.

Because of Ohio's failure to adopt an approvable plan, the Administrator of EPA was required to promulgate a plan for Ohio through Federal rulemaking under the act. A Federal plan was first proposed for Ohio on November 10, 1975. During the succeeding 9 months, public hearings were held in the State of Ohio, oral and written comments were received, and discussions were held with commenters on specific points. Finally, on August 27, 1976, after reanalysis of all data and methodology used to determine emission limits, and compilation of a comprehensive technical support document, EPA promulgated regulations for the control of SO_2 emissions in Ohio (41 FR 36324). This plan was promulgated more than 4 years after all other State plans were in effect and more than a year after the mid-1975 deadline Congress had set for attainment of air quality standards.

The Federal plan was challenged by 32 Ohio corporations and all investor owned utilities under section 307(b) of the act on the grounds that the informal rulemaking hearings conducted by EPA were improper and that the major air pollution model employed by EPA in establishing emission limitations for particular stationary sources was invalid. A stay in enforcement of the plan was granted by the court upon a petition by 24 parties who said that they were not afforded an opportunty to comment on the regulations as finally issued. These parties were allowed to submit certain evidence and comment, and response was prepared by EPA. As a result, an amended plan was published on May 31, 1977 (42 27588) and the effective date of the SO_2 regulations was set at June 17, 1977 for these parties. Ohio, belatedly entered the case as intervenor and requested that the court disapprove the plan as irrational and arbitrary and rely on Ohio to come forward with a more rational plan some time in the future. In an opinion issued February 13, 1978, the Sixth Circuit Court of Appeals affirmed EPA's SO_2 control plan for urban areas with respect to the major general issues. The court rejected the State of Ohio's petition for disapproval of the plan, upheld EPA's use of informal rulemaking in promulgating the plan and held that EPA's use of the major air pollution model which served as a basis for the plan was proper. *Cleveland Electric Illuminating Co.* v. *EPA*, 572 F. 2d 1150 (6th Cir., 1978). On June 29, 1978, the court issued a second opinion on several remaining issues which it had not decided in its first opinion. Specifically, the court affirmed EPA's use of the air quality model for rural sources but disapproved the emission limits set for certain rural power plants and ordered EPA to reconsider the technical record concerning those specific plants, *Cincinnati Gas and Electric Co.* v. *EPA*, Nos. 76-2090, 77-1367, 76-2232, 77-1361, 76-2241, 77-1357, 76-2278 (6th Cir., June 29, 1978). A chronology of major events in the implementation of Clean Air Act requirements in Ohio follows.

Jan. 30, 1972—State of Ohio submits clean air plan to EPA.
Sept. 22, 1972—EPA approves plan fully; but approval is challenged in Federal Appeals Court.
Aug. 27, 1973—Governor of Ohio withdraws the sulfur oxide (SO_2) portion of plan.
Apr. 15, 1974—All other portions of plan approved. State prepares new SO_2 plan.
May 30, 1974—State submits SO_2 plan. It is challenged at State level.
Sept. 12, 1974—Sulfur oxide plan turned down by State Environmental Board of Review on procedural grounds.
July 16, 1975—Governor again withdraws SO_2 plan.
Nov. 10, 1975—Federal EPA proposes plan for Ohio SO_2 control. Public hearings held, comments taken, discussions held on various points for next 9 months.
Aug. 27, 1976—After detailed technical evaluations of public comments, Federal EPA publishes final regulations. Ohio Plan is 4 years behind all other State plans.
September 1976—Final Federal SO_2 plan is challenged in Federal Appeals Court by 32 Ohio corporations and all investor-owned utilities in state.
May 31, 1977—Amended plan published by order of Court and effective date for regulations to take effect set for June 17, 1977 for petitioners. State of Ohio tells court it will come up with its own plan.
Feb. 13, 1978—Federal Sixth U.S. Circuit Court of Appeals affirms EPA plan for urban areas, rejects Ohio's appeal for disapproval.
—United Mine Workers District 6 petitions EPA to initiate section 125 proceedings.
Apr. 17, 1978—Governor Rhodes requests the President for a 3-year moratorium on compliance with SO_2 requlations in Ohio.
Apr. 19, 1978—EPA requested by Ohio Mining and Reclamation Association to initiate section 125 proceedings.
May 4, 1978—Governor Rhodes asks EPA to hold hearings pursuant to section 125.
May 8, 1978—Senator Metzenbaum urges the President or EPA to initiate proceedings under section 125.
June 29, 1978—Federal Appeals Court releases second opinion on several remaining issues concerning rural sources.

The Need for SO_2 Control in Ohio

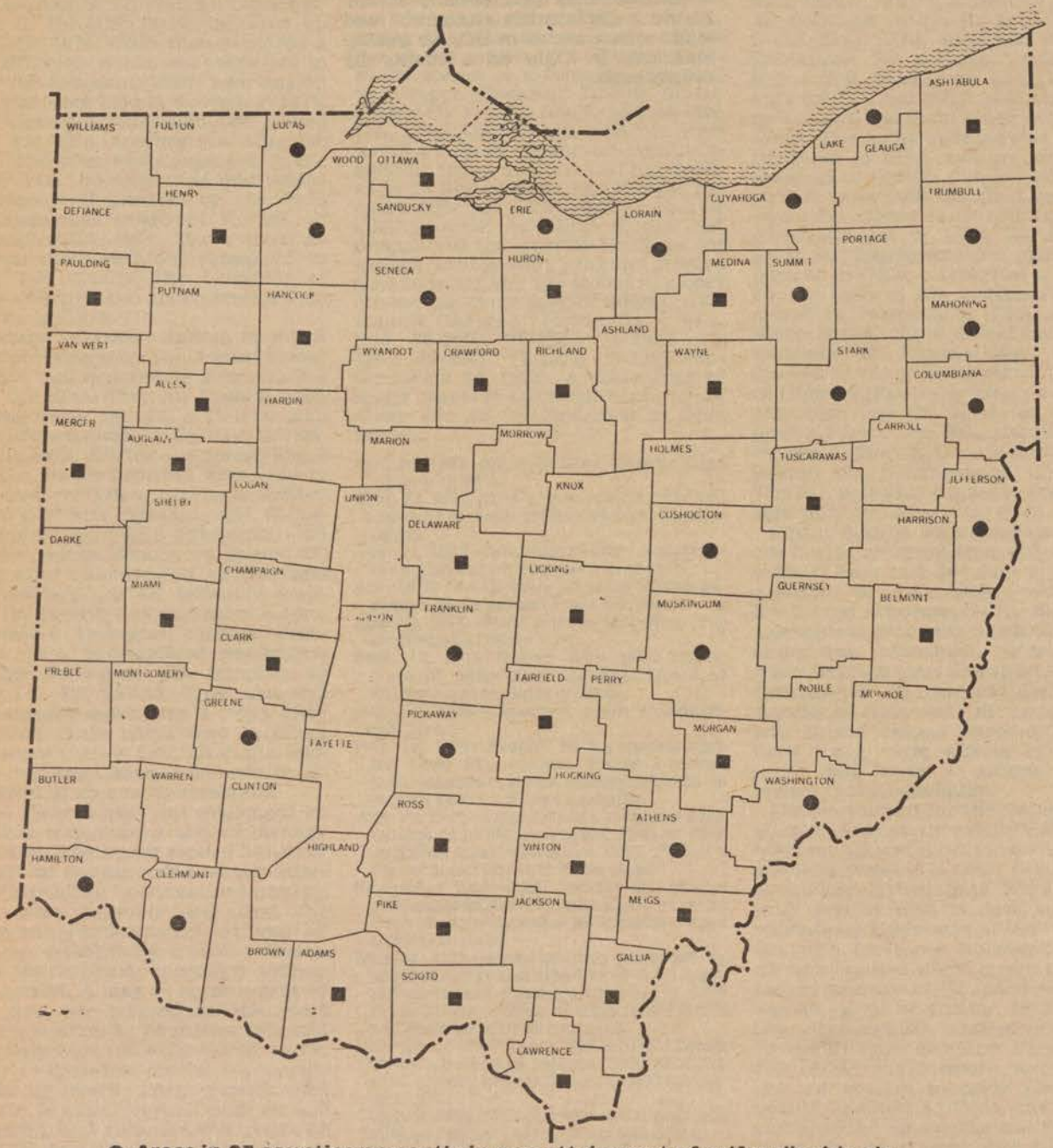
The Clean Air Act requires that each State develop a plan to control air pollution within its borders. The State plan must establish emission limitations for pollution sources to insure that ambient air quality standards for SO_2 and other pollutants will be attained and maintained within the State. The ambient standards are established by EPA and are expressly designed to protect public health and welfare from both the short term and long term effects of air pollution. The Clean Air Act of 1970, the starting point for implementation plan development in Ohio, established a timetable for each of the interim steps required to be taken by EPA and the States if the mid-1975 deadline for attainment of National Air Quality Standards was to be achieved. Because of Ohio's failure to develop an approvable plan and the need for Federal promulgation, the SO_2 standards attainment effort in Ohio is now 3 years behind the Congressional timetable. The SO_2 pollution danger is, therefore, especially acute in Ohio.

Sulfur dioxide pollution causes serious health problems from either short term (3-hour and 24-hour) high level exposure or long term, continuous lower level exposure. Sulfur dioxide is a dangerous pollutant which can cause emphsema, bronchitis, asthma and other lung diseases. The short term effects include an increased death rate, severity of respiratory illness and general illness among exposed populations. Long term effects low lower levels also pose a serious health hazard to the population.

Data developed for the Federal plan established that air quality standards, both annual and short term standards, are being violated in Ohio, particularly in the large urban areas. For the base year used by EPA in developing the regulations, there were at least 7 counties with measured violations of the annual standard which means that the annual average of SO_2 in these areas was 80 $\mu g/m^3$ or greater. In 16 counties, measured SO_2 equaled or exceeded the 24 hour exposure standard of 365 $\mu g/m^3$. Furthermore, since there are not enough properly placed air quality monitors in Ohio, the lack of any recorded air quality standard violations in other areas does not mean that additional SO_2 air pollution problems do not exist. EPA's air pollution models, in fact, project violations of the primary or secondary ambient air quality standards in 55 of the 88 counties in Ohio without the SO_2 plan's control requirements. It must also be remembered that the present air quality standards have been set with little

or no margin of safety. Therefore, any violations of the air quality standards should be viewed extremely seriously since public health consequences, particularly for the very young, aged, or debilitated, may be especially severe. Figure 1 displays the attainment and maintenance status of SO_2 air quality standards in Ohio on a county by county basis.

Figure 1: Sulfur dioxide air quality attainment and maintenance status of Ohio counties.



- Areas in 23 counties presently in non-attainment of sulfur dioxide air quality standards. To attain, sources must comply with promulgated sulfur dioxide regulations.
- Thirty two counties presently in attainment, but compliance with sulfur dioxide regulations necessary so that standards will not be exceeded in the future.

remaining 33 counties presently in attainment; no regulations necessary.

Present Control Requirements for SO_2 Emitting Facilities in Ohio

The Ohio SO_2 plan compliance schedules set forth in 40 CFR 52.1882 for the sources subject to the amended May 31, 1977 plan, are tailored to the different categories of SO_2 sources and the different control implementation steps each must take. For fossil fuel fired power plants, operators must have submitted within 17 weeks (October 14, 1977) from promulgation of the plan a statement of intent to use either low sulfur fuel, including blended or washed coal, or stack gas scrubbing to comply with the requirements of the regulations. If such an operator intends to use low sulfur fuel, the compliance schedule also required that the operator include with the 17 week election a projection of the amount of fuel by types that will be adequate to meet compliance for 10 years. Fifteen weeks later (January 27, 1978), the operator must submit data demonstrating the availability of fuel necessary for compliance. Four weeks later (February 24, 1978, 9 months after promulgation), the operator is required to notify EPA as to the need for boiler modifications and, if so, let the necessary contracts by week 50 (June 2, 1978) with construction to be complete by week 118 (September 21, 1979). Actual compliance with the emission limitation of the regulations is not finally required until 122 weeks after promulgation, October 19, 1979, more than 2 years after promulgation.

If an operator intends to use stack gas scrubbing to meet the emission limitation, the compliance schedule allows the maximum 3 year implementation period provided for in the Clean Air Act. As required by the Act (a plan must include timetables for compliance) and to better assure that compliance will occur by the regulatory deadline, the regulations specify the steps which the operators must meet. Within 17 weeks (October 14, 1977) the operators are required to let the necessary contracts for the construction of the scrubbing equipment. Actual on site construction, however, is not required to be completed until 145 weeks after promulgation (March 28, 1980) with final compliance by the 3-year deadline, June 13, 1980.

Final compliance dates for Ohio sources that were not parties to the Sixth Circuit Court of Appeals suit is August 27, 1979, 3 years following EPA's promulgation date, for either control aproach.

Under the amended plan, power plants are permitted extra time to comply if they choose stack gas scrubbing as the compliance method. EPA considers stack gas scrubbing to be the only near term commercially available and economic technology for control of sulfurdioxide emissions from burning of high sulfur coal. Power plant application of stack gas scrubbing now includes over 55,000 MW of capacity either in operation, under construction or planned. Operational systems total 34 units controlling 11,508 MW of power. The reliability and dependability of stack gas scrubbers have improved steadily to the point where many operational systems have shown high availabilities, in the 80-90 percent and higher range for extended periods, while controlling high sulfur and low sulfur coal emissions. This is especially important since alternate technologies with potential for eliminating or minimizing sulfur dioxide emissions from fuel burning power sources will not be commercially available until, at the earliest, the 1985-1990 time period for the technology in the most advanced state of development. These technologies include coal gasification, solvent refining of coal, chemical coal cleaning and fluidized bed combustion.

Implementation of the Metzenbaum Amendment

The Ohio sulfur dioxide plan permits power plant sources to elect low-sulfur fuel or stack gas scrubbing as a means of compliance with emission limitations. At present, EPA has no control over what compliance scheme a source selects or where it intends to, or in fact does purchase its coal. The petitions in this proceeding, which request that EPA institute action pursuant to section 125 of the Clean Air Act, the Metzenbaum Amendment or "local or regional coal" provision, were prompted by a concern that compliance with the SO_2 plan by Ohio power plants would result in large scale switching from Ohio high sulfur coal to low sulfur coal which would not be locally or regionally available. Such actions by the power plants may possibly result in significant local or regional economic disruption or unemployment. Figure 2 shows the locations of the Ohio power plants which EPA has decided should be included as the subject of these proceedings and areas of recent mining activity in Ohio.

Figure 2: Map of Ohio Showing Fuel Burning Plants Which Are the Subject of the Section 125 Proceedings, and Areas of Coal Mining Activity.

The Metzenbaum Amendment to the Clean Air Act provides that a Governor, the Administrator of EPA, or the President (or his designee) may determine that action is necessary to prevent or minimize significant local or regional economic disruption or employment that might result from the use of coal, other than locally or regionally available coal, or from the use of petroleum products or natural gas to comply with applicable SIP requirements. Upon such a determination, the Governor and the President's designee acting together, or the President (after taking into account the final cost to the consumer) may issue rules or orders pursuant to section 125(b) of the act. If such rules or orders are issued, the provisions of section 125(c) become effective. This means that the power plant may be required to use regionally available coal or coal derivatives under long-term contracts, and may also be required to use any additional means of limiting emissions, including stack gas scrubbing, that may be necessary to comply with the requirements of the plan. The plant may also be required to comply with such schedules and timetables as may be necessary to meet these requirements.

The purpose of these proceedings, described below, is to assist the Administrator in making a determination under the "local or regional coal" provision as to whether further action is necessary in Ohio to prevent or minimize local or regional economic disruption or unemployment. In response to the present petitions, EPA has also initiated a comprehensive economic and financial analysis intended to define the economic disruption and unemployment likely to result from use of fuel other than locally or regionally available coal or coal derivatives based on announced, proposed or potential actions on the part of the above named utilities in Ohio.

Briefly, this study will assess direct and indirect revenue, wage and job losses resulting from these actions, mitigated by the availablility of alternative fuel markets, jobs and unemployment benefits in the local or regional areas under consideration. In addition to financial and economic effects, the final costs to consumers in utility rates, health and environmental effects resulting from any action to be taken under section 125 will be examined. Engineering assessments will evaluate alternative compliance strategies for Ohio fuel burning facilities. Finally, coal assessments will evaluate the supply and demand for coal in Ohio and neighboring regions.

This economic analysis study will be phased and interim reports will be produced according to the following approximate schedule; (1) assessment of availability of low-sulfur eastern coal, July 1978; (2) engineering assessment of alternative compliance strategies for selected Ohio utilities, August 1978; (3) assessment of availability and utilization of coal in Ohio and other Appalachian markets, August 1978; (4) preliminary economic assessment, September 1978; (5) final complete assessment, October 1978. EPA intends to make all preliminary and final assessments available for external review and comment as they become available. A timely notice in the FEDERAL REGISTER will indicate the availability of documents, where copies may be obtained, requested deadline dates for comments and other necessary information.

AUTHORITY: Section 125 of the Clean Air Act as amended August 7, 1977, 42 U.S.C. 7425.

NOTICE OF PROCEEDINGS UNDER SECTION 125 OF THE CLEAN AIR ACT

I. PURPOSE OF THIS NOTICE

The purpose of this notice is to announce that the EPA has been petitioned by the United Mine Workers of America, District 6, the Ohio Mining and Reclamation Association, Senator Metzenbaum of Ohio and Governor Rhodes of Ohio to institute proceedings under section 125 of the Clean Air Act in the State of Ohio. EPA has made an initial decision to conduct an evaluation pursuant to section 125 with respect to the following utilities in Ohio: Cincinnati Gas & Electric Co., Cleveland Electric Illuminating Co., Columbus & Southern Ohio Electric Co., Dayton Power & Light Co., Ohio Edison Co., Ohio Power Co., Ohio Valley Electric Corp., and Toledo Edison Co.

EPA solicits public comment and views on the issues set forth below and requests the submission of factual information in the form of legal briefs, reports or other documents. This information is needed to assist the Administrator of EPA in determining whether actions under section 125 (b) and (c) of the act are necessary, and, if so, to assist in the development of a proposed rule or order. EPA also plans to conduct public informational hearings on the petition at the times and places indicated below to allow interested parties to make oral presentations. Section 125 of the Clean Air Act, 42 U.S.C. 7425, authorizes the Administrator of EPA, after notice and opportunity for public hearing, to determine whether in order to prevent or minimize significant local or regional economic disruption or unemployment, further actions under section 125 (b) and (c) are necessary. Such actions may include the entry of rules or orders requiring major fuel burning facilities in the State of Ohio to use regionally available coal or coal derivatives to comply with the Ohio plan requirements. Such rules or orders shall include further conditions or requirements as are required or permitted under section 125(c) of the act, to the extent necessary and proper. In taking any action under section 125(b), the President, the Governor, or the President's designee as the case may be, shall take into account the final cost to the consumer of such action.

II. ISSUES TO BE CONSIDERED IN THIS PROCEEDING

The Administrator of EPA shall consider the following issues in making a determination under section 125(a):

(1) Whether the fuel-burning facilities which are the subject of these proceedings constitute existing or new fuel-burning stationary sources (a) which have the design capacity to produce 250,000 Btu's per hour (or its equivalent), and (b) which are not in compliance with the requirements of the implementation plan or which are prohibited from burning oil, or natural gas, or both, under any authority of law, within the meaning of section 125 of the act?

(2) Whether the scope of the determination of potential economic disruption and unemployment should take into account all major fuel-burning facilities in the State of Ohio, or be limited to a consideration of the major fuel-burning facilities of the companies named in this notice or an alternative group including none, one or more of these companies and other major fuel-burning facilities?

(3) With respect to any and all major fuel burning facilities which are the subject of these proceedings, the geographic areas which the Administrator of EPA should determine to be the relevant local or regional area.

(4) The existence, availability, production, and utilization of coal or coal derivatives in the local and regional areas in which the major fuel burning facilities which are the subject of these proceedings are located, and the quantities, qualities, and costs of such fuels.

(5) The past, present, and proposed or potential future sources of fuels of the major fuel burning facilities which are the subject of these proceedings, and the quantities, qualities, and costs of such fuels, beginning with the year 1976 and continuing through all years for which information is available.

(6) The necessity for compliance with implementation plan requirements of any proposed or potential use of fuel other than locally or regionally available coal or coal derivatives by the major fuel burning facilities which are the subject of these proceedings in the operation of their facilities; and the scope, nature and extent of any alternative plans or methods for partial or complete compliance.

(7) The nature, scope, and extent of any actual or potential local or region-

al economic disruption or unemployment which will or may occur if the major fuel burning facilities which are the subject of these proceedings are allowed to use, in whole or in part, fuels other than locally or regionally available coal or coal derivatives in the operation of their facilities.

(8) Whether a rule or order issued pursuant to section 125(c)(1) may require a major fuel burning facility to enter into long-term contracts for supplies of regionally available coal or coal derivatives and not neccessarily locally available coal or coal derivatives?

(9) The final cost to consumers, including rate effects and environmental costs, or impact upon such costs to consumers, which may occur by entry of any rule or order pursuant to section 125 of the act in these proceedings.

(10) Whether any proposed action required to be taken by any fuel burning facility which is the subject of these proceedings as a result of the entry of a rule or order should be considered a modification for purposes of section 111, Standards of Performance for New Stationary Sources, of the act?

(11) The nature, scope, and extent of any other environmental impacts, including air quality impacts, that may result from the entry of any rule or order respecting any one or more of the major fuel burning facilities which are the subject of the proceedings, and especially from the viewpoint of assessing the applicability of the provisions of section 126, Interstate Pollution Abatement, of the act.

(12) Such other issues, legal, technical, or economic, that may arise during the course of these proceedings as are necessary for a full and proper consideration of the propriety of taking any action pursuant to the provisions of section 125 of the Clean Air Act.

III. SUBMISSION OF WRITTEN MATERIALS

EPA solicits and will accept written materials relevant to the issues set forth above from all interested parties at any time during the course of these proceedings. However, to facilitate planning for the public hearings, maintenance of the public hearing record and a final determination by the Administrator of EPA, the following submission dates are suggested. Requested deadline for submission of written comments and factual information for incorporation into the public hearing presentations and discussions: July 31, 1978. Requested deadline for submission of written materials and closing of the public hearing record: October 16, 1978. The written comments, views, and factual information submitted may be in any form including legal briefs, correspondence, reports, or other documents. Written material should be sent to the following address: F. J. Biros, Chief, Technical Support Branch, Division of Stationary Source Enforcement, EN-341, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments and information received, public hearing records, and reports of all relevant studies conducted by EPA in connection with these proceedings, will be available for public inspection and copying during normal business hours at the following locations: (1) Air Programs Branch, Air and Hazardous Materials Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604; (2) U.S. Environmental Protection Agency Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460; (3) Cleveland Public Library, Main Branch, 325 Superior Avenue, Cleveland, Ohio 44114; (4) Columbus Public Library, Main Branch, 96 South Grant, Columbus, Ohio 43215; (5) St. Clairsville Public Library, 108 West Main Street, St. Clairsville, Ohio 43950.

IV. PUBLIC HEARINGS

EPA will conduct public hearings according to the following schedule:

(1) August 15, 1978, 9 a.m., Cleveland, Ohio, Bond Court Hotel, 777 St. Clair Avenue, Cleveland, Ohio 44114.

(2) August 22, 1978, 9 a.m., St. Clairsville, Ohio, Sheraton Inn, I-70, exit 219, St. Clairsville, Ohio 43950.

V. PURPOSE AND CONDUCT OF THE PUBLIC HEARINGS

The purpose of the public hearings is to solicit and hear information relevant and necessary to allow the Administrator of EPA to propose a determination as to whether further action is necessary to prevent or minimize economic disruption or unemployment in a local or regional area because of the use by major fuel-burning sources of other than locally or regionally available coal or coal derivatives.

EPA will conduct informal, legislative-type public hearings. Every effort will be made to accommodate all interested persons. The time allotted will depend on the number of persons seeking an opportunity to make presentations. Topics relevant to the issues set forth above will be considered for the purpose of presenting oral testimony or submitting written comments. Parties may consolidate presentations. The requested deadline for submission of notice of appearance at the public hearings is July 31, 1978.

Any party wishing to appear and be heard should submit the following information: (1) name(s), title(s), and affiliation(s); (2) amount of time necessary for presentation; (3) subject matter presentation; and (4) an outline of the presentation or the full text of the presentation if available. Additional relevant written material may be submitted for the public hearing record at this time. All material will become part of these proceedings.

Transcripts of each public hearing will be made and retained for review or copying upon request at the sites indicated above as the repositories for written materials. No cross-examination of any person making oral presentation will be permitted. However, the chairperson may ask questions in order to clarify issues or to make the record complete. At his or her discretion, the chairperson may pose written questions from the audience. The hearing panel shall be composed of, at a minimum, representatives of the U.S. EPA headquarters offices, U.S. EPA Region V offices and the Ohio EPA.

Any submissions to the EPA solicited or requested by the foregoing should be made to the following address: F. J. Biros, Chief, Technical Support Branch, Division of Stationary Source Enforcement, EN-341, U.S. EPA, 401 M Street SW., Washington, D.C. 20460.

VI. FINAL DETERMINATION UNDER THESE PROCEEDINGS

EPA expects that a proposed determination by the Administrator with respect to the need for entry of rules or orders pursuant to subsections 125 (b) and (c) of the Clean Air Act will be issued on approximately November 15, 1978. The proposed determination will be followed by a comment period and public hearings. A final determination is expected by January 30, 1979.

VII. MODIFICATIONS OR AMENDMENTS TO THIS NOTICE

Details of the foregoing notice shall be subject to modification or amendment in whole or in part by EPA, at any time without notice, except that any such modification or amendment prior to the date of the first public hearing scheduled above shall be made by written notice superseding this notice, published in the same manner, or if on or after the date of the first public hearing, shall be made by announcement at the public hearing. Any such modification or announcement shall be prospective only.

Dated: July 5, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-19268 Filed 7-12-78; 8:45 am]

[6560-01]

[FRL 926-6]

SUBCOMMITTEE ON CADMIUM AS A POTENTIAL HAZARDOUS AIR POLLUTANT

Open Meeting

Under the provisions of Pub. L. 92-463, notice is hereby given of an open meeting of the Subcommittee on Cadmium as a Potential Hazardous Material of the Executive Committee of the Science Advisory Board of the U.S. Environmental Protection Agency. The meeting is scheduled on August 9 and 10, 1978, on each day in room 3906 of Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The meeting will begin each day at 9:30 a.m.

Access to the building is through either the Mall entrance or the West Tower entrance. Visitors must receive a visitor's card from the guard who will direct the visitor to the meeting room.

The purpose of the meeting is to review the documents prepared by the Agency as to whether cadmium should be listed as a potential hazardous air pollutant under the requirements of the Clean Air Act Amendments of 1977. The documents involved are: Health Assessment Document for Cadmium, Atmospheric Cadmium: Population Exposure Analysis, Sources of Atmospheric Cadmium, Carcinogen Assessment Group's Assessment of Carcinogenic Risk From Population Exposure to Cadmium in the Ambient Air. Public availability of these documents is through the Health Effects Division of the Office of Research and Development's laboratory at Research Triangle Park, N.C. 27711.

The Science Advisory Board has been requested by the Office of Research and Development and the Office of Air Quality Planning and Standards to announce that the closing date for public comments on the documents listed in the previous paragraph will be August 12, 1978, the end of the week of the Science Advisory Board Subcommittee meeting. Previously announced deadlines for public comments prior to the Science Advisory Board meeting have been extended.

The meeting is open to the public. Persons desiring to attend should preregister prior to close of business on August 5, 1978. Please contact Ms. Carolyn Osborne, 703-557-7710, to preregister. Persons desiring to provide the Subcommittee with materials for consideration should provide six (6) copies of materials prior to August 1, 1978, to assure distribution. Materials should be documented and scientifically substantive, but bulky references should be avoided. If other arrangements are needed, please contact the Subcommittee Officer, Dr. Joel L. Fisher, 703-557-7710, as soon as possible.

Dated: July 6, 1978.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc. 78-19245 Filed 7-12-78; 8:45 am]

[1505-01]

[OPP-33000/547 and 548; FRL 910-8]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

Correction

In FR Doc. 78-16318 appearing at page 2570 in the issue for Tuesday, June 13, 1978, on page 25470, in the third column, the first entry under "APPLICATION RECEIVED 33000/547" contained several errors and should have reads as follows:

EPA Reg. No. 10120-18. Cerfact Laboratories, Manufacturing Chemists, P.O. Box 983, Tucker, GA 30084. VIRO CERF AEROSOL. Active Ingredients: Orthophenylphenol 0.10%; Para-tertiary-amylphenol 0.05%; Essential oils 0.75%; Alcohol 57.00%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formula change. PM32

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-200, File No. 5103-C2-P-72 et al.]

BEEP COMMUNICATION SYSTEMS, INC., ET AL.

Memorandum Opinion and Order

Adopted: June 28, 1978.

Released: July 7, 1978.

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it an application filed on July 30, 1971 and resubmitted on December 3, 1971,[1] by Interelectronics Corp. (Interelectronics), file No. 3279-C2-P-72, an application filed on December 21, 1971, by Messages By Radio, Inc. (Messages), file No. 3786-C2-P-72, an application filed on February 10, 1972, by Beep Communication Systems, Inc. (Beep), file No. 5103-C2-P-72, and an application filed on February 10, 1972 by Phone Depots, Inc. d.b.a. Mobilfone Radio System (Phone Depots), file No. 5104-C2-P-72. Each application is for a construction permit to establish new or additional two-way facilities on frequency 152.18 MHz in the domestic public land mobile radio service (DPLMRS) in the New York metropolitan area.

[1]This application appeared on public notice on December 13, 1971.

2. Radio Dispatch Co. (Radio Dispatch), a radio common carrier operating two-way station KEC927 on frequency 152.18 MHz at Clarksville, N.J., filed an informal objection to grant of the Interelectronics application on December 21, 1971. Messages filed a "petition to dismiss or deny" the Interelectronics application on January 12, 1972. Responsive pleadings followed.

3. Mobile Radio Message Service, Inc. (Mobile Radio), a radio common carrier operating two-way station KEA260 at Brooklyn, N.Y., filed a "petition to deny" the Beep application on March 21, 1972, and responsive pleadings followed.

4. Mobile Radio filed a "petition to deny" the Phone Depots application on March 21, 1972, and responsive pleadings followed.

5. Phone Depots and Messages filed a "joint motion for declaratory ruling" on June 2, 1975. The two parties asked the Commission to rule whether an amendment filed to reflect a channel-sharing agreement between Phone Depots and Messages would constitute a major amendment under section 21.23(c) of the Commission's rules.[2] On June 17, 1975, Beep filed an informal objection to Phone Depots and Messages using the sharing agreement for a comparative advantage. Interelectronics filed an "opposition to motion for declaratory ruling" on July 10, 1975. Responsive pleadings followed.

6. The following issues are raised for our consideration:

(a) Whether grant of the Interelectronics application will cause harmful cochannel interference to station KEC927 of Radio Dispatch;

(b) Whether Interelectronics can operate as a radio common carrier pursuant to its certificate of incorporation;

(c) Whether Interelectronics possesses the requisite State authority to construct and operate the proposed facilities;

(d) Whether Interelectronics is financially qualified to construct and operate the proposed facilities;

(e) Whether Interelectronics has demonstrated public need for the proposed facilities;

(f) Whether the style of the Interelectronics application demonstrates that Interelectronics is not interested in serving the public as a radio common carrier;

(g) Whether various charges against Messages raised by Interelectronics in connection with its opposition to petition to deny warrant further consideration;

(h) Whether Beep has demonstrated public need for the proposed additional facilities;

[2]Section 21.23 lists the circumstances under which an amendment will be deemed to be a major amendment, thus subjecting the application to section 21.31, the "cutoff rule."

(i) Whether there have been any agreements between Beep and Phone Depots to file mutually exclusive applications;

(j) Whether Phone Depots has demonstrated public need for the proposed additional facilities;

(k) Whether a proposed frequency-sharing agreement between Phone Depots and Messages constitutes a major amendment under section 21.23(c) of the Commission's rules; and

(l) Whether any of the proposed stations will receive harmful cochannel interference from other stations.

7. *Cochannel interference of Interelectronics to Radio Dispatch.* In its informal objection, Radio Dispatch was concerned whether operation of the proposed Interelectronics facilities would cause harmful cochannel interference on frequency 152.18 MHz to Radio Dispatch station KEC927 at Clarksville, NJ. We have performed a study based on the technical factors contained in the Commission's report R-6406 by Roger B. Carey. We conclude that there is no theoretical electrical interference to the 37 dbu contour of Radio Dispatch, because there is approximately 10 miles between it and the interference contour of Interelectronics.

8. *Corporate purposes of Interelectronics.* In its petition, Messages alleged that the certificate of incorporation for Intrerelectronics did not include a provision for engaging in the radio common carrier business as a corporate purpose. On February 25, 1972, Interelectronics amended its application by submitting a certificate of amendment of its certificate of incorporation. The new certificate included engaging in the radio common carrier business as a corporate purpose. Accordingly, we do not see a problem with the certificate of incorporation of Interelectronics.

9. *State certification of Interelectronics.* The pleadings devote a great deal of attention to whether Interelectronics possesses the requisite state authority to construct and operate the proposed facilities. In connection with this issue there is also considerable discussion concerning whether Interelectronics plans on ultimately interconnecting its proposed facilities with the wireline telephone network.[3] We need not consider these portions of the pleadings because Interelectronics submitted a letter dated December 11, 1975, from Samuel R. Madison, secretary of the New York Public Service Commission (New York PSC). This letter was written by direction of the New York PSC and stated: "Certification will be issued upon the filing with this Commission of a certified copy of authorization granted to said corporation by the Federal Communications Commission." Accordingly, we find that Interelectronics possesses the requisite state authority to receive a construction permit.

10. *Financial qualifications of Interelectronics.* Messages questions whether Interelectronics has the financial ability to construct and operate the proposed facilities. It questions whether the current assets of Interelectronics are encumbered as performance bonds on government contracts, but does not present any evidence to substantiate these allegations. Interelectronics denies the charges of Messages. After a careful review of the pleadings, we find that Messages has not raised any substantial questions of fact concerning the financial qualifications of Interelectronics. Furthermore, the December 31, 1977 balance sheet of Interelectronics shows $1,396,314 in assets (including $128,615 in cash) and $57,617 in liabilities. The cash assets alone are more than sufficient to cover the $41,000 estimated cost of construction. Accordingly, we find that Interelectronics has the financial ability to construct and operate the proposed facilities.

11. *Need for the proposed Interelectronics facilities.* Messages questions whether Interelectronics has demonstrated public need for the proposed facilities. However, in an amendment dated June 14, 1974, Interelectronics submitted an extensive survey of population, economic, and public health and safety information concerning Rockland County. Included in the survey was a discussion of the types of occupations that would be interested in mobile telephone service. Interelectronics buttressed its survey with letters from individuals who wrote of the need for radio common carrier service in Rockland County. Accordingly, we find that Interelectronics has sufficiently satisfied the criteria described in *New York Telephone Company*, 47 FCC 2d 488, recon. denied, 49 FCC 2d 264 (1974), *aff'd sub nom. Pocket Phone Broadcast Service, Inc.* v. *FCC*, 538 F. 2d 447 (D.C. Cir. 1976), to sustain a finding of public need for the proposed facilities.

12. *Style of the Interelectronics application.* Messages argues that the style of the Interelectronics application demonstrates that Interelectronics is a designer and manufacturer of electronic equipment and that its real purpose in applying for authorization to construct and operate a radio common carrier station is to develop and test new equipment. In this regard, Messages points out several minor errors of Interelectronics in filling out FCC form 401 and deficiencies concerning the certificate of incorporation, the public interest statement, and State certification. We find that Interelectronics has amended its application to deal with the defects discussed by Messages. Furthermore, the June 14, 1974 amendment of Interelectronics, which includes the results of the Interelectronics need survey, demonstrates that Interelectronics is interested in serving the public as a radio common carrier. Accordingly, we do not find a problem with the style of the Interelectronics application.

13. *Charges of Interelectronics against Messages.* In its opposition to petition to deny, Interelectronics makes various charges against Messages concerning State certification, and the adequacy of the traffic-load studies conducted by Messages. In this connection, Interelectronics questions the candor of Messages in filing an application that is electrically mutually exclusive with the Interelectronics application. Messages filed a motion to strike these charges from the record. It argued that these charges were an attempt to protest the Messages application without filing a pleading directed at that application. We do not see any reason for ruling on the motion to strike because we can dismiss the Interelectronics charges on their merits. The December 11, 1975 letter from Samuel R. Madison, secretary of the New York PSC, cited in paragraph 9, supra, indicates that Messages will receive a certificate of public convenience and necessity from the New York PSC upon its submitting a certified copy of FCC authorization. On March 11, 1974, Messages submitted an amendment which cleared up the problems concerning its traffic-load studies of its present channels. Furthermore, we find that Interelectronics has failed to substantiate its charges of lack of candor on the part of Messages. Accordingly, we deny the various charges against Messages by Interelectronics.

14. *Need for the proposed Beep facilities.* Mobile Radio questions whether Beep has demonstrated public need for its proposed additional facilities. However, on March 5, 1974, Beep submitted an amendment which included traffic-load studies of its present channel and several letters of interest from present subscribers. Accordingly, we find that Beep has demonstrated public need for the proposed additional facilities.

15. *Agreements between Beep and Phone Depots.* Mobile Radio suggests that Beep and Phone Depots entered into an agreement to file their mutually exclusive applications. In this regard, Mobile Radio points out that both applicants filed on the same day for the same site, proposed virtually identical physical facilities, and used the same consulting engineer. We find the alleged inferences from these facts

[3] At the time that the Interelectronics application was filed, New York required certification of radio common carriers only if the carrier was to be interconnected with the wireline telephone network.

to be based on conjecture and surmise. In its opposition to petition to deny, Phone Depots explained that both applications were filed in time to meet the requirements of the 60-day cutoff rule,[4] that the site chosen is a highly desirable site for mobile communications, and that the consulting engineer is often hired by many radio common carriers. Both Phone Depots and Beep denied entering into any agreements to file their mutually exclusive applications. Accordingly, we do not find any significant evidence of any agreements between Beep and Phone Depots to file mutually exclusive applications.

16. *Need for the proposed Phone Depots facilities.* Mobile Radio claims that Phone Depots has not demonstrated public need for the proposed facilities because there exists excess capacity on the Mobile Radio system as well as on the systems of other New York City carriers. We find this contention to be without merit. The Commission has held that, provided there is a demonstration of need by the applicant, and absent a showing of adverse economic impact that is detrimental to the public interest, the Commission will not deny an application on the grounds that an applicant may duplicate services provided by another facility. *Commonwealth Telephone Co.*, 61 FCC 2d 246 (1976); *New York Telephone Co.*, 47 FCC 2d 488, recon. denied, 49 FCC 2d 264 (1974), aff'd sub nom. *Pocket Phone Broadcast Service, Inc.* v. *FCC*, 538 F.2d 447 (D.C. Cir. 1976). In its application, Phone Depots demonstrated public need for the proposed additional facilities by submitting traffic-load studies of its present channels. Also, we do not find an adverse economic impact detrimental to the public interest. In *Commonwealth*, the Commission held that the petitioners would have to show (a) that a grant of the application would result in substantial financial losses to the petitioners, (b) that these losses would compel the petitioners to curtail some of their services, and (c) that this loss of service would not be offset by the new services to be provided by the applicant. Mobile Radio has been unable to present a prima facie showing of these three criteria, and *WLVA, Inc.* v. *FCC*, 459 F.2d 1286 (D.C. Cir. 1972), states that mere general allegations of adverse economic impact are insufficient to deny granting an application.

17. *Channel-sharing agreement between Phone Depots and Messages.* Phone Depots and Messages filed a joint motion for declaratory ruling, asking us to rule whether an amendment filed to reflect a channel-sharing agreement between Phone Depots and Messages would constitute a major amendment under section 21.23(c) of the Commission's rules.[5] Under the proposed sharing agreement, Phone Depots and Messages would operate a common control point and terminal equipment to preclude harmful co-channel interference. Subscribers of one system would have access to the other as transient users. The frequencies, base station locations, service area contours, and transmitter powers would remain the same.

18. In its opposition to motion for declaratory ruling, Interelectronics argues that the Phone Depots and Messages proposal is a merger of the two applications and thus a major amendment under section 21.23(c) of the rules. Interelectronics thus concludes that the applications by Phone Depots and Messages are subject to section 21.31, the "cut-off rule."[6] We do not find that the applications of Phone Depots and Messages will merge under the proposed sharing arrangement. Each party would be individually licensed for the channel and would operate its own base station. In *ATS Mobile Telephone, Inc.*, 37 FCC 2d 273 (1972), the Commission found that a frequency-sharing agreement for one-way paging applications did not constitute a major amendment. The Commission stated:

> To conclude that such agreements effect major amendments to applications would completely negate time-sharing agreements, and so we interpret section 21.23(c) of our rules as not including time-sharing agreements for one-way signaling stations.

37 FCC 2d at 282. We find that this ruling is also applicable to two-way mobile communication systems. Accordingly, we find that the proposed frequency-sharing agreement between Phone Depots and Messages does not constitute a major amendment under section 21.23(c) of the rules.

19. In its informal objection to the proposed sharing agreement, Beep stated that it was not advised of the proposed sharing agreement in advance and was not given an opportunity to participate in a shared use of the frequency. Beep thus argued that the sharing agreement should not be used to the comparative advantage of Phone Depots and Messages.

20. Section 21.23 of the rules provides that an application may be amended as a matter of right prior to the designation of such application for hearing; and in *ATS Mobile Telephone, Inc.*, 35 FCC 2d 443 (1972), the Commission found that an applicant is not unfairly prejudiced if two other applicants enter into a one-way paging frequency-sharing agreement that the third applicant chose not to participate in.[7] Although in the present case Beep was not given a prior invitation to participate in the sharing agreement, Beep never indicated that it desired to participate in the proposed sharing plan. Beep's request to the Commission in its June 17, 1975 letter is simply that "the sharing arrangement cannot and should not be used to the comparative advantage of Phone Depots and Messages by Radio." Phone Depots and Messages will not receive any automatic comparative advantage for their proposed plan. The hearing will result in a determination of whose proposal will best serve the public interest, convenience, and necessity.[8] See paragraph 22, infra. Accordingly, we find that Beep is not unfairly prejudiced by the Phone Depots and Messages proposed frequency-sharing agreement, and we deny the request made by Beep.

21. *Co-channel interference received by each of the applicants.* In examining the four applications filed, we find that none of the applications will cause harmful co-channel interference to the protected service contours of any station whose application was on file or any application which was on file prior to the filing of the four above-referenced applications.[9] Nevertheless, we find that each of the proposed stations will receive harmful co/channel interfernce from previously existing stations or earlier filed applications. Thus, it appears to us that each of the four applications was filed with the understanding that the station would accept harmful co-channel interference in the event of a grant of the application. Accordingly, we set out in the record the anticipated harmful co-channel interference. It is expected that Beep and Phone Depots will each receive harmful interference from station KEC927 licensed to Radio Dispatch Co. in New Jersey and from station KCC485 licensed to Phone Depots of Connecticut d.b.a. Liberty communications in Connecticut. It is expected that Messages will receive harmful interference from station KEC927 licensed to Radio Dispatch Co. in New Jersey, from station KCC485 licensed to Phone Depots of Connecticut d.b.a. Liberty Communi-

[4] Section 21.31 requires that mutually exclusive applications be filed within 60 days of the public notice date of the first filed application in order to be entitled to comparative consideration.

[5] See note 2, supra.

[6] See note 4, supra.

[7] The proposed frequency-sharing agreement is different from an intercarrier agreement, see, e.g., Sherman M. Wolf d.b.a. Zipcall, and Colgan Communications, Inc., 42 FCC 2d 1125 (1973), in that an intercarrier agreement involves an exchange of customers.

[8] In this regard, we note that the loading capacity of a single two-way channel pair is quite limited, and whether a proposed frequency-sharing agreement for a single two-way channel pair is publicly beneficial must be determined on a case-by-case basis.

[9] See paragraph 7, supra.

cations in Connecticut, and from station KED362 licensed to Professional Answering Service in New York. It is expected that Interelectronics will receive harmful interference from station KCC485 licensed to Phone Depots of Connecticut d.b.a. Liberty Communications in Connecticut, and from station KED362 licensed to Professional Answering Service in New York. It is expected that Interelectronics will receive harmful interference from station KCC485 licensed to Phone Depots of Connecticut d.b.a. Liberty Communications in Connecticut, and from station KED362 licensed to Professional Answering Service in New York. Although the co-channel interference received by each of the proposed stations is not extensive enough to disqualify any of the applicants, it must nevertheless be examined in the hearing in the context of the standard comparative issue.

22. *The standard comparative issue.* Since the applications of Phone Depots and Messages are electrically mutually exclusive with the application of Interelectronics and the application of Beep, a comparative hearing must be held to determine which applicant or applicants, if any, would best serve the public interest, convenience, and necessity. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945). In this regard, we find the applicants to be legally, financially, technically and othewise qualified to construct and operate the proposed facilities.

23. In view of the foregoing, it is ordered, that the informal objection filed by Radio Dispatch Co. and the petition to dismiss or deny filed by Messages By Radio, Inc., against the application of Interelectronics Corp., file No. 3279-C2-P-72, are denied.

24. It is further ordered, that the petition to deny filed by Mobile Radio Message Service, Inc., against the application of Beep Communication Systems, Inc., file No. 5103-C2-P-72, is denied.

25. It is further ordered, that the petition to deny filed by Mobile Radio Message Service, Inc., against the application of Phone Depots, Inc. d.b.a. Mobilfone Radio System, file No. 5104-C2-P-72, is denied.

26. It is further ordered, that the joint motion for declaratory ruling filed by Phone Depots, Inc. d.b.a. Mobilfone Radio System and Messages By Radio, Inc., is granted in that the proposed frequency-sharing agreement referred to in the motion will be accepted as a minor amendment to each of the respective applications.

27. It is further ordered, pursuant to section 309(e) of the Communications Act of 1934, as amended, that the applications of Beep Communication Systems, Inc., file No. 5103-C2-P-72, the application of Interelectronics Corp., file No. 3279-C2-P-72, the application of Phone Depots, Inc. d.b.a. Mobilfone Radio System, file No. 5104-C2-P-72, and the application of Messages By Radio, Inc., file No. 3786-C2-P-72, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 37 dBu contours, based upon the standards set forth in section 21.504(a) of the Commission's rules,[10] and to determine the need for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

28. It is further ordered, that the hearing shall be held at the Commissions offices in Washington, D.C., at a time and place and before an administrative law judge to be specified in a subsequent order.

29. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

30. It is further ordered, that the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to section 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this memorandum opinion and order.

WALTER R. HINCHMAN,
Chief,
Common Carrier Bureau.

[FR Doc. 78-19214 Filed 7-12-78; 8:45 am]

[6712-01]

ROY C. CASE

[SS DOCKET NOS. 78-197; 78-198]

Order To Show Cause and Designation Order

Adopted: July 3, 1978.

Released: July 11, 1978.

The Chief, Safety and Special Radio Services Bureau, has under consideration the license of Roy C. Case, 2814 Tennessee Avenue, Baltimore, Md. 21227, for station KIV-7890 in the citizens band radio service and an application filed by Case for a novice class amateur radio license.

1. Information before the Commission indicates that on August 29, 30, 31, September 5, 7, 8, 10, 27 and 29, 1976, Case's citizens band radio station was operated on the frequency 27.345 MHz. On September 6, 1976, Case's station was operated on 27.405 MHz, and on October 3, 1976, Case's station was operated on 27.346 MHz. All of those frequencies were assigned to the Industrial Radio Services. Section 95.41(d) of the citizens band rules prohibited operation on these frequencies by CB licensees.[1]

2. Information before the Commission further indicates that on the above dates, August 29, 30, 31, September 5, 6, 7, 8, 10, 27 and 29 and October 3, 1976, the radio transmissions from Case's station were not identified by call sign, as required by § 95.95(c) of the Commission's rules. Instead, the transmissions were identified by the term "7W189". It appears that Case has participated in "W" or "Whiskey" clubs, whose members operate radio transmitting equipment on frequencies not authorized by their licenses and use equipment not type accepted for CB use by the Commission. Furthermore, members of "W" or "Whiskey" clubs apparently employ a system of operator identification numbers in lieu of Commission assigned call signs to enable members to identify each other over the air while concealing their identify and station location from the Commission.

3. Information also indicates that on August 29, 30, September 6, 27 and 29, 1976, the transmissions made from Case's station were at a power level greater than that allowed by § 95.43(b) of the rules. On September 29, 1976, Case's station was used to communicate with or attempt to communicate with a station over a distance greater than 150 miles, in violation of § 95.83(b) of the Commission's rules.

4. As a result of overpower radio operation on August 31, 1976, Case was convicted on March 28, 1977, in the United States District Court, District of Maryland, under 47 USC 502, upon his plea of guilty to violation of § 95.43(b) of the Commission's rules. That conviction shall be res judicata in this proceeding.

5. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for wilful or repeated violation of Commission rules.

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[10] Section 21.504(a) of the Commission's rules and regulations describes a field strength contour of 37 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 152-162 MHz bands. Propagation data set forth in section 21.504(b) are the proper bases for establishing the location of service contours (F50,50) for the facilities involved in this proceeding.

[1] Certain sections of part 95 of the Commission's rules governing the CB service have been renumbered. The sections cited are those in effect at the time of the alleged violations.

6. 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 rules, that Case show cause why the license for the captioned radio station should not be revoked, and appear and give evidence at a hearing [2] to be held at a time and place before an administrative law judge, to be specified by a subsequent order, upon the following issues:

(a) Whether Case's radio station was operated in wilful or repeated violation of §§ 95.41(d) and/or 95.43(b) of the Commission's rules.

(b) Whether the operator of Case's station willfully or repeatedly violated section 95.95(c) of the rules and/or used a "Whiskey Club" designator for identification.

(c) The effect of the March 28, 1977 criminal conviction of Case on his qualifications to be a licensee of the Commission.

(d) Whether, in light of the evidence adduced pursuant to issues (a), (b) and (c), Roy C. Case possesses the requisite qualifications to remain a Commission licensee.

7. It is further ordered, that, pursuant to section 309(e) of the Communications Act and 1.973(b) and 0.331 of the rules, Case's application for novice class amateur radio license is designated for hearing, at a time and place to be specified by a subsequent order upon the preceding issues and the following issue:

(e) Whether, in the light of the evidence adduced under issues (a), (b), (c), and (d) above, the public interest, convenience and necessity would be served by a grant of the novice class amateur radio application of Roy C. Case.

8. It is further ordered, that in order to obtain a hearing on the application, Case, in person or by attorney, shall within 30 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.[3] Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice.

9. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof for revocation of the citizens band radio license (SS docket No. 78-197) is on the Bureau, pursuant to section 312(d) of the Communications Act, and the burden of proof for grant of the application (SS docket No. 78-198) is on the respondent, pursuant to section 309(e) of the act.

10. It is further ordered, pursuant to § 1.227 of the Commission's rules, that the proceeding on the above-stated issues regarding the order to show cause and the designation order are consolidated for hearing.

11. 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.

For the Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

SS DOCKET No. 78-197

REPLY TO ORDER TO SHOW CAUSE WHY CITIZENS BAND RADIO STATION LICENSE KIV-7890 SHOULD NOT BE REVOKED

In this matter, respondent takes the action indicated below:

☐ 1. Responsent will appear and present evidence at the hearing.
☐ 2. Respondent waives his right to a hearing and does not submit a written statement.
☐ 3. Respondent waives his right to a hearing and submits the attached written statement.*

SS DOCKET No. 78-198

REPLY TO ORDER DESIGNATING APPLICATION FOR HEARING

In this matter, respondent takes the action indicated below:

☐ 1. Respondent will appear at a 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.

Date: ———— 1978.

ROY C. CASE
Respondent.

EXPLANATION OF PROCEDURES

Revocation. Section 1.91 of the Commission's rules provides that in order to have a hearing before an administrative law judge, you have 30 days from the issue date of this order in which to state that you will appear and present evidence on the matters specified in the order. If you are unable to appear at a hearing in Washington, D.C., you may request that the hearing be near your residence. Such request should be supported by whatever facts you feel necessary.

Your right to a hearing is waived if you (1) fail to file a timely appearance or (2) file within 30 days a statement waiving the right to a hearing. When hearing is waived, you may submit a statement denying or seeking to mitigate or justify the matter alleged in the order to show cause. The chief administrative law judge will then certify the case to the Commission. The matter will be handled by the Chief, Safety and Special Radio Services Bureau, who will determine whether a revocation order should be issued or the matter should be dismissed. This determination will be made using all information available, including statements you have filed and your past violation record.

Application. In order to have a hearing on your application, you have 30 days from the issue date of this order to request it. Section 1.221(c) of the rules provides that if you donot request a hearing, the application will be dismissed with prejudice.

[FR Doc. 78-19210 Filed 7-12-78; 8:45 am]

[2] The form attached to this order should be detached and used in connection with the procedure set forth on the reverse side thereof and mailed to Federal Communications Commission, Washington, D.C. 20554, in the enclosed addressed envelope, within 30 days.

[3] The 20-day time period specified by section 1.221 of the rules is waived.

* If this statement is intended to be in mitigation, it should include the reasons, if any, why you believe that your radio station licenses should not be revoked.

[6712-01]

[BC Docket No. 78-60]

HANDLING OF PUBLIC ISSUES UNDER THE FAIRNESS DOCTRINE

Memorandum Opinion and Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: Action taken herein extends the time for filing comments to the Commission's fairness doctrine inquiry, FCC 78-108, released March 2, 1978 (BC docket No. 78-60).

DATES: Comments must be filed on or before September 5, 1978, and reply comments must be filed on or before October 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Milton O. Gross, Broadcast Bureau, 202-632-7586.

In the matter of the handling of public issues under the fairness doctrine and the public interest standards of the Communications Act (BC Docket No. 78-60).

MEMORANDUM OPINION AND ORDER

Adopted: June 27, 1978.

Released: June 28, 1978.

Originally published at 43 FR 18030.

By the Chief, Broadcast Bureau.

1. On March 2, 1978, the Commission released its notice of inquiry regarding current and alternative means of administering the fairness doctrine (FCC 78-108). The dates for filing comments and reply comments were set for May 3 and June 2, 1978, respectively. By order, FCC 78-262, released April 19, 1978, the Commission extended the time for filing comments to July 5, 1978, and for filing reply comments to August 4, 1978.

2. Now before the Commission is a motion for an extension of time to file comments in the above-captioned proceeding to and including September 5, 1978, filed by the Committee for Open Media (COM) on June 19, 1978, and a motion for extension of time to and including November 3, 1978, filed by National Citizens Committee for Broadcasting (NCCB) on June 16, 1978.

3. In support of the instant request COM states that it is currently conducting several research studies concerning the fairness inquiry which will not be completed and finally analyzed by COM before the Commission's currently July 5, 1978, date for filing comments. COM states that a more comprehensive record will result in this proceeding if the results of these studies are a part of the record in its initial comments and that the requested delay will not prejudice the Commission or any other party. NCCB requests an extension until November 3, 1978, arguing that its staff and its counsel cannot adequately research and prepare meaningful comments on this proceeding within the timeframe presently allocated.

4. Section 1.46(a) of the Commission's rules provides that extensions "shall not be routinely granted." However, in the present case, considering the importance of the notice of inquiry and the number and complexity of the comments expected to be filed, it appears that COM's request for an extension is warranted and that the grounds advanced by COM constitute good cause for the grant of its request. However, while an extension of time is warranted, we believe that NCCB's request is excessive and would not contribute to the timely disposition of the relevant issues before the Commission. Therefore, time to file comments will be extended through September 5, 1978. In so doing the Commission cautions the movants that no further extensions of time are comtemplated.

5. Accordingly, *It is ordered*, That the time in which to file comments submitted by COM and NCCB are granted to the extent that the present deadlines for filing comments and reply comments are extended to September 5, 1978, and October 6, 1978, respectively, and are denied in all other respects.

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

[FR Doc. 78-19256 Filed 7-12-78; 8:45 am]

[6712-01]

[FCC 78-419]

SPONSORSHIP IDENTIFICATION AND CANDIDATE AUTHORIZATION NOTICES

JUNE 19, 1978.

1. Through this joint public notice, the Federal Communications Commission and the Federal Election Commission intend to inform broadcast licensees and persons purchasing political broadcast time of ways of complying with both the FCC rules concerning sponsorship identification and the FEC requirements for candidate authorization notices.[1] Although the FCC requirements apply specifically to licensees and the FEC rules apply to Federal candidates, their committees and other persons purchasing political broadcast time, the parties may agree between themselves to use one of the announcements listed in paragraph 4 below in satisfaction of both of these requirements.[2]

2. Under the terms of the Communications Act of 1934, as amended,[3] and the FCC rules,[4] any broadcast time which is paid for or sponsored by a particular person or group must be accompanied by an announcement to that effect. In addition, any political broadcast matter, or any matter which discusses a controversial issue of public importance, which is furnished to a station as an inducement for broadcast, must contain an announcement that it was furnished and by whom. Such announcement must appear or be heard either at the beginning or at the end of the furnished broadcast matter, except that the sponsorship identification must be given at both the beginning and the end of any such broadcast which exceeds 5 minutes in length.

3. The Federal Election Campaign Act, as amended,[5] and the FEC rules [6] provide that broadcast communications which expressly advocate either the election or defeat of a "clearly identified" candidate [7] must announce, in a manner which will give actual notice to the listener or viewer, that the broadcast was authorized by a particular candidate or not authorized by any candidate.

4. The following authorization notices and sponsorship identification announcements, in the situations described, comply with both the FCC and FEC regulations:

I. Broadcast communication which is authorized by and financed (or furnished) by the candidate or the candidate's authorized committee:

(1) "Paid for by (name of candidate or committee);" or (2) "Paid for and authorized by (name of candidate or committee);" or (3) "Sponsored by (name of candidate orcommittee);" or (4) "Furnished by (name of candidate or committee)."

NOTE.—Where a candidate or his committee is paying for or furnishing broadcast matter, authorization by the candidate is assumed and need not be specifically stated.

II. Broadcast communication which is authorized by the candidate or the candidate's authorized committee, but financed (or furnished) by a third party:

(1) "Paid for by (name of third party) and authorized by (name of candidate or committee);" or (2) "Sponsored by (name of third party) and authorized by (name of candidate or committee);" or (where appropriate) (3) "Furnished by (name of third party) and authorized by (name of candidate or committee)."

III. Broadcast communication which is financed by a third party[8] and not authorized by any candidate or any candidate's authorized committee:

(1) "Paid for by (name of sponsor/payor) and not authorized by any candidate;" or (2) "Sponsored by (name of sponsor/payor) and not authorized by any candidate;" or (where appropriate) (3) "Furnished by (name of person or group furnishing broadcast) and not authorized by any candidate."

5. The following additional announcement is required by the FECA[9] in any of the above situations if the communication: (1) is financed by a political committee, and (2) solicits political contributions: "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

6. The notice requirements of the FECA[10] and the FEC rules[11] supersede and preempt any State statute which attempts to impose additional notices

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[1] This notice is intended to supplement FCC public notice 76-731 (August 3, 1976) and FEC notice 1976-55, 41 FR 45954 (October 18, 1976).

[2] Section 315 of the Communications Act provides that a licensee shall have no power of censorship over "uses" of a broadcasting station by legally qualified candidates for public office. A "use" is defined as an appearance by a candidate, either orally or visually, during which he or she is identified or identifiable to the listening or viewing audience. In light of this provision, a licensee may not demand that a proposed political broadcast on which a candidate appears comply with the FEC requirements for candidate authorization notices. Of course, if the broadcast does not contain the correct notice of candidate authorization, the candidate or other person submitting the broadcast may be subject to penalties under the Federal Election Campaign Act. An exception is made to the no censorship provision, however, to allow licensees to require that proposed broadcasts comply with FCC rules, since liability for incorrect sponsorship identification rests with the licensee. 47 U.S.C. § 317.

[3] 47 U.S.C. § 317.

[4] 47 CFR § 73.1212.

[5] 2 U.S.C. § 441d.

[6] 11 CFR § 110.11.

[7] See 2 U.S.C. § 431(q) for definition of "clearly identified" candidate.

[8] If the third party is a political committee, the name of any connected organization must be included in the Notice. See FEC notice 1976-55, 41 FR 45954 (October 18, 1976), examples 3 and 5.

[9] 2 U.S.C. 435; 11 CFR 102.13.

[10] 2 U.S.C. 435 and 441d.

[11] 11 CFR 102.13 and 110.11.

on political advertising by Federal candidates or committees.[12]

7. A copy of this public notice is being sent to all broadcast licensees of the FCC. For further information interested parties may contact the FCC at 202-632-7586 or the FEC at 800-424-9530.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19213 Filed 7-12-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

PECATONICA BANCSHARES, INC.

Formation of Bank Holding Company; Correction

In FR Doc. 78-18933 appearing on page 29620 of the issue for Monday, July 10, 1978, the name of the applicant should read "Pecatonica."

Board of Governors of the Federal Reserve System, July 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-19500 Filed 7-12-78; 9:11 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR C-22]

DEFENSE MATERIALS

National Stockpile

To: Heads of Federal agencies.

Subject: Excess strategic and critical materials required for the national stockpile.

1. *Purpose.* This bulletin provides a revised list of strategic and critical materials by type and minimum quantity to be reported to the General Services Administration under the provisions of FPMR 101-14.1.

2. *Expiration date.* This bulletin expires on September 30, 1979, unless revised prior to that date.

3. *Background.* Section 3h of Defense Mobilization Order 11, dated April 11, 1973 (32A CFR part 111), authorizes GSA to purchase or otherwise obtain strategic and critical materials needed to satisfy unfulfilled national stockpile goals. Pursuant to 50 U.S.C. 98e and in accordance with instructions contained in FPMR 101-14.1, Federal agencies are required to report to the General Services Administration (FJ), Washington, D.C. 20406, their excess holdings of certain materials, subject to minimum quantity specifications, for review and possible transfer to the national stockpile. The materials currently required to be reported are identified below.

4. *List of materials.*

Material and type or grade	Forms to be reported	Minimum quantity at one location to be reported
Alumina	Powder	Any quantity.
Bauxite, refractory grade	Ore	2,000 pounds.
Beryllium metal	Billets	Any quantity.
Cadmium	Balls or sticks	Do.
Chromite, chemical grade	Ore	2,000 pounds.
Chromite, refractory grade	....do	Do.
Chromium, ferro, silicon	Lumps	Any quantity.
Chromium metal	....do	Do.
Cobalt	Cathodes, roundelles, or briquettes	Do.
Columbium concentrates	Ore or concentrates	2,000 pounds.
Copper	Electrolytic cathodes and wire bars, lake copper ingots, fire refined, oxygen free, high conductivity.	Do.
Cordage fiber, abaca		Do.
Cordage fiber sisal		Do.
Feathers and down		Any quantity.
Fluorspar, acid grade	Lumps or filter cakes	20 short tons.
Fluorspar, metallurgical grade	Ore or concentrates	Do.
Graphite, natural	Lumps or crystalline	2,000 pounds.
Jewel bearings, sapphire or ruby	Unmounted	Any quantity.
Lead, corroding and antimonial	Pigs	Do.
Manganese ore, chemical grade	Ore or concentrates	20 short tons.
Mica, phlogopite	Blocks	100 pounds.
Nickel and nickel oxide	Cathodes, ingots, briquettes, or shot.	Any quantity.
Opium salt	Powder	100 grams.
Platinum group, iridium	Ingots, bars, or plates	Any quantity.
Platinum group, palladium	....do	Do.
Platinum group, platinum	....do	Do.
Pyrethrum	Extract or solution	100 pounds.
Quinidine, medicinal quality	Powder	100 ounces.
Rubber	Ribbed smoked sheet	20 short tons.
Rutile	Ore or concentrates	2,000 pounds.
Shellac	Button lac or orange flake	Do.
Silicon carbide, crude	Lumps or fines	Do.
Tantalum carbide powder	Powder	Any quantity.
Tantalum metal, capacitor grade	Powder, ingots, or slabs	Do.
Tantalum minerals	Ore	2,000 pounds.
Titanium sponge	Sponge	Any quantity.
Vanadium, ferro	Lumps or fines	Do.
Vanadium pentoxide	Broken flake	2,000 pounds.
Vegetable tannin extract, wattle	Solid extract	Do.
Zinc	Slabs	Any quantity.

ROBERT P. GRAHAM,
Commissioner, Federal Supply Service.

[FR Doc. 78-19149 Filed 7-12-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

MENTAL HEALTH PROJECTS FOR INDOCHINESE REFUGEES

Availability of Funding

AGENCY: Office of Family Assistance, Social Security Administration, HEW.

ACTION: Final notice of availability of funding.

SUMMARY: This document governs the award in fiscal year 1978 of grants to public and private nonprofit agencies for the purpose of operating mental health projects for Indochinese refugees in order to assist refugees in resettling in the United States and in becoming self-reliant.

DATE: Applications must be received by the Regional Commissioner, Social Security Administration, by 5 p.m. (local time) August 14, 1978. No grant application will be accepted after this date.

FOR FURTHER INFORMATION CONTACT:

Charles W. Soffel, 202-472-2397.

SUPPLEMENTARY INFORMATION:

1. Public comment to the proposed notice of availability of funding.

A notice of the proposed availability of funding was published on May 23, 1978, in 43 FR 22080-22083. Interested person were invited to submit comments, suggetions, or objections to the notice, to be received by the Director, Special Programs Staff, Office of

[12] 2 U.S.C. 453; 11 CFR 108.7; FEC Advisory Opinion 1978-24.

Family Assistance, on or before June 22, 1978. The comments are listed below, with responses.

Certain other changes were made in order to correct omissions and typographic errors. Significant changes are noted under Item 3, "Other Changes."

2. Summary of comments.

Comment: Several commenters, both formally and in informal inquiries, suggested that the grants be awarded on a multiple-year or continuing basis to strengthen the projects and afford continued services.

Response: While such an approach would undoubtedly be beneficial in many instances, the uncertainty as to amounts which may be appropriated beyond the current fiscal year preclude multiple-year funding.

Comment: One commenter suggested that allowable activities include study, development, and experimental implementation of nontraditional, culture-based techniques and modalities, especially with respect to outreach, counseling, and community organization.

Response: Such activities are not excluded from proposals under the notice.

Comment: One commenter, with respect to item V, "Eligible Projects," objective 2, "To increase the opportunities for employment in the mental health field for the Indochinese," asked if members of the Academy of Certified Social Workers (ACSW) would qualify as "professionals" for training purposes.

Response: To clarify this issue, the notice has been changed, requiring that such training be performed under supervision of "certified or licensed professionals." Members of the ACSW would not be precluded from performing such supervision provided they met this criterion.

Comment: One commenter inquired if resettlement offices with experienced refugee staff workers who have extensive experience in the field of refugee counseling could be included as part of the mental health system under item V, objective 3, "To create community comprehensive support systems."

Response: While individual situations will be evaluated on their own merit, in general, such workers would be regarded as acceptable for this objective.

3. Other changes:

a. Technical changes have been made in item II, "Authorization," and item III, "Eligible Grantees," to correct legal citation errors.

b. Item IV, "Allotment of Funds," has been changed to reflect delays encountered in obtaining current refugee population distribution data. Regional offices will be notified of the regional allotments as soon as the information becomes available.

c. The time for application submission in item VII has been changed to permit adequate time for applicants to prepare their proposals.

I. Purpose and Scope

This notice describes the availability of national funding for special projects and programs designed to assist Indochinese refugees in coping with mental health problems. The objective of such projects and programs is to assist refugees in resettling in the United States and in gaining self-reliance.

Funding will be made available through the Special Programs Staff, Office of Family Assistance, Social Security Administration, HEW, for project grant awards to public and nonprofit private agencies.

A. Background

The Indochinese refugees, having undergone the traumas of emergency evacuation from their homelands and relocation in this (to them) alien culture, suffered considerable stress. The Refugee Task Force (now the Special Programs Staff) received in the spring and summer of 1976 consistent warnings, from Regional Refugee Coordinators and agencies involved in the resettlement program, of growing evidence of behavioral problems attributed generally to the trauma of resettlement.

In fiscal years 1976 and 1977, the Task Force approved six small grants to deal with mental health problems of the refugees. Reports from the projects confirmed the informal body of information already available. The projects found cases of depression, anxiety, alcohol and drug abuse, and wife and child abuse. The psychosomatic ailments they found included headaches, dizziness, and nausea.

In addition to the findings of the mental health projects, refugee employment and training projects reported that emotional problems were preventing significant numbers of enrolled refugees from securing or holding gainful employment.

It became apparent that the national objective of refugee self-sufficiency could not be achieved for those refugees suffering from mental health problems unless those problems were addressed. It also became apparent that the existing mental health services delivery system in most localities was not able to respond adequately to the problems of the refugee community. This notice is a result of those conclusions.

B. Scope of Projects

To bridge the gap between existing facilities and the needs of Indochinese refugees, assuring that refugees are afforded the same mental health services available to the general population, the Special Programs Staff proposes to fund approved programs and projects as outlined in this notice. There are three major objectives of this effort:

1. To impact the existing mental health services delivery system. Included under this objective would be projects designed, through inservice training and other means, to alert mental health officials and practitioners to the scope and special nature of the refugee problems in their localities. The results of such efforts should include, both qualitatively and quantitatively, an increase of services to refugees.

2. To increase the opportunities for employment in the mental health field for the Indochinese. Included under this objective would be projects to provide on-the-job training for Indochinese as mental health workers, competent to work independently at counseling, interviewing, and rendering other direct services to Indochinese under supervision of certified or licensed professionals. (Long-term training of psychiatrists, psychologists, or other professionals is not envisioned.)

3. To create community comprehensive support systems. Included under this objective would be projects designed to work with mental health systems, to train paraprofessionals, to establish linkages among social service deliverers, and to facilitate the understanding within the refugee population of the American approach to mental health and mental health services.

It is recognized that prospective applicants for the grants may not choose to respond to all three objectives; therefore, it is allowable under this notice to propose projects which respond to one or more of the objectives. Consideration for funding will take into account the expected permanence of the change the projects will effect and the amount of direct service generated. Applications should clearly indicate which objectives the proposal will address, and in what way.

Because of funding limitations, it is not envisioned that these grants will provide direct clinical services to refugees except as that provision relates to on-the-job training.

II. Authorization

Funds for the activities listed below are authorized under section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, Pub. L. 94-23 as amended by Pub. L. 95-145. It is intended that the grants be for up to 12 months from the effective date of award.

III. Eligible Grantees

Section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975 as amended by Pub. L. 95-145

states that special projects and programs are to be "administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant."

Eligible grantees are State and local governments, public and incorporated nonprofit private agencies, or any combination of these. Private for-profit agencies or firms are not eligible for grants.

Selection of a State for a grant does not preclude a grant award to other public or nonprofit private agencies within the State.

IV. Allotment of Funds

Project grant applications will be funded on merit, as outlined in item IX, "Criteria for Evaluating Applications." Funds will be made available among the 10 HEW regions, taking into account the proportionate refugee populations of each region as indicated by alien registration data compiled by the Immigration and Naturalization Service as of January 1978. This data is expected to be available from INS shortly.

A national total of approximately $2,500,000 is expected to be made available pursuant to this notice.

V. Eligible Projects

Projects are expected to advance the mental health of the Indochinese refugee population. Such projects are to be designed primarily with the goal of placing needy refugees into effective contact with the existing mental health systems, and of enhancing the responsiveness and effectiveness of the systems in providing services to the refugees.

Allowable activities. It is allowable to propose projects which respond to one or more of the objectives listed in section I, "Purposes and Scope." The allowable activities listed here are grouped under the objectives for guidance; however, the listings are not mutually exclusive and, where warranted, a mix of activities may be proposed.

Objective 1. Impacting existing mental health services delivery systems. 1. Activities designed to inform appropriate State, local, and private mental health officials and practitioners of the needs of the refugees. These could include the utilization or adaptation of resource materials and the development of training packages on such topics as Indochinese perceptions of and attitudes toward Western mental health practices and modalities of treatment for this population.

2. Training sessions, conferences, and workshops aimed at improving mental health services provided to refugees.

3. Short-term research to identify the scope and nature of refugee mental illness and the availability of treatment within the existing systems.

Objective 2. Increasing opportunities for employment in the mental health field for the Indochinese. 1. *Development of training projects for Indochinese individuals.* These should include a reasonable mix of classroom training and on-the-job training and supervision by certified or licensed professionals designed to enable the trainees to secure employment in the mental health field.

2. *Career planning for trainees.* This should include the development of career ladders leading to permanent positions and upward job mobility in the field.

Objective 3. Creating community comprehensive support systems. 1. Development of interagency mental health forums, task forces, or committees, which include representation from the public and voluntary sectors and the refugee community to coordinate activities.

2. Training and supervision for Indochinese paraprofessionals to function as outreach workers, counselors, or facilitators.

3. Creation of devices, such as referral systems and public education, designed to familiarize the refugee population with services and facilities available to them, to encourage use of such services and facilities when warranted, and to carry out community mental health work in the refugee community.

Project plans must show how the proposed activities will support one or more of the objectives outlined in section I, "Purpose and Scope." A range of services and a mix of activities that reflect the individual needs of each area to be served are encouraged.

Also encouraged is concurrent and coordinated use of additional funding and support, such as State, local, or private funds, and other program participation.

Proposed projects may be regionwide, statewide, countywide, or smaller. Because of the limitation of funds, a multijurisdictional approach and consortia arrangements are permitted.

Creation of advisory boards, made up of equal numbers of representatives from among the refugee community, mental health clinicians, and social services agencies, is required for all projects.

Project activities may be carried out by third parties (including profitmaking organizations) under contract from the grantee; however, the grantee may not contract out 100 percent of the services, and must in any case retain full administrative control. Intent to contract with third parties must be fully described in the grant application. If, subsequent to the grant, the grantee desires to enter into a contract with a third party, a request for prior approval must be submitted through the Regional Commissioner, SSA, and approved by the Director, Special Programs Staff, as outlined in chapter 1-430 of the HEW Grants Administration Manual.

VI. Definition of a Refugee

For the purpose of participation in these projects, refugees are defined as "Aliens who: (A) Because of persecution or on account of race, religion, or political opinion, fled from Cambodia, Vietnam, or Laos; (B) cannot return there because of fear of persecution on account of race, religion, or political opinion."

To be eligible a refugee must have status as described by one of the following: (1) An individual with parole, voluntary departure, or conditional entry status as indicated by an Immigration and Naturalization Service (INS) form I-94; (2) an individual admitted to the United States with permanent resident status on or after April 8, 1975, or an individual who has permanent residence status as a result of adjustment of status under Pub. L. 95-145, as indicated by INS form I-151 or I-551.

VII. Application Submission and Approval Procedures

Eligible applicants may request grant applications and information from the HEW regional offices listed at the end of this notice, or from the Special Programs Staff, Office of Family Assistance, Social Security Administration, Room 1124, Donohoe Building, HEW, 330 Independence Avenue SW., Washington, D.C. 20201.

Applications must be received by the Regional Commissioner, Social Security Administration, by 5 p.m. (local time), 30 days following the publication of this notice. No grant application will be accepted after this date.

Regional panels to be convened by the Regional Commissioner, Social Security Administration, will review and evaluate the proposals received, based on the criteria outlined in item IX of this notice. The review panels' recommendations and the Regional Commissioners' concurrence and/or comments will be forwarded to the Director, Special Programs Staff, Office of Family Assistance for review and, upon approval, for issuance of grant awards.

All applications are subject to the project notification and review procedures required by OMB Circular A-95 part I. This circular requires applicants to notify State and areawide clearinghouses of their intention to apply for a grant and, if requested by a clearinghouse, to submit a copy of the application.

VIII. Application Content

All applicants will use standard form 424, "Federal Assistance" in submit-

ting project proposals. Grant applications must also include the following:

(1) *Description of the applicant organization.* Description of the proposer (public agency, private nonprofit, consortium). If other than a public agency, description of its organizational mandate, funding sources, principal officers, address, and telephone number. A description of the makeup of the project's advisory board, the selection process used for its members, and the board's function must be included. If the applicant is a unit of a larger institution or government entity, assurances must be provided that the operation and objectives of the project will not be subordinated to other objectives.

(2) *Applicant experience with Indochinese refugees.* Description of other projects or experience which the applicant has had in serving the Indochinese refugee population.

(3) Identification of the target population. Specify the total Indochinese population in the project area, identified, where possible, by native language (Vietnamese, Cambodian, Lao, H'mong).

(4) Existing mental health systems. Brief overview of existing systems for delivery of mental health services to the general public in the area to be served by the project.

(5) Existing deliverers of services to Indochinese. Brief overview of existing services to Indochinese refugees which have bearing upon the proposed project. (Where such services are in operation, proposer should provide assurances that coordinative linkages have been arranged, or that the proposed project is not in competition with nor duplicative of, the existing services.)

(6) Project scope and objectives. A statement of the mental health needs of the target population, the objective(s) outlined in item I, "Purpose and Scope" which the project addresses, and the project's specific goals. Proposer must describe the efforts planned to assure provision of mental health services to Indochinese refugees beyond the project grant period.

(7) Project description. A detailed description of a work plan designed to achieve the objectives specified in item (6) above. Describe fully the overall project approach, proposed components of the program, activities, staffing, and how linkages with other service providers will be insured.

Applications proposing training projects under objective 2 should state what steps will be taken to insure the employment of the trainees in the mental health field.

IX. Criteria for Evaluating Applications

The following criteria will be used to evaluate all project grant applications. It is recognized that not all applications will address themselves to all three major objectives; therefore, ratings based on the criteria will be made selectively according to the objectives addressed.

1. Familiarity and experience of the applicant organization with Indochinese refugee resettlement, including knowledge of the needs of the people to be served and local conditions; understanding of the cultural and institutional barriers which inhibit the normal delivery of services; understanding of the differing needs, where relevant, of the Vietnamese, Cambodian, Lao, and H'mong refugee communities.

2. Qualifications of the applicant organization in meeting the selected objectives. Applicants addressing objectives 1 or 2 should indicate their professional competence in the mental health field and in staff training, and should include the qualifications of individual professional personnel. Applicants addressing objective 3 should indicate their experience in community-based programs, especially those which cut across traditional service delivery lines.

3. The extent to which the application addresses the indentified mental health needs of the target population and outlines a clear and achievable plan to interface with existing systems of service delivery. This will include the specifics of utilization of services and facilities and plans to mobilize, coordinate, and expand existing resources and activities which are providing, or could provide, services to refugees.

4. Projected impact of the proposed program. Where direct services are to be provided, the extent to which proposer quantifies anticipated results.

5. Reasonableness of estimated cost in relation to anticipated results (cost/benefit ratio).

6. Comprehensiveness and coordination of proposed project components. The extent to which proposed linkages with other institutions and agencies are supported by such evidence as proposed subcontracts, letters of commitment, or working agreements.

7. Adequacy and accessibility of facilities and other resources.

X. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for Federal monitoring and auditing of the grants:

(1) Quarterly program progress reports, due 10 days after the last calendar day of each quarter.

(2) Fiscal reports; and

(3) Additional reports as required for effective Federal monitoring.

XI. Conditions of Award

All grants made under this announcement will be subject to: (1) The following HEW regulations in 45 CFR, as amended: part 16, "Department Grants Appeals Process;" part 74, "Administration of Grants;" part 75, "Informal Grant Appeals Procedures;" and part 80, 84, and 85 relating to nondiscrimination, and (2) the HEW Grants Administration Manual.

Copies of these documents may be inspected in the offices of the Regional Commissioners, SSA, or Special Programs Staff, Office of Family Assistance, HEW, Room 1124, Donohoe Building, 400 Sixth Street SW., Washington, D.C.

XII. Additional Information

Additional information and grant applications can be obtained from the following persons in the HEW regional offices:

Region I: Tran Phuc Truong or Sydney Henkel, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02003, telephone 617-223-6833, FTS 8-223-6833.

Region II: Georgianna Gleason, HEW Regional Office, 26 Federal Plaza, New York, N.Y. 10007, telephone 212-264-7202, FTS 8-264-7202.

Region III: Robert T. Clifford, Office of Family Assistance, SSA, P.O. Box 8788, Philadelphia, Pa. 19101, telephone 215-596-1304, FTS 8-596-1304.

Region IV: Hoang T. Phan, Marietta Tower, 101 Marietta Street NW., Atlanta, Ga. 30323, telephone 404-221-2347, FTS 8-242-2347.

Region V: Gene Niewoehner, HEW Regional Office, 300 South Wacker Drive, Chicago, Ill. 60606, telephone 312-353-5182, FTS 8-353-5182.

Region VI: Jim Kelley or Rick Cline, HEW Regional Office, 1200 Main Tower Building, Dallas, Tex. 75202, telephone 214-655-4311, FTS 8-729-4311.

Region VII: Don Belknap, HEW Regional Office, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-6127, FTS 8-758-5975.

Region VIII: Rod Underwood, HEW Regional Office 1961 Stout Street, Denver, Colo. 80202, telephone 303-837-5591, FTS 8-327-5591.

Region IX: Sharon Mackay 25th Floor, 100 Van Ness Avenue, San Francisco, Calif. 94102, telephone 415-556-6774, FTS 8-556-6774.

Region X: Son Van Do, Arcade Plaza, 1321 Second Avenue, Seattle, Wash. 98101, telephone 206-442-5734, FTS 8-300-5734.

(Catalog of Federal Domestic Assistance No. 13.814-Special Assistance to Refugees from Cambodia, Vietnam, and Laos in the United States.)

Dated: July 11, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-19526 Filed 7-12-78; 8:45 am]

[4110-2]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its family policy task force meeting on Thursday, August 10, 1978, from 9 a.m. to 5 p.m., and, on Friday, August 11, 1978, from 9 a.m. to 3 p.m., in Room 403-A, HEW-Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include an update on: Domestic violence, social security, displaced homemakers, day care, sex discrimination task force issues, and a discussion of other issues pertinent to the family policy task force.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: July 7, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-19264 Filed 7-12-78; 8:45 am]

[4110-12]

OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Statement of Organization, Functions, and Delegations of Authority

This notice amends part A of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary, by modifying certain portions of chapter AE, "Office of the Assistant Secretary for Planning and Evaluation" (41 FR 47275, dated October 18, 1976). Increased management and planning activity, currently and in the foreseeable future, as regards the social security trust funds justifies the creation of a Division of Social Security Policy. This notice establishes the Division of Social Security Policy, and changes the name of the Division of Policy Planning as follows:

Section AE.10 Organization. Delete E1 "Division of Policy Planning." Add E1 "Division of Income Assistance Policy." Add E4 "Division of Social Security Policy."

Section AE.20. Delete E1 "Division of Policy Planning," Add E1 "Division of Income Assistance Policy."

Impacts on departmental responsibilities and objectives—Division of Income Assistance Policy is responsible for identifying, in conjunction with relevant agencies, immediate planning issues related to the Department's income assistance programs. Functions include: Describing the objectives, costs, and effects of major policy alternatives; conduct of an annual review of the Department's income assistance plans; and recommending to the Secretary appropriate departmental strategies. In addition to reviewing all policy issues under consideration for departmental action, this Division is also responsible for initiating discussion of policy concerns related top these programs.

Add E4 "Division of Social Security Policy." Impacts on departmental responsibilities and objectives—Division of Social Security Policy is responsible for identifying, in conjunction with relevant agencies, immediate planning issues related to the Department programs financed through the social security trust funds. Functions include: Describing the objectives, costs, and effects of major policy alternatives; conduct of an annual review of the Department's social security finance and outlay plans; and recommending to the Secretary appropriate departmental strategies. In addition to reviewing all policy issues under consideration for departmental action, this Division is also responsible for initiating discussions of policy concerns related to these programs.

Dated: July 3, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc 78-19265 Filed 7-12-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Sacramento Area Office Redelegation Order 1]

SUPERINTENDENTS AND DIRECTOR, PALM SPRINGS OFFICE

Redelegation of Authority

PART 1—GENERAL

Sec. 1.1 This order is a revision of Sacramento Area Office Redelegation Order 1 and amendments thereto and supersedes all previous redelegation orders. Authority to issue this order is contained in Part 230 of the Departmental Manual and 10 BIAM 3.

Sec. 1.2 *Limitations.* Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Assistant Secretary for Indian Affairs authority to issue guidelines or instructions for the implementation of the delegated authorities which shall be binding on the Superintendents and the Director, Palm Springs Office.

Sec. 1.3 *Authority of Assistant Area Director.* The Assistant Area Director, Bureau of Indian Affairs, Sacramento Area Office, is authorized to exercise all the power and authority of the Area Director of the Sacramento Area Office, as delegated by the Commissioner in 10 BIAM 3. This redelegation also includes future authorities of the Assistant Director for Indian Affairs to the Area Director. In the absence of the Area Director and the Assistant Area Director, persons authorized to act in their stead may exercise any and all authority conferred upon the Area Director by the Assistant Secretary of Indian Affairs.

PART 2—AUTHORITY OF SUPERINTENDENTS AND DIRECTOR, PALM SPRINGS OFFICE

Subject to the provisions of Part 1, Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director as indicated in this part.

Sec. 2.1 *Appeals.* Any action taken by the Superintendents or the Director, Palm Springs Office, pursuant to this order shall be subject ot the right of appeal to the Area Director. All appeals must be filed in writing with the Area Director. A further appeal from a decision by the Area Director may be made to the Assistant Secretary for Indian Affairs.

Sec. 2.2 *Funds and fiscal matters.* The Superintendents and the Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the following:

(a) The approval of per capita or annunity payments from Indian tribal funds, pursuant to the provisions of 25 CFR 101.

(b) The approval of expenditures of individual Indian moneys held in the custody of the Department. This authority extends to and includes investments, loans, and donations by individual Indians.

(c) The approval of surety bonds, provided that in the case of a corporate surety the bonding company has been approved by the Treasury Department.

(d) The approval of the employment of attorneys for individual Indians and the determination and payment of fees paid on a *Quantum meruit* basis from restricted or trust funds.

(e) The approval of applications of individual Indians for their pro rata shares of tribal trust funds, made pursuant to the provisions of 25 CFR 102.

(f) The approval of applications by individuals, cooperative associations, credit associations, and incorporated and unincorporated tribes and bands, and groups of Indians, for loans pursuant to 25 CFR 91 where the total indebtedness to the lender does not exceed $30,000; the issuance of commitment orders; the approval of interest rates and the terms and conditions of loans to encourage industry; and the approval of articles of association and bylaws of cooperative and credit associations; determination of the acceptability of the form of organization of groups of Indians applying for loans to encourage industry; the approval of modifications of loan agreements, except the modification of loans made to corporations, tribes, bands, credit associations, and cooperatives extending repayment terms regardless of amount.

(g) The deposit of tribal and individual trust funds in banks and/or the investment of these funds in public debt obligations of the United States and in bonds, notes, or other obligations which are unconditionally guaranteed as to both principal and interest by the United States, as provided by the act of June 24, 1938 (52 Stat. 1037, 25 U.S.C. 162a).

(h) The approval of expenditures or advances of tribal funds to the respective tribes for the purposes set forth and as prescribed under any acts which may authorize the expenditure or advance of tribal funds to tribes.

(i) The approval of modifications and termination of trust agreements for relief and rehabilitation grants to tribes upon request of the tribes, and the transfer of any remaining assets of such grants to the tribes.

(j) The consent to assignments of loan agreements and interests therein by incorporated and unincorporated tribes and bands, credit associations, individuals, and cooperative associations indebted to the United States, and borrowers from incorporated and unincorporated tribes and bands and credit associations, pursuant to 25 CFR 91.

(k) The taking of any of the steps authorized by 25 CFR 91 regarding Revolving Loan Funds with exceptions set forth in 10 BIAM 3.3F.

(l) The amendment or revocation of charters of credit and other cooperative associations.

(m) Expenditures from miscellaneous revenues for the benefit of tribes, agencies, and schools on whose behalf they are collected, pursuant to the act of May 17, 1926 (44 Stat. 560; 25 U.S.C. 155), as amended by the act of June 13, 1930 (46 Stat. 584; 25 U.S.C. 161b), and as extended by the act of February 20, 1942 (56 Stat. 95; 48 U.S.C. 50f). (Indian Moneys, Proceeds of Labor).

(n) The acceptance of donations of funds or other property for the advancement of the Indian race, and use of the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provisions of law for the benefit of Indians pursuant to the act of February 14, 1931 (46 Stat. 1106; 25 U.S.C. 451), as amended by the act of June 8, 1968 (82 Stat. 171).

(o) The designation of depositories of Indian moneys.

(p) The approval of requisitions for disbursing tribal funds.

(q) The approval of partial releases and satisfactions of mortgages given as security for loans from the United States made pursuant to 25 CFR 91.

(r) The approval of mortgages of trust chattels and crops on trust or restricted land of an Indian as security for a loan by any lender. This does not include approval of Deeds of Trust on trust or restricted land. (See 10 BIAM 3.4D(1).)

(s) The approval of assignments of any trust property of an Indian, except land, and authority to act as the Indian's attorney in fact to execute leases on any trust land in which the Indian borrower may have an interest, and to apply the rentals of the Indian's indebtedness, for a loan made pursuant to 25 CFR 91 and 92. This does not include Assignments of Income. (See 10 BIAM 3.4D(2).)

(t) The release of interests of the Unites States in any trust or restricted property of an Indian, except land.

Sec. 2.3 *Land and minerals.* The Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the following:

(a) (1) The execution and approval of leases for oil, gas, or other mining purposes, covering lands or interests in land held by the United States in trust for individual Indians, or tribes of Indians, or subject to restrictions against alienation without the consent of the Secretary of the Interior, pursuant to 25 CFR 171, 172, and 177.

(2) The execution of oil and gas leases on lands withdrawn by Executive order for Indian purposes or for the use or occupancy of any Indians or tribe, pursuant to section 1 of the act of March 3, 1927 (44 Stat. 1347; 25 U.S.C. 398a).

(3) The authority conferred by subparagraphs (1) and (2) extends to and includes the approval of, or other appropriate administrative action required on, assignments of leases, whether heretofore or hereafter executed, bonds, and other instruments required in connection with such leases or assignments thereof; unit and communization agreements; the acceptance of voluntary surrender of the terms thereof; and the approval of agreements for settlement of claims for damage to Indian lands resulting from oil, gas, or other mineral operations. This authority does not apply to lands purchased or reserved for agency, school, or other administrative purposes.

(b) The approval of exchanges of lands between individual Indians and Indian tribes.

(c) The approval of the purchase of lands for individual Indians and Indian tribes provided that when fee lands are acquired, the case assembly will be referred to the Regional Solicitor's Office for title examination.

(d) The approval of authorizations for the sale of restricted Indian lands pledged as security for the repayment of tribal loans to individuals, and the approval or acceptance of conveyances of such lands in accordance with the terms of the pledge in the event of default.

(e) The approval of certification of applications for allotments on the public domain under authority of the act of February 8, 1887 (25 U.S.C. 334), or the acts of February 28, 1891, and June 25, 1910 (25 U.S.C. 336), and in the National Forest pursuant to the act of June 25, 1910 (25 U.S.C. 337).

(f) All those matters set forth in 25 CFR 131, Leasing and Permitting, except for leases and permits with terms in excess of ten (10) years. However, the Director, Palm Springs Office, may exercise the authority of the Area Director relating to lease plans and designs, lease audits, assignments of leases, lease building and loan agreements, leasehold encumbrances, supplemental agreements of leases that do not lengthen the term of the lease or reduce the rentals, and subleases regardless of the duration of the sublease.

(g) The leasing of tribal and allotted lands for homesite purposes to members of the tribes or to housing authorities provided the lease forms specifically approved for such leases are used. This authority includes approval of encumbrances of leasehold interests in homesite leases for the purpose of borrowing capital for the development and improvement of the leased premises, provided the security instruments specifically approved for such encumbrances are used.

(h) The approval of rights-of-way pursuant to 25 CFR 161. This authority extends to and includes the issuance of advance authority for preliminary surveys and permission to begin construction prior to final approval of the rights-of-way.

(i) The approval of releases of mortgages given as security for loans made from the restricted funds of individual Indians upon proof of payment of the loan.

(j) The approval of sand, gravel, pumice, and building stone leases and permits of tribal and allotted lands pursuant to provisions of 25 CFR 171 and 172.

(k) The approval, with tribal consent, of sales of improvements made upon tribal lands by individual Indians.

(l) The approval of tribal membership rolls submitted for the approval of the Secretary of the Interior.

(m) Soil and moisture conservation operations on Indian lands, pursuant to the President's Reorganization Plan No. IV, of 1940 (54 Stat. 1235), and the Soil Conservation Act of April 27, 1935 (16 U.S.C. 590a), and subject to the coordination and general supervision of the Office of the Secretary.

(n) The conveyance to state or local governmental agencies or to local school authorities, of all the right, title, and interest of the United States in any land and improvements thereon and personal property used in connection therewith heretofore or hereafter used for Federal Indian school purposes and no longer needed for such purposes, pursuant to the act of June 4, 1953 (67 Stat. 41).

Sec. 2.4 *Forestry.* The Superintendents and the Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the following:

(a) Issue advertisements and approve timber sale contracts on approved forms involving an estimated stumpage volume of not to exceed 50,000 feet, board measure, pursuant to 25 CFR 141.8 and 141.13.

(b) Approve contracts, pursuant to 25 CFR 141.13, for the sale of timber from individual allotments, without regard to estimated volumes on approved forms executed under authority of an approved general contract; with such provisions incorporated therein as the approving officer of the general contract shall stipulate.

(c) Issue timber cutting permits on approved forms pursuant to 25 CFR 141.19, paragraphs (a) and (b) but not including paragraph (c).

(d) Hire temporary labor, rent equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires pursuant to 25 CFR 141.21.

Sec. 2.5 *Tribal programs.* The Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the following:

(a) The approval of the annual operating budget and modifications thereof, provided such operation budgets do not exceed anticipated operating income for the budget year. This does not include expenditures for capital improvements or of reserves. For the purpose of this delegation, operating incomes does not include mineral bonuses, judgments, or other income of a nonrecurring nature.

(b) The approval of tribal officers' surety bonds, provided that in the case of a corporate surety the bonding company has been approved by the Treasury Department.

Sec. 2.6 *Roads.* The Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the closing of roads pursuant to 25 CFR 162.6.

Sec. 2.7 *Housing.* The Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director in relation to the following:

(a) The approval of tribal ordinances or amendments thereto enabling a tribe to establish an Indian Housing Authority or to join an already established multiple reservation Indian Housing Authority as set forth in 24 CFR 805.109.

Sec. 2.8 *Employment assistance.* The Superintendents and Director, Palm Springs Office, may exercise the authority of the Area Director to approve all applications for employment assistance programs. This includes initial as well as subsequent services for adult vocational training, on-the-job training, and direct employment.

Sec. 2.9 *Authority under specific acts.*

(a) The Director, Palm Springs Office, may exercise all authority vested in the Secretary of the Interior in the act of September 21, 1959 (25 U.S.C. 951), as amended, which provides for the equalization of allotments on the Aqua Caliente Reservation, and for other purposes.

(b) The Superintendents and Director, Palm Springs Office, may exercise all authority vested in the Secretary of the Interior in the act of September 22, 1961 (25 U.S.C. 164), authorizing restoration to tribal ownership of unclaimed per capita and other individual payments of Indian tribal trust funds.

WILLIAM E. FINALE,
Area Director.

Approved: July 3, 1978.

GEORGE V. GOODWIN,
Acting Assistant Secretary for Indian Affairs.

[FR Doc. 78-19316 Filed 7-12-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 33716, 33717, 33718 and 33719]

NEW MEXICO

Applications

JULY 6, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for two 4-inch, one 6-inch, one 8-inch pipelines and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 9, E½NE¼ and SE¼SW¼;
Sec. 10, NW¼NW¼;
Sec. 17, E½SE¼;
Sec. 20, N½NE¼,SW¼NE¼ and W½SE¼;
Sec. 29, W½E½ and SE¼SE¼;
Sec. 33, S½NW¼ and NE¼SW¼;
Sec. 34, SW¼SW¼.
T. 25 S., R. 26 E.,
Sec. 3, lot 4, SW¼NE¼ and N½SE¼;
Sec. 4, lots 1 and 2;
Sec. 11, W½NE¼ and NE¼NW¼.
T. 19 S., R. 27 E.,
Sec. 36, E½SE¼ and SW¼SE¼.
T. 20 S., R. 27 E.,
Sec. 13, S½SE¼.
T. 23 S., R. 27 E.,
Sec. 8, N½SW¼.
T. 19 S., R. 28 E.,
Sec. 31, lots 1, 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼ and NW¼SE¼.
T. 20 S., R. 28 E.,
Sec. 18, lot 4;
Sec. 20, S½NE¼, W½NW¼, SE¼NW¼ and NE¼SE¼;
Sec. 21, NW¼SW¼.
T. 23 S., R. 29 E.,
Sec. 6, SE¼SE¼;
Sec. 7, N½NE¼.

These pipelines will convey natural gas across 10.585 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-19319 Filed 7-12-78; 8:45 am]

[4310-84]

[NM 33721]

NEW MEXICO

Application

JULY 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 34 E.,
Sec. 17, NE¼NE¼.

This pipeline will convey natural gas across 0.040 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will

be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-19318 Filed 7-12-78; 8:45 am]

[4310-84]

[Colorado 26837]

NORTHWEST PIPELINE CORP.

Pipeline Application

JULY 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½" o.d. gas gathering pipeline across 2.189 miles of the public land in Garfield County, Colo. described as:

T. 7 S., R. 104 W., 6th P.M.
Sec. 26 and 27.
T. 8 S., R. 104 W., 6th P.M.
Sec. 3, 9, 15, and 16.

The purpose of the pipeline is to provide hookups from five walls to Rocky Mountain Natural Gas gathering system.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Leader, Canon City-Grand Junction Adjudication Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 78-19317 Filed 7-12-78; 8:45 am]

[4310-84]

[U-40396; U-40574]

UTAH

Application

JULY 3, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 23 E.,
Secs. 11 and 14.

The needed rights-of-way are a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the applications should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-19320 Filed 7-12-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. MOTOR CARRIERS TARIFF BUREAU, INC.

Proposed Consent Judgment and Competitive Impact Statement Therein

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the U.S. District Court for the District of Columbia in Civil Action No. 77-1973, *United States* v. *Motor Carriers Tariff Bureau, Inc.* The complaint in this case alleges that the Defendant, an organization that issues tariffs in which it pubishes rates for motor carriers engaged in interstate for-hire transportation of property, violated Section 1 of the Sherman Act (15 U.S.C. 1), as amended, by engaging in a combination and conspiracy, with various unnamed co-conspirators, in unreasonable restraint of trade and commerce in the provision of said transportation service within the Northeast and Central regions of the United States.

The Defendant will be enjoined from specific types of conduct which the complaint alleged as methods employed in carrying out the alleged violation. The proposed judgment also provides for the competitive restructuring of the Defendant's operations by requiring it to cancel all presently effective tariffs and the rates contained therein which it has caused to be filed with the Interstate Commerce Commission. Further, the Defendant may operate as a Tariff Publishing Agent, but must refrain from holding itself out as an ICC-approved rate bureau of conference. It must offer the motor carriers which have utilized its services the opportunity to file new tariffs and rates after each has affirmed by written affidavit that the new tariffs and rates were derived unilaterally and were not the product of collective action. The details of the restructing are set forth in the proposed Judgment and Competitive Impact Statement.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to the U.S. Department of Justice, Attention: Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Washington, D.C. 20530.

Dated: June 29, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil Action No. 77-1973; filed June 29, 1978]

UNITED STATES OF AMERICA, PLAINTIFF, V. MOTOR CARRIERS TARIFF BUREAU, INC., DEFENDANT

STIPULATION

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is

not entered pursuant to this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to Plaintiff and Defendant in this and any other proceeding.

JOHN H. SHENEFIELD,
Assistant Attorney General.

WILLIAM E. SWOPE,
CHARLES F. B. MCALEER,
ELLIOTT M. SEIDEN,
STANLEY M. GORINSON,
ROBERT M. SILVERMAN,
JUDY L. GOLDSTEIN,
MONROE P. BALTON,
Attorneys, Antitrust Division, U.S. Department of Justice.

For Defendant:

TIMOTHY M. BIDDLE,
Jones, Day, Reavis & Pogue.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, PLAINTIFF, V. MOTOR CARRIERS TARIFF BUREAU, INC., DEFENDANT

[Civil Action No. 77-1973; filed June 29, 1978]

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on November 16, 1977, and the Plaintiff and the Defendant, Motor Carriers Tariff Bureau, Inc., by their respective attorneys, having consented to the entry of this Final Judgment, prior to the taking of any testimony, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or any admission by any party with respect to any issue of fact or law herein:

Now, therefore, prior to the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I.

This Court has jurisdiction over the subject matter herein and the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the Defendant under Section 1 of the Sherman Act. (15 U.S.C. 1).

II.

As used in this Final Judgment:

(a) "ICC" means the Interstate Commerce Commission.

(b) "Tariff" means a publication containing one or more rates, charges, classification ratings, rules, regulations, or other provisions or any combination thereof, of one or more common carriers together with supplements or looseleaf page amendments thereto, if any.

(c) "Rate" means a charge, payment or price fixed according to a ratio, scale or standard for direct or indirect transportation service.

(d) "Carrier" means a common carrier of property by motor vehicle.

(e) "Standing Rate Committee" means any group of Defendant's employees, agents and other representatives which formally or informally meets or otherwise communicates, to vote and recommend to carriers party to a tariff, whether a proposed change or changes in a rate or rates in such tariff should be filed with the ICC.

(f) "Docket" means a bulletin published to inform and facilitate discussion between competing carriers with respect to the filing of rates for the interstate for-hire transportation of property.

(g) "Tariff Publishing Agent" means a person duly authorized by a carrier, via a power of attorney on file with the ICC, to publish and file rates and provisions for that carrier's account in tariffs published in the name of the agent.

(h) "Tariff Watching Service" is a service provided by a tariff publishing agent whereby the agent notifies carriers subscribing to its service of competing carrier and rate bureau changes in their existing tariffs and rates which have been filed with the ICC.

(i) "Person" means any natural person, firm, partnership, association, corporation, or any other business or legal entity.

(j) "Interstate for-hire transportation" means for-hire transportation of property across state boundaries by carriers authorized to engage in such transportation by the ICC and to serve the general public on a common carrier basis.

(k) "Property" includes all items described in the following tariffs issued by Defendant: Tariff 35, Tariff 35.2, Tariff 35.3, Tariff 36, Tariff 36.1, Tariff 37.2, Tariff 27.3, Tariff 37.5, Tariff 39, Tariff 39.2, Tariff 39.3, Tariff 46, Tariff 48, Tariff 64, Tariff 65, Tariff 65.1, Tariff 67, Tariff 69, Tariff 71, Tariff 73, Tariff 74, Tariff 75, Tariff 76, Tariff 77, Tariff 78, Tariff 79, Tariff 83, Tariff 84, Tariff 86, Tariff 88, Tariff 89, Tariff 90, Tariff 91, Tariff 92, Tariff 93, Tariff 94; all respective supplements thereto and all predecessor tariffs of the aforesaid tariffs.

III.

The provisions of this Final Judgment are applicable to Defendant herein and shall also apply to each of the Defendant's officers, directors, agents, employees, subsidiaries, successors, and assigns and to all other persons in active concert or participation with them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

Defendant is enjoined and restrained from:

(a) Entering into, adhering to, maintaining, or claiming any rights under, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy to fix, stabilize or maintain collective rates charged by competing carriers for the interstate for-hire transportation of property;

(b) Holding itself out as an ICC-approved rate-making conference or bureau;

(c) Maintaining a Standing Rate Committee;

(d) Providing information to any carrier about rate changes ordered by any other carrier employing the publishing services of Defendant prior to the time of notification to tariff subscribers required by the ICC;

(e) Inviting, coordinating or providing a forum, including publication of a docket, for any discussion or agreement between competing carriers with respect to collective rates for the interstate for-hire transportation of property;

(f) Knowingly publishing or causing to be published any docket, tariff or tariff supplement which was the result of any discussion or agreement between competing carriers with respect to collective rates for the interstate for-hire transportation of property; or

(g) Filing changes or supplements to a carrier's tariffs except upon specific instructions from that carrier.

Provided, however, That this Section IV shall not apply to any act by Defendant authorized by any order of the ICC permitting Defendant to take such act, in accordance with § 5a of the Interstate Commerce Act (49 U.S.C. 5b).

V.

Defendant is ordered and directed within six (6) months following the date of the entry of this Final Judgment:

(a) To cease using the name Motor Carriers Tariff Bureau, Inc.;

(b) To cancel all existing tariffs (and any effective supplements thereto) and rates contained therein;

(c) To terminate all powers of attorney and rate and tariff service agreements previously executed between Defendant and any carrier utilizing the publishing services of the Defendant;

(d) To cancel any provisions of its articles of incorporation, by-laws, contracts, rules or written statements which have the purpose or effect of permitting, announcing, stating, explaining or agreeing to any business practice enjoined by the terms of this Final Judgment.

VI.

(a) For those carriers who were or are members of Defendant or have participated in Defendant's collective tariffs, and who wish to continue to use its services as a tariff publishing agent, Defendant must offer an "open season" for a period of six months from the date of the entry of this Final Judgment to facilitate the filing of rates independently arrived at by each such carrier. During the "open season," Defendant must obtain from each carrier using Defendant's services as a tariff publishing agent an affidavit which affirms that the new rates filed on behalf of that carrier were arrived at unilaterally by the independent action of that carrier during the "open season" and were not collectively established.

(b) Defendant must not take any steps or adopt any procedures which would have the effect of discouraging any carrier from acting independently in establishing its rates in the future.

(c) If Defendant initiates a tariff watching service, that service cannot be offered to the former participants in Defendant's canceled tariffs. No agreement between Defendant and a carrier for said watching service may include a provision for instituting automatic changes to rates on file for said carrier.

VII.

Defendant is further ordered and directed:

(a) To take reasonable steps for dissemination of, education as to, and the compliance with this Final Judgment, involving its officers, directors, employees and agents having any responsibility in connection with analyzing or publishing tariffs or changes to rates contained in tariffs published by Defendant advising such persons of their obligations under this Final Judgment. At a minimum Defendant must provide each such officer, director, employee and agent within ten days (10) of the entry of this Final Judgment with a copy of this Final Judgment, a statement of the Defendant's compliance policy under the Final Judgment in the form of an appropriate compa-

ny manual or memorandum and shall obtain a written statement from each such officer, director, agent, or employee evidencing the receipt of these documents, such statements to be retained in the files of the Defendant.

(b) For a period of ten (10) years from the entry of this Final Judgment, Defendant must provide each new officer, director, agent and employee of Defendant with a copy of this Final Judgment and a statement of the Defendant's compliance policy under the Final Judgment in the form of an appropriate company manual or memorandum and must provide any carrier desiring to utilize Defendant's services as a Tariff Publishing Agent with a copy of this Final Judgment. Defendant must obtain a written statement from each officer, director, employee, agent, and carrier evidencing receipt of the applicable documents, such statement to be retained in the files of Defendant.

(c) Within one hundred and eighty days (180) after the date of the entry of this Final Judgment, Defendant shall file an Affidavit of Compliance with the Court, and serve a copy thereof to Plaintiff, reciting the steps taken to comply with this Final Judgment.

VIII.

For the purpose of determining or securing compliance with this Final Judgment, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or his agent, subject to any legally recognized privilege:

(a) On reasonable notice to the Defendant made to its principal office duly authorized representatives of the Department of Justice shall be permitted: 1. Access, during office hours of the Defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Defendant relating to any matters contained in this Final Judgment; and 2. Subject to the reasonable convenience of the Defendant and without restraint or interference from it, to interview officers, directors, employees or agents of the Defendant, any of whom may have counsel present, regarding any matters contained in this Final Judgment.

(b) The Defendant shall submit such reports in writing, under oath if requested, with respect to matters contained in this Final Judgment as may from time to time be so requested.

No information or documents obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the executive branch of the Plaintiff, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by the Defendant to Plaintiff, the Defendant represents and identifies in writing the material in any such information or documents of a type described in rule 26(c)(7) of the Federal Rules of Civil Procedure, and said Defendant marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to the Defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the Defendant is not a party.

IX.

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to the Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provision thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X.

This Final Judgment shall remain in effect for a period of ten (10) years from the date upon which it is entered by the Court.

XI.

Entry of this Final Judgement is in the public interest.

.....
Date

.....
U.S. District Judge

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil Action No. 77-1973; filed June 29, 1978]

UNITED STATES OF AMERICA, PLAINTIFF, V. MOTOR CARRIERS TARIFF BUREAU, INC., DEFENDANT

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), the United States of America hereby files this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On November 16, 1977, the United States filed a civil complaint alleging that the Defendant violated section 1 of the Sherman Act, 15 U.S.C. § 1. The complaint alleges that the Defendant and various unnamed co-conspirators engaged in a combination and conspiracy, from sometime in the early 1940's, the exact date being to the plaintiff unknown, and continuing to the date of the complaint, in unreasonable restraint of trade and commerce in interstate for-hire transportation of property within the Northeast and Central regions of the United States. The United States sought an injunction prohibiting the conduct alleged to have given rise to the violation.

Entry by the Court of the proposed Consent Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the Judgment or to punish alleged violations of any of the provisions of the Judgment.

No criminal indictment was sought in connection with the alleged combination and conspiracy to unreasonably restrain trade and commerce.

II. DESCRIPTION OF PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS

A. *The Defendant*

Motor Carriers Tariff Bureau, Inc. (hereinafter referred to as "MCTB"), is a corporation organized and existing under the laws of the State of Ohio and has its principal office in Cleveland, Ohio. MCTB is an organization which issues tariffs wherein rates are published for use by motor common carriers engaged in interstate for-hire transporation of property.

B. *Co-conspirators*

Various persons not made defendants herein participated as co-conspirators with the Defendant in the violation alleged in the complaint and performed acts and made statements in furtherance thereof.

C. *Trade and commerce involved*

The industry which the complaint alleges as the subject of Defendant's conspiracy is the interstate for-hire transportation of property. This transportation service is performed by motor common carriers which have received certificates or licenses from the Interstate Commerce Commission ("ICC") authorizing the carriers to haul interstate shipments of property. (49 U.S.C. 306)

Carriers holding ICC authority for the interstate transportation of property may join together to form organizations known as rate conferences or rate bureaus for the purpose of collective rate-making, provided an agreement governing their rate-making practices has been approved by the ICC. (49 U.S.C. 5b(2).) Upon ICC approval, participating carriers are relieved from the operation of the antitrust laws, (49 U.S.C. 5b(9)), so long as they conduct these activities in accordance with the provisions of the ICC-approved agreement.

In 1975, motor carriers which participated in rates published by MCTB for interstate for-hire transportation of property derived aggregate revenues thereform in excess of $75 million.

D. *Defendant's practices*

On five separate occasions, Defendant has unsuccessfully sought to obtain ICC approval to operate as a valid rate conference. Notwithstanding these unsuccessful attempts to obtain antitrust immunity, Defendant operated as a rate conference.

For many years MCTB has proposed and adopted rates for interstate for-hire transportation of property in the Northeast and Central regions of the United States. Such rates have customarily been incorporated in various tariffs filed with the ICC to which numerous motor carriers which conduct business in the Northeast and Central regions of the United States are parties.

The complaint alleges that the Defendant conspired with various unnamed co-conspirators to raise, fix, stabilize and maintain rates charged for interstate for-hire transportation or property within the Northeast and Central regions of the United States.

The Government would have contended at trial that beginning sometime in the early 1940's and continuing to date, Defendant and various unnamed co-conspirators engaged in a continuous rate-fixing conspiracy in violation of Section 1 of the Sherman Act. (15 U.S.C. 1.) The complaint charges that the Defendant, together with various unnamed co-conspirators carried out the alleged combination and conspiracy in several ways, including: (a) Maintaining a standing rate committee to consider and pass upon rate proposals; (b) Coordinating rate-fixing activities with respect to interstate for-hire transportation of property; (c) Authorizing Defendant to publish, issue and file with

the ICC jointly on their behalf, in the form of tariffs, rates which are collectively set through Defendant's procedures; and (d) Utilizing the personnel and facilities of Defendant to fix rates for interstate for-hire transportation of property.

E. *The antitrust violation*

As noted above, certain aspects of interstate motor common carrier transportation are regulated by the ICC in accordance with the Interstate Commerce Act. Ordinarily, all combinations which tend to fix, raise, stabilize, or control prices would be considered illegal under Section 1 of the Sherman Act. However, the Interstate Commerce Act expressly exempts intercarrier agreements on rates and charges from the operation of the antitrust laws under certain circumstances. If motor carriers submit their agreement to the ICC and that agency grants approval of the agreement *prior* to its implementation, then any person subject to that approval order is accorded antitrust immunity in respect to any activities falling within the scope of the approved agreement. Any intercarrier agreement affecting rates and charges which has not been approved by the ICC, however, remains subject to the ordinary operation of the antitrust laws.

As alleged in the complaint, Defendant established an agreement between itself and various motor carriers, and has for an extensive period of time actively combined and conspired with those motor carriers to raise, fix, stabilize and maintain rates charged for interstate for-hire transportation of property within the Northeast and Central regions of the United States, without first obtaining prior approval from the ICC to implement the agreement. By failing to obtain antitrust immunity from the ICC, the Defendant's rate-fixing activities remained fully subject to the proscriptions of the antitrust laws.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States has consented to the entry of a Final Judgment with the Defendant. The United States and the Defendant have agreed in a stipulation that the Final Judgment, in the form negotiated by the parties, may be entered by the Court any time after compliance with the Antitrust Procedures and Penalties Act, provided that Plaintiff has not withdrawn its consent. The Judgment provides that there have been no admissions by any of the parties with respect to any issues of fact or law. Under the provisions of section (2)(e) of the Antitrust Procedures and Penalties Act, entry of this Final Judgment is conditioned upon the Court's determination that it is in the public interest.

A. *Prohibited conduct*

The proposed Consent Judgment grants the fundamental relief the United States sought in the complaint. In Section IV(a) of the Judgment the Defendant is prohibited from participating in any way in the creation or promulgation of collective rates charged by competing carriers for the interstate for-hire transportation of property. Section IV(b) requires that the Defendant not engage in any practice which would mislead carriers or the public into believing that it is an ICC-approved rate bureau, while the remainder of Section IV goes on to prohibit specific activities which the Department felt contributed directly to the illegal activities challenged.

Section V of the Judgment, in addition to requiring the cancellation of the tariffs and rates which were the fruits of the alleged conspiracy, directs the Defendant to take affirmative measures to end conduct which contributed to the violation in a more indirect fashion.

Section VI of the proposed Final Judgment provides for the continued existence of the Defendant as a tariff publishing agent, since that activity in and of itself does not violate the antitrust laws. In the future, while the Defendant may not publish the collectively set rates of competing motor carriers, it is not prohibited from compiling the individually established rates of those carriers into a joint publication.

B. *Scope of the proposed judgment*

Section III of the Judgment provides that its terms shall apply to the Defendant and to each of the Defendant's officers, directors, agents, employees, subsidiaries, successor and assigns, and to all other persons in active concert or participation with them who shall have received actual notice of the Final Judgment by personal service or otherwise.

Further, Section VII of the Judgment provides that the Defendant establish a reasonable education and compliance program to advise all of its personnel having responsibilities in connection with analyzing or publishing tariffs or changes to rates contained in tariffs published by Defendant of their obligations under the Final Judgment.

The Judgment is very specific in its requirements here. At a minimum the Defendant must provide to each officer, director, employee and agent a copy of the Final Judgment and a statement as to its compliance policy in the form of an appropriate company manual or memorandum within ten days of the entry of the Final Judgment. Each individual who, by reason of his or her relationship to the Defendant, receives the required notice must execute a written statement evidencing the receipt of those documents; these statements are to be retained in the files of the Defendant.

Further, for a period of ten years from the entry of the Final Judgment, the Defendant must provide each new officer, director, agent employee and *any new carrier* desiring to utilize Defendant's services as a Tariff Publishing Agent with copies of the required documents. Again, each individual or entity receiving such notice is required to execute a written statement evidencing receipt of the applicable documents and the statements are to be retained in Defendant's files.

Within one hundred and eighty days after entry of the Final Judgment, the Defendant is required to file an Affidavit of Compliance with the Court, and serve a copy on the Plaintiff, reciting the steps taken to comply with the Final Judgment.

In order to assure compliance with the Final Judgment, Section VIII thereof confers upon duly authorized representatives of the Department of Justice the power to obtain access, upon reasonable notice, during office hours, to the records, documents and personnel of the Defendant. Under the Judgment, the Assistant Attorney General for the Antitrust Division may also require submission of written reports by the Defendant with respect to matters covered by the Final Judgment.

C. *Effect of the proposed final judgment*

The relief encompassed in the proposed Final Judgment is aimed at ending and preventing any recurrence of the activities alleged in the complaint. The Judgment is intended to insure that the Defendant does not serve as a rate bureau for the purpose of creating and publishing collectively-determined rates, and that any future tariff or rate publication activities of Defendant do not involve in any way collective ratemaking unless Defendant secures prior approval of such activities from the ICC.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Consent Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), this Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against the Defendant.

V. PROCEDURES AVAILABLE FOR THE MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment is subject to stipulations by and between the United States and the Defendant which provide that the United States may withdraw its consent to the proposed Consent Judgment at any time before its entry by the Court. In addition, by its terms, the proposed Judgment provides for retention of jurisdiction of this action, permitting any party to apply to the Court for such orders as may be necessary or appropriate for modification of the Judgment.

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, within the 60 day period provided by this act. These comments and the responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice to determine if there is any reason for withdrawal of its consent to or for modification of the proposed Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The relief provided for in the proposed Consent Judgment is essentially that sought by the United States in instituting this lawsuit. In negotiating this decree, the Defendant submitted the initial draft of the proposed Final Judgment; however, that draft failed to address the concerns voiced by the Department's attorneys as to the illegally derived rates and tariffs. The Defendant sought to maintain the rates and tariffs presently in effect and only addressed the issue of subsequent rate and tariff changes. In addition, Defendant refused to acknowledge that it was not an ICC-approved ratemaking conference or bureau. The Department thus was unwilling to accept the proposed Final Judgment as submitted by the Defendant.

VII. DETERMINATIVE MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed with this Competitive Impact Statement.

ROBERT M. SILVERMAN,
JUDY L. GOLDSTEIN,
MONROE P. BALTON,
Attorneys, Antitrust Division, U.S. Department of Justice.

[FR Doc. 78-19321 Filed 7-12-78; 8:45 am]

[4410-01]

Office of the Attorney General

[Order No. 792-78]

PRIVACY ACT OF 1974

System of Records (Amendment)

Notice is hereby given that pursuant to the Privacy Act of 1974, 5 U.S.C., 552a(e) (4) and (11), the Department of Justice proposes to modify the routine use language relating to "Release of Information to Members of Congress" for the following systems maintained by the U.S. Parole Commission: JUSTICE/PRC-001, Docket, Scheduling and Control; JUSTICE/PRC-002, Freedom of Information Act Record System; JUSTICE/PRC-003, Inmate and Supervision Files; JUSTICE/PRC-004, Labor and Pension Case, Legal File and General Correspondence System; JUSTICE/PRC-005, Office Operation and Personnel System; JUSTICE/PRC-006, Statistical, Educational and Developmental System; JUSTICE/PRC-007, Workload Record, Decision Result, and Annual Report System. Notice of the existence of these systems was published in the FEDERAL REGISTER on September 30, 1977.

As presently written, the routine use reads (relevant portion italicized):

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and *with the consent of the individual* who is the subject of the record.

The modified routine use will read as follows (modified portion italicized):

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and *in response to a communication from the individual* who is the subject of the record.

Currently when an inmate or person on parole or on mandatory release supervision requests his congressional representative to assist him, the Parole Commission obtains direct consent from such person before releasing information to the Member of Congress or the Member's staff. The requirement that the Parole Commission obtain this direct consent delays the information flow to the Member, which in turn delays the Member's response to the constituent. In addition, the need to obtain direct consent adds significantly to the paperwork process. Upon adoption of the proposed change to the "routine use" language, the communication to the Member of Congress or staff from the inmate or person on mandatory release supervision will be considered to be the consent necessary to respond to the Member.

The amended system notices are reprinted below in their entirety.

Comments may be submitted in writing to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, Washington, D.C. 20530. All comments must be received on or before August 14, 1978. If no comments are received within 30 days (August 14, 1978), the change in the routine use language described will be adopted. No oral hearings are contemplated.

Dated: June 30, 1978.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/PRC-001

System name:

Docket, Scheduling and Control.

System location:

Records are maintained at each of the Regional Offices for inmates incarcerated in and persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addresses: United States Parole Commission, Scott Plaza II, Industrial Highway, 6th Floor, Philadelphia, Pa. 19113; United States Parole Commission, 3500 Greenbriar Parkway, Building 300, Atlanta, Ga. 30331; United States Parole Commission, 320 First Street, Washington, D.C. 20537, ATTN: National Appeals Board, United States Parole Commission, KCI Bank Building, 8800 Northwestern 112th Street, Kansas City, Mo. 64153. United States Parole Commission, 3883 Turtle Creek Boulevard, Suite I, Dallas, Tex. 75219. United States Parole Commission, 330 Primrose Drive, 5th Floor, Burlingame, Calif. 94010.

Categories of individuals covered by the system:

Current and former inmates under the custody of the Attorney General who have become eligible for parole. Former inmates includes those presently under supervision as parolees or mandatory releases and those against who a revocation warrant has been issued.

Categories of records in the system:

(a) Docket sheets—Each region and the National Appeals Board in Washington maintain a cumulative series of docket sheets in time sequence showing Commission action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The appeal docket includes the date and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. (b) Hearing schedules—When inmates become eligible for parole through operation of law, their names appear on an eligibility list prepared by the Bureau of Prisons, for initial parole hearings. Inmates denied parole are "continued" by the Commission to future dates for review hearings or records reviews. There is a legal requirement for record reviews of certain inmates at the one-third point of their sentences. Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for panels of examiners to process when they visit the various institutions or hold 'local' hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

Authority for maintenance of the system:

18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

Routine uses of records maintained in the systems, including categories of users and the purposes of such uses:

(a) The dockets provide the basis of answering basic inquiries, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prison staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or

implementing the statute, or rule, regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal users—Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External users—As noted above, on occasion employees of Federal, State and local enforcement, correctional, prosecutive, or other agencies, and courts may have access to this information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff acting upon the Member's behalf when he Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Achives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape, disk, or microfiche using ADP technology, is in the beginning stages.

Retrievability:

Name, register number, date, institution, Commission action.

Safeguards:

Copies of dockets and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and bureau employees on a "need to know" basis. Information therefrom may be given outside the Department as indicated in the "Routine Uses." If so, a letter will be written covering the item disclosed, date, and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

Retention and disposal:

Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded.

System manager(s) and address:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room 342; Washington, D.C. 20537.

Notification procedure:

Address inquiries to Regional Director at appropriate location. For general inquiries, address system manager. The Attorney General has exempted this system from compliance with the provisions of subsection (d), under the provisions of subsection (j).

Record source categories:

1) Bureau of Prisons files; 2) Parole Commission and Bureau of Prison's employees; 3) Court Records, 4) Parole Commission inmate files.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/PRC - 002

System name:

Freedom of Information Act Record System.

System location:

Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, ATTN: Executive Assistant to Chairman, or to the appropriate Regional Office.

Categories of individuals covered by the system:

Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

Categories of records in the system:

(1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552, and appeals from denials of data; (2) Final orders of Commission following all parole rescission and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act reading room at Commission headquarters with names and register numbers removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

Authority for maintenance of the system:

5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The system is used: (a) to maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act 5 U.S.C. 552; and make final orders available in a reading room pursuant to 5 U.S.C. 552; (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act if needed for processing contested denials of release of data; (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the U.S. Parole Commission not otherwise

required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information maintained in the system is stored on documents.

Retrievability:

Documents are indexed by name and/or register number. Final orders in the reading room are indexed by type, and within each type the source (Region or National Appeals Board).

Safeguards:

Information is stored in file cabinets in rooms supervised by day and locked at night and are made available to Commission personnel and other Department of Justice employees on a "need to know" basis. Each requestor may see his own file. The public may use the reading room.

Retention and disposal:

Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address:

General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537.

Notification procedure:

Same as the above.

Record access procedures:

Same as the above.

Contesting record procedures:

Same as the above.

Record source categories:

(1) Inmates and persons on supervision; (2) Department of Justice employees.

Systems exempted from certain provisions of the act:

None.

JUSTICE/PRC-003

System name:

Inmate and Supervision Files.

System location:

Records are maintained at each of the Commission's Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarters office located at 320 First Street, Washington, D.C. 20537 when used by the National Appeals Board or other Headquarter's personnel. Prior to the first parole hearing, the inmate's file is maintained at the institution at which he is incarcerated. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission; Scott Plaza II; Industrial Highway, sixth Floor; Philadelphia, Pa. 19113. U.S. Parole Commission; 3500 Greenbriar Parkway, Building 0300; Atlanta, Ga. 30331. U.S. Parole Commission; KCI Bank Building, 8800 112th Street Northwest, Kansas City, Mo. 64153. U.S. Parole Commission; 3883 Turtle Creek Boulevard, Suite I; Dallas, Tex. 75219. U.S. Parole Commission; 330 Primrose Drive, Fifth Floor; Burlingame, Calif. 94010.

Categories of individuals covered by the system:

Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releasees.

Categories of records in the system:

1. Computation of sentence and supportive documentation.
2. Correspondence concerning pending charges, and wanted status, including warrants.
3. Requests from other federal and non-federal law enforcement agencies for notification prior to release.
4. Records of the allowance, forfeiture, withholding and restoration of good time.
5. Information concerning present offense, prior criminal background, sentence and parole from the U.S. Attorneys, the Federal Courts, and federal prosecuting agencies.
6. Identification Data, physical description, photograph and fingerprints.
7. Order of designation of institution of original commitment.
8. Records and reports of work and housing assignments.
9. Program selection, assignment and performance adjustment/progress reports.
10. Conduct records.
11. Social background.
12. Educational data.
13. Physical and mental health data.
14. Parole Commission applications, appeal documentation, orders actions, examiner's summaries, transcripts or tapes of hearings, guidline evaluation documents, parole or mandatory release certificates, statements of third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.
15. Correspondence regarding release planning, adjustment and violations.
16. Transfer orders.
17. Mail and visit records.
18. Personal property records.
19. Safety reports and rules.
20. Release processing forms and certificates.
21. Interview request forms from inmates.
22. General correspondence.
23. Copies of inmate court petitions and other court documents.
24. Reports of probation officers, Commission correspondence with former inmates and others, and Commission orders and memoranda dealing with supervision and conditions of parole or mandatory release.
25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

Authority for maintenance of the system:

18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) The file is the "working tool" used by Parole Commission examiners to frame the questions at the inmates initial hearing. After that hearing, it is placed in the appropriate regional office where it provides the principle information source for decisions necessary during the pre-release stage (before parole), the review hearing or record review, and the post release stage (when supervision takes place). It is sent temporarily to Commission Headquarters when appeals come before the National Appeals Borad or when needed by Counsel and others on the Headquarters Staff. It is used by employees at all levels including Commission Members to provide the information for decision making in every area of Commission responsibility. Files of released inmates are used to make statistical studies of subjects related to parole and revocation.

(b) The system is used to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties.

(c) The system is used to provide information source for disclosure of information that are matters solely of general public record, such as offense, sentence data, release date, and etc. Names are not disclosed when information is so provided.

(d) The system is used to provide informational source for responding to inquiries from Federal inmates involved, their families or representatives, or Congressional inquiries.

(e) Internal Users—Employees of the Department of Justice who have a need to know information in the performance of their duties.

(f) External Users—U.S. Probation Officers, who supervise parolees and mandatory releasees, and U.S. District Court judges on rare occasions when Commission action is attacked in litigation. Very rarely, to enforcement authorities outside of the Department of Justice.

(g) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(h) A record from this system may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to current or former inmates under supervision.

(i) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 USC 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 USC 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information maintained in the system is stored on papers fastened into file jackets and a minimal amount is on cards stored in card file drawers. Active files and card indices are located in each region; inactive files are at the Washington Federal Records Center and the card index to inactive files is at Board Headquarters in Washington. An experimental program to store such data on tape, disk or microfiche using ADP technology is in the beginning stages.

Retrievability:

All data is indexed by name and/or register number. When ADP technology is used in the future, such data may be available by Social Security Number, FBI identification number, or other indices.

Safeguards:

Within the Department of Justice, routine use is made available to employees only on a "need to know" basis. Files are stored in rooms which are supervised by day and locked at night. Data from files for recipients outside of the Parole Commission and Bureau of Prisons is conveyed by letter so that a record exists. When files are sent they are covered by a letter with a follow-up on return of the file. Such disclosure is infrequent, and is within the Federal enforcement-prosecution-judicial area only.

Retention and disposal:

Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

System manager(s) and address:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 320 First Street NW., Room 342, Washington, D.C. 20537.

Notification procedure:

Address inquiries to Regional Director at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

Records source categories:

1. Individual inmate; 2. Federal law enforcement agencies and personnel; 3. State and Federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports, and findings of institution supervisors, counselors, board and committees, Parole Commission examiners, Parole Commission Members; 10. Federal Court records; 11. U.S. Bureau of Prisons personnel and records.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/PRC-004

System name:

Labor and Pension Case, Legal File and General Correspondence System.

System location:

All Labor and Pension cases, and Legal file and some general correspondence material is located at: Commission Headquarters, 320 First Street NW., Washington, D.C. 20537. The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervision System.

Categories of individuals covered by the system:

All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all Congressmen inquiring about constituents.

Categories of records in the system:

The Commission processes applications of persons convicted of certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 of by Employee Benefit Plans under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personnel nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and con-

victions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain personnel and criminal history type data regarding inmates, and internal communications among attorneys, Members and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning perole revocation and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

Authority for maintenance of the system:

These files are maintained pursuant to 18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Supart V, 28 CFR Parts 2 and 4, 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Within the Parole Commissoin material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigaton position of the Commission. The general correspondence is used by Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation in the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of reocrds in the system:

Storage:

All data is on documents or other papers in bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional director. Files are in file cabinets.

Retrievability:

Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

Safeguards:

Material is available only to Commission employees on a "need to know" basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, Federal enforcement agencies or the Congress. Disclosure to Congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

Retention and disposal:

Records are maintained for 10 years and are shredded or destroyed electronically thereafter.

System manager(s) and address:

Herman Levy; Attorney/Management Analyst, United States Parole Commission, 320 First Street NW., Room 342, Washington, D.C. 20537.

Record source categories:

a. Applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected wih labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquiries of Commission; g. Commission Members and employees responding to inquiries, corresponding with others, preparing speeches. policy statements and other means of contact with other branches of the Federal Government, State and local governments, and the public.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (c) (2) and (3), (4) (G) and (H), (c)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/PRC–005

System name:

Office Operation and Personnel System.

System location:

At each regional office as indicated in the "Inmate and Supervision File System Report" and at the U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

Categories of individuals covered by the system:

Present and former Commission Members and employees of the U.S. Parole Commission.

Categories of records in the system:

Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a Government office efficiently.

Authority for maintenance of the system:

All statutory sections, CFR sections, and CSC, GSA, and OMB directive establishing procedures for government personnel, financial, and operational functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Day-to-day activity involving personnel, financial. procurement, maintenance, recordkeeping, mail delivery, and management functions.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communicaton from the individual who is the subject of the record.

Release of information to the National Archives and Records Service:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are in paper files or on computer printouts. They are stored in operations areas of offices.

Retrievability:

Data of a personal nature is in employee personnel files, used by Commission personnel on a "need to know" basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a "need to know" basis.

Safeguards:

Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

Retention and disposal:

Subject to applicable CSC, OMB, DOJ, and GSA regulations.

System manager(s) and address:

Executive Assistant to the Chairman; U.S. Parole Commission, 320 First Street NW., room 354B, Washington, D.C. 20537.

Notification procedure:

Same as the above.

Record access procedures:

Same as the above.

Contesting record procedures:

Same as the above.

Record source categories:

Paroled Commission employees, Office of Management and Finance. All other contributing Government agencies.

Systems exempted from certain provisions of the act:

None.

JUSTICE/PRC-006

System name:

Statistical, Educational and Developmental System.

System location:

Parole Commission Headquarters, 320 First Street, 3d Floor, Washington, DC. 20537.

Categories of individuals covered by the system:

Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releasees.

Categories of records in the system:

All records as described in the Workload Record, Decision Result, and Annual Report System plus data on additional input forms known as Revocation Data Sheets, Parole Decision Information Sheet, certain follow-up forms and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected form the above category of individual. This data is either organized and processed by hand or is input into a computer through punchcard, and has been used to provide the following one-time reports in phamphlet-text form: a) Administrative Review of Parole Selection and Revocation decisions; b) Parole Decisionmaking, a Salient Factor Score; c) Effect of Representation at Parole Hearings; d) Parole Decisionmaking—Structuring Discretion; e) Time Served and Release Performance—A Federal Sample and certain additional reports, all available in the public reading room. The data base collected as described in this and the preceding system will be used to prepare studies on similar or related subjects in the future. It has recently been used to develop revocation guidelines similar to parole guidelines. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

Authority for maintenance of the system:

18 U.S.C. 4201-4218, 5005-5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Internal—Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodology to select persons to be released from prison who will be less likely to recidivate.

b. External—Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be

made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of informaton to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Data is in input forms, IBM card decks and on computer tape. It is stored as described in the preceding system description. Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves, and in the public reading room.

Retrievability:

Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or tape. This material is used only by authorized parole board research personnel on a "need to know" basis and is data processed only by authorized Bureau of Prisons personnel. Material is not retrieved in identifiable form except that computer produced "hard copy" may be used as a temporary expedient to prepare a report. The final pamphlet-text reports and material resulting from studies are used by Commission personnel for internal purposes and the public externally. None of this material contains any reference to an individual. One source form, the Salient Factor Worksheet, which contains information retrievable as to one individual is made available to that individual if requested under the Freedom of Information Act.

Safeguards:

See "Safeguards" of preceding system regarding input forms, IBM cards or tape. Reports in pamphlet form are not safeguarded.

Retention and disposal:

See "Retention and Disposal" of preceding system. The studies in pamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

System manager(s) and address:

Research Director, U.S. Parole Commission, 320 First Street NW., Room 366, Washington, DC. 20537.

Record source categories:

a.Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy; Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/PRC–007

System name:

Workload Record, Decision Result, and Annual Report System.

System location:

U.S. Parole Commission Headquarters, 320 First Street, 3d Floor, Washington, DC. 20537.

Categories of individuals covered by the system:

Any inmate and parolee or mandatory release who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, or prior year).

Categories of records in the system:

Certain original input forms indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in question. Types of decisions covered in order of the form numbers above are after hearing or record review, after recommendation, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. The data is input into a computer through punchcards and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) A quarterly report on decision results indicating, among other statistics, number and type of decisions within, above, and below guidelines broken out by examiners making the decisions; (c) Together with hand posted data on other items of statistical value, this data is being used to create the Annual Report of the Commission.

Authority for maintenance of the system:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines themselves.

(b) These records are used to prepare an annual report to the Attorney General and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a Federal, State, or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Paper input forms are stored in folders only until information from them is punched into cards. Data is stored principally on punch cards and plans are being developed to convert it to tape storage. Monthly and quarterly reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

Retrievability:

Data in this system can be retrieved by inmate's name and register number from the original input forms, IBM card decks, and planned tape substitute for card decks. It is only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability in the guideline section of the quarterly report. Except for this, there is no output from this system now produced in which any information is identifiable by the name or register number of any person. Such identification exists in the input and storage data area.

Safeguards:

Data on forms and IBM cards and/or tape retrievable by individual is stored in the Research Sections Office in cabinets. Research personnel (all selected Commission employees) supervise this data by day and use it on a "need to know" basis.The room where it is stored is locked outside of office hours, and the entire Headquarters building is guarded and secured. Monthly and quarterly reports are for use of the Chairman, his Executive Assistant and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of the quarterly reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, locked at night, and are in a secured building. The Annual Report contains no information identifiable by individual and is a public document.

Retention and disposal:

Completed input forms—1. Until data is keypunched into IBM cards—usually 1 month after forms are completed. They are then destroyed; 2. IBM card decks or planned tape substitute—10 years after preparation, cards will be destroyed—tape degaussed; 3. Printouts of annual and quarterly reports—10 years; 4. Annual Reports—Some copies retained perpetually in Archives.

System manager(s) and address:

Executive Assistant to the Chairman, Room 354-B, U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537.

Record source categories:

(a) Commission inmate files; (b) Docket sheets; (c) Commission notices of acton, orders and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (c)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

[FR Doc. 78-19348 Filed 7-12-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-30)]

NASA ADVISORY COUNCIL (NAC) LIFE SCIENCES ADVISORY COMMITTEE

Meeting

A working meeting of the Editorial Team of the Life Sciences Advisory Committee of the NASA Advisory Council (NAC) will be held on August 3-4, 1978, beginning at 8:30 a.m. on both days, in the office of the Committee Chairman, Dr. G. Donald Whedon, Room 9A52, Building 31, National Institutes of Health, Bethesda, Md. The purpose of the meeting is to carry out further editing and revision in preparation of the committee report of recommendations on future directions for the NASA Life Sciences. The meeting is open to members of the public who will be admitted on a first-come, first-served basis up to the seating capacity of the room which is about 15 persons.

The NAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel, with exobiology, and with the influence of the space environment on other life forms. Its academic interests include: Physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, plant biology nutrition and food technology, exobiology, biology of gravity and rhythms, ecology and biotechnology.

For further information, please contact Dr. S. P. Vinograd, Code SBR, NASA Headquarters, Washington, DC 20546, telephone 202-755-3723.

Dated: June 30, 1978.

ROBERT A. NEWMAN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-19282 Filed 7-12-78; 8:45 am]

[6820-49]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

PRIVACY ACT OF 1974

Systems of Records

On Wednesday, May 31, 1978, there was published in the FEDERAL REGISTER, 43 FR 23660, a notice of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a). The public was given the opportunity to submit, not later than 30 days from that notice, written comments concerning the proposed system of records. No comments were received.

The proposed system notices are hereby adopted.

Dated at Washington, D.C., on July 7, 1978.

BENEDICT J. LATTERI,
Administrative Officer.

[FR Doc. 78-19365 Filed 7-12-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application", please take notice that the Nuclear

Regulatory Commission has received the following applications for export licenses during the period of June 26 through June 30, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's public document room located at 1717 H Street NW., Washington, D.C.

Dated: July 5, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

JAMES R. SHEA,
Director,
Office of International Programs.

Name of applicant, date of application, date received, and application number	Material in kilograms or reactor type and power level	Enrichment	End-use	Country of destination
Exxon Nuclear Corp., June 20, 1978, June 26, 1978, XSNMO1112 (amend. 01).	43.340 uranium	2.90	Two reloads for the Oskarshamn I reactor reexport.	Sweden.
Transnuclear, Inc., June 29, 1978, June 30, 1978, XSNMO1338.	2.591 uranium	93.3	Fuel for McMaster nuclear reactor (MNR).	Canada.
Transnuclear, Inc., June 29, 1978, XSNMO1339	2.597 uranium	93.3	do	Do.
Transnuclear, Inc., June 29, 1978, June 30, 1978, XSNMO1340.	39.077 uranium	93.3	Fuel for the Japan materials test reactor (JMTR).	Japan.

[FR Doc. 78-19280 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-53, issued to Baltimore Gas & Electric Co. (the licensee), which revised technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Md. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications based on the reanalysis of the Cycle 3 core thermal hydraulic characteristics using new Combustion Engineering computer codes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 8, 1978, as supplemented May 30 and June 21, 1978, (2) Amendment No. 33 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Md. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of June 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-19274 Filed 7-12-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 62, 62 and 59 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, S.C. The amendments are effective as of June 27, 1978.

These amendments revise the Station's common Technical Specifications to permit on a one time basis, conditional relief from the power reduction requirements of specification 3.5.2.2.i with respect to the inoperability of rod 6 of group 4 of the Oconee Nuclear Station, unit No. 2, control rod system from June 27, 1978 to July 1, 1978. These amendments are issued as the result of the dicovery of electrical fault in the drive motor for rod 6 of group 4 of the Oconee Nuclear Station, unit No. 2 control rod drive system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 22, 1978, as supplemented June 28, 1978, (2) Emergency Authorization dated June 27, 1973, (3) amendments Nos. 62, 62, and 59 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691. A copy of items (2) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commis-

sion, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 6th day of July 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4 Division of Operating Reactors.

[FR Doc. 78-19275 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket No. STN 50-437]

OFFSHORE POWER SYSTEMS

Availability of NRC Final Addendum to the FES, Part II, for the Siting and Operating of Floating Nuclear Power Plants

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's (Commission) regulations in appendix M of 10 CFR part 50 and 10 CFR part 51, notice is hereby given that the Commission's Office of Nuclear Reactor Regulation has prepared a final addendum to the final environmental statement, part II (NUREG-0056), directed to the generic considerations of siting and operating Floating Nuclear Power Plants in the offshore and shore zone waters of the Atlantic Ocean and the Gulf of Mexico as well as at generalized riverine and estuarine locations.

The final addendum is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Fla. 32204; the Stockton State College Library, Pomona, N.J. 08240; and the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, La. 70140. The final addendum is also being made available at the Bureau of Intergovernmental Relations, Division of State Planning, Department of Administration, 600 Apalachee Parkway, Tallahassee, Fla. 32304 and at the Jacksonville Area Planning Board, 330 East Bay Street, Jacksonville, Fla. 32202.

Notice of availability of the draft addendum to the FES, part II, was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11260). The comments received from Federal, State, and local officials and interested members of the public have been included as an appendix in the final addendum.

Copies of the final addendum to the FES (Document No. NUREG-0056) may be purchased from the National Technical Information Service, Springfield, Va. 22161. (Printed copy: $8; microfiche: $3).

Dated at Bethesda, Md. this 30th day of June 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-19273 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. (TROJAN NUCLEAR PLANT)

Notice and Order for Special Prehearing Conference

JULY 7, 1978.

On May 26, 1978, the Office of Nuclear Reactor Regulation issued an order for modification of license concerning the design of the control building walls at the Trojan facility. This order was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23768). The order requires that the control building walls be brought into substantial compliance with the approved seismic design criteria by June 1, 1979, and provides for interim operation of the facility under certain specified conditions. The order also provides that any person whose interest may be affected may file a request for a hearing by June 26, 1978, on the stated issues of (1) whether interim operation prior to the required modifications should be permitted, and (2) whether the scope and timeliness of the modifications required by the order are adequate from a safety standpoint.

An Atomic Safety and Licensing Board to rule on petitions and/or requests for leave to intervene in this proceeding was duly established on June 29, 1978.

Pursuant to the published order and notice of opportunity to request a hearing on the specified issues, David B. McCoy filed his amended petition for a public hearing and request to intervene on June 12, 1978. Responses to the petition and objections to the statement of interest or showing of standing were filed by the staff on July 3 and by the applicants on June 23, 1978.

The Columbia Environmental Council (CEC) filed a request for hearing on June 19, 1978, which alleged the interests of itself and its members and the health and safety, economic and environmental impacts which it objected to.

By a letter dated June 4, 1978, John A. Kullberg requested a public hearing and that the plant not be made operational until a hearing was held. The staff responded to this request for hearing on June 23, 1978, objecting that it was defective because interest was not set forth with particularity showing some assertion of specific interest and the manner in which that interest is affected. On June 17, 1978, Mr. Kullberg sent a supplemental letter setting forth his residence 30 miles from the Trojan plant and his use of the Columbia River adjacent to the plant.

Written requests for hearing and statements of alleged interest have been filed by the following persons:

Stephen M. Willingham (June 26, 1978).
C. Gail Parson (June 23, 1978).
Eugene Rosolie and Coalition for Safe Power (CFSP), dated June 19, 1978.
Nina Bell (dated June 21, 1978).

Requests for hearing or support therefor were mailed by Sharon S. McKeel (June 9, 1978) and Bonnie Hill (June 20, 1978).

By letter dated June 20, 1978, the Department of Energy of the State of Oregon stated that it did not wish to request a hearing to challenge NRC's conclusions, and expressed its views on the hearing process and interim operation.

By letter dated June 20, 1978, the Governor of the State of Oregon supported the petition of the applicants for permission to operate the Trojan plant during the course of hearings. The Public Utility Commission of Oregon took the same position by letter dated June 23, 1978.

Please take notice that a special prehearing conference pursuant to the provisions of 10 CFR 2.714 and 2.751a, as amended, will be held in room 223 of the Federal Building, 1220 Southwest Third Avenue, Portland, Oreg. 97205, on July 24 and 25, 1978, commencing at 9 a.m., local time.

All parties and petitioners for intervention requesting a hearing are directed to appear at such special prehearing conference, where the Board established to rule on petitions and/or requests for leave to intervene in this proceeding will consider such petitions. This Board will consider all requests which are within its limited jurisdiction, as described by the Appeal Board in Pacific Gas and Electric Company (Stanislaus Nuclear Project, Unit No. 1), ALAB-400, 5 NRC 1175, 1177-78 (1977).

Dated at Bethesda, Md., this 7th day of July 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-19276 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT)

Notice of Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he is transferring to the Federal Communications Commission, where he will serve as an Administrative Law Judge, Mr. Coufal is unable to continue his service on this Board.

Accordingly, Andrew C. Goodhope, Esq., whose address is 3320 Estelle Terrace, Wheaton, Md. 20906, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with section 2.721 of the Commission's rules of practice, as amended.

Dated At Bethesda, Md., this 7th day of July 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-19277 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket Nos. 50-354, 50-355]

PUBLIC SERVICE ELECTRIC & GAS CO. AND ATLANTIC CITY ELECTRIC CO. (HOPE CREEK GENERATING STATION, UNITS 1 AND 2)

Order

JULY 6, 1978.

In the matter of Atomic Safety and Licensing Appeal Board, Jerome E. Sharfman, Chairman, Richard S. Salzman, Dr. W. Reed Johnson.

This Board will hear argument at 10 a.m., August 17, 1978, on the appeal of the joint intervenors and David A. Caccia from the Licensing Board's second supplemental initial decision of April 14, 1978. The argument will be heard in the Commission's public hearing room on the fifth floor of the East-West Towers Building, 4350 East-West Highway, Bethesda, Md.

Argument will be presented in the following order:

(1) Joint intervenors and David A. Caccia—1 hour;

(2) The applicant and the staff—1¼ hours, to be divided between them as they see fit, or in the absence of an agreement, equally;

(3) Joint intervenors and David A. Caccia—15 minutes for rebuttal.

A party need not use its entire allotment of time if it deems it unnecessary to do so.

Each party shall notify the Secretary to this Board in writing, no later than August 2, 1978, of the name of counsel who will present argument in its behalf.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-19278 Filed 7-12-78; 8:45 am]

[7590-01]

[Docket No. 50-338]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 7 to the facility operating license No. NPF-4, issued to Virginia Electric & Power Company, which rewords condition 2.D.(3)j contained in facility operating license NPF-4 amendment No. 3. Amendment No. 7 is effective as of its date of issuance.

The amendment redesignates testing transmitters Barton 386/752 and Barton 393 to Barton 764 and Barton 763, respectively, and deletes the use of the Foxboro E11GM (MCA/RRW) transmitter. The amendment also extends the date from (July 1, 1978 to October 1, 1978) which the results of the testing shall be provided to the Commission.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the amendment does not authorize a change in effluent types or total amounts not an increase in power level and will not result in any significant environmental impact. Having made this determination, it has further been concluded that the amendment involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR section 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric & Power Co. letters, dated May 5, 1978, and June 7, 1978, (2) amendment No. 7 to license No. NPF-4, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's public document room, 1717 H Street NW., Washington, D.C. 20555, and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Va. 23093, and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 3d day of July 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-19279 Filed 7-12-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION—SAFETY BOARD

[N-AR 78-28]

SAFETY RECOMMENDATIONS AND RESPONSES

Annual Report to Congress

AVAILABILITY OF RECOMMENDATIONS

Aviation

A-78-42.—The National Transportation Safety Board has examined the records of 65 accidents which occurred from 1972 to 1976 involving aircraft operated under Subpart D of 14 CFR Part 91 (Large and Turbine-Powered Multiengine Airplanes). The Board finds that maintenance of the aircraft was either a cause or a factor in 46 percent of the accidents and that this percentage of maintenance involvement is extremely high when compared to other categories of operations. This indicates that a significant number of operators of Subpart D aircraft are not maintaining their aircraft properly.

The Safety Board, in its July 5 recommendation letter to the Federal Aviation Administration, cites two examples of recent accidents involving Subpart D aircraft. One example: A Douglas DC-7BF crashed immediately after takeoff last September 12 from Yakutat (Alaska) Airport. All four crewmembers were killed and the aircraft was destroyed. Investigation revealed that the aircraft was improperly loaded, that proper lease agreements had not been arranged, that the aircraft was not maintained in accordance with 14 CFR 91.217(a), that there was no evidence that the copilot met the provisions of 14 CFR 91.213 or 14 CFR 61.55, and that no qualified flight engineer was on board.

Another example concerned a Convair 880-22M, operating under Subpart D. The aircraft crashed on takeoff from Miami International Airport when the pilot was unable to rotate the aircraft as a result of improperly loaded cargo. In addition, investigation revealed that the basic operating weight and the weight and balance of the aircraft were incorrect in the records of the aircraft.

The Board notes that many Subpart D aircraft are old, surplus air carrier or military aircraft. They are bought as cheaply as possible to make a profit for the owners. It is not unusual to find inadequate maintenance programs, crews which are minimally qualified, and confusing or illegal leasing arrangements. Frequently, FAA surveillance of Subpart D operators is difficult because of the instant creation of companies and the interchange of pilots.

Therefore, the Safety Board recommends that FAA—

Revise Subpart D of 14 CFR Part 91 to assure that an adequate level of safety is provided whereever these rules are applicable. (A-78-42) (Class III, Longer-Term Action)

A-78-43 and 44.—These recommendations, issued to FAA on July 7, reflect the Safety Board's concern over the continued occurrence of stall/spin accidents in recent years. The accident statistics are alarming and reinforce the Board's belief that positive, innovative action must be taken by FAA to alleviate the situation. From 1974 to 1976 there were 723 stall/spin accidents which resulted in 668 fatalities and 246 serious injuries. The Board believes that many of these accidents could have been prevented if FAA had implemented past Safety Board recommendations relating to stall/spin problems.

The Board notes that of the nine recommendations issued to FAA following Board special study, "General Aviation Stall/Spin Accidents 1967-1969," several dealt with improved and supplemental pilot training which the Board considered essential in preventing stall/spin accidents. In response, FAA contracted for a related study entitled, "General Aviation Pilot Stall Awareness Training Study." Objective of this study was to determine the weaknesses of current flight training syllabi, the methods of training used, and the flight instruction provided in the stall/spin area; to conceive an experimental stall/spin increment to an established flight and ground training syllabus; and to conduct flight and ground test evaluations of this syllabus change and the flight instruction techniques required.

The Board believes that the supplemental, uniquely oriented training developed and outlined in this study can be effective in avoiding stall/spin accidents. However, the Board is aware of no effort or plans on the part of FAA to implement the results of this study through the pilot training requirements contained in 14 CFR Parts 61 and 141. Accordingly, the Board recommends that FAA—

Incorporate all of the essential elements of the ground and flight training increments developed in the "General Aviation Pilot Stall Awareness Training Study," or their equivalent, in FAR Parts 61 and 141. (A-78-43)

Send the detailed stall/spin ground and flight training syllabus developed in this training study to all certificated flight schools and commercial flight instructors. (A-78-44)

Both recommendations are designated "Class I, Urgent Action."

Intermodal/Railroad

A three-phase government-industry program to reverse an upward trend of railroad derailments involving hazardous materials is being urged by the Safety Board. The Board's objectives range from such short-term measures as installation of head shields and shelf couplers on "jumbo" tank cars, to a long-term proposal for a nationwide system of priorities for maintenance of railroad track in areas where public risks from hazardous materials are greatest.

The program is the goal of 15 safety recommendations made by the Safety Board in a soon-to-be-released report on its three-day, full-Board hearing last April 4-6 on the hazardous materials derailment problem. The hearing was prompted by the increasing number of derailments nationwide, especially those involving the release of hazardous materials from DOT 112A/114A jumbo tank cars. Forty-nine witnesses from the railroad industry, tank car builders and operators, shippers, State and local officials, firefighters, labor representatives, and the public testified.

The evidence indicated that a safety analysis for insuring that an adequate level of safety was afforded to the public by DOT 112A/114A tank cars was not used and that the tank cars were designed and developed without benefit of an adequate safety assessment.

Printed copies of the report of the hearings are now being printed for release to the public. Meanwhile, the Safety Board on June 29 addressed the following recommendations to—

Task Force on Rail Transportation of Hazardous Materials:

Develop, for use by the Association of American Railroads, tank car builders, and shippers, procedures and methods that will assure that the best available safety analysis technology is applied to determine and control risks involved in tank car transportation of hazardous materials. (I-78-8)

U.S. Department of Transportation:

Develop and implement a safety plan for utilizing the best available safety analysis technology to determine regulatory actions needed to adequately control hazardous materials transportation risks. (I-78-9)

Supply the leadership required to establish an adequate nationwide hazardous materials emergency response network able to meet all facets of hazardous materials emergency response needs, using existing State and private resources whenever possible. (I-78-10)

Encourage States to upgrade hazardous materials emergency handling capabilities, including State or regional one-call notification systems that will serve the needs of local public safety officials in significant hazardous materials transportation emergencies; and support development of guidelines by which States can evaluate their programs. (I-78-11)

Incorporate requirements imposed on shippers and carriers by Environmental Protection Agency Hazardous Materials regulations in 49 CFR Parts 100 through 179, to assure that these regulations are complete and do not contain contradictions or gaps. (I-78-12)

Review and develop necessary regulations or funding mechanisms for a hazardous materials track improvement priority system to insure adequate protection of the public in urban corridors against accident risks. (R-78-32)

Provide sufficient funding for research that will assess the safety effects of heavier cars and trains on present track facilities, and safest positioning of hazardous materials tank cars and others in train consists, and issue regulations resulting from the findings of this research. (R-78-33).

Environmental Protection Agency:

Assist the U.S. Department of Transportation in assuring that hazardous materials regulations issued by DOT are in agreement with EPA's hazardous materials regulations. (I-78-13)

Association of American Railroads:

Restructure the membership and procedures of the AAR Committee on Tank Cars to eliminate conflicts of interest between shippers and the railroad industry in safety decisions. (R-78-28)

Review and adopt all safety analysis methods that will strengthen the safety approval procedures within AAR Committees acting on hazardous materials tank car design and modification questions. (R-78-29)

Implement emergency procedures for approval of facilities and locations for installation of shelf couplers and head shields on DOT 112A/114A tank cars. (R-78-30)

Develop and document a system to notify FRA of critical car components that exhibit critical failures annually and recommend regulatory action as required. (R-78-31)

Federal Railroad Administration:

Publish an annual program management report that provides FRA's plans and programs to eliminate major accident causal factors. (R-78-34)

Identify critical car component failure rates and assure that they are properly addressed either by regulation or emergency order as required and expand communication channels with the Association of American Railroads to facilitate this program. (R-78-35)

Evaluate and revise the State Participation Program to allow greater State flexibil-

ity; base evaluation of the program on the States' ability to adequately monitor railroad and hazardous materials safety. (R-78-36)

Recommendations R-78-28 through 30 are designated "Class I, Urgent Action"; recommendations R-32 and 33 are designated "Class III, Longer-Term Action"; all other recommendations above are labeled "Class II, Priority Action."

Pipeline

Guidelines for the number and location of emergency valves needed to isolate promptly dangerous leaks in natural gas distribution systems are being urged by the Safety Board following investigation into the gas main rupture in downtown Atlanta, Georgia, last December 1. A 12-inch, cast-iron, high-pressure gas main owned by the Atlanta Gas Light Company (AGL), ruptured by an i-inch steel I-beam pile which was driven through the pipe at the construction site of a new central library, forced the evacuation of more than 4,000 persons from four office buildings.

Although it was nearly two hours before the flow of gas was shut off, emergency personnel and AGL crews succeeded in preventing ignition of the gas which permeated the area. There were no injuries. Printed copies of the complete investigation report are expected to be released to the public within the next few weeks.

As a result of its investigation of this accident, the Safety Board on July 6 addressed the following recommendations to—*George Hyman Construction Company* of Bethesda, Maryland (contractor for the Atlanta construction project):

Require employees to follow completely the instructions given by one-call notification systems. (P-78-18)

Instruct employees to ascertain by all possible means the locations of underground facilities before excavating at a construction site. (P-78-19)

City of Atlanta, Georgia:

Request that a representative of each operator of an underground facility attend all preconstruction meetings for excavation projects contracted by the city. (P-78-20)

Atlanta Gas Light Company:

Instruct employees to respond precisely to notices of planned excavations provided by one-call notification systems. (P-78-21)

Develop a sectionalizing program of the high-pressure distribution system so that the location of designated valves will reduce the size of an affected area during an emergency. (P-78-22)

American Society of Mechanical Engineers Gas Piping Standards Committee:

Develop and issue guidelines to pipeline operators concerning the number and location of emergency valves in high-pressure gas distribution systems. (P-78-23)

Materials Transportation Bureau, U.S. Department of Transportation:

Amend 49 CFR 192.181(a) to specifically define the requirement for location and number of emergency valves. (P-78-24)

With the exception of recommendation P-78-24, all of the above recommendations are designated "Class II, Priority Action." P-78-24 is a Class III recommendation, granting longer-term action.

Railroad/Highway

The Safety Board has issued two additional safety recommendation letters, dated June 28, as a result of its investigation of the fiery collision of a freight train and a truck in which two crewmen were killed and a third seriously injured at Goldonna, Louisiana, last December 28. The additional recommendations are addressed to—

Louisiana & Arkansas Railway Company:

Assure that traincrews are properly supervised and comply with speed restrictions and other instructions. (R-78-25)

Louisiana Department of Transportation and Development:

Improve quadrant sight distances at the Vine Street crossing in Goldonna so that they will permit heavy vehicles operating at the posted speed limit to stop within such distances, and install train-activated warning devices at the crossing. (H-78-46)

Include in its grade crossing safety criteria the evaluation of existing quadrant sight distances. Include in its grade crossing safety program provision for intermediate remedial action to eliminate hazards at crossings where there are no train-activated warning devices. (H-78-47)

The above recommendations are each designated "Class II, Priority Action." recommendations R-78-26 and 27, directed to the Federal Railroad Administration also on June 28, requested, respectively, assurance that the Louisiana & Arkansas Railway Company complies with 49 CFR Part 174, and quick completion of FRA's efforts to improve the design of locomotive cabs to resist crash damage. (A summary of the recommendation letter to FRA was published at 43 FR 29195, July 6, 1978.)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-77-5.—Federal Aviation Administration's letter of June 13 is in further response to the Safety Board's recommendation that FAA develop procedues to enhance the quality control functions at the Civil Aero-medical Institute with respect to the medical certification of airmen.

In FAA's response of May 11, 1977, it was noted that the anticipated conversion to a new comuter would substantially improve the Civil Aero-medical Institute's capabilities for detecting airman physical and Aviation Medical Examiner (AME) performance deficiencies. FAA reports that that comuter is now in operation. Information from every airman medical examination is placed in the data bank of an IBM 370 system and, through an exensive edit process, checked for completeness and compared with prior examination results on the same individual.

FAA states that as every application for airman medical certification identifies the examining AME, computer-generated, specifically detailed tabulations of administrative and professional performance will be provided periodically to Regional Flight Surgeons and to the AME's. These tabulations and resulting "AME Profiles" will be used as aids in AME training and control programs.

Highway

H-77-09.—A letter of June 12 from the Federal Railroad Administration is in response to the Safety Board's request of March 28, 1978, for advice regarding research activities on grade crossing safety and associated regulatory action. FRA reports that it is actively participating in seven major crossing related research projects, some in conjunction with the Federal Highway Administration. Title and objectives of these projects are:

1. Driver Requirements for Active Grade Crossing Warning Systems: to develop basic guidelines as to driver needs for improved active grade crossing warning devices.

2. Implication and Effects of Civil Liability on Railroad Highway Grade Crossing Safety: to permit new developments in grade crossing safety; uninhibited by liability considerations.

3. Analysis of Grade Crossing Warning Displays as Related to Alternative Fail-Safe/malfunction Displays and Standby Power Concepts: to determine the most effective methods for providing grade crossing warning in the event of system failure.

4. Development and Evaluation of Driver Education Curriculum Material and Mass Media Information on Grade Crossing Safety: to determine the most effective material to include in driver education curriculums, driver licensing manuals, and mass media campaigns.

5. Train Visibility and Conspicuity at the Crossing Including Crossing Illumination and Freight Car Reflectorization: to explore and evaluate all available methods of improving the visibility of the train to drivers.

6. Analysis of Quadrant Sight Distance at Grade Crossings Including Private Property Problems: to determine the costs and effectiveness of improved quadrant sight distance both on and off the normal highway and railroad right-of-way.

7. Operations of Special Trucks and Buses at Grade Crossings: to analyze and evaluate the various methods of operation of special vehicles at grade crossings, such as special routing and pullout lanes.

FRA further states that it has another grade crossing research project underway to determine the technical and economic viability of off-track

train detection concepts for activation of grade crossing motorist warning systems. Like the research projects listed above, results will in part determine the need for regulatory action, according to FRA.

H-77-38 and 39.—Letter of June 15 from the Ohio Department of Transportation (ODOT) is in response to recommendations made following Safety Board investigation of the collision between a tractor-semitrailer and 10 automobiles which occured on August 20, 1976, on State Route 17 (Granger Road) in Valley View, Ohio.

In response to H-77-38, which asked the State of Ohio to install needed advance warning signs in the area of the accident site to provide drivers with information as to length and steepness of the grade and the presence of the signalized intersection, ODOT reports that it has taken these actions: (1) On August 26, 1976, trucks were diverted from that portion of State Route 17 where the accident occurred: (2) joint traffic engineering surveys were made in which representatives of ODOT Central and District Traffic Enginering staffs and local officials reviewed traffic control devices in the area and, as a result of these studies, a number of signing improvements were or will be made; and (3) the two municipalities (Garfield Heights and the Village of Valley View) were advised of the requirements and procedures for initiating a Federally funded project for physical improvements under the High Hazard Safety Program.

Recommendation H-77-39 asked the State of Ohio to consider amending State laws to allow the Director of Transportation to place and maintain traffic control devices that conform to its manual and specifications upon all extensions of State Highways through local jurisdictions. ODOT states that this recommendation is beyond the scope and purview of that office, and that no changes are contemplated in this area at this time.

H-78-21 through 26.—Letter of June 8 from the National Highway Traffic Safety Administration refers to recommendations issued in connection with the Safety Board's "Report to Congress—Safety Effectiveness Evaluation of the National Highway Traffic Safety Administration's National Accident Sampling System." NHTSA states that it has already commented on these recommendations to the Subcommittee on Transportation and Related Agencies of the Senate Appropriations Committee—at whose request the Safety Board prepared the report. The report was released last May 3; see 43 FR 20284, May 11, 1978.

A copy of NHTSA's response to the Subcommittee is attached to its June 8 letter.

In response to recommendation H-78-21, which asked NHTSA to establish a National Accident Sampling System (NASS) Advisory Committee to provide NHTSA with a broad perspective of types of data that should be collected and methods of data storage and retrieval, NHTSA states that it will expand the membership of the original 14-member NASS Advisory Panel to include persons from the law enforcement community, the governor's highway safety representatives and highway engineering agencies. The panel will be convened next fall to review NASS implementation, giving particular attention to the scope of data planned for collection and methods of data storage and retrieval.

Recommendation H-78-22 asked NHTSA to study the practical problems associated with collecting key data, such as injury data, to determine the magnitude of any problem and to assess the impact on the effectiveness of the NASS program before selecting the number and location of future NASS investigation sites. NHTSA states that one objective of the pilot study (April through October 1978) is to obtain estimates of missing data on key elements, including injury, vehicle inspection and operator interview.

In answer to H-78-23, recommending a study of the potential effects from liability litigation between parties to individual motor vehicle accidents which could involve testimony from NASS investigators on the cost and quality of data collection, NHTSA says that it has studied this problem and its impact on recent multiteam studies similar in concept but smaller than NASS. NHTSA judges this to be an inconvenience in the past studies and potentially a serious problem for NASS. The pilot study will address the problem.

Recommendation H-78-24 called for assurance that the number of NASS accident investigation sites will not be expanded beyond the original 10 until after experience with field data collection and processing is evaluated; the exposure data system design, accident causation methodology, and other NASS studies are completed; and a comprehensive plan for further implementation of NASS is developed and made public. NHTSA assures that the number of NASS sites will not be expanded until it is satisfied with results of the test program, and at every stage of its development it will be tested and modified.

In response to H-78-25, recommending that copies of the sanitized accident reports and case files including photographs completed by each team be retained and systematically filed at a central location for easy retrieval by persons interested in further in-depth research, NHTSA says it plans to retain the sanitized source data on investigated accidents for at least 3 years in a central location.

Recommendation H-78-26 called for revision of the currently proposed data collection forms to include substantially increased emphasis on the highway environment. NHTSA reports that the 1979 version of the data collection forms will give increased emphasis to the highway environment and that additional opportunity for revisions will occur by virtue of Federal Highway Administration review and critique of the data elements in the pilot study and data collection in the accident causation study, the National Crash Severity Study, and a joint NHTSA-FHWA study on narrow bridges.

Railroad

R - 77 - 12. — The Manufacturing Chemists Association on June 14 responded to the recommendation issued following Safety Board investigation of the May 16, 1976, derailment of a Chicago and North Western Transportation Company freight train near Glen Ellyn, Illinois. Another C&NW freight train, moving on an adjacent track, collided with the derailed cars; the head on a tank car was punctured by the coupler of another car and the tank car's anhydrous ammonia cargo escaped.

The recommendation asked the Manufacturing Chemists Association (MCA) to analyze the operating experience of the Chemical Transportation Emergency Center (CHEMTREC) and recommend a system to link appropriate hazardous materials experts with on-scene public safety officials during the critical first few minutes of a train accident involving hazardous materials.

MCA reports that, to consider this request, a special CHEMTREC Review Group was appointed to review and analyze the CHEMTREC operations. The Group concluded that, although the goal is conceptually sound, it is not achievable under today's operating procedures. The Review Group conducted discussions with representatives of involved government agencies, carriers of all modes, shippers and the emergency services. Of particular interest was the information provided by representatives of the fire services that the communications systems currently available to most fire departments of this country (about 29,000) are not capable of direct communications to the scene of an accident through the telephone systems; messages must be relayed through dispatchers, with accompanying delays and the possibility of confusion.

MCA notes that all too often, several hours elapse from the time of a derailment until information is sought from CHEMTREC regarding the hazards of the chemical(s) involved. It is important that the chemical(s) be identified promptly and that CHEMTREC learn

as promptly as possible the name of the shipper so that the advice of experts regarding specific chemical(s) can be arranged. The Review Group also found that companies and MCA must improve shipper response. A series of workshops designed to improve company emergency response procedures was recently completed with over 800 individuals participating, MCA reports. Additional assistance, through individual consultations and timely bulletins, are also planned.

Although there have been great efforts to publicize CHEMTREC, MCA notes that many carriers and emergency service units still do not know that they can get help by dialing CHEMTREC's toll free number from anywhere in the continental United States. A program to obtain greater recognition of the availability of CHEMTREC is being undertaken.

ANNUAL REPORT TO CONGRESS

The Safety Board on June 30 released its Annual Report to Congress. Included in the report is a review of Board actions designed to reduce the threat of catastrophic accidents from rail tank car explosions. The report notes that the largest potential for a hazardous materials catastrophe lies with the railroads where a single tank car has the ability to carry some 33,000 gallons of hazardous materials compared with 8,000 to 10,000 gallons for a tank truck.

The Board indicates that it is not satisfied that its safety recommendations on hazardous materials had been accepted with the sense of urgency desired, particularly in the installation of head shields and safety couplers on tank cars, both of which are designed to prevent punctures in the event of an accident.

The Annual Report also includes the 1977 U.S. civil aviation safety records for both general aviation and air carriers. Air carriers operations fatalities totalled 654—an unprecedented increase, due to one ground collision between two chartered B-747 aircraft which alone claimed 573 lives.

During 1977, highway accidents claimed some 46,725 lives. To help stem this tide, the Safety Board issued 31 highway safety recommendations, most directed to the Federal Highway Administration. The Board's recommendations centered its major concern on the design and performance of protective railing systems for highways and on added protection for both trains and motor vehicles at rail/highway grade crossings, the Annual Report shows.

The Annual Report also lists major pipeline investigations conducted in 1977, including an explosion and fire which shut down the Alaska pipeline. Marine safety investigations ranged from the collision of a tank ship with a bridge over Virginia's James River to the sinking of another tank ship off the coast of Massachusetts.

NOTE.—The above notice summarizes Safety Board recommendation letters recently released and recommendation response letters received. The safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Copies of the Annual Report to Congress may also be obtined by writing to the Safety Board.

(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.

JULY 10, 1978.

[FR Doc. 78-19324 Filed 7-12-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE HUNGARIAN PEOPLE'S REPUBLIC

Effective Date

In accordance with Proclamation 4560 of April 7, 1978 (43 FR 15125), notice is hereby given that the "Agreement on Trade Relations Between the United States of America and the Hungarian People's Republic" entered into force on Friday, July 7, 1978. That date is therefore the effective date of Proclamation 4560. Section 1 of Proclamation 4560, extends nondiscriminatory treatment to the products of the Hungarian People's Republic as of July 7, 1978. Section 2 of Proclamation 4560, amended General Headnote 3(e) of the Tariff Schedules of the United States by deleting therefrom "Hungary" as of July 7, 1978.

C. MICHAEL HATHAWAY,
Acting General Counsel.

[FR Doc. 78-19325 Filed 7-12-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel No. 14938 (SR-Amex-78-9)]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 6, 1978.

On March 21, 1978, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "act") and rule 19b-4 thereunder, copies of a proposed rule change which would amend its rule 174 to eliminate the requirement that a specialist, upon request, disclose the names of buying an selling member organizations in completed exchange transactions, and to make clear that such information, when disclosed, must also be disclosed on request to any eligible person.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission release (Securities Exchange Act release No. 34-14632, April 4, 1978) and by publication in the FEDERAL REGISTER (43 FR 23778, June 1, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19222 Filed 7-12-78; 8:45 am]

[8010-01]

[Rel. No. 10312 (811-2251)]

LINCOLN NATIONAL INVESTMENT PLANS

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JULY 6, 1978.

Notice is hereby given that Lincoln National Investment Plans ("applicant"), 1300 South Clinton Street, Fort Wayne, Ind. 46801, a unit investment trust registered under the Investment Company Act of 1940 (the "act"), filed an application on May 10, 1978, for an order of the Commission

declaring that applicant has ceased to be an investment company as defined in the act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the act on December 17, 1971, by filing a registration statement on form N-8B-2. Applicant represents that a registration statement for the shares of applicant under the Securities Act of 1933 has never been filed. In addition, applicant states that it has no legal existence under the laws of any State.

Applicant represents that it has made no offer to sell its securities to the public, that it has no assets or liabilities outstanding, and that it is not engaged, nor does it propose to engage, in any business activities other than those necessary for the windingup of its affairs.

Section 8(f) of the act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 31, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 29549. A copy of such request shall be served personally or by mail upon applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19223 Filed 7-12-78; 8:45 am]

[8010-01]

[Rel. No. 14939 (SR-PSE-78-9)]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

JULY 6, 1978.

On May 9, 1978, the Pacific Stock Exchange Inc. ("PSE") 618 South Spring Street, Los Angeles, Calif. 90014, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which would amend PSE rule VI by adding section 86 to provide a definitive date wherein payment of floor brokerage charges for trading of options contracts must be paid. Under that rule payment would be made no later than the 30th day of the month provided that an invoice detailing the brokerage charges for the services performed is delivered to the member receiving such brokerage services no later than the 10th day of the month.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14794, May 23, 1978) and by publication in the FEDERAL REGISTER (43 FR 23776, June 1, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19224 Filed 7-12-78; 8:45 am]

[8010-01]

[Rel. No. 14936 (SR-PHLX-78-9)]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JULY 6, 1978.

On April 27, 1978, the Philadelphia Stock Exchange, Inc. ("PHLX") 17th Street and Stock Exchange Place, Philadelphia, Pa. 19103, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which would amend PHLX rule 1030 relating to transactions with issuers and PHLX rule 1031 relating to restricted stocks. Rule 1030 as amended would prohibit the acceptance by any exchange member of an order for the sale (writing) of a call option contract relating to underlying stock if the order is for the account of the issuer of such stock. The prohibition relating to an order of an affiliate of the issuer would be deleted. Rule 1031 as amended would prohibit PHLX members from accepting stock which can only be sold either upon registration or pursuant to SEC rules (concerning "restricted stock") to (i) cover a short position in a call option contract; (ii) deliver pursuant to the exercise of a put option contract; or (iii) satisfy an exercise notice assigned in respect of a call option contract. The amendments to rule 1031 would facilitate the acceptance of permissible options orders by PHLX member firms and, where appropriate, permit margining of such options on a covered basis with "restricted stock."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14738, May 5, 1978) and by publication in the FEDERAL REGISTER (43 FR 23779, June 1, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19225 Filed 7-12-78; 8:45 am]

[8010-01]

[Release No. 34-14937; File No. SR-PHLX 78-13]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on June 26, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes the adoption of a new by-law section 12-1(f) which would establish a non-participating status for regular memberships. The text is attached as exhibit 1. Italics indicate new material.

The purpose of the amendment is to expand the depth and liquidity of the membership market by encouraging members to purchase additional memberships to be held in a non-participating status as an investment against future demand for memberships and increases in their market value. For each regular membership held, a member would be allowed to acquire from any other member but not from the exchange, one additional regular membership which he could elect, at the time of acquisition only, to hold in a non-participating status (NPS). A regular membership held in such status would not carry any of the privileges or obligations of active membership. Although the holder could remove it from non-participating status at any time he could not transfer it until it was restored to participating status for one year or until the equivalent of one year's dues was paid thereon. If the holder of a regular membership NPS no longer held a regular membership he would be required to divest himself of his regular membership NPS or remove it from non-participating status. Bids and offers for regular memberhsips NPS would have equal standing with those for regular memberships in the market for memberships in accordance with the customary rules of priority, precedence and parity.

The amendment provides relief from the obligation to pay dues on memberships for which there is no immediate use by increasing the opportunity and incentive to transfer such memberships for value and hold them without further obligations pending need for their use. By its effect on the equitable allocation of dues among members it is consistent with section 6(b)(4) of the act. A non-participating status also does not decrease the number of memberships and complies with the requirements of section 6(c)(4) of the act.

No comments have been received from members or others on the proposed rule amendment.

No burden on competition will be imposed by the proposed amendment.

On or before August 21, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 7, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 6, 1978.

Non-Participating Status for Regular Memberships

By-Law 12-1(f). (1) Except as hereafter provided in paragraph (6), a member holding legal title to a regular membership shall be entitled to acquire from any other member but not from the Corporation an additional regular membership which he may elect to hold in his own name in non-participating status (regular membership NPS). The exercise of such privilege shall be available only at the time of acquisition and not thereafter, and must be evidenced by the filing with the Secretary of the Corporation of a written declaration that such additional regular membership is held in a non-participating status.

(2) A regular membership while in non-participating status does not confer upon or subject the holder to any of the privileges or obligations of active membership except that the holder shall pay an annual maintenance fee thereon of fifty dollars to the Corporation. The holder may remove such membership from non-participating status at any time by the filing of a written declaration to that effect with the Secretary of the Corporation. Thereafter, such regular membership confers upon the subject the holder to all the privileges and obligations of active membership. The same regular membership shall not be designated by the same holder more than once as a regular membership NPS.

(3) Legal title to not more than one regular membership NPS may be acquired for each regular membership for which legal title is held. A holder of a regular membership may not transfer his regular membership NPS until it has been restored to participating status for a period of one year or until the equivalent of one year's dues have been paid thereon. Such restrictions on transfer may be waived by the Board of Governors upon the request of a deceased member's personal representative or in cases considered by the Board to present a hardship.

(4) In the event the holder of a regular membership NPS no longer holds a regular membership he shall either divest himself of his regular membership NPS or remove it from non-participating status by a written declaration filed with the Secretary of the Corporation.

(5) Subject to the restrictions of paragraph (3), a regular membership NPS may be transferred to another regular member with or without change in status at the election of the transferee filed with the Secretary of the Corporation. Subject also to the foregoing restrictions, a regular membership NPS, upon transfer to a non-member, is thereby restored to participating status.

(6) When the legal and equitable titles to a regular membership are held by different persons or entities, the legal title-holder may not acquire a regular membership NPS without prior approval of the equitable title-holder. If, however, the legal title-holder does himself acquire with such approval an additional regular membership which he elects to hold in a non-participating status, he shall own the legal and equitable rights thereto and shall be entitled, as heretofore provided, to restore such membership to participating status or to transfer the same. An equitable title-holder to a regular membership may acquire in the legal title-holder's name a regular membership NPS and may direct the use or disposition of the same in the manner heretofore provided.

(7) No transfer fee shall be imposed upon a regular membership acquired for non-participating status, or upon the acquisition of a regular membership NPS, or upon the disposition of a regular membership NPS to an-

other member whether or not it remains in such status.

(8) Bids and offers for regular membership NPS shall have equal standing with those for regular membership in the market conducted by the Secretary of the Corporation in accordance with the customary rules of priority, precedence and parity. Private transfers involving regular memberships NPS will be recognized provided prior notice thereof is given to the Secretary in accordance with the By-Laws.

(9) The designation of regular membership NPS shall be available for regular membership without options privileges or with options privileges.

(10) In the event of a complete or partial liquidation of the Corporation, a regular membership NPS shall be entitled to a pro rata participation in distribution of the corporate assets.

[FR Doc 78-19226 Filed 7-12-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT MOLOKAI AIRPORT, MOLOKAI, HAWAII

Opening

Notice is hereby given that on or about July 13, 1978, airport traffic control service at Molokai Airport, Molokai, Hawaii, will be inaugurated. This service will be provided daily from 6 a.m. to 7 p.m. local time.

This information will be reflected in the FAA organization statement the next time it is reissued. Appropriate notices have been made in aeronautical publications.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Honolulu, Hawaii on June 27, 1978.

JOSEPH B. NESTOR,
Acting Director,
Pacific-Asia Region.

[FR Doc. 78-19218 Filed 7-12-78; 8:45 am]

[4910-13]

CONSULTATIVE PLANNING CONFERENCE

Progress Report—New Engineering and Development Initiatives

A progress report conference on the FAA new engineering and development initiatives effort will be held beginning at 9 a.m., September 6, 1978, in Washington, D.C.

Last March 22-23, FAA held a conference on new engineering and development initiatives—policy and technology choices. The conference was the beginning of a major new step to involve the aviation community in the FAA decisionmaking process relative to the future development of the airport and airways system. Public participation in this process was strongly endorsed by the House Science and Technology Subcommittee on Transportation, Aviation, and Weather, in a November 1977 report on the "Future Needs and Opportunities in the Air Traffic Control System."

In order to keep the public informed as to the progress of this work and to afford users and other aviation interests additional opportunity to provide input, FAA is planning a progress report conference to inform the community of progress to date and to solicit further input and comment.

The conference will be 1½ days and will commence at 9 a.m. on September 6, 1978, in the FAA Auditorium at 800 Independence Avenue SW., Washington, D.C. The meeting will be open to the public and no advance registration is required.

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

J. W. COCHRAN,
Associate Administrator for Engineering and Development.

[FR Doc. 78-19219 Filed 7-12-78; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 138—MINIMUM PERFORMANCE STANDARDS FOR AIRBORNE OMEGA RECEIVING EQUIPMENT

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 Special Committee 138 on Minimum Performance Standards for Airborne Omega Receiving Equipment to be held August 9-10, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The agenda for this meeting is as follows: Chairman's introductory remarks; (2) review committee terms of reference; (3) establish guidelines and limits for committee activities; (4) identification of work items and time for accomplishment; and (5) assignment of tasks.

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 July 3, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-19220 Filed 7-12-78; 8:45 am]

[4910-13]

[OE Docket No. 78-WA-OE-4; Aeronautical Study No. 77-AEA-1038-OE]

DISCRETIONARY REVIEW OF DETERMINATION OF HAZARD TO AIR NAVIGATION

Hearing Rescheduled

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of hearing rescheduled.

SUMMARY: This notice reschedules a hearing scheduled for July 19, 1978, in Pomona, N.J., to receive evidence from parties to the hearing and other interested persons regarding a proposed hotel in Atlantic City, N.J. The hearing date is changed to August 22, 1978, as a result of a request by the petitioner for a delay in the scheuled hearing.

HEARING DATE: August 22, 1978, at 9 a.m.

ADDRESSES: Hearing location—Auditorium, Building 11, Headquarters, National Aviation Facilities Experimental Center (NAFEC), Federal Aviation Administration, Pomona, N.J.

Make request to be heard at the hearing to Presiding Officer, Mr. William E. Broadwater, Chief, Airspace and Air Traffic Rules Division, (AAT-200), Federal Aviation Administration, Air Traffic Service, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3731. (This is not a toll-free number).

FOR FURTHER INFORMATION CONTACT:

Mr. James E. Shipman, Airspace Obstruction and Airports Branch (AAT-244), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-246-8777. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On Thursday, 20, 1978, the Federal Aviation Administration (FAA) published a notice of hearing in the FEDERAL REGISTER (43 FR 16385) regarding the proposed construction of a high rise hotel and casino in Atlantic City, N.J. Aeronautical Study No. 77-AEA-1938-OE was conducted of the proposal which resulted in the issuance of a Determination of Hazard to Air Navigation on December 22, 1977.

As explained in the original notice of hearing, the FAA granted a discretionary review of the determination on February 9, 1978, by Notice of Petition for and Grant of Review, OE Docket No. 77-WA-OE-4.

On May 4, 1978, the petitioner requested a 60-delay of the May 17, 1978, hearing date. The FAA determined that such action would not adversely effect the safe and efficient utilization

of the navigable airspace and a delay in the hearing date was so ordered. A notice of hearing rescheduled was published by the FAA on Thursday, May 11, 1978 in the FEDERAL REGISTER (43 FR 20289).

On July 10, 1978, the petitioner advised that the construction sponsor is considering a revised proposal and requested the hearing be rescheduled. The FAA had determined that another delay will not adversely effect utilization of the navigable airspace and a rescheduled hearing date is so ordered.

As seated above, the hearing will be convened at 9 a.m., on August 22, 1978. If response to this notice exceeds the time allocated for the hearing, it will be continued at 9:00 a.m., August 23, 1978, at the same location. All other hearing details set forth in the notice published on April 20, 1978, in the FEDERAL REGISTER (43 FR 16835) remain the same.

(Secs. 104, 307, 313, 1001, and 1101, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1304, 1348, 1354, 1481, and 1501); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 77.49).)

Issued in Washington, D.C. on July 11, 1978.

WILLIAM E. BROADWATER,
Presiding Officer.

[FR Doc. 78-19449 Filed 7-12-78; 8:45 am]

[1505-01]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

Grants and Denials of Applications

Correction

In FR Doc. 78-18255 appearing on page 28878 in the issue of Monday, July 3, 1978 on page 28881, prior to "7854-N Request by Pocono Airlines, Inc.* * *" and subsequent to the "Emergency Exemptions—Applications Received and Granted" table, a portion of the document was inadvertently omitted and should have been included to read as follows:

DENIALS

4175-X Request by Allied Chemical Corp., Morristown, N.J.—To ship boron trifluoride in DOT specification 3AAX2400 cylinders, denied May 11, 1978. (HM-139 obviates the need.)

4248-X Request by MC/B Manufacturing Chemicals, Inc., Norwood, Ohio.—To ship corrosive liquids in a DOT specification 33A polystyrene case with certain exceptions, denied May 19, 1978. (HM-139 obviates the need.)

4248-P Request by Ashland Chemical Co., Columbus, Ohio.—To become a party to DOT—E 4248 to ship corrosive liquids in a DOT specification 33A polystyrene case with certain exceptions, denied May 24, 1978. (HM-139 obviates the need.)

6228-X Request by Airco Welding Products, Springfield, N.J.—To renew the exemption to ship a flammable gas in manifolded DOT specification cylinders, denied May 31, 1978 as being unnecessary.

7060-P Request by Pocono Airlines, Inc., Avoca, Pa.—To become a party to DOT-E 7060 to transport packages of radioactive materials in cargo-only aircraft, without compliance with certain regulations, denied May 8, 1978.

7561-N Request by Rapid Electroplating Process, Inc., Chicago, Ill.—For reconsideration of denial of application to ship a Class B poison in unlabeled packages, denied May 4, 1978.

7597-P Request by Thompson-Hayward Chemical Co., San Antonio, Tex.—To become a party to DOT-E 7597 to ship certain Mass B poisons in DOT specification 17E drums, denied May 23, 1978 as being unnecessary.

7731-P Request by Airco Industrial Gases, New Providence, N.J.—To become a party to DOT-E 7731 to ship liquid helium in non-DOT specification insulated, triple shell portable tanks, denied May 9, 1978 as being unnecessary.

7765-X Request by Carleton Controls Corp., East Aurora, N.Y.—For reconsideration of denial of application to delete 100 percent radiographic inspection and increase the lot size, denied May 10, 1978.

7770-X Request by Ugine Kuhlmann of America, Inc., Paramus, N.J.—To increase the allowable filling density for portable tanks containing anhydrous hydrogen fluoride, denied May 22, 1978.

[4910-59]

National Highway Traffic Safety Administration

FIRESTONE STEEL RADIAL 500 AND PRIVATE BRANDS MANUFACTURED BY FIRESTONE WITH THE SAME INTERNAL CONSTRUCTION AS THE STEEL RADIAL 500

Public Proceeding

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974, 15 U.S.C. 1412), the Deputy Administrator has made an initial determination that a defect relating to motor vehicle safety exists with respect to failures of the Steel Radial 500 tire line, and private brands with the same internal construction, manufactured by The Firestone Tire & Rubber Co., because such failures can result in accidents, injuries, deaths, and property damage.

A public meeting will be held at 10 a.m., on August 7, 1978, in room 2230, Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which The Firestone Tire & Rubber Co. will be afforded an opportunity to present data, views and arguments to establish that the alleged defect does not exist or does not affect motor vehicle safety.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Joan Murianka, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, telephone 202-426-2850, before the close of business on August 3, 1978. A transcript will be kept and exhibits may be accepted. There will be no cross examination of witnesses.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Division, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. All applications submitted before August 3, 1978 will be examined by an evaluation board, composed of NHTSA and Department of Transportation officials, to determine whether each applicant is eligible to receive funding. Consideration of late applications is at the discretion of the evaluation board.

In general, an applicant is eligibile if (1) it represents an interest whose representation can reasonably be expected to contribute to a full and fair determination of the issues in the proceeding, (2) its participation is reasonably necessary to represent that interest, (3) it can competently represent that interest, and (4) it lacks sufficient resources to participate in the absence of such assistance. If more than one applicant representing the same or similar interest is deemed eligible, the board will either select the applicant which can make the strongest presentation or select more than one applicant if the eligible applicants seek to represent significantly different points of views or proposals. Compensation is available only for reasonable out-of-pocket expenses necessary to the applicant's participation, to the extent the agency's budget for this purpose will permit. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim. Applicants must submit as part of their application all information required by section 5 of the financial assistance regulations which governed the operation of last year's public participation demonstration programs. 42 FR 2864 (January 13, 1977). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application.

Applications for financial assistance to aid in participation in this proceeding must be received on or before July 20, 1978. Applications should be submitted to Ms. Jeanette Feldman,

Public and Consumer Affiars, National Highway Traffic Safety Administration, Room 5332, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on July 7, 1978.

HOWARD J. DUGOFF,
Deputy Administrator.

[FR Doc. 78-19206 Filed 7-7-78; 4:52 pm]

[78-19201]

[Docket No. EX78-3; Notice 2; Docket No. IP77-20; Notice 2]

GENERAL MOTORS CORP.

Disposition of Exemption and Inconsequentiality Petitions

This notice provides an interpretation through which General Motors Corp. ("GM" herein) of Warren, Mich., may certify that vehicles equipped with its "HY-PARK" parking brake system comply with all applicable Federal motor vehicle safety standards. As such it is a denial of GM's petitions for temporary exemption from that standard's requirements (Docket No. EX78-3) and for a determination that its manufacture of 13 trucks equipped with brake hoses not meeting Federal Motor Vehicle Safety Standard No. 106 is inconsequential as it relates to motor vehicle safety (Docket No. IP77-20).

GM has developed a parking brake system for use on hydraulic braked trucks, called "HY-PARK". Petitioner views the system as innovative since it uses "power steering fluid to 'hold off' the spring actuated parking brake." Hoses used as jounce hoses (from the rear chassis to the axle) will not meet many aspects of Standard No. 106-74, and others of the same type will be used in nonjounce applications. The operating pressure of the HY-PARK system is about 100 psi, "well below the operating pressure of hydraulic brake systems that FMVSS 106-74 addresses." Because of this low operating pressure GM viewed Federal burst strength, expansiosn, whip resistance, water absorption and brake fluid compatibility tests as inappropriate. In its view, compliance with air brake hose requirements will meet the need for motor vehicle safety. The company also proposed to meet what it felt were applicable SAE requirements of J844c, *Air Brake Tubing and Pipe*, and J517c, *Hydraulic Hose*, and J516b, *Hydraulic Hose Fittings*. It argued that the system will have an overall level of safety equivalent to that of air actuated spring parking brakes, and it lists additional safety advantages attributable to HY-PARK including: Elimination of "chucking" or slack in the parking brake system due to drive line tolerances, designed so that failure of a hydraulic line will result in application rather than release of the parking brakes, and provision of a "much higher brake torque capability with two large wheel brakes versus one smaller propshaft brake." It had already installed the system on 13 trucks and submitted an inconsequentiality petition to cover those. It sought an exemption for 2 years for future production on the basis that to require compliance would prevent it from selling a motor vehicle whose overall level of safety is equivalent to or exceeds that of nonexempted motor vehicles.

Notice of GM's inconsequentiality petition was published on February 16, 1978 (43 FR 6864) and of its exemption petition on March 2, 1978 (43 FR 8606), and an opportunity afforded for comment.

No comments were received on the inconsequentiality petition. International Harvester ("IH" hereafter) was the sole commenter on the exemption petition. In IH's view, hoses used in the HY-PARK system should not be considered brake hoses because HY-PARK functions independently of the vehicle's service brake system. In addition, the fluid pressure is used to release the parking brakes rather than to apply the service brakes. IH's final point was that the system uses power steering fluid for its operation, not brake fluids.

The NHTSA concurs in principle with the comments by IH. While the petitions were pending the agency issued opinion letters to Alfred Teves GMBH ("Teves" hereafter) and to Nissan Motor Co., Ltd. ("Nissan" hereafter) which are relevant to its decision. Teves had presented a "Hydrobooster" hose assembly interconnecting the charging valve with the brake booster unit. Power steering fluid would be fed through it under pressure. NHTSA informed Teves that it considered the hydrobooster hose a power steering hose and informed it that the agency had decided that all power steering-type hose should be exempt from Standard No. 106-74 "until appropriate requirements for such hose assemblies can be included in the standard" (Letter of March 20, 1978). This represents a modification of the interpretation published on June 24, 1974 (Docket 1-5; Notice 11, 39 FR 24012) that hoses connecting accumulators with boosters were exempt if redundant boosters were provided.

Similarly, when Nissan described an anti-skid brake system actuator operated through power steering system mineral oil, NHTSA provided a similar interpretation on March 23, 1978, that the hose assemblies connected to the anti-skid actuator were in fact power steering hose assemblies exempt from Standard No. 106-74 until suitable requirements could be included.

The "HY-PARK" system uses power steering fluid in hoses that the petitioner argues are similar to "air brake hoses". NHTSA has concluded that these hoses may be viewed as "power steering hose assemblies" because of the fluid used in them, and because of their usage in the steering pump system and that the foregoing interpretations are validly applied to the HY-PARK hoses. Therefore, GM may validly certify that vehicles equipped with HY-PARK comply with all applicable Federal motor vehicle safety standards, assuming that all other requirements are met. For this reason, the inconsequentiality and exemption petitions by GM are hereby denied.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50).

Issued on July 7, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-19201 Filed 7-7-78; 4:39 pm]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP77-8; Notice 2]

FORD MOTOR CO.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by Ford Motor Co. of Dearborn, Mich., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment. The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on May 31, 1977 (42 FR 27704) and an opportunity afforded for comment.

The apparent noncomformance was discovered by NHTSA in the course of a compliance investigation (File CIR 1123). It is the failure of lenses on the rear side marker lamps of 1972-75 model Capri passenger cars to meet Federal requirements for the color red. These requirements are those set in SAE Standard J578, "Color Specification for Electric Signal Lighting Devices," April 1965. Colors are expressed by chromaticity coordinates according to the CIE (1931) standard colormetric system. Color values may be determined visually by comparing the light from the device being judged with the light emitted from a standard source. They may also be computed from the spectral energy distribution curve (the

spectraphotometric method). For red, the y coordinate shall not be greater than 0.33 and the z coordinate shall not be greater than 0.008. NHTSA test samples of the lamps have failed both methods, with an average of 0.344 for the y coordinates and 0.023 for the z. This means that the z coordinate is three times the maximum permitted value of the red requirement placing the coordinated toward the pink portion of the chromaticity diagram. To the naked eye the lamp is distinctly paler and pinker than one that meets the color requirements. There are approximately 294,000 Capris which have been imported and sold during the time that the lamp was manufactured. It is presently unknown how many lamps have been manufactured for the replacement market.

Ford's arguments that this apparent noncompliance is inconsequential may be summarized as follows. The lamp itself otherwise meets all requirements of Standard No. 108. Further even though the color deviates from the prescribed red, it in no way could be mistaken for the amber-colored front side marker lamp. There is also a de minimis exposure to oncoming motorists from the limited number of situations in which one will encounter a Capri, or any vehicle, at right angles. In virtually all situations, argues the company, direction of travel of the Capri is determined by the presence and relative motion of lights other than the side marker lamps long before situations arise in which sole reliance on those lamps could be placed.

Three comments were received in response to notice 1, from General Motors Corp., Mack Trucks, Inc., and the Freemont, Calif., Jaycees. All supported the petition.

Pursuant to SAE J578 the z coordinate is required to be not greater than 0.008. Subsequent to the publication of the notice of Ford's petition, NHTSA proposed (42 FR 33354) an amendment of standard No. 108 to adopt J578c which places the z boundary at 0.020, compared to the average Capri boundary of 0.023. Adoption of this proposal would considerably narrow the scope of the noncompliance by allowing a slightly less intense red color than required today. The Capri lens shade of red, although somewhat different than that required by SAE J578, is much closer to the red definition than it is to the nearest boundary of yellow and could not be confused with the color of the lens of the front side marker lamp. Accordingly, it is hereby found that the noncompliance with standard No. 108 herein described is inconsequential as it relates to motor vehicle safety.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 6, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-19217 Filed 7-12-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 11]

DECISION-NOTICE

JUNE 29, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 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 (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute and application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority. Also, where authority has been sought within a single State, authority to provide such service has been deleted where there has been no showing that such service would be other than intrastate in nature.

We find preliminarily that, with the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) to authorization, each applicant has demonstrated that its proposed service should be authorized. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 2, Members Boyle, Liberman, and Eaton.

NANCY L. WILSON,
Acting Secretary.

MC 340 (Sub-52F), filed May 30, 1978. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, TX 78208. Representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, Transporting: *Hospital supplies, plastic bags and sheeting, and cellulose film,* from San Antonio, TX, to points in CA. (Hearing site: St. Louis, MO, or Dallas, TX.)

MC 1030 (Sub-5F), filed May 15, 1978. Applicant: ROBERT BELVILLE, JR., ADM., estate of ROBERT BELVILLE, SR., d.b.a. NEW YORK & VERMONT MOTOR EXPRESS, Smith Street, Barre, VT 05641. Representative: John P. Monte, 61 Summer Street, P.O. Box 568, Barre, VT 05641. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motorcycles,* from Edison, Gloucester City, and Newark, NJ, to points in VT.

(Hearing site: Montpelier, VT, or Concord, NH.)

MC 2052 (Sub-14F), filed May 30, 1978. Applicant: BLAIR TRANSFER, INC., 203 South Ninth Street, Blair, NE 68008. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies used in crafts, art, and hobbies* (except commodities in bulk), between the facilities of Artex Hobby Products, Inc., at or near Lexington, SC, on the one hand, and, on the other, the facilities of Artex Hobby Products, Inc., at or near Blair, NE. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 2202 (Sub-561F), filed May 24, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority granted 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 Ford Motor Co., at or near Milan, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Lansing, MI, or Washington, DC.)

MC 2253 (Sub-83F), filed May 25, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, Commodities in bulk, and those requiring special equipment), between Boston, MA, and Cleveland, OH, from Boston over U.S. Hwy 20 to junction MA Hwy 32, then over MA Hwy 32 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction NY Hwy 96 at Waterloo, NY, then over NY Hwy 96 to junction NY Hwy 332, then over NY Hwy 332 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction NY Hwy 78, then over NY Hwy 78 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction NY Hwy 5 at Silver Creek, NY, then over NY Hwy 5 to junction unnumbered highway approximately 2 miles west of Ripley, NY near interchange 61 on Interstate Hwy 90, then over unnumbered highway to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route, as an alternate route for operating convenience only, serving no intermediate routes, and serving the junction of Interstate Hwy 90 and NY Hwy 78 for purposes of joinder only. (Hearing site: Charlotte, NC, or Atlanta, GA.)

MC 2960 (Sub-19F), filed May 30, 1978. Applicant: ENGLAND TRANSPORTATION CO., OF TEXAS, a corporation, 2301 McKinney Street, Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Suite 1125, Exchange Park, Dallas, TX 75245. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials* (except commodities in bulk), from the facilities of Bird & Son, Inc., at Shreveport, LA, to points in Harris County, TX. (Hearing site: Dallas, TX.)

MC 8973 (Sub-50F), filed May 24, 1978. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07047. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW, Washington, DC 20001. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire and cable*, from Linden and Hillside, NJ, to points in the United States, in and west of LA, AR, MO, IA, and MN (except AK and HI). (Hearing site: Washington, DC.)

MC 11207 (Sub-434F), filed May 30, 1978. Applicant: DEATON, INC., 317 Avenue West, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, pipe fittings, valves, hydrants, and hydrant sections and component parts* (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of Mueller Co., at (a) Chattanooga, TN, and (b) Albertville, AL, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV, those in IL, IN, and OH on and south of Interstate Hwy 70, and those in MO on and south of Interstate Hwy 44. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 14252 (Sub-32F), filed May 22, 1978. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodites* (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 Olin Works, Olin Corp., at or near Covington, IN, as an off-route point in connection with carrier's presently authorized regular-route operations at Danville, IL. (Hearing site: Columbus, OH.)

MC 20783 (Sub-113F), filed May 30, 1978. Applicant: TOMPKINS MOTOR LINE, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Authority granted 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 AL, FL, GA, KY, MI, SC, and TN. (Hearing site: Jackson, MS or New Orleans, LA.)

MC 23618 (Sub-29F), filed June 1, 1978. Applicant: McALISTER TRUCKING CO., A CORPORATION, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Underground tunnel support systems, steel beams, structural steel plates, nuts, bolts, machinery, and machinery parts*, (1) between the facilities of Commercial Shearing, Inc., at (a) Youngstown and Canton, OH, and (b) Export, PA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI); and (2) between the facilities of Commercial Stamping & Forging, at Bedford Park, IL, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Columbus OH or Washington, DC.)

MC 25798 (Sub-321F), filed June 5, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) from the facilities of McCain Foods, Inc., at (a) Washburn and Portland, ME, and (b) Boston and Watertown, MA, to points in AL, DE, FL, GA, KY, LA, MD, MS, NC, NJ, NY, PA, SC, TN, VA, WV, and DC; and (2) from Easton, ME, to points in DE, MD, NC, NJ, NY, PA, SC, VA, WV, DC, and those in FL on and east of U.S. Hwy 319; and (3) from

the facilities of Potato Service, Inc., in Aroostook County, ME, and at Portland, ME, to points in AL, DE, FL, GA, KY, MD, NC, NJ, NY, PA, SC, TN, VA, WV, and DC. (Hearing site: Portland, ME.)

MC 25798 (Sub-323F), filed June 8, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Labels*, from Murphysboro, IL, to points in FL, GA, and TN. (Hearing site: Chicago, IL.)

MC 25798 (Sub-324F), filed June 8, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glazed clay tile*, from Lakeland, FL and Lawrenceburg, KY, to points in AZ, CA, CO, NM, OR, UT, WA, NV, ID, MT, and WY. (Hearing site: Tampa, FL.)

MC 26396 (Sub-86F), filed June 7, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between Napoleon, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NJ, NY, NC, PA, VA, and WV. (Hearing site: Chicago, IL or Billings, MT.)

MC 29886 (Sub-347F), filed June 6, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk material handling equipment*, from Cleveland, OH, to points in the United States (except AK and HI). (Hearing site: Cleveland, OH or Washington, DC.)

MC 43963 (Sub-13F), filed May 23, 1978. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, Lake Station, IN 46405. Representative: Joseph Winter, 33 North LaSalle Street, Chicago, IL 60602. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and accessories for plastic pipe*, from points in Geneva County, AL, to points in the United States in and east of MN, IA, MO, OK, and TX (except AL); and (2) *materials, equipment and supplies used in the manufacture, distribution, and sale of the commodities named in (1) above*, from points in the United States in and east of MN, IA, MO, OK, and TX (except AL) to points in Geneva County, AL. (Hearing site: Mobile, AL.)

MC 49387 (Sub-53F), filed June 5, 1978. Applicant: ORSCHELN BROS. TRUCK LINES, INC., P.O. Box 658, Moberly, MO 65270. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Authority granted 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), (1) between Moberly, MO, and points in Macon, Randolph, and Chariton Counties, MO, and (2) from points in IL, to points in Macon, Randolph, and Chariton Counties, MO. (Hearing site: Jefferson City or St. Louis, MO.)

MC 52861 (Sub-45F), filed May 15, 1978. Applicant: WILLS TRUCKING, INC., 5755 Granger Road, Cleveland, OH 44131. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, in bulk, from the facilities of Agrico Chemical Co., at Melbourne, KY, to points in IL, IN, MI, OH, VA, and WV, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Columbus, OH or Washington, DC.)

MC 55896 (Sub-80F), filed June 13, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt Beverages, bottles, barrels and cans and can ends*, between St. Louis, MO and Columbus, OH. (Hearing site: St. Louis, MO.)

NOTE.—The person or persons engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit showing why such approval is unnecessary.

MC 65941 (Sub-55F), filed May 25, 1978. Applicant: TOWER LINES, INC., 3d and Warwood Avenue (Box 6010), Wheeling, WA 26003. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and Steel Articles, Titanium*, and *Titanium Products*, from the facilities of Crucible, Inc., at Midland, PA, to points in VA and IN; and

(2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in VA and IN, to the facilities of Crucible, Inc., at Midland Pa. (Hearing site: Washington, D.C. or Pittsburg, PA.)

MC 88380 (Sub-31F), filed May 30, 1978. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, Fort Worth, TX 76106. Representative: Jim McHargue (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Georgetown Texas Steel, at or near Beaumont, TX, to points in AR, OK, and LA, (hearing site: Dallas or Fort Worth, TX.)

MC 88380 (Sub-32F), filed May 30, 1978. Applicant: REB TRANSPORTATION, INC., 2400 Codd Springs, P.O. Box 4309, Fort Worth, TX 76106. Representative: Jim McHargue (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment* used in the production of iron and steel articles (except commodities in Bulk), from points in CA, IN, MS, MO, OH, PA, TN, and KY, to the facilities of Chaparral Steel, at or near Midlothian, TX. (hearing site: Dallas or Fort Worth, TX.)

MC 106920 (Sub-74F), filed June 2, 1978. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, West Monroe Street, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Livonia, MI, to points in OH, PA, NY, NJ, MD, VA, WV, DE, CT, RI, MA, ME, VT, NH, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

MC 107012 (Sub-265F), filed May 19, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 500 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camper truck tops*, uncrated, from the facilities of Barr Industrial, Inc., at or near Santee, CA, to points in the United States (except CA, AK, and HI). (Hearing Site: San Diego or Los Angeles, CA.)

MC 107012 (Sub-266F), filed May 30, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Appliances*, and (2) *parts and accessories* for the commodities named in (1) above from the facilities of General Electric Co., at or near Louisville, KY, to points in CO, NM, TX, OK, KS, AR, LA, MS, TN, AL, GA, FL, SC, NC, and VA. (Hearing site: Lousiville, KY, or Washington, DC.)

MC 107403 (Sub-1085F), filed May 24, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in tank vehicles, from points in NY, MD, CT, OH, MI, and WV, to Ellwood City, PA. (Hearing site: Washington, DC.)

MC 110012 (Sub-45F, filed May 26, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 rth Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Dandridge, TN, to points in the United States (except AK and HI); and (2) *materials and supplies used in the manufacture of new furniture* (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to points in Dandridge, TN. (Hearing site: Knoxville, TN, to Washington, DC.)

MC 110563 (Sub-234F), filed May 25, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Philadelphia, PA, New York, NY, and Newark, NJ, to Chicago, IL, Terre Haute and Indianapolis, IN, Detroit and Grand Rapids, MI, Omaha, NE, Pittsburgh and McKees Rocks, PA, and points in OH; restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: Washington, DC.)

MC 110563 (Sub-235F), filed May 30, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of J. H. Filbert, Inc., at Baltimore, MD, and in Anne Arundel, Baltimore, Howard, and Prince Georges Counties, MD, to points in CT, DE, IL, IN, KY, ME, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, DC, and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 110713 (Sub-5F), filed May 28, 1978. Applicant: MELVIN G. FIDLER, P.O. Box 175, Mill Hall, PA 17751. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay products*, from Mill Hall, PA, to points in NC and SC, under a continuing contract, or contracts, with Mill Hall Clay Products, Inc., or Mill Hall, PA, and Mill Hall Brick Works, of Lock Haven, PA. (Hearing site: Harrisburg, PA.)

MC 110988 (Sub-367F), filed June 8, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: John Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wax, and materials and supplies* used in the manufacture of wax, between Oshkosh, WI, on the one hand, and, on the other, points in the United States (except AK, HI, and WI). (Hearing site: Chicago, IL.)

MC 111545 (Sub-251F), filed May 17, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck-tractors), *lift trucks, excavators, motor graders, scrapers, engines, generators, road rollers, pipelayers, dump trucks designed for off highway use*, and (2) *parts, attachments, and accessories*, for the commodities named in (1) above, from the facilities of Caterpillar Tractor Co., at or near Peoria, Aurora, Joliet, Mossville, Decatur, and Morton, IL, to points in Shelby County, TN, restricted to the transportation of traffic destined to the facilities of Taylor Machinery Co., Inc., and Caterpillar Tractor Co., in Shelby County, TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111981 (Sub-24F), filed May 12, 1978. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadelphia, PA 19148. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Mount Airy, MD, to points in OH, WV, VA, NC, MD, DE, DC, PA, NY, NJ, MA, CT, NH, and ME. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 111981 (Sub-25F), filed May 9, 1978. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadelphia, PA 19148. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Morton Frozen Food Division, I.T.T. Continental Baking Co., Inc., at Crozet, VA, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, and PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 112822 (Sub-455F), filed May 30, 1978. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, OK 74023. Representative: Charles D. Midkiff (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from points in ID, to the facilities of Kraft, Inc., at (a) Springfield, MO, and (b) Atlanta, Decatur, and Tucker, GA. (Hearing site: Atlanta, GA, or Chicago, IL.)

MC 113855 (Sub-430F), filed June 5, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aircraft, aircraft engines, and aircraft assemblies*, (2) *equipment* used in the maintenance, servicing, and operation of aircraft, and (3) *parts* for the commodities named in (1) and (2) above, between points in the United States (including AK but excluding HI). (Hearing site: Washington, DC.)

MC 114045 (Sub-500F), filed June 5, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as above). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, pe-*

troleum, and coal tar resins, pharmaceuticals, and plastic material (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in DE, PA, and VA, to points in AR, CA, NV, OK, OR, TX, and WA; and (2) *chemicals, pharmaceuticals, and plastic film* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in MA, NJ, and PA, to points in WA. (Hearing site: Philadelphia, PA, or Chicago, IL.)

MC 114194 (Sub-202F), filed May 22, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chocolate in bulk*, from Robinson, IL, to Toledo and Columbus, OH; St. Paul, MN; Green Bay and Madison, WI; Sylacauga, AL; and Tampa, FL. (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 114211 (Sub-360F), filed May 12, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood, particleboard, hardboard, and gypsum*, and (2) *molding, and accessories* used in the installation of the commodities in (1) above, from the facilities of Weyerhaeuser Co., at or near Chesapeake, VA, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, PA, SD, WV, and WI. (Hearing site: Washington, DC, or Richmond, VA.)

MC 114273 (Sub-395F), filed May 25, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonferrous metals, metal products, metal byproducts, and chemicals* (except commodities in bulk, in tank vehicles), from the facilities of St. Joe Minerals Corp., at Josephtown, PA, to points in IL, IN, IA, KS, KY, NE, OK, and WI. Condition: In view of the findings in MC 114273 (Subs-147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115162 (Sub-418F), filed May 24, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets, doors, furniture parts, cases, panels, boards, and lumber*, between points in Mobile County, AL, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Mobile, AL, or Washington, DC.)

MC 115311 (Sub-283F), filed May 11, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at (a) Pittsburg, PA and (b) Fremont and Toledo, OH, to points in GA, AL, SC, NC, TN, FL, MS, and LA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 115826 (Sub-321F), filed June 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, dessert preparations, and gumball machines and stands*, in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in IA, KS, MO, and NE. (Hearing site: Denver, CO, or Chicago, IL.)

MC 115826 (Sub-322F), filed June 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of John Morrell & Co., at or near (a) Estherville and Sioux City, IA, and (b) St. Paul and Worthington, MN, to points in CA; (2) from the facilities of Rath Packing Co., at or near Waterloo and Columbus Junction, IA, to points in NM, AZ, CA, and UT; (3) from the facilities of Whitehall Packing Co., at or near Whitehall, WI, to points in AZ, CA, CO, ID, NM, NV, OR, UT, WA, and WY; and (4) from points in MN, IA, NE, and SD to points in AZ, CA, CO, ID, MI, NM, OR, UT, WA, and WY, restricted in (1), (2), (3), and (4), above, to the transportation of traffic origininating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 116519 (Sub-50F), filed June 7, 1978. Applicant: FREDERICK TRANSPORT LTD., R.R. 6, Chatham, ON, Canada M7M 5J6. Representative: Jeremy Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *agricultural machinery, and implements*, and (3) *attachments and equipment* for the commodities in (1) and (2) above, from ports of entry on the international boundary line between the United States and Canada in MI and NY, to points in the United States (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY), restricted to the transportation of traffic moving in foreign commerce and origniating at points in the Province of ON, Canada.

Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to or from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 116915 (Sub-60F), filed May 17, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, hydrants, valves, and fittings*, and (2) *accessories* for the commodities named in (1) above between the facilities of U.S. Pipe & Foundry Co., at or near (a) Bessemer, AL, and (b) Chattanooga, TN, on the one hand, and, on the other, points in AR, TX, OK, IA, and MO. (Hearing

site: Birmingham, AL, or Knoxville, TN.)

MC 117497 (Sub-9F), filed June 5, 1978. Applicant: LUDWIG-McINTOSH BULK HAULERS, INC., 49704 Mott Road, Canton, MI 48188. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump vehicles, from Detroit, MI, to points in OH and IN. (Hearing site: Detroit, MI, or Cincinnati, OH.)

MC 117792 (Sub-8F), filed May 30, 1978. Applicant: J. C. JACKSON, JR., d.b.a. FARM PRODUCTS CO., East Prairie, MO 68345. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with bananas, from Gulfport, MS, to points in IA, IL, MN, and MO. (Hearing site: Rock Island, IL, or Davenport, IA.)

MC 118159 (Sub-265F), filed June 6, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carcass beef*, from the National City Stockyards, at or near East St. Louis, IL, to points in AL, CT, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, and DC. (Hearing site: Chicago, IL.)

MC 118159 (Sub-266F), filed June 8, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier*, by, motor vehicle, over irregular routes, transporting: *Expanded cellular foam rubber*, from Baltimore, MD, to points in AR, CT, DE, LA, ME, MA, NH, NJ, NY, OK, PA, RI, TX, VT, VA, WV, and DC. (Hearing site: Chicago, IL.)

MC 119493 (Sub-206E), filed May 25, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel, (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, (except frozen), from the facilities of Joan of Arc Co., at or near Belledeau and St. Francisville, LA, to points in IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 119493 (Sub-207F), filed May 30, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO. 64801. Representative: Lawrence F. Kloeppel (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and fittings, and materials used in the installation of plastic pipe*, from the facilities of Johns-Manville Sales Corp., at or near Wilton, IA, to points in AL, AR, CO, KS, KY, LA, MS, MO, NE, NM, OK, TN, and TX; (2) *building materials and cement pipe*, from the facilities of Johns-Manville Sales Corp., at or near Waukegan, IL, to points in AL, AR, CO, KS, KY, LA, MS, MO, NE, MN, OK, TN, and TX; and (3) *insulation Board*, (a) from the facilities of Johns-Manville Perlite Corp., at or near Rockdale, IL, to points in AL, AR, CO, KS, KY, LA, MS, MO, NE, NM, OK, TN, and TX; and (b) from the facilities of Johns-Manville Sales Corp., at or near Natchez, MS, to points in AR, KS, MO, OK, and TX. (Hearing site: Chicago, IL or St. Louis, MO.)

MC 119493 (Sub-208F), filed May 26, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such foodstuffs as are dealt in by wholesale and retail grocery stores* (except perishable commodities and commodities in bulk), from the facilities of Musselman Division of Pet, Inc., at or near (a) Inwood, WV, and (b) Biglerville and Gardner, PA, to points in AL, FL, GA, and TN. (Hearing site: Harrisburg or Pittsburgh, PA.)

MC 119741 (Sub-96F), filed May 1, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, additives, and materials and supplies* used in the manufacture and distribution of animal feed, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc., at Mattoon, IL. (Hearing site: Chicago, IL or St. Louis, MO.)

MC 119741 (Sub-97F), filed May 11, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the facilities of Big Stone, Inc., at or near (a) Arlington and Ortonville, MN, and (b) Bloomer, WI, to points in KS, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 119741 (Sub-98F), filed May 16, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Kraft, Inc., at Champaign, IL, to points in IA, KS, MN, MO, NE, ND, and SD, restricted to the transportation of traffic originating at the named origin facility and destined to the indicated destinations. (Hearing site: Memphis, TN.)

NOTE: Applicant states that the purpose of this application is to substitute single-line service for joint-line service.

MC 119741 (Sub-102F), filed May 22, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Swift & Co., at Chicago, IL, to points in KS and MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

NOTE: Applicant states that the purpose of this application is to substitute single-line service for joint-line service.

MC 120761 (Sub-38F), filed May 10, 1978. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, 6559 Midway Road, P.O. Box 18727, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and air conditioning units, furnaces, air coolers, and compressors;* and (2) *parts, attachments and accessories* for the commodities named in

(1) above, from Stuttgart, AR, to points in NM, OK, and TX. (Hearing site: Little Rock, AR or Washington, DC.)

MC 123048 (Sub-405F), filed June 8, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, P.O. Box 1557, Racine, WI 53401. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and tubing*, from the facilities of Regal Tube Co., at Chicago, IL, to points in IA, MI, and MN. (Hearing site: Chicago, IL or Washington, DC.)

MC 124160 (Sub-21F), filed May 30, 1978. Applicant: SAVAGE BROS., INC., 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East 4th South, Salt Lake City, UT 84111. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, from points in Sweetwater County, WY, to points in the United States (except AZ, CA, CO, ID, MT, ND, NE, NM, NV, OR, SD, UT, WA, WY, HI, and El Paso County, TX). (Hearing site: Salt Lake City, UT or Denver, CO.)

MC 124211 (Sub-329F), filed May 12, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and plastic products* (except commodities in bulk, in tank vehicles), from points in McHenry County, IL, to points in CA. (Hearing site: Chicage, IL or Washington, DC.)

NOTE.—The person or persons which appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit and affidavit indicating why such approval is unnecessary.

MC 124511 (Sub-48F), filed May 15, 1978. Applicant: OLIVER MOTOR SERVICE INC., P.O. Box 223, East Hwy 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) from the facilities of Jones & Laughlin Steel Corp., at or near Hennepin, IL, to Kansas City, MO; and (2) from the facilities of Jones & Laughlin Steel Corp., at Aliquippa and Pittsburgh, PA, to points in MO, AR, and KS, restricted, in (1) and (2) above, to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 124920 (Sub-15F), filed May 30, 1978. Applicant: LA BAR'S, INC., 771 Scott Street, Wilkes Barre, PA 18705. Representative: Peter Wolff, P.O. Box 116, Scranton, PA 18504. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials and supplies* used in the manufacture of paper and paper products, between the facilities of Potlatch Corp., at Avoca, Coxton, Duryea, Moosic, Old Forge, Pittston, Ransom, Scranton, and Wilkes Barre, PA, on the one hand, and, on the other, Chicago, IL, Detroit, Grand Rapids, and Lansing, MI, Cleveland and Solon, OH, and points in CT, MD, MA, NY, (except points in the New York, NY, commercial zone), and DC. (Hearing site: Wilkes Barre, PA.)

NOTE.—Dual operations may be involved. In No. MC-F-13217, a noncarrier controlling P.L. Lawton Inc., a contract carrier, seeks approval to control applicant.

MC 125375 (Sub-19F), filed June 6, 1978. Applicant: F.B. GUEST, d.b.a. F.B.G. TRANSPORT, Route 5, Box 298, Covington, GA 30209. Representative: Paul M. Danieli, P.O. Box 872, Atlanta, GA 30301. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices, fruit sections, fruit salads, and frozen fruit juice concentrates*, in containers, from Dade City, FL, to ports of entry on the International Boundary line between the United States and Canada in NY, restricted to the transportation of traffic destined to points in the Provinces of ON and PQ, Canada, under a continuing contract, or contracts with Lykes Pasco Packing Co., of Dade City, FL, in foreign commerce only. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Tampa, FL.)

NOTE.—The restrictions and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, apropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 125777 (Sub-223F), filed June 2, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from points in AR, MN, MO, TN, and TX, to points in AL, AZ, AR CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS,MO, MT, NE NV, ND, NM, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY. (Hearing site: New York, NY or Washington, DC.)

MC 125777 (Sub-224F), filed June 6, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from Birmingham, AL, East Liverpool, OH, and Minneapolis, MN, to points in the United States in and east of MN, IA, MO, KS, OK, and TX; (2) *coke*, in bulk, in dump vehicles, from Birmingham, AL, to points in the United States in and east of MN, IA, MO, KS, OK, and TX; and (3) *alloys and silicon metals*, between Montgomery County, AL, on the one hand, and, on the other, points in the United States in and east of LA, AR, MO, IA, and MN. (Hearing site: Chicago, IL.)

MC 126930 (Sub-19F), filed May 26, 1978. Applicant: BRAZOS TRANSPORT CO., a corporation, 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products* (except in bulk), from Medicine Lodge, KS, to National City, MI, restricted to the transportation of traffic originating at the above named origin and destined to the named destination. (Hearing site: Dallas, TX or Chicago, IL.)

NOTE.—The person or persons which appear to be in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 127337 (Sub-21F), filed May 11, 1978. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk,

and those requring special equipment), from points in MA, to ports of entry on the International Boundary line between the United States and Canada at points in ME and MA; (2) *meats and meat products,* (a) from ports of entry on the International Boundary line between the United States and Canada at points in ME and MA, to Boston, MA and Philadephia, PA, (b) from Boston, MA, to ports of entry on the International Boundary line between the United States and Canada at points in NY, VT, and NH, and (c) from points in MN and IL, to ports of entry on the International Boundary line between the United States and Canada at points in ME; (3) *pelts,* (a) from ports on the International Boundary line between the United States and Canada at points in ME and MA, to points in UT, IA, WI, OH, and MA, and (b) from points in IA and UT, to points in NY; (4) *frozen foods,* from ports of entry on the International Boundary line between the United States and Canada at points in ME and MA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, OH, IN, and IL; and (5) *citrus and fruit juices, and agricultural commodities which are otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act* when moving in the same vehicle and at the same time with citrus and fruit juices, from points in MA, to ports of entry on the International Boundary line between the United States and Canada at points in ME, restricted in (1) above to the transportation of traffic having an immediately subsequent movement in foreign commerce via Canada in (2)(b) above to the transportation of traffic having an immediately subsequent movement in foreign commerce destined to points in the Province of PQ, Canada, in (2)(c) and (5) above to the transportation of traffic having an immediately subsequent movement in foreign commerce destined to points in the Province of NF, NS, NB, and PE, Canada, and in (2)(a), (3)(a), and (4) above to the transportation of traffic having an immediately prior movement in foreign commerce originating at points in the Provinces of NF, NB, NS, and PE, Canada. (Hearing site: Boston, MA or Portland, ME.)

NOTE.—The restrictions and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 127840 (Sub-72F), filed June 2, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Synthetic plastic liquid resins,* in bulk, in tank vehicles, from Fort Worth, TX, to points in AR, LA, and OK. (Hearing site: Chicago, IL or Dallas, TX.)

MC 128273 (Sub-303F), filed May 26, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such products as are manufactured and distributed by manufacturers and converters of paper and paper products, and wood flour,* (except commodities in bulk, in tank vehicles) from Berlin, Gorham and Nashau, NH, and Lawrence and Lowell, MA, to points in the United States in and east of WI, IL, KY, TN, and MS; and (2) *materials and supplies used in the manufacture and distribution of the commodities named in (1) above,* (except commodities in bulk, in tank vehicles), from points in the United States in and east of WI, IL, KY, TN, and MS, to Berlin Gorham and Nashau, NH, and Lawrence and Lowell, MA. (Hearing site: Chicago, IL or Washington, DC.)

MC 128273 (Sub-304F), filed May 26, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers and closures for glass containers* from the facilities used by Ball Corp., at or near (a) Muncie, IN, and (b) Mundelein, IL, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and those in NY, PA, and NJ. (Hearing site: Indianapolis, IN or Washington, DC.)

MC 128273 (Sub-305F), filed May 26, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter, and such products as are manufactured and distributed by manufacturers and converters of paper and paper products,* (except commodities in bulk, in tank vehicles), from Niagara Falls, NY, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, NC, OH, OK, SC, TN, TX, VA, WV, and WI. (Hearing site: New York, NY, or Washington, DC.)

MC 128273 (Sub-306F), filed May 26, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* (except commodities in bulk, in tank vehicles), from Brewer, ME, to points in the United States (except AK, HI, and ME). (Hearing site: Bangor, ME, or Washington, DC.)

MC 128273 (Sub-307F), filed May 26, 1978. Applicant: MIDWESTERN DISTRIBUTION INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such products as are manufactured and distributed by manufacturers and converters and paper and paper products,* (except commodities in bulk, in tank vehicles), (1) from the facilities of Fletcher Pater Co., at Alpena, MI, to points in AL, AZ, AR, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, UT, VT, VA, WV, WI, and WY, and (2) from Watervliet and Sodus, MI, to points in CT, DE, IN, IA, ME, MN, MA, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI, and those in IL north of U.S. Hwy 36, restricted in (1) above to the transportation of traffic originating at the named origins facilities and destined to the indicated destinations. (Hearing site: Detroit, MI, or Washington, DC.)

MC 128527 (Sub-114F), filed June 2, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, ID 83661. Representative: James W. Hightower, 136 Wynnewood Professional Bilding., Dallas, TX 75224. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (1) from the facilities of Kraft, Inc., at or near Pocatello, ID, to points in WA, OR, CA, MT, NV, WY, UT, CO, NM, AZ, MN, and WI, and (2) from from points in WA, CA, MT, UT, AZ, MN, and WI, to the facilities of Kraft, Inc., at or near Pocatello, ID, restricted in (1) and (2) above to the transportation of traffic

originating at the indicated origins and destined to the indicated destinations. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 128527 (Sub-118F), filed June 5, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Building., Dallas, TX 75224. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabricated pipe, control panels, and materials and supplies* used in the construction of nuclear plants and systems, (except commodities in bulk, in tank vehicles, and radio active materials), from the facilities of Huico, Inc., at or near Meridian, ID, to points in the United States (including AK, but excluding HI); and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in the United States (including AK, but excluding HI), to the facilities of Huico, Inc., at or near Meridian, ID. (Hearing site: Boise, ID.)

NC 128720 (Sub-6F), filed May 30, 1978. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Drive, P.O. Box 7280, Nashville, TN 37210. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Authority granted to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Nashville and Memphis, TN (except those points in the Memphis, TN commercial zone in AR and MS), over interstate Hwy 40, serving no intermediate points and serving Nashville, TN, for purposes of joinder only.

NOTE:—The person or persons which appear to be engaged in common control must either file an application under section 5 (2) of the Interstate Commerce Act or submit and affidavit indicating why such approval is unnecessary.

MC 129032 (Sub-51F), filed May 30, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides, and commodities in bulk, in tank vehicles), from the facilities of Packerland Packing Co., Inc., at Green Bay, Eau Claire, and Chippewa Falls, WI, to points in CA. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 133689 (Sub-204F), filed June 5, 1978. Applicant: Overland Express, Inc., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority granted to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *Foodstuffs* (except in bulk), from New Ulm, New Prague, and Wabasha, MN, to points in AL, CT, DE, GA, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: St. Paul, MN.)

MC 134105 (Sub-30F), filed June 8, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37402. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Commercial Distribution Center, at or near Kansas City, MO, to points in AL, GA, IL, IN, KY, LA, MI, MN, MS, NC, OH, SC, TN, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing sites: Kansas City, MO, or Chicago, IL.)

MC 134300 (Sub-29F), filed May 30, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 1st Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein 301 North 5th Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by retail department stores*, (except foodstuffs and commodities in bulk), and (2) *foodstuffs* in mixed shipments with the commodities in (1) above, from the facilities of Target Stores, Division of Dayton Hudson Corp., at Minneapolis, MN, to the facilities of Target Stores, Division of Dayton Hudson Corp., at Mason City, IA, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination facilities. (Hearing site: Minneapolis, or St. Paul, MN.)

NOTE:—The person or persons which appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 134300 (Sub-30F), filed May 30, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 1st Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North 5th Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen meats*, in boxes, in vehicles equipped with mechanical refrigeration, from Charleston, SC, Miami and Tampa, FL, and New Orleans, LA, to points in IA, IL, IN, KY, MI, MN, MO, NC, OH, PA, NE, VA, WI, and WV, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—The person or persons which appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 134300 (Sub-31F), filed May 30, 1978. Applicant: TRIPLE R EXPRESS INC., 498 1st Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North 5th Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, in boxes, in vehicles equipped with mechanical refrigeration, from New York, NY, Jersey City, Port Newark, and Elizabethport, NJ, Philadelphia, PA, Wilmington, DE, and New Haven, CT, to points in IL, IN, IA, KY, MN, MO, NE, OH, PA, and WI, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE:—The person or persons which appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 134477 (Sub-240F), filed May 30, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, 33 East Wentworth, West St. Paul, MN 55118. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail department stores (except foodstuffs and commodities in bulk), and (2) *foodstuffs, in mixed loads with the commodities named in (1) above*, from the facilities of Dayton, Inc., and Target Stores, Division Dayton Hudson Corp., at Minneapolis, MN, to Fargo and Grand Forks, ND, and Sioux Falls, SD, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Minneapolis, MN.)

MC 134477 (Sub-243F), filed June 5, 1978. Applicant: SCHANNO TRANS-

PORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority granted 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, those requiring special equipment, and motor vehicles), from Dalton, GA; Boston, MA; and Jersey City, NJ, to the facilities of Kansas City Shippers Association, Inc., at Kansas City, MO, restricted to the transportation of traffic originating at the named origins and destined to the named destination facilities. (Hearing site: Minneapolis, MN.)

MC 135283 (Sub-39F), filed May 30, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rotary blowers and blower wheels*, from LaPorte, IN, to the facilities of Caldwell Manufacturing Co., at or near Kearney, NE; (2) *cardboard cartons*, from Butler, IN, to the facilities of Caldwell Manufacturing Co., at or near Kearney, NE; and (3) *fan blades*, from Bryan, TX, to the facilities of Caldwell Manufacturing Co., at or near Kearney, NE. (Hearing site: Kearney or Grand Island, NE.)

MC 135283 (Sub-40F), filed May 30, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81489, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except commodities in bulk), (1) from Grand Island, NE, to Dallas, TX, and (2) from Traverse City, MI, to Grand Island and Omaha, NE, and Dallas, TX, restricted in (1) and (2) to the transportation of traffic originating at the facilities of GIA, Inc., a subsidiary of Burwood Industries, at or near the named origins and destined to the named destinations. (Hearing site: Grand Island or Lincoln, NE.)

MC 144604F, filed April 17, 1978, and previously noticed in the FEDERAL REGISTER issue of May 11, 1978. Applicant: JOHN HALEY, d.b.a. J & R Auto Transport, P.O. Box 27, Summersville, MO 65571. Applicant's Representative: Tom B. Kretsinger, 910 Brookfield Building 101 West 11 Street, Kansas City, MO 64105. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles and trucks*, in secondary movements, in truckaway service, between points in WA, OR, CA, ID, NV, UT, AZ, MT, CM WY, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MI, IN, and OH. (Hearing site: Kansas City MO.)

NOTE.—The purpose of this republication is to authorize points in IN rather than points in ID.

W-5 (Sub-8F), filed May 30, 1978. Applicant: IGERT, a corporation, 2200 South 4th Street, Paducah, KY 42001. Representative: John C. Lovett, P.O. Box 165, Benton, KY 42025. Authority granted to perform *water common carrier service* by non-self-propelled vessels with the use of separate towing vessels, in the transportation of: *Commodities, generally*, by towing vessels in the performance of general towage, between points along the Yellow Creek, and its tributaries, in Tishomingo County, MS, from its mouth at the Tennessee River mile 215, to the Mississippi Hwy 25 bridge. (Hearing site: Paducah, KY, or Nashville, TN.)

[FR Doc.78-19181 Filed 7-12-78; 8:45 am]

[7035-01]

[Volume No. 103]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JULY 7, 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., M1F, M2F) 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 August 14, 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.

MC 111309 (Sub-9) (M1F) (notice of filing of petition to modify permit), filed April 26, 1978. Petitioner: NEWPORT TRUCKING CORP., 4600 5th Street, Long Island City, NY 11101. Representative: Arthur Liberstein, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds a motor *contract carrier* permit in MC 111309 (Sub-9), issued November 25, 1977, authorizing transportation, over irregular routes, of: *Flavoring syrup and compounds* (except in bulk), from Long Island City, NY, to Bristol, Fairfield, and Windsor, CT; Wilmington, DE; Annapolis, Baltimore, Cheverly, Havre De Grace, and Salisbury, MD; Allston, Ayer, and Cambridge, MA; Asbury Park, Atlantic City, Pennsauken, and Teterboro, NJ; Batavia, Buffalo, Cicero, Geneva, Memands (Albany), Newburgh, North Tonawanda, Rochester, Schenectady, and Syracuse, NY; Charlotte, Durham, Elkins, Fayetteville, Greensboro, Greenville, Hickory, Lumberton, New Bern, Raleigh, Rocky Mount, Wilmington, Winston Salem, Goldsboro, Kinston, Littleton, Roxboro, and Selma, NC; Geistown, Mount Pleasant, McKees Rocks, Newville, and Philadelphia, PA; Charleston, Cheraw, Columbia, Conway, Florence, Greenville, and Spartanburg, SC; and Charlottesville, Danville, Hollins, Lynchburg, Marion, Petersburg, Newport News, and Norfolk, VA. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Pepsi Cola Co., of Purchase, NY. By the instant petition, petitioner seeks to modify the above authority by adding Princeton, WV, as a destination point.

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 August 14, 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 of 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

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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.

MC 2832 (Sub-13) (republication), filed December 23, 1975, published in the FEDERAL REGISTER issue of January 29, 1976, and republished this issue. Applicant: THE KELLY TRANSIT CO., INC., 30 Railroad Square, Torrington, CT 06790. Representative: Thomas A. Kelley, Jr. (same address as applicant). An order of the Commission, division 1, decided June 19, 1978, and served June 28, 1978, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce as a *common carrier*, over irregular routes, in the transportation of: *Passengers and their baggage*, in the same vehicle with the passengers, in round trip charter operations, originating and terminating at Waterbury, CT, and extending to points in ME, VT, NH, MA, CT, RI, NY, NJ, PA, DE, MD, VA, NC, and DC, 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 regulation. The purpose of this republication is to modify the commodity and territorial description.

MC 116519 (Sub-41) (republication), filed May 6, 1977, published in the FEDERAL REGISTER issue of July 14, 1977, and published this issue. Applicant: FREDERICK TRANSPORT, LTD., Rural Route 6, Chatham, ON, Canada. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. An order of the Commission, division 1, decided June 12, 1978, and served June 21, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, over irregular routes, in the transportation of: (1) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels); (2) *Equipment* designed for use in conjunction with tractors; (3) *agricultural, industrial, and construction machinery and equipment;* (4) *attachments* for the items described in (2) and (3) above; and (5) parts of items described in (1), (2), (3), and (4) above, in mixed loads with such items, from Bettendorf and Burlington, IA, Terre Haute, IN, and Racine, WI, to ports of entry on the international boundary line between the United States and Canada, located in MI, NY, VT, and ME. Restrictions: (1) Restricted to the transportation of shipments moving in foreign commerce; and (2) restricted to the transportation of shipments originating at the facilities of the J. I. Case Co., destined to points in the Provinces of ON, PQ, NB, PE, NS, and NF, that application is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to delete the phrase "with or without attachments" in (1) above, and add a restriction to include NF as a destination point.

MC 130465 (second republication), filed October 20, 1977, published in the FEDERAL REGISTER issues of November 10, 1977, and April 13, 1978, and republished this issue. Applicant: TRAVEL COORDINATORS, INC., P.O. Box 836, Cabondale, IL 62901. Representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. An order of the Commission, review board No. 2, decided February 17, 1978, and served March 7, 1978, finds that operation by applicant, as a broker, at Carbondale and Waterloo, IL, and St. Louis, MO, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of: *Passengers and their baggage*, in round trip tours, in special or charter operations, beginning and ending at points in MO on and east of U.S. Hwy 63, points in IL on and south of U.S. Hwy 36, points in KY on and west of U.S. Hwy 41, and points in Posey and Vanderburgh Counties, IN, and extending to points in the United States (including AK, but excluding HA), will be consistent with the public interest and the national transportation policy; that petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to modify the commodity and territorial description.

MC 136888 (Sub-11) (republication), filed September 26, 1977, published in the FEDERAL REGISTER issue of November 26, 1977, and republished this issue. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, TX 77020. Representative: Philip Robinson, P.O. Box 2207, Austin, TX 78768. An order of the Commission, Review Board No. 2, decided June 7, 1978, and served June 26, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* over irregular routes, in the transportation of: (1) *Activated and spent carbons* (except in bulk, in tank vehicles), between Bayport, TX, on the one hand, and, on the other, points in the United States (including AK, but excluding HI and TX); and (2) *spent catalysts* (except in bulk, in tank vehicles), from points in TX, to Denver, CO, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purposes of this republication is to modify the commodity and territorial description.

MC 142040 (Sub-1) (restriction), filed January 4, 1977, published in the FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin Street, Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., 217 Old Airport Road, Douglassville, PA 19518. An order of the Commission, Division 1, decided June 19, 1978, and served June 26, 1978, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce as a *common carrier* over irregular routes, in the transportation of: *General commodities* (except those of unusual value, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and classes A and B explosives), between Boston, MA, on the one hand, and, on the other, points in Windham County, CT; points in York County, ME; points in Bristol, Essex, Middlesex, Norfolk, Plymouth, and Worcester Counties, MA.; points in Hillsboro and Rockingham Counties, NH, and points in Kent and Providence Counties, RI, restricted against the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor to one consignee on any one day, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity and territorial description.

MC 142899 (Sub-2) (republication), filed January 27, 1977, published in the FEDERAL REGISTER issue of March 17, 1977, and republished this issue. Applicant: CORRUGATED CARRIERS, INC., 3219 Nebraska Avenue, Council Bluffs, IA 51501. Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. An order of the Commission, Review Board No. 2, decided May 10, 1978, and served May 31, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* over irregular routes, in the transportation of: *Paper and paper products*, from Omaha, NE, to points in CO, IA, KS, MO, SD, and serving those portions of the commercial zones of points in the States indicated above, which extend into adja-

cent States, subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted in this decision, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by special rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure 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 such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must cleraly specify the "F" suffix where the docket is so identified in this notice. 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 decision 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.

MC 19227 (Sub-241F), filed March 31, 1978. Applicant: LEONARD BROS. TRUCKING CO., INC., P.O. Box 520602, Miami, FL 33152. Representative: Robert F. McCaughey (same address as applicant). Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Extruded or injection molded rubber and plastic products;* (2) *materials, supplies* and *equipment* used in the manufacture, sales and distribution of (1) above, (1) from the facilities of the Entrek Corp. of America at Irving, TX, to points in the United States (except AK and HI); (2) from points in the United States (except AK and HI), to Irving, TX. (Hearing site: Dallas, TX.)

NOTE.—Common control may be involved.

MC 20783 (Sub-111F), filed April 3, 1978. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Foodstuffs* from points in FL, to Atlanta, GA, and points in IL, IN, IA, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: Tampa, FL.)

NOTE.—Common control may be involved.

MC 58344 (Sub-6F), filed March 31, 1978. Applicant: BILL HODGES TRUCK CO., INC., 4050 West Interstate Hwy 40, Oklahoma City, OK 73128. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil well and gas well drilling rigs, and related machinery, materials, equipment and supplies*, when moving in connection therewith, between points in TX, OK, and KS, on the one hand, and, on the other, points in ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, and FL. (Hearing site: Tulsa or Oklahoma City, OK.)

NOTE.—Common control may be involved.

MC 58885 (Sub-33F), filed April 3, 1978. Applicant: ATLANTA MOTOR LINES, INC., P.O. Box 345, Conley, GA 30027. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, classes A and B explosives,. household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Chattanooga, TN and Nashville, TN: From Chattanooga, TN over Interstate Hwy 24 to Nashville, TN and return over the same route, serving all intermediate points; (2) between Chattanooga, TN and Nashville, TN: From Chattanooga, TN over U.S. Hwy 41 to Nashville, TN and return over the same route, serving all intermediate points; (3) between Winchester, TN and Nashville, TN: From Winchester, TN over U.S. Alt. Hwy 41 to Nashville, TN and return over the same route, serving all intermediate points; (4) between Pulaski, TN and Nashville, TN: From Pulaski, TN over U.S. Hwy 31 to Nashville, TN and return over the same route, serving all intermediate points; (5) between the intersection of Interstate Hwy 65 and U.S. Hwy 64, and Nashville, TN: From the intersection of Interstate Hwy 65 and U.S. Hwy 64 over Interstate Hwy 65 to Nashville, TN and return over the same route, serving all intermediate points; (6) between Tullahoma, TN and Cookeville, TN: From Tullahoma, TN over TN Hwy 55 to McMinnville, TN, then over U.S. Hwy 70S to Sparta, TN, then over TN Hwy 42 to Cookeville, TN and return over the same route, serving all intermediate points; (7) between Ducktown, TN and Pulaski, TN: From Ducktown, TN over U.S. Hwy 64 to Pulaski, TN and return over the same route, serving all intermediate points; (8) between Ducktown, TN and Knoxville, TN: From Ducktown, TN over TN Hwy 68 to Madisonville, TN, then over U.S. Hwy 411 to Maryville, TN, then over U.S. Hwy 129 to Knoxville, TN and return over the same route, serving all intermediate points; (9) between Knoxville, TN and Nashville, TN: From Knoxville, TN over Interstate Hwy 40 to Nashville, TN and return over the same route, serving all intermediate points; (10) between Lebanon, TN and Crossville, TN: From Lebanon, TN over U.S. Hwy 70 to Crossville, TN and return over the same route, serving all intermediate points; (11) between Nashville, TN and Knoxville, TN: From Nashville, TN over U.S. Hwy 70N to Crossville, TN then over U.S. Hwy 70 to Knoxville, TN and return over the same route, serving all intermediate points; (12) between Dalton, GA and Chattanooga, TN: From Dalton, GA over U.S. Hwy 41 to Chattanooga, TN and return over the same route, serving all intermediate points; (13) between Chattanooga, TN and Harriman, TN: From Chattanooga, TN over U.S. Hwy 27 to Harriman, TN and return over the same route, serving all intermediate

points; (14) between Chattanooga, TN and Knoxville, TN: From Chattanooga, TN over U.S. Hwy 11 to Knoxville, TN and return over the same route, serving all intermediate points; (15) between Alcoa, TN and Elizabethton, TN: From Alcoa, TN over U.S. Hwy 411 to Johnson City, TN, then over U.S. Hwy 321 to Elizabethton, TN and return over the same route, serving all intermediate points; (16) between Johnson City, TN and Kingsport, TN: From Johnson City, TN over U.S. Hwy 23 to Kingsport, TN and return over the same route, serving all intermediate points; (17) between Knoxville, TN and Kingsport, TN: From Knoxville, TN over Interstate Hwy 40 to its intersection with Interstate Hwy 81, then over Interstate Hwy 81 to its intersection with TN Hwy 137, then over TN Hwy 137 to Kingsport, TN and return over the same route, serving all intermediate points; (18) between Knoxville, TN and Greeneville, TN: From Knoxville, TN over U.S. Hwy 11E to Greeneville, TN and return over the same route, serving all intermediate points; (19) between Murphy, NC and Cloverhill, TN: From Murphy, NC over U.S. Hwy 129 to Cloverhill, TN and return over the same route, serving all intermediate points in TN; (20) between Morristown, TN and Newport, TN: From Morristown, TN over U.S. Hwy 25E to Newport, TN and return over the same route, serving all intermediate points; (21) between Kingsport, TN and Johnson City, TN: From Kingsport, TN over TN Hwy 137 to Johnson City, TN and return over the same route, serving all intermediate points. Serving Lewisburg, TN; Lynchburg, TN; Dandridge, TN; Oak Ridge, TN; Bridgeport, AL; and Stevenson, AL as off-route points in connection with the above described routes. (Hearing site: Atlanta, GA (2 weeks); Knoxville, TN (1 week); Nashville, TN (1 week).)

NOTE.—Common control may be involved.

MC 59352 (Sub-3F), filed April 13, 1978. Applicant: C. L. & A. Motor Delivery, Inc., 4110 Dane Avenue, Cincinnati, OH 45223. Representative: Norbert B. Flick, 715 Executive Building, Cincinnati, OH 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, and materials, supplies and equipment used in the manufacture of glass containers*, between Lawrenceburg, IN, on the one hand, and, on the other, points in KY and Urbana, OH. (Hearing site: Cincinnati, OH.)

MC 86247 (Sub-13F), filed April 5, 1978. Applicant: I. C. L. INTERNATIONAL CARRIERS LTD., 1383 College Avenue, Windsor, ON, Canada N9C3Y9. Representative: Joseph P. Allen, 7701 West Jefferson, Detroit, MI 48209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnesite and high temperature bonding mortar in packages*, from the facilities of Martin Marietta Chemicals, at Manistee, MI, to ports of entry on the International Boundary line between the United States and Canada, at Detroit and Port Huron, MI, restricted to the transportation of shipments having an immediately subsequent movement in foreign commerce and destined to the province of ON, Canada. (Hearing site: Detroit, MI or Washington, DC.)

NOTE.—Common control may be involved.

MC 95876 (Sub-236F), filed April 6, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings, prefabricated metal building sections, prefabricated prefinished metal panel sections, components and parts thereof, and equipment, materials, and supplies* used in the installation, construction, or erection thereof, from points in Jones County, IA, to points in IL, IN, and MI; and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of the commodities described in (1) above, from points in MI, IN, and IL to points in Jones County, IA. (Hearing site: Minneapolis, MN.)

NOTE.—Common control may be involved.

MC 100449 (Sub-94F), filed April 10, 1978. Applicant: MALLINGER TRUCK LINE, INC., Rural Route No. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products*, from the facilities of Fields, Inc., at or near Pauls Valley, OK, to points in AZ, CA, IA, IL, KS, MN, MO, NE, NM, and TX; and (2) *materials, equipment and supplies* used in the manufacture of bakery products, from points in IL, NE, and TX, to the facilities of Fields, Inc., at or near Pauls Valley, OK. Restricted in parts (1) and (2) to traffic originating at the named origins and destined to the named destinations. (Hearing site: Oklahoma City, OK, Dallas, TX or Washington, DC.)

MC 103498 (Sub-53F), filed June 8, 1978. Applicant: B&L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* (except lumber), *gypsum, and gypsum products;* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above (except commodities in bulk), between Rotan, TX, on the one hand, and, on the other, points in AR, IA, KS, LA, MO, NE, and OK. (Hearing site: Dallas or Lubbock, TX.)

NOTE.—(1) The person or persons engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary. (2) Applicant's affiliate, Brazos Transport Co., holds duplicating rights in certificates in MC 126930 and MC 126930 (Sub-5). It is long standing Commission policy not to grant duplicating rights to affiliated carriers. Applicant must show why such rights should be granted or propose a plan to eliminate the duplication.

MC 106398 (Sub-799F), filed April 14, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Bernice, Monroe and Hollyridge, LA, to points in the United States in and east of AZ, CO, WY, and MT. (Hearing site: New Orleans, LA.)

MC 107403, (Sub-1075F), filed April 6, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Spent aluminum chloride* in bulk, in tank vehicles, from Freeport, TX to points in LA. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

MC 107515 (Sub-1138F), filed: April 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *foodstuffs* (except commodities in bulk), from the facilities of Welch Foods, Inc., located at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: New York, NY.)

NOTE.—Applicant holds contract carrier authority in MC 126436 and subs thereunder, therefore dual operations may be involved. Common control may be involved.

MC 107515 (Sub-1139F), filed: April 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office

Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs, Meats, Meat Products and Meat by-products*, from Davenport, IA, to Goodlettsville, TN, restricted to the transportation of traffic originating at or destined to the facilities of Oscar Mayer & Co., Inc. (Hearing site: Madison, WI.)

NOTE.—Applicant holds contract carrier authority in MC 126436 and subs thereunder, therefore dual operations may be involved. Common control may be involved.

MC 107913 (Sub-18F), filed April 10, 1978. Applicant: F & W EXPRESS, INC., 165 South Parkway West, Memphis, TN 37109. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, class A and B explosives, commodities in bulk and those requiring special equipment), between Little Rock, AR, and Monroe-West Monroe, LA, as follows: (a) From Little Rock, AR over U.S. Hwy 65, to junction U.S. Hwy 165 at or near Dermott, AR, then over U.S. Hwy 165 to Monroe-West Monroe LA and return over the same route serving all intermediate points between Gould, AR and Monroe-West Monroe, LA (b) from Little Rock, AR over U.S. Hwy 65 to junction Interstate Hwy 20 at or near Tallulah, LA, then over Interstate Hwy 20 to Monroe-West Monroe, LA and return over the same route serving all intermediate points between Gould, AR and Monroe-West Monroe, LA and serving the off route points of Oak Grove, LA and Rohwer, AR (c) from Little Rock, AR over U.S. Hwy 167 to junction Interstate Hwy 20 at or near Vienna, LA, then over Interstate Hwy 20 to Monroe-West Monroe, LA, and return over the same route serving all intermediate points between Hampton, AR and Monroe-West Monroe, LA, and serving the off route point of Farmersville, LA, restricted against transportation of traffic moving between Little Rock, AR and Memphis, TN. (Hearing site: Memphis, TN, or Monroe, LA.)

MC 108341 (Sub-98F), filed April 10, 1978. Applicant: MOSS TRUCKING CO., INC., P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, between the facilities of Sheffield Southern Steel Products, Inc., at or near Lenoir City, TN, on the one hand, and, on the other, points in AL, GA, IL, IN, LA, MI, MS, NC, OH, SC, VA and WV. (Hearing site: Knoxville, TN or Washington, DC.)

NOTE.—Common control may be involved.

MC 110563 (Sub-232F), filed April 7, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Mr. Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* and *articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Denver, CO, to points in AL, CA, FL, GA, IL, IN, LA, MI, MN, NC, OH, OR, and WI. (Hearing site: Denver CO, or Las Vegas, NV.)

MC 111309 (Sub-15F), filed April 5, 1978. Applicant: NEWPORT TRUCKING CORP., 4600 Fifth Street, Long Island City, NY 11101. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *New and used containers, closures and lids, and packaging materials*, from points in NJ and CT, to the facilities of Pepsi-Cola Metropolitan Co., Inc. located at Philadelphia, PA, Teterboro, NJ, and Long Island City, Brooklyn, Bronx, and Mt. Vernon, NY, to points in MA, and RI, under continuing contract with Pepsi-Cola Metropolitan Bottling Co., Inc. (Hearing site: New York, NY.)

NOTE.—Common control may be involved.

MC 114194 (Sub-199F), filed: April 13, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Ernest A. Brooks, II, 1301-02 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lard, in tank vehicles, from St. Joseph, MO, to Joplin, MO, and Pittsburg, KS. (Hearing site: Kansas City or St. Louis, MO.)

NOTE.—Common control may be involved.

MC 114211 (Sub-356F), filed April 10, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Mr. Adelor J. Warren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and poultry netting, and gabions*, welded and woven *wire*, galvanized, plain, aluminum coated, or with plastic or rubber coating in rolls or packages, from Reno, NV to points in the United States (including AK and excluding HI). (Hearing site: San Francisco, CA, or Reno, NV.)

MC 114273 (Sub-362F), filed April 3, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber* (except in bulk, in tank vehicles) from the facilities of Goodyear Tire and Rubber Co. located at or near Lincoln, NE, to Mt. Pleasant, IA. The purpose of this filing is to remove the tacking point of Cedar Rapids, IA. (2) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk, in tank vehicles), from the facilities of Armour and Co. located at or near Omaha, NE, to Waterloo, IA. (3) *General Commodities*, from Chicago, IL, to points in IA within 100 miles of Cedar Rapids, IA. The purpose of this application in (1) through (3) is to eliminate the tacking point of Cedar Rapids, IA; and (4) *Such commodities as are dealt in by wholesale, retail, or chain grocery stores*, between Chicago, IL, on the one hand, and, on the other, Fargo ND; points in that part of MN on and east of MN Hwy 15 and on and south of MN Hwy 95, and Duluth, MN; points in that part of KS on and east of U.S. Hwy 81; and points in that part of MO on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63. The purpose of this filing is to eliminate the tacking points of Marshalltown, IA on the Fargo, ND traffic and Clinton, IA on the balance. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

MC 114896 (Sub-64F), filed April 7, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals, spent gold solution, and gold stripping bath*, (1) Between Landisville, PA, on the one hand, and, on the other, Nutley, NJ, and Providence, RI, and (2) Between Carlisle, PA, and Union, NJ, under a continuing contract, or contracts, with AMP, Inc., of Harrisburg, PA. (Hearing site: Washington, DC.)

NOTE.—Applicant holds common carrier authority in MC 140345, Sub 1, and therefore dual operations may be involved. Common control may be involved.

MC 115654 (Sub-91F), filed April 7, 1978. Applicant: TENNESSEE CAR-

TAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products, imitation cream and imitation fruit drinks, water ices, ice mixtures, water ice bars, sherbert, frozen desserts, delicatessen products, and fruit juices* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of the Kroger Co., at Hazelwood, MO, to its warehouse and retail outlets at Memphis, TN, Monroe, LA, Little Rock, AR, and points in MS; and (2) *packing and shipping cartons* in the reverse direction. (Hearing site: Hazelwood, MO, or Nashville, TN.)

MC 117940 (Sub-268F), filed April 10, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bird seed; bran; flour; prepared flour mixes*, and *wheat germ* (except commodities in bulk), from the facilities of International Multifoods Corp., at New Ulm, New Prague, and Wabasha MN, to points in AL, AR, FL, GA, KY, MO, NC and SC, restricted to traffic originating at named facilities at named origins and destined to named destinations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 117940 (Sub-269F), filed April 10, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soap, cleaning compounds*, and *toilet preparations* (except commodities in bulk), from Kansas City, KS, to points in MN, ND, and SD. (Hearing site: Kansas City, KS.)

MC 119726 (Sub-124F), filed April 6, 1978. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, glassware, packaging products, container components, scrap materials*, and *material, equipment* and *supplies* used in the manufacture, sale, and distribution of the foregoing commodities, (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), between points in the United States (except AK, HI, WA, OR, ID, CA, NV, and UT), restricted to movements from, to, or between the facilities utilized by Owens-Illinois, Inc. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 123407 (Sub-455F), filed April 10, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Jasper County, Mo. to points in OK, AR, TX, LA, MS, TN, KY, OH, IN, IL, WI, IA, MN, NE, KS, MI, PA, CO, AL, and UT. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

MC 123407 (Sub-456F), filed April 10, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, (except in bulk), from Broken Arrow, OK, to points in the United States (except AK and HI). (Hearing site: Tulsa, OK, or Chicago, IL.)

NOTE.—Common control may be involved.

MC 125708 (Sub-146F), filed April 6, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit, and attachments therefor*, from Glendale, WV, to points in TX, restricted to the transportation of shipments originating at the facilities of Triangle PWC, Inc., at Glendale, WV, and destined to the indicated destination. (Hearing site: Washington, DC)

MC 133796 (Sub-49F), filed April 10, 1978. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA, 18708. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic and plastic pipe* (except commodities in bulk, commodities which because of size or weight require the use of special equipment, and oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 MCC 459), from Asheville, NC to points in the United States (except AK and HI), and (2) *Materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in the United States (except AK and HI), to Asheville, NC. (Hearing site: Washington, DC.)

NOTE.—Applicant holds motor contract carrier authority in MC 129239, therefore, dual operations may be involved.

MC 135684 (Sub-66F), filed April 10, 1978. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Herbert A. Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and plastic products*, (except in bulk, in tank vehicles), between facilities utilized by Dow Chemical Co., at or near Midland, MI on the one hand, and, on the other, points in NJ, NY, PA, MA, CT, ME, RI, and NH. (Hearing site: Washington, DC or Newark, NJ.)

MC 134286 (Sub-54F), filed April 5, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Chemicals, acids, solvents, and edible oils*, (except in bulk), part (A) from (1) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Minneapolis, MN; (2) the facilities of F.M.C. Corp., at or near Lawrence, KS; (3) Chicago, IL and points in its commercial zone; (4) the facilities of Olin Chemical Co., at or near Joliet, IL; (5) the facilities of Sanford Chemical Co., at or near Elk Grove Village, IL; (6) the facilities of Velsicol Chemical Co., at or near St. Louis, MI; (7) the facilities of James Varley & Son Co., at or near St. Louis, MO; (8) the facilities of BASF Wyandotte Chemical Corp., and Penwalt Corp., at or near Wyandotte, MI; (9) the facilities of Ozark-Mahoning Co., at or near Tulsa, OK; (10) the facilities of Floridin Co., at or near Berkeley Springs, WV, and Quincy, FL; (11) the facilities of Ash Grove Chemical Co., at or near Springfield, MO; (12) the facilities of Lien Chemical Co., at or near Rapid City, SD; (13) the facilities of Burris Chemical Co., at or near Charleston, SC; (14) the facilities of Barnebey Cheney, at or near Columbus, OH; (15) the facilities of Cities Service Co., at or near Copperhill, TN; (16) the facilities of Ft. Recovery Industries, at or near Ft. Recovery, OH; (17) the facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN; (18) the facilities of Keyes Fiber Co., at or near Hammond, IN;

(19) the facilities of Marathon Morco Co., at or near Dickinson, TX; (20) the facilities of Mazer Chemical, at or near Gurnee, IL; (21) the facilities of Quality Chemical Co., at or near Baltimore, MD; (22) the facilities of Stauffer Chemical Co., at or near Greenriver, WY; (23) the facilities of Westvaco Chemical Division, at or near Covington, VA; (24) the facilities of Lowe's Inc., at or near Oran, MO; (25) the facilities of P.P.G. Industries, at or near Barberton, OH and Natrium, WV; (26) the facilities of Diamond Shamrock Chemical Co., at or near Painesville, OH; (27) the facilities of Allied Chemical Co., at or near North Claymont, DE, Richmond, VA, and Wilmington, DE; (28) the facilities of E. I. du Pont, at or near Memphis, TN; and (29) the facilities of Dow Chemical Co., at or near Midland, MI, to the facilities utilized by Warren-Douglas Chemical Co., at or near Sioux City, IA and Omaha, NE, restricted to traffic originating at the named origins and destined to the named destinations. Part (B) from the origins named in part (A) above, to points in IA and NE, restricted to shipments moving in mixed loads with traffic moving to the facilities of Warren-Douglas Chemical Co., at or near Sioux City, IA or Omaha, NE. Part (C) from the facilities of Warren-Douglas Chemical Co., at or near Omaha, NE and Sioux City, IA, to points in OK, TX, NM, and Phoenix, AZ, and points in its commercial zone, restricted to traffic originating at the named origins and destined to the named destinations. (Hearing site: Omaha, NE.)

NOTE.—Common control may be involved.

MC 140389 (Sub-29F), filed April 10, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale, retail, and chain grocery and food business houses; and *equipment, materials and supplies* used in the conduct of such business, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Kroger Co., at or near Cincinnati and Columbus, OH, to Atlanta, GA, Nashville, TN, and Los Angeles, CA. (Hearing site: Cincinnati or Columbus, OH.)

MC 140829 (Sub-91F), filed April 10, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from New York, NY, to points in IL and TX, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states. (Hearing site: Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MD 136408 and subs thereunder; therefore dual operations may be involved.

MC 140829 (Sub-92F), filed April 10, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from the facilities of Deran Confectionary, at or near Boston, MA, to points in AR, CA, IL, IN, MI, MN, MO, OH, OK, PA, and TX. (Hearing site: Washington, DC.)

NOTE.—Applicant holds contract carrier authority in MD 136408 and subs thereunder; therefore dual operations may be involved.

MC 141108 (Sub-3F), filed April 9, 1978. Applicant: D&C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Detroit, MI and Chicago, IL, to points in Buena Vista, Clinton, Delaware, Franklin, Linn, Johnson, Jones, and Scott Counties, IA. (Hearing site: Chicago, IL or Kansas City, MO.)

MC 142676 (Sub-3F), filed April 7, 1978. Applicant: DONNIE D. MOOREFIELD, P.O. Drawer G, Shady Spring, WV 25918. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Livestock and poultry feed*, in bags and in bulk, from Rockwell, KY and Harrisonburg, VA, to points in Garrett and Allegany Counties, MD, under a continuing contract or contracts with Southern States Cooperative, Inc., of Richmond, VA. (Hearing site: Charleston, WV.)

MC 142941 (Sub-17F), filed April 10, 1978. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries*, in vehicles equipped with mechanical refrigeration, (except in bulk) (1) from the facilities of E. J. Brach & Sons, Inc. Division, American Home Products Corp., at Carol Stream, Chicago and Sullivan, IL, to points in AZ, CA, and NV, and (2) from Reno, NV, to points in AZ and CA. (Hearing site: Chicago, IL.)

MC 143531 (Sub-3F), filed April 10, 1978. Applicant: POWDER RIVER MOTOR TRANSPORT CORP., 388 East 900 South, Provo, UT 84601. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down wooden buildings, and materials and supplies* used in the erection thereof, from Tacoma, WA, to points in WI, MN, IL, OR, CA, MT, ID, UT, NV, AZ, WY, CO, NM, and MO, under a continuing contract or contracts with Cedar Homes, Inc., of Tacoma, WA. (Hearing site: Seattle, WA, or Washington, DC.)

MC 144056 (Sub-1F), filed April 6, 1978. Applicant: INTERNATIONAL MOVERS, INC., 847 West 45th Street, Norfolk, VA 23508. Representative: Hunter W. Sims, Jr., 1530 Virginia National Bank Building, Norfolk, VA 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage, and personal effects*, as defined by the Commission, between Norfolk, Portsmouth, Chesapeake, Virginia Beach, Suffolk, Hampton, Newport News, and Williamsburg, VA, points in Isle of Wight, York, James City, Gloucester, Mathews, Accomack, Northampton, and Southampton Counties, VA, and those in Currituck, Camden, Pasquotank, Perquimans, Gates, Chowan, and Hertford Counties, NC, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. (Hearing site: Norfolk or Richmond, VA, or Washington, DC.)

MC 144117 (Sub-9F), filed April 6, 1978. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible flour and flour compounds* (except commodities in bulk), from the facilities of Golden Dipt Company, at Millstadt, East St. Louis, and Melrose Park, IL, to points in WA, AZ, CA, and OR. Restriction: Restricted to traffic originating at named origins and destined to named destinations. (Hearing site: St. Louis, MO.)

MC 144209 (Sub-3F), filed April 3, 1978. Applicant: ERWIN TRUCKING, INC., 7176 North 50th Street, Omaha, NE 68152. Representative: Donald L. Stern, Suite 530 Univac Building, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from Omaha, NE, to points in MA, CT, NY, PA, MD, IL, MI, NJ, ME, OH, MD, IN, DE, VA, WV, NC, SC, MN, and DC. (Hearing site: Omaha, NE.)

MC 144522 (Sub-2F), filed April 11, 1978. Applicant: PETERSEN & FOGO, INC., Route 1, Box 22, Byron, NE 68325. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings, knocked down and in sections, building sections and building panels, metal prefabricated components, and parts, materials and supplies* used in the construction of metal buildings, from points in Coles County, IL, and points in Franklin County, IA, to points in AZ, CO, KS, NE, NM, OK, and TX. (Hearing site: Lincoln, NE.)

MC 144604 (Sub-29F), filed April 11, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses (except commodities in bulk in tank vehicles), in mechanically refrigerated equipment, from the facilities of Kraft, Inc., at Decatur, GA, to points in MS and LA. (Hearing site: Atlanta, GA.)

MC 144617F, filed April 7, 1978. Applicant: AUSTIN TRUCKING CO., INC., Austin, IN 47102. Representative: Donald W. Smith, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods* (except frozen), from the facilities of Morgan Packing Co., at or near Austin, Brownstown, Scottsburg, Franklin, Converse, and Red Key, IN, to points in the United States in and east of ND, SD, NE, OK, KS, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of canned goods (except commodities in bulk), from points in the United States in and east of ND, SD, NE, OK, KS, and TX, to the facilities of Morgan Packing Co., at or near Austin, Brownstown, Scottsburg, Franklin, Converse, and Red Key, IN, under a continuing contract, or contracts, with Morgan Packing Co. (Hearing site: Indianapolis, IN.)

MC 144659F, filed April 6, 1978. Applicant: GEORGE G. SOUHAN, INC., Seneca Falls, NY 13148. Representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Natural and synthetic fibers, spun yarn, hosiery, cloth*, and *materials and machinery* used in the packaging, manufacturing, and marketing of the foregoing commodities, (1) between Ludlow, VT, and points in CT, ME, MA, NJ, NY, and PA, and (2) between Ballston Spa, Broadalbin, and Seneca Falls, NY, on the one hand, and, on the other, points in CT, ME, MA, NJ, PA, and VT, under a continuing contract, or contracts, with Seneca Knitting Mills Co., of Seneca Falls, NY, and Geb & Souhan Woolen Co., Inc., of Ludlow, VT. (Hearing site: Rochester, Syracuse, or Utica, NY.)

MC 144760F, filed May 15, 1978. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive waste*, in shipper-owned containers permanently mounted on shipper-owned trailers, from Zion Nuclear Plant, at Zion, IL, Dresden Nuclear Station, at Cordova, IL, Duane-Arnold Energy Center, at Palo, IA, and Donald C. Cook Nuclear Station, at Bridgman, MI, to Barnwell, SC, Beatty, MV, and Richland, WA, under a continuing contract with Hittman Nuclear and Development Corp., of Columbia, MD. (Hearing site: Washington, DC, or Chicago, IL.)

Finance Applications

The following aplications 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 August 14, 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.

MC-F-13625. Authority sought for control by INDUSTRIAL FREIGHT SYSTEM, INC., 9120 San Fernando Road, Sun Valley, CA 91352, of City Drayage, Inc., 1884 Davis, San Leandro, CA 94577, and for acquisition by Edward L. Provost, Albert L. Grim, and Michael P. Gamel, all of 9120 San Fernando Road, Sun Valley, CA 91352, of control of City Drayage, Inc., through the acquisition by Edward L. Provost, Albert L. Grim, and Michael P. Gamel. Applicants' attorney: Gary W. Wigan, 13031 San Antonio Drive, Suite 214, Norwalk, CA 90650. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, as a common carrier, between specified points in the State of CA as more specifically described in certificate of Registration MC-121752. Industrial Freight Systems, Inc., is authorized to operate as a common carrier of general commodities with certain specified exceptions between specified points in the State of CA as more specifically described in certificate of Registration MC 120822 (Sub-2). Approval of the transaction will not result in dual operations or duplicating authority. Application has been filed for temporary authority under section 210a(b).

Motor Carrier of Passengers

MC-F-13633. Authority sought for purchase by ABC BUS LINES, 375 Promenade Street, Providence, RI 02940, of a portion of the operating rights of Bonanza Bus Lines, Inc., 27 Sabin Street, Providence, RI 02901, of control of such rights through the purchase. Applicants' attorney: Robert M. Santaniello, 95 State Street, Suite 1010, Springfield, MA 01103, and Thomas D. Pucci, 624 Industrial Bank Building, Providence, RI 02903. Operating rights sought to be transferred: *Passengers and their baggage, and express, mail, and newspapers*, in the same vehicle with passengers, and baggage of passengers in a separate vehicle, (1) between the town of Millbury, MA and Uxbridge, MA, serving all intermediate points, (2) between junction MA Hwy 146 and unnumbered highway (Purgatory Road) and Whitinsville, MA, serving all intermediate points, (3) between Millville, MA and North Smithfield, RI serving all intermediate points, and passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers (1) between Providence, RI and Worcester, MA. Transferee presently holds authority from the Commission as authorized under Certificate MC 102764 and Subs thereunder to operate as a common carrier in MA,

RI, and CT. Application has been filed for temporary authority under section 210a(b).

MC-F-13642. Authority sought for purchase by AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210, of a portion of the operating rights of Riss International Corp., 903 Grand Avenue, Kansas City, MO 64142, and for acquisition by Texas Gas Transmission Corp., P.O. Box 1160, Owensboro, KY 42301, American Commercial Lines, 2919 Allen Parkway, Houston, TX 77109, and Act Companies, Inc., 9393 West 110th Street, Overland Park, KS 66210, of control of such rights through the purchase. Applicant's representative: Harold H. Clokey, 9393 West 110th Street, Overland Park, KS 66210. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over regular routes between Kansas City, MO and St. Louis, MO serving the intermediate points of Sedalia, MO and East St. Louis, IL: From Kansas City, MO over U.S. Hwy 50 to junction MO Hwy 100 (formerly U.S. Hwy 50) near Gray Summitt, MO, then over MO Hwy 100 to St. Louis, MO and return over the same route. Vendee is authorized to operate as a common carrier in FL, GA, AL, MS, TN, TX, OK, KS, CO, NE, SD, ND, MN, IA, MO, WI, IL, MI, IN, OH, PA, NY, MA, CT, and RI. Application has not been filed for temporary authority under section 210a(b) of the act. (Hearing site: Kansas City, MO or Washington, DC.)

MC-F-13643. Authority sought for purchase by MOSAIC TRUCKING CO., INC., 1 Biondi Street, Cliffwood, NJ 07721, of a portion of the operating rights of Wm. H. P., Inc., 1342 North Howard Street, Philadelphia, PA 19122, and for acquisition by Terry L. Kraft, also of 1 Biondi Street, Cliffwood, NJ 07721, of control of such rights through the purchase. Applicant's attorneys: A. David Millner and Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Operating rights sought to be transferred: Certificate MC 38921, authorizing the transportation of: *General commodities*, with the usual exceptions, as a motor common carrier, over irregular routes, from Philadelphia, PA over U.S. Hwy 1 and U.S. Hwy 130 at or near Milltown, NJ, serving all intermediate points and the off-route points of New Brunswick, NJ. Vendee is authorized to operate as a common carrier in NY and NJ. Application has not been filed for temporary authority under section 210a(b).

MC-F-13644. Authority sought for purchase by FORD BROS., INC., Box 727, Ironton, OH 45638, a portion of the operating authority of Davis Transport, Inc., 1345 South 4th, Paducah, KY 42001, and for acquisition by J. Robert Ford, Box 727, Ironton, OH 45638, of control of the rights through the purchase. Applicant's attorney: James W. Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Operating rights sought to be purchased: *Petroleum and petroleum products*, as described in appendix XIII to the report in Description of Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, over irregular routes, from the pipeline terminal site of the Texas Eastern Transmission Corp., at or near Lebanon, Warren County, OH to points in IN, KY, and those in WV, except points in Kanawha County, WV, and except petroleum chemicals to Fairmont, Follansbee and Morgantown, WV, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate pursuant to Certificate MC 112595 and subs thereto as a common carrier in all states in the United States (except AK and HI). Applicant intends to tack at Warren County, OH and eliminate the gateway at Warren County, OH in order to provide direct service to points in OH, KY, WV, and IN. Approval of the transaction will not result in (a) dual opertions; or (2) splitting of authority. Duplicating authority may be involved. Application has not been filed for temporary authority under sections 210a(b). A directly related gateway application is being simultaneously filed. (Hearing sites: Columbus, OH or Washington, DC.)

NOTE.—MC 112595 (Sub 77F) is a directly related matter.

MC-F-13645. Authority sought for merger into SOUTHWEST DELIVERY CO., INC., P.O. Box 451, Vancouver, WA 98660, of the operating rights and properties of Vancouver Fast Freight, Inc., same address as transferee, and for acquisition by Ernest Christensen, Josephine Christensen, E. J. Christensen, and Audrey DeCicco, same address as transferee, of control of the rights and property through the merger. Applicants' attorney: Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Vancouver Fast Freight, Inc. operates as a *common carrier* of *general commodities* over regular and irregular routes primarily between Portland, OR and Vancouver, WA; of *cans and can ends and glass containers* from Vancouver, WA to points in western OR and King Pierce Counties, WA; and of *pulpboard and paperboard* from Springfield, OR to Vancouver, WA, as more fully described in certificate MC 5152. Vendee is authorized to operate as a *common carrier* of *general commodities* over irregular routes between points in Clark and Skamania Counties, WA on the one hand and on the other points in eastern WA counties, and over a regular route between Portland, OR and Everett, WA, as more fully described in certificate MC 126714. Approval of the application will not result in (a) dual operations; (b) splitting of operating authority; or (c) duplicating authority. Application has not been filed for temporary authority under section 210a(b).

MC-F-13646. Authority sought for control by Jay Trammell, Inc., 720 North Grand Street, Amarillo, TX 79120, of Jay Lines, Inc., 720 North Grand Street, Amarillo, TX 79120, through purchase of stock and for acquisition by John W. Trammell, Jr. (same address as applicant), of control of such carrier through the transaction. Applicant's attorney: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501 and Michael J. Ogborn, P.O. Box 82028, 500 The Atrium, 1200 N Street, Lincoln, NE 68501. Operating rights to be controlled are issued under docket No. MC-134323 authorizing operations as a *contract carrier* described generally and with certain exceptions as follows: (1) *Meats, meat products, meat by products, and articles* distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business between the facilities of MBPXL Corp., at or near Plainview and Friona, TX, Wichita, KS, Rockport, MO, and Omaha and Nebraska City, NE, on the one hand, and on the other, all points in the United States, under a continuing contract, or contracts, with MBPXL Corp.; (2) (a) *chemicals, plastic materials and plastic products, and equipment, materials and supplies* used in the manufacture and distribution thereof (except in bulk) between the facilities of Union Carbide Corp., located at or near North Seadrift, Texas City, and Houston, TX, and Taft, LA, on the one hand, and, on the other, all points in the United States; (b) *automotive care and maintenance supplies* from the facilities utilized by Union Carbide Corp., at or near Chicago and Danville, IL, Holland and Owosso, MI, and Camden, Edison and Paulsboro, NJ, to points in AR, AZ, CA, CO, CT, FL, GA, IN, IL, KS, KY, MA, MD, MI, MN, MO, NE, NJ, NV, NY, OH, OK, OR, PA, RI, TN, TX, UT, VA, WA, WI, and WV; (c) *welding equipment, materials and supplies* (except in bulk), and *equipment, materials and supplies* used in the manufacture and distribution thereof (except in bulk) between the facilities of Union Carbide Corp., at or near Niagra Falls, NY, and Ashtabula, OH, on the one hand, and, on the other, points in AL, MS, LA, AR, MO, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, NV, AZ, CA, OR, and WA; (d) *chemicals, plastic materials, and plastic products* (except in bulk) from points in

Bergen, Camden, Middlesex, Somerset, Union and Burlington Counties, NJ, to points in AR, CA, CO, KS, MO, NE, TX, AZ, ID, LA, NM, OK, TN, OR, and WA, with all transportation under subparagraphs (a), (b), and (c), and (d), conducted under a continuing contract, or contracts, with Union Carbide Corp.; (3) *dated, printed publications* from the facilities of Magazine Shippers Association, Inc., located at or near Bridgeport, CT, to points in IN, KY, TN, LA, MO, IL, MN, WI, IA, NE, KS, OK, TX, CO, UT, NM, AZ, CA, OR, and WA, under continuing contract, or contracts, with Magazine Shippers Association, Inc.; (4) *household appliances, air conditioners, furnaces, laundry equipment, and related items, and materials, parts and supplies* used in the manufacture and distribution thereof between the facilities of Fedders Corp., at or near Edison, NJ, Buffalo, NY, and Effingham and Herrin, IL, on the one hand, and, on the other, points in the United States, with certain exceptions including no authorization to provide service between Edison, NJ, or Buffalo, NY, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, VA, WV, and DC, except as hereinafter stated. Service is also authorized in the transportation of *compressors* from Frederick, MD; *electric motors and parts and components thereof* from Elkton, MD; *parts used in the manufacture and production of household appliances, furnaces, air cleaners and conditioners, humidifiers and dehumidifiers* from Trenton, NJ; and *plastic articles* from Kingsville, OH, to Effingham, IL, Edison, NJ, Buffalo, NY, Herrin, IL, and Greenville and Muskegon, MI, with the above-described operations all conducted under a continuing contract, or contracts, with Fedders Corporation; and (5) *such commodities* as are dealt in by retail department stores, and *equipment, materials and supplies* used in the conduct of retail department store business (except in bulk) from the facilities of J. C. Penney Co., Inc., at or near Ridgefield, NJ, to Houston and Dallas, TX, Kansas City and St. Louis, MO, Denver, CO, and Memphis, TN; from the facilities of J. C. Penney Co., Inc., at or near Memphis, TN, to Houston and Dallas, TX, Denver, CO, and Kansas City, MO; from Atlanta, GA, Charlotte, NC, and New York, NY, to Lenexa, KS; and from the facilities of J. C. Penney Co., Inc., at or near Atlanta, GA, to Oklahoma City, OK, and Albuquerque, NM, under a continuing contract, or contracts, with J. C. Penney Co., Inc., of New York, NY. Vendee holds no authority. Approval is sought for common control of Jay Lines, Inc. and Good-Way, Inc., a motor common carrier authorized to operate in NE, MN, IA, LA, WI, IL, MI, IN, KY, TN, AL, OH, NY, MA, RI, CT, PA, MD, DE, DC, WV, VA, NC, SC, GA, and FL, primarily in the transportation of frozen foods. (Hearing site: Amarillo, TX or Wichita, KS.)

MC-F 13650. Authority sought for purchase by FARRUGGIO'S BRISTOL & PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe Street, Bristol, PA 19007, of a portion of the operating rights of Robert Emanuel and Margaret Emanuel, doing business as Emanuel's Express, 201 East Township Line Road, Kirklyn, PA 19082, and for acquisition by Samuel J. Farruggio, Sr., also of 1419 Radcliffe St., Bristol, PA 19007, of control of such rights through the purchase. Representative: Samuel J. Farruggio, Sr. (address above). Operating rights sought to be transferred are those in certificate MC 135647 (Sub-2), authorizing the transportation of: *Household goods and billiard tables,* as a *common carrier,* over irregular routes, between Philadelphia, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, and DC. Vendee is authorized to operate as a common carrier in NJ and PA. Applicant has not been filed for temporary authority under section 210a(b).

MC-F 13651. REFRIGERATED FOODS, INC. (transferee), 1420 33d Street, P.O. Box 1018, Denver, CO 80201, seeks authority to consolidate and merge the operating authority of Kodiak Refrigerated Lines, Inc. (transferor), 1420 33d Street, P.O. Box 1018, Denver, CO 80201. Attorney: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Operating rights and property sought to be merged: *Specific commodities and general commodities,* as a motor common carrier, with restrictions, between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MO, MS, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, AND WY. Transferee is authorized to operate as a motor common carrier in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY, and DC. Application has not been filed for temporary authority under section 210(a)(b). (Hearing site: Denver, CO.)

NOTE.—Refrigerated Foods, Inc., control of Kodiak Refrigerated Lines, Inc., was approved by the Commission in docket MC-F 11529.

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 August 14, 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 proceedng and copies of its conflicitng 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.

MC 68860 (Sub-24) (correction) (republication), filed Decembr 10, 1976, published in the FEDERAL REGISTER of January 21, 1977, and republished as corrected in this issue. Applicant: RUSSELL TRANSFER, INC., 5259 Aviation Drive NW., Roanoke, VA 24012. Attorney: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Authority sought to operate as *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Malt beverages in truckload lots, empty malt beverage containers, farm products, farm machinery, building, construction, mining and road machinery materials and equipment* (except class A and B explosives, commodities in bulk, and commodities requiring special equipment), between Roanoke, VA, on the one hand, and, on the other, points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified.

(2) *Malt beverages in truckload lots, empty malt beverage containers, farm products, farm machinery, building, construction, mining and road machinery materials and equipment* (except class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in SC on the one hand, and, on the other, points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified.

(3) *Malt beverages in truckload lots, empty malt beverage containers, farm products, farm machinery, building, construction, mining and road machinery materials and equipment* (except class A and B explosives, commodities in bulk, and commodities requiring special equipment), between points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified on the one hand, and, on the other, points in WV.

(4) *Malt beverages, empty malt beverage containers, and farm products,* between Lynchburg, VA, and points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified.

(5) The following iron and steel articles: *Angles, bars, bases, beams, bridge steel, channels, forms* (structural), *joists, piling, pipe* (cast iron, plate, or sheet), *pipe fittings, plates* (structural), *rivets, rods, sheets, slabs, wire rope, and accessories* for beams and joists (restricted to the transportation of such commodities as are farm machinery, building, construction, mining and road machinery materials and equipment), from points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified, to points in that part of NC on and west of a line beginning on the VA-NC State line and extending along U.S. Hwy 15 through Durham, Sanford, Aberdeen, and Laurinburg, NC, to the NC-SC State line; points in that part of TN on and east of a line beginning at the KY-TN State line and extending along U.S. Hwy 25W through Highland Park and Clinton, TN, to Knoxville, TN, and on and north of a line beginning at Knoxville, TN, and extending along U.S. Hwy 25W through Dandridge, TN, to Newport, TN, and then along U.S. Hwy 25 through Del Rio, TN, to the TN-NC State line.

(6) *Angles, bars, bases, beams, bridge steel, channels, forms* (structural), *joists, piling, pipe* (cast iron, plate, or sheet), *pipe fittings, plates* (structural), *rivets, rods, sheets, slabs, wire rope, and accessories* for beams and joists (restricted to the transportation of such commodities as are farm machinery, building, construction, mining and road machinery materials and equipment), from points in SC and Lynchburg, Norfolk, Richmond, Danville, Bristo, Narrows, and Grundy, VA; Winston-Salem, Greensboro, Durham, Canton, Asheville, Charlotte and Raleigh, NC; DC; Baltimore, MD; Wilmington, DE; Philadelphia and York, PA; Newark and Swedesboro, NJ; to points in OH, WV, and those in that part of KY east of a line beginning at Covington and extending along U.S. Hwy 25 to Lexington, KY, then along U.S. Hwy 27 to the KY-TN State line, including points on the indicated portions of the highways specified.

NOTE.—This is matter directly related to a section 5(2) finance proceeding in MC-F 13054 published in the FEDERAL REGISTER of December 23, 1976. The purpose of this republication is to amend and accurately describe the through service which may be provided by transferee with the elimination of the gateways of Charleston (Kanawha County), Huntington, and Bluefield, WV; Roanoke, VA; and Meigs, Gallia, and Lawrence Counties, OH; and Wayne, Cabell, Mason, Jackson, Putnam, and Kanawha Counties, WV.

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 August 14, 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

MC 29555 (Deviation No. 23), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Building, St. Paul, MN 55104, filed June 26, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From junction U.S. Hwy 41 and U.S. Hwy 52 about 1 mile northwest of Gravel Hill, IN, over U.S. Hwy 41 to junction IN Hwy 47, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Hwy 41 and U.S. Hwy 52 over U.S. Hwy 52 to Lafayette, IN, then over IN Hwy 43 (also U.S. Hwy 231) to junction IN 47, then over IN Hwy 47 to junction U.S. Hwy 41 and return over the same route.

MC 112713 (Deviation No. 50), YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Shawnee Mission, KS 66207, filed June 5, 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 Lancaster, PA, over U.S. Hwy 30 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Salem, VA, 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 Lancaster, PA, over U.S. Hwy 222 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Richmond, VA, then over U.S. Hwy 360 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Martinsville, VA, then over U.S. Hwy 220 to Roanoke, VA, then over U.S. Hwy 11 to Salem, VA, and return over the same route.

MC 112713 (Deviation No. 51), YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Shawnee Mission, KS 66207, filed June 1, 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 Harrisburg, PA, over Interstate Hwy 81 to Salem, VA, 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 Harrisburg, PA, over U.S. Hwy 230 to Lancaster, PA, then over U.S. Hwy 222 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Richmond, VA, then over U.S. Hwy 360 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Martinsville, VA, then over U.S. Hwy 220 to Roanoke, VA, then over U.S. Hwy 11 to Salem, VA, and return over the same route.

MC 112713 (Deviation No. 52), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207, filed June 9, 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 St. Joseph, MO, over U.S. Hwy 59 to junction MO Hwy 45, then over MO Hwy 45 to junction MO Hwy 92, then over MO Hwy 92 to junction KS Hwy 92, then over KS Hwy 92 to Leavenworth, KS, 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 St. Joseph, MO, over U.S. Hwy 59 to Atchison, KS, then over U.S. Hwy 73 to Leavenworth, KS, and return over the same route.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19182 Filed 7-12-78; 8:45 am]

[7035-01]

[Notice No. 676]

ASSIGNMENT OF HEARINGS

JULY 10, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113828 (Sub-254F), O'Boyle Tank Lines, Inc., is now assigned for hearing September 6, 1978 at Washington, DC, at the offices of the Interstate Commerce Commission; and for continued hearing October 17, 1978 at Washington, DC, at the offices of the Interstate Commerce Commission; and on November 14, 1978 (4 days), at St. Louis, MO, at Room 313, third floor, U.S. Court & Customs House, 1114 Market Street; and on December 5, 1978 at Washington, DC, at the offices of the Interstate Commerce Commission.

MC 56679 (Sub-97), Brown Transport Corp, is assigned for hearing July 24, 1978 at Atlanta, GA, and will be held at Room 305, 1252 West Peachtree Street NW.

MC-F 13376, Don Paffile, d.b.a. Paffile Truck Lines—Purchase—Idaho Packers Express, Inc. and Idaho Pacific Freight Lines and MC 117304 (Sub-37), Don Paffile, d.b.a. Paffile Truck Lines, now assigned July 24, 1978 at Seattle, WA, is cancelled; applications dismissed.

MC 21227 (Sub-12), Midland Truck Lines, Inc., now being assigned September 11, 1978 (1 week), at Evansville, IN in a hearing room to be later designated.

MC 19157 (Sub-46), McCormack's Highway Transportation, Inc.; MC 73165 (Sub-433F), Eagle Motor Lines, Inc.; MC 83539 (Sub-470), C & H Transportation Co., Inc.; MC 95876 (Sub-215), Anderson Trucking Service, Inc.; MC 106644 (Sub-244), Superior Trucking Co., Inc.; MC 100666 (Sub-390F), Melton Truck Lines, Inc. and MC 134922 (Sub-240), B. J. McAdams, Inc., are now assigned for hearing October 12, 1978 (2 days) at Birmingham, AL, at a location to be later designated.

MC 116915 (Sub-38), Eck Miller Transportation Corp., is now assigned for hearing October 11, 1978 (1 day) at Birmingham, AL, at a location to be later designated. MC 136315 (Sub-21), Olen Burrage Trucking, Inc., is now assigned for hearing October 16, 1978 (1 week) at New Orleans, LA, at a location to be later designated.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19345 Filed 7-12-78; 8:45 am]

[MC-133937 (Sub-16)]

CAROLINA CARTAGE CO., INC.

Petition for Declaratory Order—Interpretation of Certificate

Petitioner's Representative: Leonard A. Jaskiewicz and Edward J. Kiley, 1730 M Street NW., Washington, D.C. 20036.

AGENCY: Interstate Commerce Commission.

ACTION: Requests for comments on certificate interpretation.

SUMMARY: Petitioner was issued its certificate in MC-133937 (Sub-16) on January 31, 1978, authorizing the operations discussed below. Questions have since arisen concerning the scope of operations petitioner may conduct under this certificate. Petitioner has, therefore, requested a "formal interpretation" of this authority.

By this Notice the Commission is seeking public comment on the issue raised.

DATES: Comments are due on or before August 14, 1978.

ADDRESS: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, 202-275-7292.

SUPPLEMENTAL INFORMATION: Petitioner's (Sub-16) application was assigned for oral hearing, and opposed by a number of motor common carriers. At the hearing, conducted in September of 1976, applicant amended its proposal to conform to the specific service needed by its supporting shippers (i.e. one which is an adjunct to airline service). Upon acceptance of the amendment by the Administrative Law Judge, protestants withdrew their opposition to the application. The authority was granted and the initial decision became effective as the order of the Commission when no exceptions were filed.

The certificate issued petitioner reads as follows: *General commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities requiring special equipment, commodities in bulk, and motor vehicles), between Douglas Municipal Airport, Charlotte, N.C., Hartsfield International Airport, Atlanta, Ga., and the Greenville-Spartanburg Airport, Greenville, S.C., on the one hand, and, on the other, the Dallas-Ft. Worth International Airport, Dallas-Ft. Worth, Tex., Houston Intercontinental Airport, Houston, Tex., Moisant International Airport, New Orleans, La., Lambert International Airport, St. Louis, Mo., Metro Airport, Detroit, Mich., Los Angeles International Airport, Los Angeles, Calif., San Francisco International Airport, San Francisco, Calif., and O'Hare International Airport and Midway Airport, Chicago, Ill.

RESTRICTION: The authority granted herein is subject to the following conditions.

Said authority is restricted to traffic having a prior or subsequent movement by air or in substitution for air service.

Said authority is restricted to traffic originating at the named origin airports and destined to the named destination airports for delivery only in the cities of Charlotte, N.C., Atlanta, Ga., Greenville, S.C., Dallas-Ft. Worth and Houston, Tex., New Oreleans, La., St. Louis and Kansas City, Mo., Los Angeles and San Francisco, Calif., Chicago, Ill., and Detroit, Mich.

The phrase "in substitution for air service" appearing in the restriction presents the main question in the proceeding.

Petitioner argues that this authorization allows it to transport traffic for all shippers (not just airlines or air freight forwarders), between the points authorized provided that the traffic involved cannot move in air service due to reasons such as follows: (1) The size or weight of a shipment precludes handling by an airline; (2) The airline has oversold its capacity; (3) The particular article to be transported has restrictions on the manner by which it can move by air, such as those which are prohibited from being transported as air freight on passenger aircraft.

Operating pursuant to this certificate, petitioner has apparently accepted shipments from shippers at its Charlotte, N.C., facilities and transported them directly to consignees at points in California. In a letter dated April 18, 1978, petitioner was advised by the Commission's Bureau of Operations that such movements are beyond the scope of its authority. This prompted petitioner to seek a formal interpretation of its certificate.

THE ISSUE

The transportation of persons or property by motor vehicle when incidental to transportation by aircraft is exempt from this Commission's regulation under section 203(b)(7a) of the Interstate Commerce Act. The scope of this exemption relating to the transportation of property is defined in § 1047.40 of the Code of Federal Regulations (49 CFR 1047.40). Section 1047.40(b) specifically concerns "substituted motor for air transportation due to emergency conditions." Substituted operations are exempt where necessitated by emergency conditions,

and performed at the expense of the direct air carrier or air freight forwarder on a through air bill of lading. This section defines emergency situations as those which are beyond the control of the direct air carrier (e.g. weather conditions or equipment failure).

In Airline Freight, Inc., Ext.—Philadelphia Air Term., 108 MCC 197, the Commission determined that where the basis for substituted service stems from an air carrier's intended actions (e.g. overbooking), the substituted service is not exempt from regulation.

Clearly the service petitioner Carolina seeks to provide is subject to regulation. The traffic involved is that which airlines refuse to handle.

At issue is what is the breadth of services which a carrier may provide in regulated "air substitution service."

To resolve the problem, the Commission must consider a number of questions including the following:

(1) Must the traffic involved be tendered to the motor carrier by an air carrier subsequent to its rejection?

(2) Alternatively, should the motor carrier be permitted to receive shipments directly from consignors for direct delivery to consignees?

(3) If the service contemplated in (2) above is found desirable, would the Commission have enforcement problems in trying to insure that articles transported (here general commodities with limited exceptions), have been rejected by air carriers?

(4) Should the authorization service "in substitution for air service" be modified to more clearly spell out the nature of the traffic which may be transported?

(5) Should the service authorization "in substitution for air service" be deleted from all grants of authority because it only leads to confusion? In such a case, if a shipper cannot obtain air service, its alternative would be to use motor carriers which hold appropriate authority to transport shipper's commodities between the points involved.

Comments should address these questions but need not be limited to them.

OTHER MATTERS

Petitioner suggests that since the territorial description in its grant limits service to movements between airports, the entire restriction is redundant and can be deleted.

It also argues that the Bureau of Operations erred in stating that traffic transported must move in aircraft type containers.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19346 Filed 7-12-78; 8:45 am]

[7035-01]

[Notice No. 116]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 11, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 48441 (Sub-13TA), filed May 22, 1978. Applicant: R.M.E., INC. P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from facilities of Thatcher Glass Manufacturing Co., at or near Streator, IL, to St. Louis, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donald W. Pixley, General Traffic Manager, Thatcher Glass Manufacturing Co., Division of Dart Industries, 1901 Grand Central Avenue, Elmira, NY 14902. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 S. Dearborn Street, room 1386, Chicago, IL 60604.

MC 50493 (Sub-62TA), filed May 12, 1978. Applicant: P.C.M. TRUCKING, INC. P. O. Box 129, Orefield, PA 18069. Representative: Christian V. Graf, 407 N. Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal* from facilities of Zapata Haynie Corp., at or near Reedville, VA, to Lafayette, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Zapata Haynie Corp., 8600 LaSalle Road, Towson, MD 21204. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1082TA), filed May 12, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine vinegar*, in bulk, in tank vehicles from Newark, NJ to Winchester, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rex Vinegar Co., 830 Raymond Boulevard, Newark, NJ 07105. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1092TA), filed May 18, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Albany, NY, To North Dartmouth, Deerfield, Waltham, and Rochdale, MA, and Richmond, St. Albans, and Waterbury, VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Chemical Corp., P.O. Box 2120, Houston, TX 77001. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC. 115931 (Sub-62TA), filed May 8, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings, knocked down or in sections, and materials and supplies* used in the construction, installation, and erection of precut log buildings, from the facilities of Wilderness Log Homes at or near Plymouth, WI to points in the United States

(except AK and HI), for 180 days. Supporting shipper: Jan Grube, production Manager, Wilderness Log Homes, Route 2, Plymouth, WI 53073. Send protests to: D/S Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC. 119789 (Sub-472TA), filed May 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Ashland, KY to Fresno, CA, for 180 days. Supporting shipper: Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, TX 75242.

MC. 119789 (Sub-473TA), filed May 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber and plastic Articles* (combined or not combined), from the plantsite and facilities of Entek Corp. of America at or near Irving, TX to all points in the United States (except AK and HI), (2) *materials and supplies* used in the manufacture of the articles in (1) above, from points in the United States of the plantsite and facilities of Entek Corp. of America at or near Irving, TX for 180 days. Supporting shipper: Entek Corp. of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, TX 75242.

MC. 125368 (Sub-32TA), filed May 8, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and storage facilities of Campbell Soup Co., Salisbury, MD to points in CT, IL, KY, ME, MA, MI, NH, NJ, NY, OH, PA, RI, SC, VT, VA, WV, for 180 days. Supporting shipper: Campbell Soup Co., West Road and Isabella Street, Salisbury, MD. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC. 135078 (Sub-24TA), filed May 8, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and rugs*, from points in Bartow, Catoosa, Chattooga, Whitfield, Gordon, Murray, Walker, and Floyd Counties, GA and Hamilton County, TN to points in AZ, AR, CA, CO, ID, IA, KS, LA, MO, MT, NV, NE, NM, OK, OR, SD, TX, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Reisinger, Transportation Manager, William Volker and Co., 945 California Drive, Box 529, Burlingame, CA 94010. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC. 135082 (Sub-70TA), filed May 22, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products* restricted against articles requiring special equipment and those described in the Mercer Description in 74 MCC 459, from Houston, Dallas, Jewitt, TX; Fontana and Los Angeles, CA, Tulsa and Oklahoma City, OK, to points in New Mexico on and north of Interstate Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s) National Steel Co., 5109 Edith Boulevard NE., Albuquerque, NM 87103, ABC Steel Building Systems and Component Parts, 100 Trumbull Avenue SE., Albuquerque, NM 87102. Rio Grande Steel Co., 7100 Second NW., Albuquerque, NM 87107. Sandia Steel and Equipment Co., Inc., 6135 Second Street NW., Albuquerque, NM 87107. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135874 (Sub-127TA), filed May 12, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street S., South St. Paul, MN 55075. Representative: Randy Busse (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except in bulk) from Omaha, NE and Osceola, IA to Minneapolis, MN, for 180 days. Applicant has also filed an underlying ETA seeing up to 90 days of operating authority. Supporting shipper(s): Specialty Merchandise, Inc., 5401 Gamble Drive, Suite 102, Minneapolis, MN 55416. 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.

MC 139336 (Sub-15TA), filed May 22, 1978. Applicant: TRANSTATES, INC., 3216 East Westminister, Santa Ana, CA 92703. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lamps and related display products*, from Charleroi, PA to CA, OR, WA, AZ, and NV, for 180 days. Supporting shipper: Westinghouse Electric Corp., 290 Leger Road, Huntington, PA 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 139482 (Sub-56TA), filed May 8, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, P.O. Box 347, New Ulm, MN 56073. 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: *Frozen boxed meats*, applicable only on import traffic, from the commercial zones of Boston, MA; New York, NY, Philadelphia, PA and Wilmington, DE, to points in MI, IL, IN, OH, IA, Minneapolis, and WI, for 180 days. Supporting shipper: A. J. Cunningham Packing Corp., 1776 Heritage Drive, Quincy, MA 02171. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 140010 (Sub-14TA), filed May 8, 1978. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road NE., Atlanta, GA 30324. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products* (except in bulk), in vehicles equipped with mechanical refrigeration from the facilities of E. I. du Pont de Nemours & Co., and Jackson, Memphis and Nashville, TN, under continuing contract or contracts

with E. I. du Pont de Nemours & Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. Send protests to : Sara K. Davis TA, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 142715 (Sub-15TA), filed May 22, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, MN 55101. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* from Green Bay, WI, to Peoria, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Proctor & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. 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.

MC 143059 (Sub-15TA), filed May 8, 1978. Applicant: MERCER TRANSPORTATION CO., 12th & Main Streets, P.O. Box 11129, Louisville, KY 40211. Representative: Mr. Clin Oldham, 1108 Continental Life Building, Ft. Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe fittings and connections, pipe hangers, indicator posts, hydrants, pipe, bars and rods, valves, and castings;* and (2) *materials and supplies* used in the manufacture of those commodities described in (1) above (except commodities in bulk in tank vehicles), between the facilities of ITT Grinnell Corp. (on its subsidiary ITT Grinnell Valve Co., Inc.) at Elmira, NY; Columbia, PA; Warren, OH; Princeton, KY; Henderson, TN; Statesboro (Clito), GA; and Temple, TX, on the one hand, and, on the other, points in the US (except AK and HI), for 180 days. Supporting shipper: Mr. Jerry Hoch, Transportation Manager, ITT Grinnell Corp., 260 West Exchange Street, Providence, RI 02903. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 143267 (Sub-6TA), filed May 8, 1978. Applicant: WEAVER TRANSPORTATION CO., 5452 Oakdale Rd., Smyrna, GA 30080. Representative: James L. Brazee, Jr., 2256 Northlake Parkway, Suite 302, Tucker, GA 30084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mortar and cement mixes; dry concrete mix* (cement mix with sand and gravel and other ingredients), cement mortar mix; asphalt cold mix; sand, rock, or stone—crushed, ground or natural; tile grout, concrete patcher, and lime; adhesive; liquid asphalt sealer; and advertising matter and paper bags, either palletized or unpalletized in containers (glass, paper bags, paper board, fibreboard, metal, or plastic buckets) in mixed or solid truckloads; from the plantsite of W. R. Bonsal Co., located in Conley, De Kalb County, GA, and the plantsite of the Quikrete Companies, located in Lithonia, De Kalb County, GA to points in Alabama, Tennessee, and South Carolina, for 180 days. Supporting shipper: W. R. Bonsal Co., P.O. Box 127, Conley, GA 30027. Send protests to: Sara K. Davis, TA, Interstrate Commerce Commission, 1252 West Peachtree Street NW., Atlanta, GA 30309.

MC 143540 (Sub-4TA), filed May 22, 1978. Applicant: MARINE TRANSPORTATION CO., 2321 Burnett Blvd., Wilmington, NC 28401. Representative: Robert McGeorge, 1045 31st Street NW., Washington, D.C. 20007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl terephthalate and terephthalic acid*, from the facilities of Hercofina, at or near Wilmington, NC, to the facilities of Goodyear Tire & Rubber Co., at or near Apple Grove, WV, under a continuing contract with Hercofina, for 180 days. Supporting shipper: Hercofina, Box 327, Wilmington, NC 28042. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 144041 (Sub-12TA), filed May 8, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: Kim G. Meryer, P.O. Box 872, 235 Peachtree Street NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Insulation and insulating materials* (except in bulk), from the facilities of Callaway Insulation Co., in Clayton County, GA, to points in AR, FL, LA, SC, NC, VA, KY, TN, and MS, and (B) *materials, supplies* and equipment used or dealt in by insulation manufacturing plants (except in bulk), from points in AR, AL, FL, LA, SC, NC, VA, KY, TN, and MS to the facilities of Callaway Insulation Co., in Clayton County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Callaway Insulation Co., P.O. Box 498, Columbus, GA 31902. Send protests to: Sara K. Davis, TA, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, GA 30309.

MC 144298 (Sub-1TA), filed May 22, 1978. Applicant: MASTER TRANSPORT SERVICES, INC., a Michigan corporation, 5000 Wyoming Ave., Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine-Mile Rd., St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Doors and door systems*, fully or partially assembled, including materials and supplies used in connection with the installation and distribution thereof, for Stanley Door System, division of The Stanley Works, between Troy, MI, and points in its commercial zone, on the one hand, and, on the other, points in AR, CA, CO, GA, ID, MT, OK, NV, NM, OR, TX, UT, WA, and WY, for 180 days. Supporting shipper: Stanley Door Systems, division of the Stanley Works, Karol Staszkiewicz, vice president, manufacturing, 2400 East Lincoln Rd., Birmingham, MI 48008. Send protests to: District Supervisor Timothy S. Quinn, Interstate Commerce Commission, 604 Federal Building-U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 144363 (Sub-3TA), filed May 22, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by mail order houses; and (2) *materials and supplies* used in conducting such business, between the facilities of the Fingerhut Corp. at St. Cloud, MN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, NC, SC, and TN, restricted to a transportation service to be performed under a continuing contract or contracts with Fingerhut Corp. at St. Cloud, MN, for 180 days. Supporting shipper: Dennis O'Donnell, General Traffic Manager, Fingerhut Corp., 4400 Baker Road, Minnetonka, MN 55343. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street Omaha, NE 68102.

MC 144757TA, filed May 8, 1978. Applicant: SHERIDAN HEIGHTS, INC., d.b.a. KNECHT TRANSPORT, 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Shakes and shingles*, from Aberdeen, Amanda Park, Forks, LaConner, Port Angeles, and Raymond, WA and Eugene, OR to points in CO, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cedarwood Forest Products, Inc., P.O. Box 10208, Eugene, OR 97440. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 455, Federal Building, Pierre, SD 57501.

MC 144769 (Sub-1TA), filed May 22, 1978. Applicant: ROGER ROMAN, d.b.a. R. ROMAN TRUCK LEASING, 8 Creston Avenue, Union, NJ 07083. Representative: Roger Roman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages, such as beer, ale or, malt liquors*, not be in bulk forms, from Newark, NJ to Baltimore, Youngstown and Akron, OH and return of empty containers from such beverages, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pabst Brewing Co., 400 Grove Street, Newark, NJ 07106. Send protests to: District Supervisor, Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, room 618, Newark, NJ 07102.

MC 144804 (Sub-TA), filed May 22, 1978. Applicant: A. A. McGILL, d.b.a. FORTUNE EXPRESS, 2930 Hansboro Drive, Dallas, TX 75233. Representative: D. Paul Stafford, Winkle and Wells, a professional corporation, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *magazines, periodicals, paperback books, calendars, maps*, and *newspaper* exempt from economic regulation under Section 203(b) of the Interstate Commerce Act, when moving in mixed loads with nonexempt commodities, from Dallas, TX to El Dorado, Ft. Smith, Little Rock, and Pine Bluff, AR; Baton Rouge, Crowley, New Orleans, and Shreveport, LA; Albuquerque, Gallup, and Tucumcari, NM; Oklahoma City and Tulsa, OK; Amarillo, Austin, Corpus Christi, El Paso, Galveston, Houston, Lubbock, Lufkin, Midland, Paris, Temple, Tyler, Victoria, Wichita Falls, Beaumont, Bryan, and San Antonio, TX, under a continuing contract or contracts with McGill Enterprises, Inc., for 180 days. Supporting shipper: McGill Enterprises, Inc., d.b.a. Magazine and Book Shippers. Send protests to: Opal Jones, Transportation specialist, Interstate Commerce Commission, room 13C12, 1100 Commerce Street, Dallas, TX 75202.

MC 144879 (TA), filed May 22, 1978. Applicant: D AND J TRANSFER CO., Sherburn, MN 56171. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail farm, home and hardware supply business houses (except foodstuffs and commodities in bulk), from Chicago, IL; Minneapolis and St. Paul, MN and Dayton, OH to Spencer, Spirt Lake, and Webster City, IA, for 180 days. Supporting shipper: Schmidt Distributors, Inc., d.b.a. Shopper's Supply, Highway 71 North, Spencer, IA 51301. 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.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19344 Filed 7-12-78; 8:45 am]

[7035-01]

NOTICE REGARDING A MODIFICATION IN THE FORMAT CHANGES FOR COMMISSION DECISIONS

AGENCY: Interstate Commerce Commission.

ACTION: Modification in the notice of format changes published in the FEDERAL REGISTER on April 17, 1978, 43 FR 16240-16241.

SUMMARY: A list of parties' representatives will be included in adjudicatory proceedings which will be printed in the bound volumes.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, phone 202-275-7581.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER publication entitled, Notice Regarding Format Changes for Commission Decisions (published April 17, 1978), the Commission proposed eliminating the list of parties' representatives from Commission decisions. We have received numerous comments on this proposal. After considering these comments, the Commission has decided that the list of parties' representatives is of value for persons wanting more details about a case. Therefore, the list of parties' representatives will appear in adjudicatory proceedings printed in the bound volumes, but will not be included in rulemaking proceedings.

Decided June 22, 1978.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19338 Filed 7-12-78; 8:45 am]

[7035-01]

[Docket No. AB-43 (Sub-No. 18)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN CROFT AND SAN JOSE, ILL.

[Docket No. AB-43 (Sub-No. 19)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN GROVE AND SAN JOSE, ILL.

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 November 29, 1977, and the decision of the Commission, Division 2, acting as an Appellate Division, served June 20, 1978, 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) as modified in 354 ICC 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of its line of railroad from railroad milepost 181.13 at San Jose, Ill., to milepost 199.30 at Croft, Ill., in Menard and Logan Counties, Ill., a total distance of about 18.17 miles, and between milepost 159.11 at Grove, Ill., and milepost 180.78 at San Jose, Ill., a distance of 21.67 miles in Mason and Tazewell Counties, Ill. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such 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 to 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 publicaton 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.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19341 Filed 7-12-78; 8:45 am]
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[7035-01]

[Docket No. AB-57 (Sub-No. 8F)]

SOO LINE RAILROAD CO. ABANDONMENT AT ST. PAUL IN RAMSEY COUNTY, MINN.

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision, dated June 21, 1978, a finding, which is administratively final, was made by the Commission, Division 3, 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) as modified in 354 ICC 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Soo Line Railroad Co. known as the St. Paul Tunnel and Seventh Street Yard extending from railroad milepost 18.19 to milepost 19.17 located at St. Paul, Minn., a distance of 0.98 mile, in Ramsey County, Minn. A certificate of public convenience and necessity permitting abandonment was issued to the Soo Line Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later July 28, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19340 Filed 7-12-78; 8:45 am]

[7035-01]

[Docket No. AB-33 (Sub-No. 14)]

UNION PACIFIC RAILROAD CO. ABANDONMENT—PORTION—ENCAMPMENT BRANCH BETWEEN SARATOGA AND COW CREEK IN CARBON COUNTY, WYO.

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 May 24, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, 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), as modified in 354 ICC 584 (1978) and further condition that any salvage operations conducted on the bridge spanning the North Platte River be limited to the period after trout spawning season between August 1 and September 30 of any year, the present and future public convenience and necessity permit the abandonment by the Union Pacific Railroad Co. of that portion of its Encampment Branch extending from milepost 24.29 near Saratoga, Wyo., southeasterly to milepost 33.40 at Cow Creek, Wyo., a distance of 9.11 miles in Carbon County, Wyo. A certificate of abandonment will be issued to the Union Pacific Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquistion 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.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19339 Filed 7-12-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

Forty-sixth Revised Exemption No. 90

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 exemp-

tion 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 boxcars 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 RR. Co.
Reporting Marks: CPLT
%The Chesapeake & Ohio Railway Co.
Reporting Marks: CO-PM
%Chicago & Illinois Midland Railway Co.
Reporting Marks: CIM
%Chicago, Rock Island & Pacific RR. Co.
Reporting Marks: RI-ROCK
City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
%Consolidated Rail Corporation
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
Genessee & Wyoming Railroad Co.
Reporting Marks: GNWR
%Grand Trunk Western Railroad Co.
Reporting Marks: GTW
Greenville & Northern Railway Co.
Reporting Marks: GRN

* * * * *[1]

Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon RR. Co.
Reporting Marks: LNAC
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
*Missouri-Kansas-Texas Railroad Co.
Reporting Marks: BKTY-MKT
Municipality of East Troy, Wis.
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
*Providence and Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
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

% Carriers having 150 percent or more of ownership on lines.
* Addition

[1] Greenville & Johnsonville Railway Co. deleted.

Effective June 30, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C. June 28, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-19342 Filed 7-12-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

Twentieth Revised Exemption No. 129

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; 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 plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Offical Railway Equipment Register, I.C.C.-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Co. Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Co. Reporting Marks: CWP
Detroit and Mackinac Railway Co. Reporting Marks: D&M-DM
Illinois Terminal Railroad Co. Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Co. Reporting Marks: LNAC

* * * * *[1]

Richmond, Fredericksburg and Potomac Railroad Co. Reporting Marks: RFP

[1] New Hope and Ivyland Railroad Co. deleted.

Effective 12:01 a.m., July 5, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C. July 3, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-19343 Filed 7-12-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[1505-01]

1

CIVIL AERONAUTICS BOARD.

[M142, Amdt. 3; 6-20-78]

NOTICE OF ADDITION AND DELETION OF ITEMS ON THE JUNE 22, 1978 AGENDA

Correction

In Sunshine document S-1323-78, *Item* No. 1, appearing at page 27280 in the issue for Friday, June 23, 1978, the docket number was inadvertently omitted and should appear as set forth above.

[6740-02]

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published on July 7, 1978, 43 FR 29408.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 12, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CI-2.—CI77-702, Pennzoil Louisiana and Texas Offshore, Inc.; CI78-96, Pennzoil Oil and Gas, Inc.; CI78-498 and CI78-500, Pennzoil Oil and Gas, Inc.; CI78-499 and CI78-501, Pennzoil Louisiana and Texas Offshore, Inc.; CI78-502 and CI78-503, Pogo Producing Co.; CI78-785 and CI78-787, Pinto, Inc.; CI78-784, Ecee, Inc.; CI78-786, Texas Production Co.; CI78-782, Vsea; CI78-783 and CI78-763, TBP Offshore Co.; CI78-767, CI77-702, CI78-499 and CI78-501, Pennzoil Louisiana and Texas Offshore, Inc.

KENNETH F. PLUMB,
Secretary.

[S-1436-78 Filed 7-11-78; 3:11 pm]

[7910-01]

3

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 28084, June 28, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: July 11, 1978; changed to July 12, 1978; 10 a.m.

CHANGE IN MEETING: Matter 5 is corrected to read: Exemption Recommendations-ACE List 3004.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: July 11, 1978.

GOODWIN CHASE,
Chairman.

[S-1437-78 Filed 7-11-78; 3:11 pm]

[8010-01]

4

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: Friday, July 7, 1978, 3:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following item will be considered by the Commission at a closed meeting scheduled for Friday, July 7, 1978, at 3:30 p.m.: Consideration of amicus participation.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams, Commissioners Loomis, Evans, and Karmel determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JULY 7, 1978.

[S-1434-78 Filed 7-11-78; 10:58 am]

[8010-01]

5

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 17, 1978, in room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, July 18, 1978, at 10 a.m. An open meeting will be held on Thursday, July 20, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a), (8), (9)(i), and (10).

Commissioners Loomis, Pollack, Evans, and Karmel, determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 18, 1978, at 10 a.m., will be: Formal orders of investigation; Access to investigative files by Federal, State or self-regulatory authorities; Institution of injunctive actions; and settlement of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, July 20, 1978, at 10 a.m., will be:

1. Considertion of an application filed by The Farmers Telephone Company for an exemptive order pertaining to certain reporting requirements under the Securities Exchange Act of 1934.

2. Proposed adoption of minor amendments to certain rules and forms under the Securities Act of 1933 and the Securities Exchange Act of 1934, for the purpose of either codifying current administrative practices or clarifying existing requirements. The amendments would: (1) Permit wider use of Rule 429, which allows prospectuses for two or more securities offerings to be combined; (2) specify the

circumstances under which the registration form for employee benefit plans must be signed by an entity other than the registrant; and (3) clarify certain requirements of annual and quarterly reporting forms.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Michael P. Rogan at 202-755-1638.

JULY 11, 1978.

[S-1435-78 Filed 7-11-78; 3:11 pm]

[7590-01]

6

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published July 13, 1978.

TIME AND DATE: July 13, 1978.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed (changes):

1. The meeting titled "Discussion of Personnel Matter" (approximately 1 hour) (closed—exemption 6) scheduled for 9:30 a.m. has been cancelled.

2. At approximately 2:40 p.m., the Commission will hold an additional meeting titled: "Briefing by Department of State/ACDA on Nonproliferation and Safeguards Matters" (approximately 1 hour) (closed—exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JULY 10, 1978.

[S-1442-78 Filed 7-12-78; 10:02 am]

federal register

THURSDAY, JULY 13, 1978
PART II

DEPARTMENT OF THE ARMY

Corps of Engineers

■

WATER RESOURCES COUNCIL (WRC) PRINCIPLES AND STANDARDS, NATIONAL ENVIRONMENTAL POLICY ACT (NEPA), AND RELATED POLICIES

Guidelines for Conducting Feasibility Studies for Water and Related Land Resources; Final Rules

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

WATER RESOURCES COUNCIL (WRC) PRINCIPLES AND STANDARDS, NATIONAL ENVIRONMENTAL POLICY ACT (NEPA), AND RELATED POLICIES

Guidelines for Conducting Feasibility Studies for Water and Related Land Resources; Final Rules

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: These seven regulations were first published on November 10, 1975 to establish guidance for conducting Corps of Engineers feasibility studies for water and related land resources, consistent with the substantive planning requirements of the U.S. Water Resources Council (WRC) Principles and Standards (P&S), the National Environmental Policy Act (NEPA), and related policies. These regulations are necessary to comply with the requirements of WRC's Principles and Standards as promulgated and published in the FEDERAL REGISTER, September 10, 1973. The intended effect of these regulations is to guide field offices of the Corps of Engineers in planning for the conservation, development, and management of water and related land resources during the conduct of feasibility studies under jurisdiction of the Chief of Engineers. The revisions made to these regulations were completed prior to the President's Water Policy Message of June 6, 1978. Therefore, none of the revisions are in response to the President's message. These revised regulations will be applied to all on-going and future studies except those for which the final report will be submitted to the Office of the Chief of Engineers or the Board for Rivers and Harbors prior to January 1, 1979. The regulations dated November 25, 1975 will be used for those submitted prior to that date.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Donovan, Chief, Plan Formulation and Evaluation Branch (DAEN-CWP-P), Office, Chief of Engineers, Washington, D.C. 20314, 202-693-6678.

SUPPLEMENTARY INFORMATION: On November 10, 1975, the Secretary of the Army, acting through the Chief of Engineers, published seven regulations in the FEDERAL REGISTER (33 CFR Part 290, 33 CFR Part 291, 33 CFR Part 292, 33 CFR Part 293, 33 CFR Part 294, 33 CFR Part 295, 33 CFR Part 393) establishing Corps of Engineers guidance for conducting feasibility studies for water and related land resources. A one year period was provided for public comment and Corps of Engineers planning experience. The only comments received, other than those of Corps offices, were from the U.S. Department of the Interior (DOI). These comments were carefully considered in reviewing the regulations for possible revision. Based on the Department of the Interior comments, as well as Corps experience in applying the regulations to feasibility studies, the seven regulations have been revised to clarify the guidance. An analysis of the Department of the Interior comments received and other revisions made to the November 10, 1975 regulations are provided below.

1. As suggested by the Department of the Interior, many additional legislative references could be included in § 290.3 of the regulations. It was decided however, to limit references to only those deemed most pertinent to the Principles and Standards.

2. Definitions of terms in § 290.4 of the text was limited to those having special meanings. Other terms and concepts such as, those suggested by the Department of the Interior, are more appropriately and effectively discussed in the text.

3. Department of the Interior commented that § 290.6 is unclear as to how the Corps views the environment. The discussion of the EQ objective and its relationship to the National Environmental Policy Act and traditional water resources in § 290.6 has been clarified by revised §§ 290.6c and 290.6d.

4. Department of the Interior suggested that related regulations be included in the FEDERAL REGISTER verbatim with these regulations. It is not practical to include every related regulation as part of these regulations. Regulations referenced in § 290.3 and referred to throughout these regulations have previously been published in the FEDERAL REGISTER.

5. Department of the Interior suggested using different futures for different alternative plans. The consideration of alternative futures as stated in § 290.9(a)(5) is essentially at the discretion of the field planner. Sensitivity analysis is required by these regulations. Alternative plans, however, are formulated based on the "most probable future," which the Corps considers a more practicable approach.

6. Department of the Interior suggested that the Corps take a liberal attitude on recommending Corps implementation of projects which fall entirely within the authority of another Federal agency. Corps authority as stated in § 290.11(c)(2) does not relate to specific project authorizations, but rather to broad areas of responsibility such as flood control and navigation. Section 290.6 provides discussion of the policy governing inclusion of various types of measures. The Corps will continue to inform other Federal agencies when studies indicate the best plan contains measures which come under implementation authority of these other agencies, but it has no responsibility for recommending these to Congress.

7. Department of the Interior believes the procedures in §§ 293.7(b) and 295.10 will produce a narrow range of alternative plans. Department of the Interior prefers to develop NED and EQ Plans as a first step. The Corps does not agree with the Department of the Interior. These regulations do provide for the formulation of a broad range of alternative plans and a clear analysis of the trade-offs among those plans.

8. Department of the Interior suggests a revision to the format of the System of Accounts given in Part 393. The format of the System of Accounts shown in Part 393 has been revised by adding appropriate line items rather than additional columns. Department of the Interior's suggestion was considered in the revisions to this format.

9. The Department of the Interior believes § 393.18(a) is not clear. The System of Accounts, Table 2, has been revised for clarification. Meaningful revisions made to these seven regulations in addition to clarifications and editorial corrections are as follows:

1. Definitions for "detailed plans", "intermediate plans", and "reconnaissance report" have been added to § 290.4. The definition of impacts has been clarified in § 290.4 and throughout the text of the seven regulations.

2. Sections 290.6c and 290.6d provide clarification regarding the concept of the environment and on the inclusion of different types of management measures.

3. Stage 1 has been retitled to "Reconnaissance" (see §§ 290.10a and 291.5) so that it is more descriptive of the activities performed during this Stage. The text of §§ 290.10a and 291.5 has also been revised for clarification.

4. The text of §§ 290.10c and 291.7 has been revised to further clarify the activities performed in Stage 3.

5. Section 291.6 has been revised to clarify activities performed in Stage 2.

6. Sections 293.7d(2), 293.7d(3) and 295.10 have been revised to further clarify the definition of an EQ Plan and to provide guidance on what to do if there is no EQ Plan.

7. The System of Accounts in Part 393, Tables 1 and 2, have been revised to better present information developed during a study.

Dated: July 7, 1978.

THOMAS J. WOODALL,
Lieutenant Colonel, CE, Acting Executive Director, Engineer Staff.

33 CFR Parts 290-295 and 393 are revised to read as follows:

PART 290—PLANNING PROCESS: MULTIOBJECTIVE PLANNING FRAMEWORK (ER 1105-2-200)

Sec.
290.1 Purpose.
290.2 Applicability.
290.3 References.
290.4 Definitions.
290.5 Objective of the planning process.
290.6 Basic policies.
290.7 Planning process.
290.8 Essential planning considerations.
290.9 Functional planning tasks.
290.10 Plan development stages.
290.11 Plan selection and recommendation.
290.12 Effective date.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 290.1 Purpose.

This regulation establishes guidance for conducting feasibility studies for water and related land resources consistent with the planning requirements of the WRC Principles and Standards (P&S), the National Environmental Policy Act of 1969 (NEPA), and related policies. It establishes a process under which alternative plans are formulated and the resulting economic, social, and environmental impacts assessed and evaluated.

§ 290.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 290.3 References.

(a) Title I, Pub. L. 91-190 (83 Stat. 852), National Environmental Policy Act, January 1, 1970.

(b) Section 122, Pub. L. 91-611 (84 Stat. 1818), River and Harbor and Flood Control Act of 1970, December 31, 1970.

(c) Sections 201, 208, 209, 303, and 404, Pub. L. 92-500 (86 Stat. 816), Federal Water Pollution Control Act Amendments of 1972, November 18, 1972.

(d) Section 73, Pub. L. 93-251 (88 Stat. 12), Water Resources Development Act of 1974, March 7, 1974.

(e) Water Resources Council, Principles and Standards for Planning Water and Related Land Resources (P&S), 38 FR 24778-24869, September 10, 1973.

(f) ER 1105-2-14, Framework and River Basin Study Programs (33 CFR Part 252).

(g) ER 1105-2-50, Continuing Authorities Program (33 CFR Part 263).

(h) ER 1105-2-210, Plan Development Stages (33 CFR Part 291).

(i) ER 1105-2-220, Problem Identification (33 CFR Part 292).

(j) ER 1105-2-230, Formulation of Alternatives (33 CFR Part 293).

(k) ER 1105-2-240, Impact Assessment (33 CFR Part 294).

(l) ER 1105-2-250, Evaluation (33 CFR Part 295).

(m) ER 1105-2-507, Environmental Impact Statements (33 CFR Part 209.410).

(n) ER 1105-2-800, Public Involvement: General Policies (33 CFR Part 380).

(o) ER 1105-2-921, System of Accounts (33 CFR Part 393).

§ 290.4 Definitions.

(a) "Alternative plans" are different ways for managing water and related land resources employing structural and/or non-structural measures.

(b) "Base condition" is the existing economic, social, and environmental characteristics of the area under study.

(c) "Detailed plans" are water resources plans for which sufficient feasibility investigations have been conducted for the evaluation and selection of a plan for implementation, and with limited additional information, the selected plan can be recommended to Congress for implementation authorization if certain conditions are met.

(d) "Evaluation" is the process of analyzing plans against the "without condition" and against each other to determine and compare their beneficial and adverse contributions.

(e) "Impacts" (effects) are the economic, social, and environmental consequences expected to result from alternative plans. The impacts of a plan are the differences between the "with condition" and the "without condition."

(f) "Implementable plans" are plans which can be transformed from concept to reality. This requires consideration of institutional and technological feasibility, and acceptability to some segment of the affected public.

(g) "Intermediate plans" are water resources plans for which sufficient preliminary feasibility investigations have been conducted to screen alternatives and to select the most appropriate ones for development of detailed plans.

(h) "Most Probable future" is the projection of basic demographic, economic, social and environmental parameters, which is used as the basis for defining the "without condition" and the planning objectives for a particular study.

(i) "Measure" is any structural or nonstructural means of resource management, and may be part of a plan or the entire plan.

(j) "Planning objectives" are the national, state, and local water and related land resource management needs (opportunities and problems) specific to a given study area that can be addressed to enhance National Economic Development or Environmental Quality.

(k) "Planning process" is a systematic approach to analyzing needs and problems, establishing planning objectives, and developing and evaluating alternative resource management plans.

(l) "Reconnaissance report" is a document prepared to reflect the results of Stage 1 planning for the purpose of deciding whether additional studies are warranted, and if so, to identify: the appropriate scope of study, the level of detail required to formulate intermediate plans, significant policy issues or large potential Federal investment decisions, and to update management information for Stage 2 of the study.

(m) "Resource management" involves the development, conservation, enhancement, preservation, or maintenance of water and related land resources to achieve the goals of society expressed nationally and locally.

(n) "Without condition" is the detailed specification of the conditions (that are broadly described for the most probable future) which will prevail over the planning period in the absence of implementation of a plan to alter the management of water and related land resources. The description of the "without condition" covers all categories of impacts which are significant to the evaluation of alternative plans.

§ 290.5. Objective of the planning process.

The objective of the multiobjective planning framework is to guide planning for the conservation, development, and management of water and related land resources. The framework requires the systematic preparation and evaluation of alternative ways of addressing problems, needs, concerns, and opportunities under the P&S objectives of National Economic Development (NED) and Environmental Quality (EQ). This results in information necessary to make effective choices regarding resource management under existing and projected conditions. Alternative plans are to be formulated without bias to structural or nonstructural measures. The appendixes and references, particularly § 290.3 (a) and (e), must be utilized for a full understanding and application of the multiobjective planning framework.

§ 290.6. Basic policies.

Corps policy on multiobjective planning is largely derived from several

legislative and executive authorities, referenced in § 290.3. In major part, NEPA, P&S, and the other cited authorities establish and define the national objectives for water resource planning, specify the range of impacts that must be assessed, and set forth the conditions and criteria which must be applied when evaluating plans.

(a) The P&S require that Federal and federally assisted water and related land planning be directed to achieve National Economic Development (NED) and Environmental Quality (EQ) as equal national objectives. NED is to be achieved by increasing the value of the nation's output of goods and services and improving national economic efficiency; EQ is to be achieved by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems.

(b) The term "planning objectives" refers to water and related land resource management needs that are specific to each study. They are derived from analysis of the needs (opportunities and problems) of the study area that can be addressed to enhance the national objectives of P&S.

(c) The national objectives and accounts encompassed by the P&S are interpreted as being consistent with and reflective of the concept of total environment set forth in the National Environmental Policy Act of 1969 (NEPA). Thus, systematic, interdisciplinary planning, assessment, and evaluation conducted in compliance with the P&S should address a broad range of concerns, including those related to the natural, cultural, and human environment and be, simultaneously, responsive to the substantive requirements of NEPA. Procedural requirements for preparation of an EIS are in § 209.410 of this chapter.

(d) All alternative plans carried through the planning process need not include only measures addressing a primary Corps mission or study resolution purpose. However, if an alternative plan that does not address a primary Corps mission is carried through the planning process, that plan must clearly present an alternative use (trade-off) of the resource under consideration. Decisions to study and include plans that contain non-Corps measures addressing unrelated resources shall be surfaced and addressed in the Intensive Management Program. If it becomes apparent in the course of a study that an economically justified plan to satisfy traditional water resource needs cannot be formulated, continued formulation of an EQ Plan or other alternative plans is not warranted.

(e) Alternative plans formulated during a study must take into consideration the requirements for recommending plan implementation such as cost sharing, the relationship of benefits to costs, and Corps authority. (See paragraph 11, below.)

(1) Cost sharing and repayment requirements are not established by the P&S. Moreover, the P&S do not provide a basis for departures from established cost sharing policies. Thus, pending development of new national policies, cost of Corps proposals will be shared in accordance with specific policies now established for specific project purposes or by reasonable analogy thereto.

(2) In the evaluation of benefits and costs, if it becomes apparent in the course of a study that an economically justified plan to satisfy traditional water resource needs cannot be formulated, continued formulation of an EQ Plan or other alternative is not warranted.

(f) P&S also requires that the impacts of a proposed action be measured and the results displayed or accounted for in terms of contributions to four accounts: National Economic Development (NED), Environmental Quality (EQ), Regional Development (RD), and Social Well-Being (SWB).

(1) Contributions to the NED and EQ accounts are the overall beneficial and adverse impacts of the proposed action on the components of the national objectives of P&S.

(2) Contributions to the RD account are determined by establishing a proposal's effects on a region's income, employment, population, economic base, environment, and social development.

(3) Contributions to the SWB account are determined by establishing a proposal's effects on real income, security of life, health and safety, education, cultural and recreational opportunities, emergency preparedness, and other factors.

(g) In addition to P&S, the National Environmental Policy Act of 1969 and the River and Harbor and Flood Control Act of 1970 require assessment of plan impacts. Section 122 of the 1970 Act specifies those impacts that, as a minimum, must be assessed for any proposed action, while section 102(2)(c), of NEPA requires that the environmental impacts of any proposed action be fully assessed.

(h) The Federal Water Pollution Control Act Amendments of 1972 links water quality concerns to the more traditional aspects of resouce management planning. Among other things, the Act, in sections 201, 208, 209, and 303, places substantial emphasis on planning problems falling within the broad scope of P&S while section 404 requires specific considerations in the planning of Corps and other projects which discharge dredged or fill material into waters of the United States.

§ 290.7 Planning process.

A representation of the planning process is provided as figure 1.

(a) Achievement of the planning process objective defined in § 290.5 requires the application of several essential planning considerations which are discussed more fully in § 290.8.

(b) The four functional planning tasks of problem identification, formulation of alternatives, impact assessment, and evaluation, will be performed throughout a study. These planning tasks are explained in § 290.9 and other regulations in parts 290–295 of this chapter.

(c) Plans will be developed in three separate stages: reconnaissance level; intermediate plans; and detailed plans. These stages are explained in § 290.10 and 291 of this chapter.

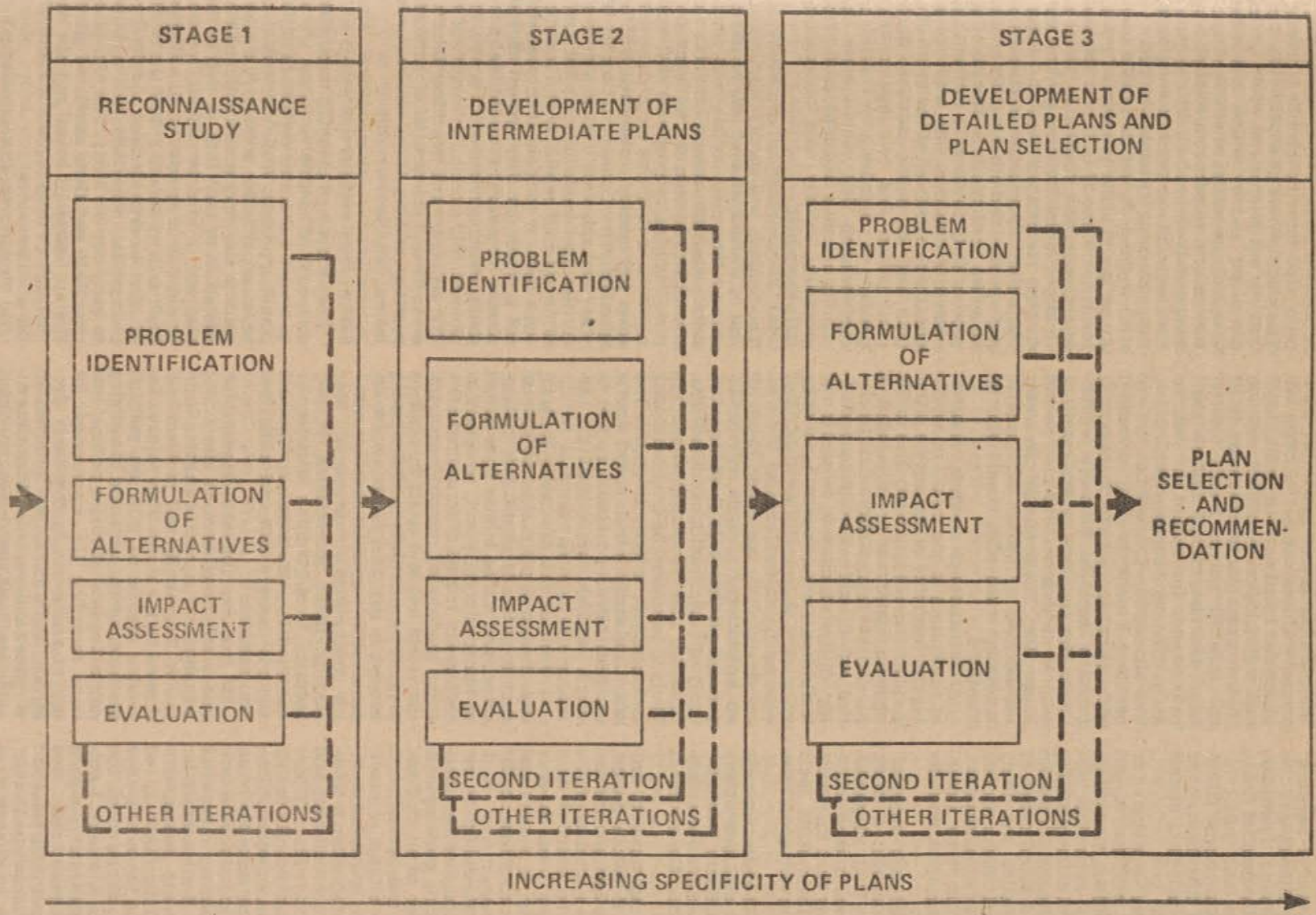

FIGURE 1: GENERAL RELATIONSHIP OF PLAN DEVELOPMENT STAGES AND FUNCTIONAL PLANNING TASKS

§ 290.8. Essential planning considerations.

A number of essential considerations are requisite to successful planning: The interdisciplinary character of the planning team, planning flexibility, implementability of the detailed plans, institutional analysis, and public involvement. Public involvement is discussed in part 380 of this chapter; the others are discussed in § 290.8 of this section.

(a) *Interdisciplinary planning.* The requirements of the P&S, NEPA, and section 122, among others, necessitate an interdisciplinary planning approach to identify and define planning objectives, develop creative alternative plans, and analyze a broad range of complex issues, including the likely economic, social, and environmental consequences of plan implementation. This is best accomplished by a planning team which employs a diversity of professional skills.

(1) The interdisciplinary approach will be utilized throughout a study. This does not mean that all participants must be involved in each activity, task, or stage, only that they must be involved when their skills could have a material effect on study progress and output.

(2) The role of the study managers is pivotal to the successful accomplishment of interdisciplinary planning since they are responsible for coordinating and synthesizing the efforts of all involved.

(3) To the extent appropriate, consultants, members of citizen groups, representatives of other government agencies, and other segments of the public should also be included as a part of the planning team to draw from a wider variety of sources and provide different perspectives on the study and its direction.

(b) *Flexibility.* Flexibility is obtained when each stage of the planning process, embracing problem identification, formulation of alternatives, impact assessment, and evaluation is repeated one or more times as necessary. In this manner, additional or increasingly precise information is introduced to guide the formulation and evaluation of alternative plans. Where conditions change significantly during the course of a study, subsequent iterations of the planning tasks can be altered to reflect and accommodate such change. Thus, the planner is provided a systematic, highly flexible means for taking the preliminary assumptions and data identified in Stage 1 and translating them into the more precise and detailed plans displayed at the completion of Stage 3. Figure 1 outlines the general relationships among the three plan development stages and the four functional planning tasks and suggests how the emphasis on the various tasks is likely to change as a study progresses.

(c) *Implementability.* The detailed plans presented at the conclusion of the planning process are to be management actions capable of being implemented based on their institutional and technological feasibility, and on their acceptability to some segment of the affected public. Public involvement and institutional analysis shall be conducted throughout the study to aid in developing implementable plans. The alternatives presented at the end of Stage 3 must be fully developed with their appropriate management measures specified. Resource requirements, size and location, and resultant outputs of each detailed plan should be specified. Public and private sector expenditures or actions necessary to implement each plan should also be identified.

(d) *Institutional analysis.* Analysis of institutions is one means of assessing the feasibility of alternative plans. As plans increasingly responsive to the planning objectives are developed, a parallel, yet related effort must be carried out to assure plan implementability. Analysis is made to determine the institutional requirements imposed by alternative plans and the capability of existing institutions to meet those requirements. The scope and depth of an institutional analysis will be dependent on the study it addresses. A study of fairly traditional dimensions, in which the recommendations are likely to be within the Corps authority to implement, is likely to require less effort and analysis than one of a more comprehensive or unusual nature in which unique implementation arrangements may be required.

(1) *Institutions.* An institution is an organization or political/social process that is generally structured, systematized, and stable. It may be a formal or informal body, group, or agency as well as one or a set of formalized practices, procedures, customs, or traditions. Political and social institutions play an essential role in the planning process, in that they can be critical determinants regarding implementability. Institutions are diverse and wide ranging. State governments, bi-state agencies, local planning agencies, established tax structures, and general attitudes toward financial obligation are examples.

(2) *Procedure for institutional analysis.* Institutional analysis starts with a preliminary survey of existing institutions relevant to the problems addressed by the study. This requires becoming acquainted with the political character of the area and identifying any widespread attitudes or local customs regarding the management or use of resources. As the study progresses, institutional base information is refined and expanded. Financing capabilities, legal authorities, programs, and policies are described with increasing precision. Simultaneously, the views and desires of potential project sponsors must be fully considered and integrated into the planning process. The result should be a clear picture of how various alternatives could be implemented and by whom, indicating both the capabilities of different institutions with respect to a total plan or components thereof, as well as possible constraints or impediments, existing or potential, to implementation.

(3) *Relation to public involvement.* An early and active program of public involvement (see 33 CFR part 380) and interagency coordination is essential to successful institutional analysis and to plan recommendations and implementation. Appropriate organizations and agencies and other publics should be active participants in the planning process early in Stage 1 rather than viewed as outsiders who must subsequently be convinced of the worth of a plan and its implementation. Early participation and coordination may preclude or minimize later conflict or confrontation that could negate the validity of a plan that is otherwise economically, socially, and environmentally acceptable.

(4) *Implementation arrangements.* The analysis will specify how, when, and by whom each plan may be implemented. The most socially and politically acceptable means available for the implementation of a recommended plan, including proposals for new organizations or financing methods or new roles for existing institutions will be specified. The Corps or a number of other Federal, state, regional, or local entities may implement a plan. Lack of an existing capability for carrying out a plan, or component thereof, will not preclude the development of that plan or component provided that a realistic recommendation for a new implementating mechanism can be made. The rationale used to achieve the recommended implementation arrangements should be clearly and concisely incorporated in the report.

§ 290.9. Functional planning tasks.

Four functional planning tasks, each composed of specific activities, are to be carried out during each stage of the planning process. While emphasis may be on a particular activity at a given point in the process, successful accomplishment of each task, as well as the planning process in general, requires continuous integration of all activities. Each activity should reflect the result of previous activities and should complement the other activities required to carry out the study. The four planning tasks and their associated activities are described below and are discussed more fully in parts 292 through 295 of this chapter.

(a) *Problem identification—Task 1.* Problem identification is the determi-

nation of the range of water and related land resource problems a study will address. It provides for establishing planning objectives which give direction to subsequent planning tasks. It is carried out by identifying resource management problems and public concerns, analyzing them to determine the physical area to be studied, surveying existing and projected resource conditions in the area, and synthesizing this information into specific planning objectives. Activities to be carried out in problem identification are as follows:

(1) *Identify public concerns.* This activity identifies the range of economic, social, and environmental concerns that form the basis for detailing specific water and related land resource management problems to be addressed in the study. The general public, interest groups, and government agencies will be consulted to obtain their views regarding what the study should address.

(2) *Analyze resource management problems.* Based on requirements contained in national policies and the study authority, public concerns should be analyzed to more specifically determine the range of water and related land resource management problems to be addressed. The full complement of issues, concerns, needs, constraints, opportunities, and desires expressed by the public in relation to the study area resources are to be considered.

(3) *Define the study area.* The range of identified resource management problems should be examined as a basis for defining the geographic area to be studied. Depending upon the character and range of resource management problems to be studied, the study area boundaries may be expanded beyond those described in the study authority.

(4) *Describe the base condition.* The study area should be described in terms of its existing water and land uses, as well as its economic, social, and environmental characteristics. The description should summarize existing conditions in the study area and verify actual potential resource management problems.

(5) *Project future conditions.* Drawing on the public concerns regarding existing and future problems and opportunities in the study area, including a thorough analysis of the base condition, a number of reasonable alternative future conditions should be projected. A range of those conditions which reflect alternative assumptions about the future will be presented to the public. From this range of alternative futures, the one that best reflects the constraints imposed by the economic, social, environmental, and political systems, will serve as the basis for projecting future conditions and will represent the "most probable future."

(6) *Establish planning objectives.* Establishing planning objectives involves analyzing the identified concerns regarding the use of water and related land resources in the study area to translate them into specific objectives for the study. These needs must be net of outputs which will be obtained without any change in existing resource management plans or programs; i.e., the "without condition." The data developed in prior activities of this task will be analyzed as a basis for translating needs, opportunities, concerns, and constraints into the planning objectives of the study. These objectives will be set forth and described as specifically as possible so as to provide a meaningful guide and focus for subsequent formulation activities.

(b) *Formulation of alternatives—Task 2.* Formulation of alternatives is the development of different resource management plans to address the planning objectives. The plans which are initially formulated will be assessed and evaluated. Plans which best address NED, EQ, and a mix of the two will be identified. Candidates for the NED plan are those which are likely to maximize net economic benefits and candidates for the EQ plan are those likely to make significant contributions to preserving, maintaining, restoring, or enhancing cultural and natural resources. During subsequent iterations, candidate plans will be reformulated to insure that the best NED, EQ, and mixed plans are included in the final array of alternatives. Designation and reformulation of candidate plans requires substantial professional analysis and judgment and should reflect public preferences and desires. The NED plan and the EQ plan are not intended to establish a polar condition, since plans which optimize NED and those which emphasize EQ must still meet a range of specific evaluation criteria, and therefore, could be similar or even the same plan. Where the NED plan and EQ plan are significantly different, other alternatives reflecting significant trade-offs between them will be formulated so as not to overlook the best overall plan. Non-structural measures will be considered in Stage 1 and Stage 2 and every reasonable effort should be expended to carry such a measure, where viable, through Stage 3. Where relevant to addressing public concerns, "no development" plans may also be formulated. Activities to be carried out in formulation of alternatives are as follows:

(1) *Identify measures.* A broad range of technical and institutional measures, structural and nonstructural, for potentially satisfying the planning objectives will be set forth. The identification and consideration of measures proposed or suggested by different interest groups is essential. The result is a preliminary identification and description of all the different management measures that might be applicable to a given study.

(2) *Consider plans of others.* Other plans proposed by governmental or nongovernmental interests, will be identified and included in the planning process. These will include appropriate "non-Federal" plans that would likely be undertaken in the absence of the Corps plan. Such plans or portions of them will be included, where appropriate, in the alternative plans being considered in the study.

(3) *Develop plans.* Plans will be developed by analyzing the complementary and competitive interactions among measures, to identify and minimize conflicts, to obtain consistency, and to insure completeness to the extent possible. Subsequent impact assessment and evaluation will narrow the range of alternatives and establish a basis for effective choice among plans.

(c) *Impact assessment—Task 3.* Assessment is the identification, description, and, if possible, measurement of the impacts of the alternative plans. Consistent with the requirements of the P&S, section 102(2)(c) of NEPA, and section 122 of the River and Harbor and Flood Control Act of 1970, impact assessment provides for analyzing the significant effects of each alternative. These are the economic, social, or environmental consequences of an alternative which would be likely to have a material bearing on the decisionmaking process. Impact assessment requires forecasting where and when significant effects could result from implementing a given alternative. This determination requires analyzing and displaying monetary and nonmonetary changes in an objective manner based on professional and technical assessment of the resources. The absence of change or no net change from the "without condition" could also be significant in certain instances and care must be taken to surface such information during this task. Describing impacts does not reflect social preferences; these preferences are determined through subsequent evaluation. Activities to be carried out in impact assessment are as follows:

(1) *Determine sources of impacts.* The aspects of each alternative that could cause significant impacts will be identified and specified. This requires analyzing the inputs, measures, and outputs associated with the alternatives to determine causative factors that could change elements of the "without condition."

(2) *Identify and trace impacts.* The causative factors related to each alternative plan should be compared to the

elements of the "without condition" for the purpose of identifying impacts. This requires forecasting whether these factors could cause significant changes. Accomplishing this requires cause and effect analysis to identify and trace through those impacts which are significant.

(3) *Measure impacts.* As precisely as possible, the magnitude of each impact should be determined. This is determined by objective comparison of the "with condition" and "without condition." The impacts should be quantified using appropriate monetary or nonmonetary units or concisely characterized in a written description.

(4) *Specify incidence of impacts.* The geographical location of each impact should be identified. In addition, it will be necessary to establish when impacts are expected and their duration.

(d) *Evaluation—Task 4.* Evaluation is the analysis of each plan's impacts. Whereas impacts are identified through an objective undertaking largely on professional analysis, evaluation determines the subjective value of these changes. This is accomplished by conducting "with and without" analysis of the alternative plans based on the changes identified in impact assessment and ascribing values to the impacts based on public input and the planner's judgment. The process begins by establishing the contributions of each alternative in relation to the planning objectives and the NED, EQ, RD, and SWB accounts of the P&S. Then the response of the alternative plans to specified evaluation criteria will be determined. From this information, judgments will be made concerning the beneficial and adverse nature of the contributions of an alternative to establish its overall desirability. After this has been done for each alternative, plans that do not result in an improvement over the "without condition" will be eliminated from further consideration. The first three activities listed below provide more explicit information on performing these aspects of evaluation. The relative merits of each remaining alternative in comparison with the other remaining alternatives will then be established. By so doing, evaluation will surface information which will be incorporated in succeeding iterations so as to more fully achieve beneficial contributions while reducing adverse contributions. Activities to be carried out in evaluation are as follows:

(1) *Appraise planning objective fulfillment.* The degree to which the alternative plans contribute to the planning objectives will be determined. This involves relating the significant impacts of each alternative to the planning objectives and determining if and how well the different alternatives contribute to the objectives.

(2) *Appraise system of accounts contributions.* Each plan is valued in terms of its beneficial and adverse consequences on the four accounts. This involves analysis of each significant impact to determine the positive or negative contributions a plan will make in regard to NED, EQ, RD, and SWB. A fuller explanation regarding the content and use of the System of Accounts is contained in part 393 of this chapter.

(3) *Apply specified evaluation criteria.* Criteria which will be applied to provide a basis for evaluating alternative plans are acceptability, completeness, effectiveness, and efficiency, which are explicitly stated in the P&S, and certainty, geographical scope, NED benefit-cost ratio, reversibility, and stability which are derived from the first four. These criteria and their application are discussed more fully in part 295 of this chapter. Determining certainty, stability, and reversibility requires the use of sensitivity analysis, alternative futures, and risk and uncertainty analysis as specified in the P&S.

(4) *Perform trade-off analysis.* Trade-off analysis is the actual comparision of plans, based upon perceptions of affected groups and the results of applying all the appropriate evaluation criteria. Its purpose is to identify plans which serve a wide range of interests, including the Federal Interest. Alternative plans must be compared in such a manner that impacts measured in dissimilar units may be traded-off in such a way that the public and decisionmakers are provided a basis for effective choice.

(5) *Designate the NED plan and EQ plan.* Based on the criteria specified in the P&S and § 295.10 of this chapter, designate the alternative plans which are the NED plan and the EQ plan or the plan that is least damaging to the environment.

(e) *Determine if repeating the planning tasks is necessary.* At the completion of evaluation, the results of carrying out the four planning tasks will be analyzed to establish the necessity for, or direction of, the next iteration. If reiteration is necessary, the planning tasks will be repeated to develop more precise and detailed plans that more fully address the planning objectives while minimizing adverse economic, social, and environmental impacts. To aid in this, specific criteria listed in part 295 of this chapter, will be applied for reformulating candidate NED plans, candidate EQ plans, and for those plans which provide a mix of NED and EQ contributions. When a satisfactory set of detailed, implementable plans result from an iteration in Stage 3, the plan selection and recommendation criteria described in § 290.11 of this chapter will be applied.

§ 290.10. Plan development stages.

Developing plans in three stages provides for improving and increasing the level of detail and reliability of data and analyses, and for incrementally developing more precise alternative plans throughout a study. The three stages are described below and are discussed more fully in § 291 of this chapter.

(a) *Stage 1—Reconnaissance.* During the initial stage, the four planning tasks are performed at a preliminary level of detail to define the scope and character of the study to determine whether additional study is warranted and as a guide to subsequent planning. During this stage, principal emphasis will be on identification of the range of issues related to resource management in the study area. Because of the introductory nature of the planning tasks at this stage, the effort will generally involve analyzing a wide range of available data, which may be more qualitative than quantitative. The general purpose of this stage is to make an initial analysis of water and related land resources management problems and how they could be solved. The product will be a Reconnaissance Report.

(b) *Stage 2—Development of intermediate plans.* The intermediate stage emphasizes identifying and analyzing the range of alternative ways for addressing the planning objectives. Considerable emphasis must be placed on more specifically defining these objectives. Based on a more definitive analysis of the objectives, alternatives will be outlined and refined without concentrating on detailed engineering or design considerations. Data should be sufficient to set forth and analyze alternative concepts of resource management. The expected impacts of these alternative plans are to be assessed and evaluated, concentrating on their significant consequences. A high level of detail is not appropriate at this stage. The alternatives developed should provide choices as to the different viable resource management options for more detailed studies in Stage 3.

(c) *Stage 3—Development of detailed plans.* During the final stage, emphasis is on modifying, assessing, and evaluating the intermediate alternatives carried into Stage 3 from Stage 2 to produce detailed, implementable plans. Design, assessment, and evaluation in this stage require data that is specific and well defined. The alternative plans produced at its completion must be at a comparable level of detail so that an effective choice can be made.

§ 290.11. Plan selection and recommendation.

Stage 3 of the planning process provides the basis for selecting one of the

detailed plans and, if appropriate, recommending it for authorization. Generally, only one plan should be selected regardless of whether or not it is within the existing general authority of the Corps. If the selected plan falls under the Corps authority, then it can be recommended by the District Engineer for implementation. If the selected plan is not within existing Corps authority, the reporting document should describe how it could be implemented.

(a) *General.* Plan selection is the designation of that alternative plan considered to be the most desirable, based on the results of the study. Plan recommendation is the act of proposing Corps participation in implementing the selected plan. Plan selection and recommendation occur after the last iteration of the planning process, at which point a range of detailed plans, any of which could be selected, will be displayed in the System of Accounts § 393 of this chapter.

(b) *Plan selection.* The District Engineer will select the plan in the best public interest. This selection will be based upon the public reponse to the detailed plans carried through the final stage. This response will include the views of those who participated in the study and will be obtained by formal and/or informal means. The product of evaluation will be clearly presented as a basis for public inputs to plan selection.

(c) *Plan recommendation.* There are two basic criteria for plan recommendation: The net benefits rule and Corps authority to implement. When both criteria are met, the District Engineer will follow established procedures for recommending Federal (Corps) participation in implementation.

(1) *Net benefits rule.* A recommended plan when considered individually on the basis of "with" vs. "without" comparison must be justified in the sense that total benefical contributions (monetary and non-monetary) exceed total adverse contibutions (monetary and non-monetary). Further, the recommended plan must have net NED benefits unless the deficiency is the result of NED benefits foregone or costs incurred to obtain positive EQ (non-monetary) contributions. This means that a recommended plan which has no net economic benefits must make positive contributions to the environment when evaluated against the without condition. Exceptions to the net benefit rule will be extremely rare and will be based upon prior approval by the Secretary of the Army; coordination will be through DAEN-CWP. Exceptions might include unique and overriding social considerations, such as extreme loss of life.

(2) *Corps authority.* The Corps Civil Works authority has been established by various Acts of Congress since 1824. In the event a selected plan is not within Corps implementation authority, the following provisions apply.

(i) If the selected plan or a portion thereof is not within existing Corps implementation authority, but is responsive to the planning objectives established for the study, the reporting officer may recommend Federal (Corps) participation. The basis for and extent of such participation will be specified, including the precedent-setting aspects of the recommendation. Such recommendations shall be fully coordinated through DAEN-CWP before commitments are made to States or local interests.

(ii) If the selected plan falls entirely within the authority of another Federal agency, no recommendation for Federal (non-Corps) implementation will be made. The other agency will be informed of the Corps' finding by the Chief of Engineers.

§ 290.12 Effective date and applicability to planning programs.

This regulation is effective January 1, 1979.

(a) Applicability of this regulation to Water Resources Council Level A and B studies is determined on a case-by-case basis, in accordance with guidance provided by the Water Resources Council and dependent on the Corps role in the study (see § 252 of this chapter).

(b) This regulation is fully applicable to all Level C preauthorization studies conducted after the effective date, including those initiated prior to the effective date.

(c) Applicability of this regulation to Phase I GDM studies is dependent on the date the project was authorized by Congress and the extent of changes recommended to the authorized project. The emphasis of the tasks and stages during a Phase I study will be different depending upon whether the survey scope study was conducted employing this regulation.

(d) This regulation is applicable to continuing authority studies, as discussed in Appendix C, Part 263 of this chapter.

(e) This regulation is generally applicable to other special or comprehensive planning studies funded under the Corps General Investigations appropriations title. Exceptions may be granted on a case-by-case basis by the Chief of Engineers.

PART 291—PLAN DEVELOPMENT STAGES (ER 1105-2-210)

Sec.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 291.1 Purpose.

This regulation describes the nature and scope of the three plan development stages to be used in multiobjective planning, consistent with the WRC Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPS), and related policies.

§ 291.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 291.3 Reference.

(a) ER 11-2-220
(b) ER 1105-2-10

This regulation supersedes ER 1105-2-210, November 10, 1975.

(c) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290)

(d) ER 1105-2-220, Problem Identification (33 CFR Part 292)

(e) ER 1105-2-250, Evaluation (33 CFR Part 295)

§ 291.4 General.

The planning process has been divided into three stages to facilitate the management of the study. Specific objectives and supporting documentation requirements are defined for each stage. The staged planning process provides a mechanism by which the assumptions, data and conclusions of the study will be reviewed by both Corps echelons and the public as the study progresses. The stages of planning have been incorporated into the budgetary process and the Intensive Management Program (see ER 1105-2-10).

§ 291.5 Stage 1—Reconnaissance.

The purpose of the first stage of the planning process is to conduct reconnaissance level investigations to determine whether a survey scope feasibility study is warranted and, if warranted, to develop a detailed scheme for Stage 2 planning. Reconnaissance investigations should address the four functional planning tasks primarily on the basis of available information, coordination and public involvement.

(a) *Planning tasks.* The general approach should be broad in order to identify the need for additional investigations and analyses in Stages 2 and 3. The emphasis should be on problem

identification. The other three planning tasks require less attention during Stage 1.

(1) All activities described in Part 292 of this chapter should be addressed at the reconnaissance level in Stage 1. Public concerns should be actively sought to facilitate a comprehensive approach to the planning effort. This approach will encourage consideration of a broad array of environmental and social values and concerns. Moreover, it will help assure that resources of particular value or critical concern are highlighted for more detailed study in subsequent planning. Based on these and other problem identification activities, an initial definition of the planning objectives should be made. The planning objectives should be as specific as possible at the end of Stage 1, even though they may be refined in Stages 2 and 3.

(2) Formulation should concentrate on identifying potential management measures.

(3) Impact assessment should concentrate on identifying potentially significant impacts.

(4) Evaluation should concentrate on those analyses which will provide the basis for determining whether a continuation of the study is warranted.

(b) *Public involvement.* Public involvement should be addressed in a minimum of three ways in Stage 1. First, lines of communication should be opened with interested and affected agencies and non-governmental groups. Second, the Corps should circulate a draft Reconnaissance Report or other appropriate Stage 1 planning document for public review and conduct a public meeting. And third, a public involvement program for Stage 2 should be developed in detail, with follow-on activities identified for stage 3.

(c) *Reconnaissance report.* A Reconnaissance Report will be prepared and transmitted to the division engineer for approval at the conclusion of Stage 1. The report will document the need for further study, the results of the investigations accomplished during Stage 1, and, if the recommendation is to continue the study, the detailed management information necessary for accomplishing Stage 2 planning. (See also definition of Reconnaissance Report in Part 290 of this chapter.)

(1) If continuation of the study is recommended, management information should include an updated Study Cost Estimate (PB-6) and a detailed description of Stage 2 work activities. Work activities should be structured into the accounts and subaccounts prescribed by ER 11-9-220 and should be appropriately defined for incorporation into the Resource Analysis/Project Management (RA/PM) system.

(2) If continuation of the study is not recommended, the district engineer should indicate whether the study should be temporarily suspended or whether it should be terminated by the submittal of a report to Congress.

§ 291.6 Stage 2—Development of intermediate plans.

In this stage, a broad range of alternative plans and management measures are explored. Stage 2 results in a screening of alternatives by carrying out sufficient iterations of the four planning tasks to decide which plans, if any, warrant more detailed study in Stage 3. The Stage 2 screening will reduce the number of alternatives to those which are most feasible under the evaluation criteria provided in Part 295 of this chapter.

(a) The emphasis in this stage is to formulate alternatives that reflect an array of realistic ways of managing the resources of the study area. To accomplish this, detailed problem identification must be conducted to precisely specify the planning objectives. Additional data should be gathered to satisfy any deficiencies in the data base. Technical and institutional measures for addressing the objectives should be more precisely set forth. This should not unduly constrain the breadth of the measures considered. Overdependence on design detail is not appropriate. Developing alternative plans which incorporate nonstructual measures should receive considerable attention during this stage.

(b) Impact assessment should be sufficient to identify major changes from the "without condition." This is accomplished by developing a detailed "without condition" and comparing it to each alternative plan. The level of detail will increase as this stage proceeds. Iterations of the assessment and evaluation tasks will provide the information necessary to allow for the screening out of less responsive alternatives, and the identification of those which appear to be most feasible.

(c) The level of detail should be sufficient for the public and higher authority to review and understand the rationale used in developing and screening the alternatives. (See also the definition of "Intermediate Plan" in Part 290 of this chapter.)

(d) If the ongoing study establishes that there are valid, compelling reasons to plan toward positive Regional Development (RD) and/or Social Well-Being (SWB) contributions, approval should be sought from the Secretary of the Army, through DAEN-CWP, prior to the conclusion of Stage 2. The Secretary of the Army must approve any exceptions prior to the initiation of Stage 3.

(e) As a general rule, the alternative plans selected for detailed study in Stage 3 should possess the following characteristics:

(1) Each plan should represent at least one of the following: a way to optimize NED outputs; a way to emphasize EQ; a mix of NED and EQ; an alternative desired by some segment of the public; or an alternative responsive to an OCE policy or plan formulation requirement.

(2) Each plan must be "justified," based on Stage 2 planning, in the sense that its total beneficial contributions (monetary and nonmonetary) are equal to or exceed its total adverse contributions (monetary and nonmonetary).

(3) Each plan will represent uses of the water and related land resources of the study area for either Corps mission-related purposes, or other non-Corps purposes which represent viable alternatives, although each plan need not provide contributions to all planning objectives established for the study.

(4) Plans should reflect distinct differences. These may include differences in technology, institutional arrangements, levels of output, impacts, or public perceptions. These differences should be highlighted so that the Stage 2 documentation will clearly show why each plan is being proposed for more detailed study in Stage 3.

(f) Stage 2 documentation will be prepared to support the above characteristics and will be utilized as part of public involvement and the Intensive Management Program. This documentation should include a detailed description of work activities for Stage 3 planning, or if a determination is made that further studies are not warranted, the Stage 2 documentation shall be made available to State and local planning agencies after termination of the Study has been approved by the division engineer. If a study is terminated during Stage 2, a brief report should be prepared for transmittal to Congress to explain the reasons for termination and actions taken by the Corps to provide State and local interests information which may be useful to them.

§ 291.7 Stage 3—Development of detailed plans.

Stage 3 emphasizes the detailed assessment and evaluation of a small number of alternatives. It involves carrying out the four planning tasks to a level of refinement which assures that each of the plans considered in Stage 3 is formulated in the best possible way to achieve the desired planning objectives, to assure that each of the plans is implementable, and to support the selection of the best plan. If the criteria in § 290.11, of this chapter are met, Stage 3 also includes further development of the selected plan to support a recommendation for Congressional authorization for Corps of Engineers implementation. The primary documen-

tation in Stage 3 will be the draft and final study report.

(a) In addition to the characteristics described in paragraph 6e, Stage 3 plans should also reflect the following:

(1) Each plan should represent a complete technical system together with the necessary implementation arrangements.

(2) Each alternative in Stage 3 should be developed to a comparable level of detail with respect to engineering, environmental, economic and social data to the extent necessary to conduct trade-off analysis and to select the best plan for implementation.

(b) After a plan has been selected on the basis of the Stage 3 evaluation and trade-off analysis, a draft Environmental Impact Statement (EIS) should be completed if Federal implementation action will be proposed. Sufficient environmental data and analyses should be available from the study, conducted under the 1105-2-200 series of regulations, to complete the draft EIS. Additional study effort may be necessary to support the preparation and presentation of recommendations to Congress after the public has commented on the draft EIS and draft Stage 3 report.

(c) Public involvement is an important imput to the evaluation and trade-off analysis throughout Stage 3 planning. The evaluation should be presented at the Stage 3 public meeting. The draft report which includes the draft EIS should be distributed for public review prior to the Stage 3 public meeting.

§ 291.8 Effective date.

This regulation is effective January 1, 1979. The provisions of § 290.12, of this chapter are applicable to this regulation.

PART 292—PROBLEM IDENTIFICATION (ER 1105-2-220)

Sec.
292.1 Purpose.
292.2 Applicability.
292.3 References.
292.4 General.
292.5 Identify public concern.
292.6 Analyze resource management problems.
292.7 Define the study area.
292.8 Describe the base condition.
292.9 Project future conditions.
292.10 Establish planning objectives.
292.11 Effective date.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 292.1 Purpose.

This regulation provides guidance for carrying out the problem identification task of multiobjective planning, consistent with the WRC Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPA), and related policies.

§ 292.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 292.3 References.

(a) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290).

(b) ER 1105-2-921, Feasibility Reports: System of Accounts (33 CFR Part 393).

(c) EM 1120-2-118.

§ 292.4 General.

This task is undertaken to define the physical area and the nature of water and related land resource management problems that the study will address. As outlined in Figure 1, the task of problem identification culminates in delineation of the planning objectives which guide the formulation of alternative plans. The following paragraphs discuss the activities included in problem identification.

§ 292.5 Identify public concerns.

Initially, problem identification involves eliciting information from the public about the range of needs (opportunities and problems) which the study could address. Properly accomplished, this directs subsequent activities to respond to public, in addition to agency, perceptions.

(a) The types of problems, concerns, and opportunities to be addressed are limited to issues related to water and related land resources management. Issues relasting to regional population growth, economic development, and transportation policies; attitudes about ownership and use of land, community aesthetics, and significant environmental phenomena; and other similar concerns are also to be considered where relevant to the management of water and related resources.

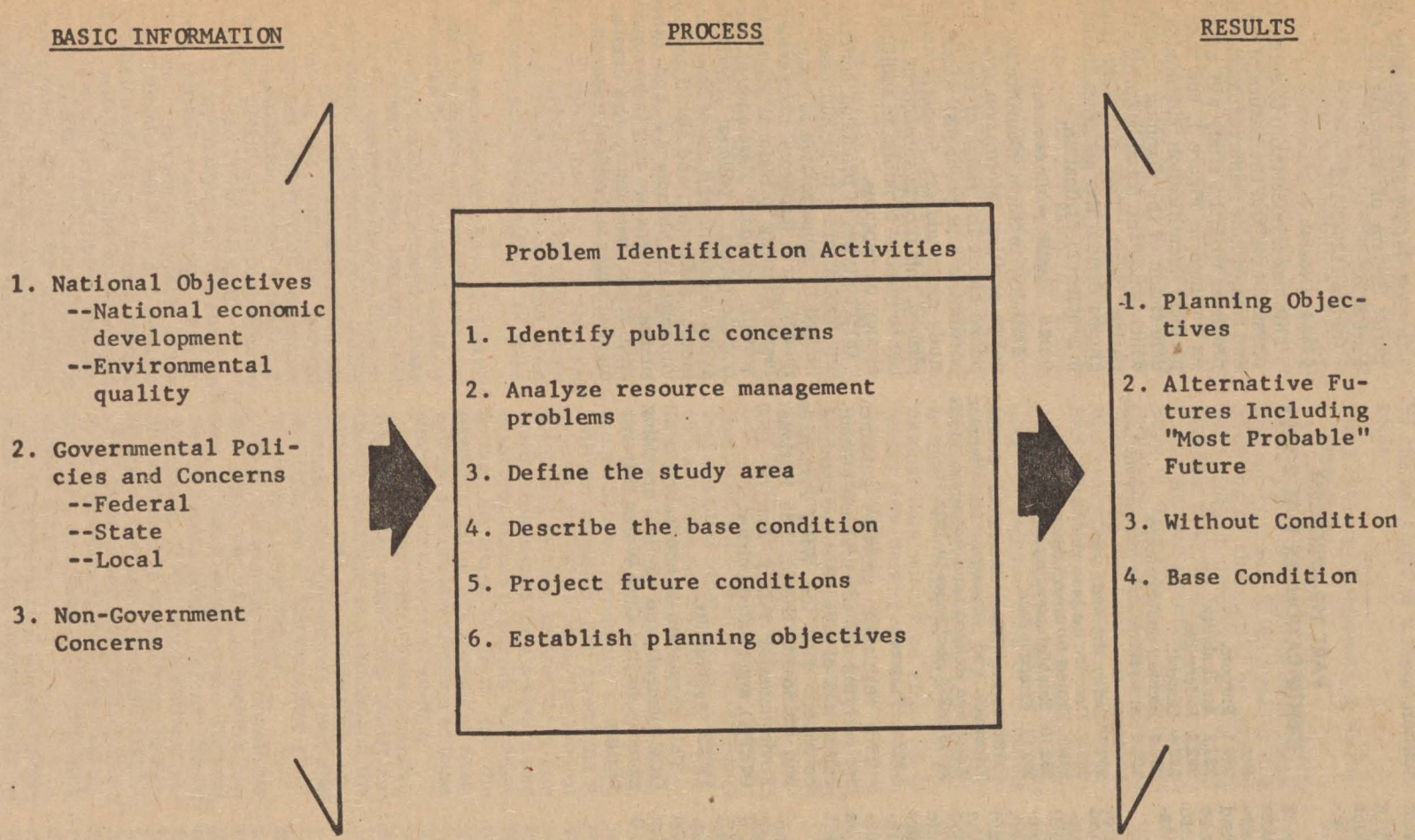

Figure 1: Problem Identification

Governmental Sources

A. Federal Government

I. Legislation
- a. Specifically Related to Water Resources
  - R&H Acts
  - PL 92-500
  - Wild & Scenic Rivers Bill
- b. Not Specifically Related to Water Resources
  - NEPA
  - Transportation Acts
  - Wilderness Bill

II. National Policies and Related Actions
- a. Specifically Related to Water Resources
  - P&S
  - Exec. Order 11296
- b. Not Specifically Related to Water Resources
  - National Goals
  - Energy Conservation Requirements

III. Agency Policy and Related Actions
- a. Within the Corps
  - ER's, EC's, & Multiple Letters
  - Environmental Inventories
  - Previous Study Reports
  - IWR Reports
- b. Outside the Corps
  - WRC Studies and Requirements
  - Other Agency Requirements and Studies

B. Non-Federal Government

I. State
- a. Governor's Office
- b. Legislature
  - Existing Legislation
  - Pending Legislation
- c. Policies & Administrative Agencies
  - Planning
  - Fish & Wildlife
  - Health
  - Water Supply
  - Water Quality
  - Recreation
  - Land Use
  - Transportation
  - Agriculture
  - Commerce
  - Natural Resources

II. Local
- a. Counties
- b. Cities
  - Land Use Plans
  - Transportation Plans
  - Recreation Plans
  - Public Service Plans
  - Education

III. Regional
- a. Councils of Government
- b. Interstate Agencies
- c. Basin Commissions

Non-Government Sources

I. Scientific/Professional/ Business Organizations
- a. Universities
- b. Clubs
- c. Fraternal Orders
- d. Chambers of Commerce

II. Private Industry

III. News Media

IV. Citizens Groups
- a. Environmental
- b. Civic
- c. PTA's
- d. Consumer Groups
- e. Political Clubs
- f. Social Action
- g. Religions
- h. Home Owners Associations

Figure 2. Representative Information Sources

(b) Concerns should be elicited through a public involvement program in which public officials, interest groups, governmental bodies and other segments of the public participate in a meaningful way. Figure 2 displays a representative list of information sources which should be consulted to identify concerns. Planner's knowledge unique to local and regional situations will result in the identification of additional resources. Meetings, news media presentations, brochures, citizen assistance committee, and the like are all useful tools that should be employed in obtaining this information. Public involvement, while necessary, is not sufficient to a successful outcome from the planning process. The planner is responsible for exercising the necessary professional judgment and analysis to insure that all issues, concerns, needs, opportunities, desires, and constraints related to the study effort are identified.

§ 292.6 Analyze resource management problems.

Many of the publics' concerns will be directly related to problems or issues that can be achieved through water and related land resources management. Careful professional analysis will be necessary to determine whether a link exists. Considerable attention must be given to examining the relationship of the traditional water resources "needs" categories to the overall study effort. It is mandatory to update or confirm the authenticity of the needs in light of differing public perceptions and interim actions that may have been undertaken. Preestablished levels of resource development output should not be specified for study. Public feedback should be obtained when a tentative listing of problems have been identified to ascertain their relevance and completeness. Refinement and clarification of problems should be accomplished through extensive professional analysis and by interaction with the public. This activity is critical to the planning process because it establishes the range of problems to be addressed and their validity from both public and professional viewpoints.

§ 292.7 Define the study area.

Determination and specification of the study area aids in establishing the scope and character of planning. To specify the area of the study, the previously identified resource management problems will be analyzed to identify their geographic distribution. This requires tracing out the problems and concerns to their ultimate physical location. Careful attention must be given to this activity to insure that the study area is appropriately defined based on the identified range of problems. In most instances, the concerns and problems will correspond geographically to the area specified in the study authority. However, in some cases, the study area that is defined may be different than that contained in the study authority.

(a) For instance, the publicly expressed needs might not be capable of being addressed by resource management activities that could be undertaken in the study area. In addition, it might be determined that resource management activities in the study area could have a significant effect on areas outside that specified in the study authority and that they should also be included in the study. If analysis shows that the study area should be different than the area specified in the study authority, the desirability of seeking a new authority should be referred to HQDA (DAEN-CWP) WASH DC 20314.

(b) Another possibility that could occur is when a study will address only a small portion of the area designated in the authority or will consider a limited range of resource management problems. In the former case, it is the responsibility of the reporting officer to insure that the solution for the smaller area is consistent with broader concerns and that no solution has been overlooked due to the limited geographic scope of the study. In the latter case, single purpose solutions should not overlook synergistic possibilities nor possible conflicts that could arise.

§ 292.8 Describe the base condition.

The base condition is a composite of existing (at the time of the study) economic, social, and environmental characteristics of the area under study. Describing the base condition of the study area should begin with an analysis of available local, regional, and state-wide planning data. These planning data may be in a variety of forms, including land use plans, urbanization or industrialization data or projections, and completed transportation or public utility studies. Active involvement by non-Corps elements should be sought to assist in identification of the base condition of the study area. The base data gathered initially will be rather general. As the study progresses and alternatives are better detailed and locations more defined, more specific information on all aspects of the base condition will be required. The base condition should be described in terms of the existing land, air, and water use, as well as economic, social, and environmental characteristics of the study area perceived to be important. The base condition of the study area related to water and related land resource management should include the following information identified and described according to geographical location, quantity, and quality as appropriate.

(a) A description of the resource base includes a brief and relevant summary of the climate, geology, and typography; human and natural resources, both physical and biological; demographic, cultural, and aesthetic characteristics; and use, particularly emphasizing uses within the flood plain as contrasted to uses outside the flood plain; transportation network; financial resources; and economic activity including manufacturing, trade, and agriculture.

(b) The description of significant environmental elements in the study area will locate and identify those characteristics deemed to be aesthetically, ecologically or culturally important. To identify significant environmental elements, factors should be analyzed such as soils, water, air, cities, plants and animals (including people and their culture); forces such as wind, tides, gravity and human activities; conditions such as light, temperature, pollution, and humidity; and processes such as photosynthesis, mineral cycling, and decomposition. This involves inputs from the scientific/professional community as well as the public at large. The description must reflect that environmental elements are important to society in a present as well as future context. As part of this description, elements should be explicitly identified which are critical in terms of their scarcity, fragility, or lack of resiliency, or which would otherwise be sensitive to change.

(c) The description of existing public and private programs for planning and managing resources in the study area will include a delineation of management systems and facilities in operation as well as those under construction, funded for construction, or approved for construction.

(d) The institutions dealing both directly and indirectly with resource management in the study area will also be identified. This should provide necessary information on existing jurisdictional, functional, and financial arrangements in the study region.

(e) Careful analysis must be made of information collected about the base condition to establish its adequacy for use throughout the study. If adequate information is not available for the purpose of the study, early efforts must be undertaken to correct the deficiencies. A sound, reasoned determination of needed data must be made early in the process to assure timely acquisition at reasonable cost.

§ 292.9 Project future conditions.

There are major uncertainties associated with projections of future conditions. The Principles and Standards (P&S) require that alternative plans be examined to determine their sensitivity to data availability and to alternative assumptions as to future eco-

nomic, demographic, environmental, and technological trends. In addition, the P&S requires that selected projections and assumptions of alternative futures that are reasonably probable and that, if realized, would appreciably affect plan design or scheduling be analyzed. To accommodate this requirement, it is necessary to examine expressed opinions and assumptions about the future of the study area and to designate what is considered to be the "most probable future". Derivation of planning objectives will reflect this "most probable future", and more specifically, the "without condition". Sensitivity analysis will be conducted during the evaluation task to establish the relationship of the alternative plans to all the different significant assumptions about the future conditions of the study area.

(a) The views of various segments of the public concerning their desires for the future of the study area as well as the views of the professional planner should form the basis for projecting future conditions. The process of seeking public expressions concerning the future and developing composites that reflect their views should continue until a workable projection for establishing planning objectives can be developed.

(b) Specification of future conditions should reflect projections currently used by Federal, state, and local planning agencies. OBERS Series E Prime projections will be used as a basis for most studies. In certain instances, because of conditions unique to the study area or the limited size of the study area, OBERS may not be totally satisfactory. Deviation from OBERS is acceptable if adequately justified and explained. When the study area is very small in size, other projections will be needed to provide sufficiently detailed projections of those conditions which affect the definitions of planning objectives over time. Such projections may be prepared by a State or other non-Federal entity, other Federal entity, or independently by the Corps. The projections used must be adequate under the criteria of EM 1120-2-118.

(c) The planner must exercise considerable judgment and guard against simply projecting current trends. Careful empirical work can define reasonable relationships between demands for the outputs of water resource plans and key economic parameters such as population, income, and production. Where appropriate, demand should be related to those variables contained in the OBERS projections. This analysis permits the planner to focus on the relationship between price and quantity demanded.

(d) One necessary component of projecting alternative futures is to describe what would most likely happen without changing existing programs for resource management. This most probable future without a project should be based on sound professional analysis reflective of public expressions and historical trends. The most probable future is the projection of basic demographic, economic, environmental and social parameters. It provides the framework within which to define the "without condition", which is the detailed specification of the conditions which will prevail in the absence of implementation of a plan to alter the management of water and related land resources.

§ 292.10 Establish planning objectives.

Planning objectives are the national, state, and local water and related land resource management needs (opportunities and problems) specific to a given study area that can be addressed to enhance NED or EQ. However, planning objectives are not to be characterized as being specific to either national objective or related to any of the four P&S accounts (NED, EQ, RD, and SWB). Planning objectives should be stated in terms of resource management needs (problems and opportunities) and not as specific levels of resource management outputs that could be provided to satisfy the needs. Subsequent formulation will be carried out to establish if and how well the outputs of the plans address the objectives. Therefore, "increase open space in X county", "reduce urban flood damages along Y creek", and "maintain white-water boating on Z river" are appropriate statements of planning objectives. However, "provide 200 acres of open space in X county", "provide SPF protection on Y creek", and "provide 3,000 visitors days of white-water boating on Z river" are not appropriate planning objective statements because they predetermine the levels of outputs to be produced. Output levels are variable due to the nature and sizing of management measures and, as such, are a product of formulation and not a factor to be considered when establishing planning objectives.

(a) The components of the NED objective include:

(1) The value of increased outputs of goods and services resulting from a plan.

(2) The value of output resulting from external economies associated with a plan.

(b) The components of the EQ objective include:

(1) Management, protection, enhancement, or creation of areas of natural beauty and human enjoyment.

(2) Management, preservation, or enhancement of especially valuable or outstanding archeological, historical, biological, and geological resources and ecological systems.

(3) Enhancement of quality aspects of water, land, and air by control of pollution or prevention of erosion and restoration of eroded areas.

(4) Avoiding irreversible commitment of resources to future uses.

(5) Others not listed in the (b) (1)-(4) of this section.

(c) Initially, establishing planning objectives involves analyzing the range of public and professional concerns expressed about the use of water and related land resources in the study area to translate them into specific objectives for the study. In addition, establishing the planning objectives involves determining those water resource needs (opportunities and problems) which must be addressed in relation to the "most probable" alternative future.

(d) Establishing planning objectives may reflect that given concerns, not necessarily directly related to either National Economic Development (NED) or Environmental Quality (EQ), could be so important as to impose absolute constraints on the planning process. These constraints may be of a legal, public policy nature or social, economic, or environmental factors of such importance that to violate them would compromise the validity of the entire planning effort. Where such constraints exist, they should be incorporated in the planning objectives. However, in specific cases, an existing legal constraint may be consciously overlooked if the study firmly proposes to recommend a change to modify it. Unless prior approval is obtained from HQDA (DAEN-CWP) WASH DC 20314, planning cannot be undertaken to provide positive distributional effects. This means that transfers to a region or social class will not be planned for; however, such effects may be displayed in the System of Accounts. Part 393 of this Chapter.

(e) Early in the planning process, planning objectives are likely to be relatively large in number and general in nature. While the study authority may direct attention to specific concerns, the authority should not be interpreted as limiting consideration of any appropriate planning objective. In addition, planning objectives should not be eliminated from consideration early in the process merely because they do not relate directly to traditional outputs of water and related land resources management.

(f) Identification of independent planning objectives assists in determining those objectives that should be carried through the process and those that may be dropped. A planning objective is independent if all measures for addressing it are unrelated to the measures addressing any other planning objective; i.e., the solution to one planning objective is not related to the

solutions to any other planning objective. This is significant because an independent objective, not within Corps authority to implement, may be appropriately excluded from further consideration. Such a decision would be made based on the findings of the evaluation task.

(g) As planning progresses, the planning objectives must be continuously reanalyzed in order that a manageable and well defined set is specified prior to developing the detailed plans. The final array of planning objectives must be defined narrowly enough to insure that all alternative means of meeting them have been examined in the study.

(h) The planning objectives should be specified to that level of detail sufficient to provide a precise description of each, including where and when it is to be achieved. Specific objectives may be in conflict, but the full range should be set forth as a basis for formulation. Subsequent planning tasks will establish whether the conflicting objectives can be fully or partially accommodated by a resource management program or, if not, what tradeoffs can be made.

§ 292.11 Effective date.

The regulation is effective January 1, 1979. The provisions of § 290.12 of this chapter are applicable to this regulation.

PART 293—FORMULATION OF ALTERNATIVES (ER 1105-2-230)

Sec.
293.1 Purpose.
293.2 Applicability.
293.3 References.
293.4 General.
293.5 Identify management measures.
293.6 Consider plans of others.
293.7 Develop plans.
293.8 Effective date.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 293.1 Purpose.

This regulation provides guidance on the formulation of alternative plans in multiobjective planning, consistent with the WRC Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPA), and related policies.

§ 293.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 293.3 References.

(a) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290).

(b) ER 1105-2-250, Evaluation (33 CFR Part 295).

§ 293.4 General.

This task provides for developing alternative resource management systems that address planning objectives. To help insure that the best overall plan is developed, a range of alternative plans will be developed based on different sets of formulation and reformulation criteria. It is required that all the plans presented at the conclusion of the study will be fully implementable and could be selected. The types of plans which are either required or should be considered are described in § 293.7. Figure 1 outlines activities necessary in the formulation of alternatives.

§ 293.5 Identify management measures.

A wide variety of technical and institutional means exists for managing resources. As the basis for formulating alternative plans, a broad range of these means should be examined to identify those which can address one or more of the planning objectives. All appropriate measures should be identified without bias, including those proposed or suggested by different interest groups. Both structural and nonstructural means will be given equal consideration. In addition, the range of management measures should not be constrained by considering only those traditionally used by the Corps.

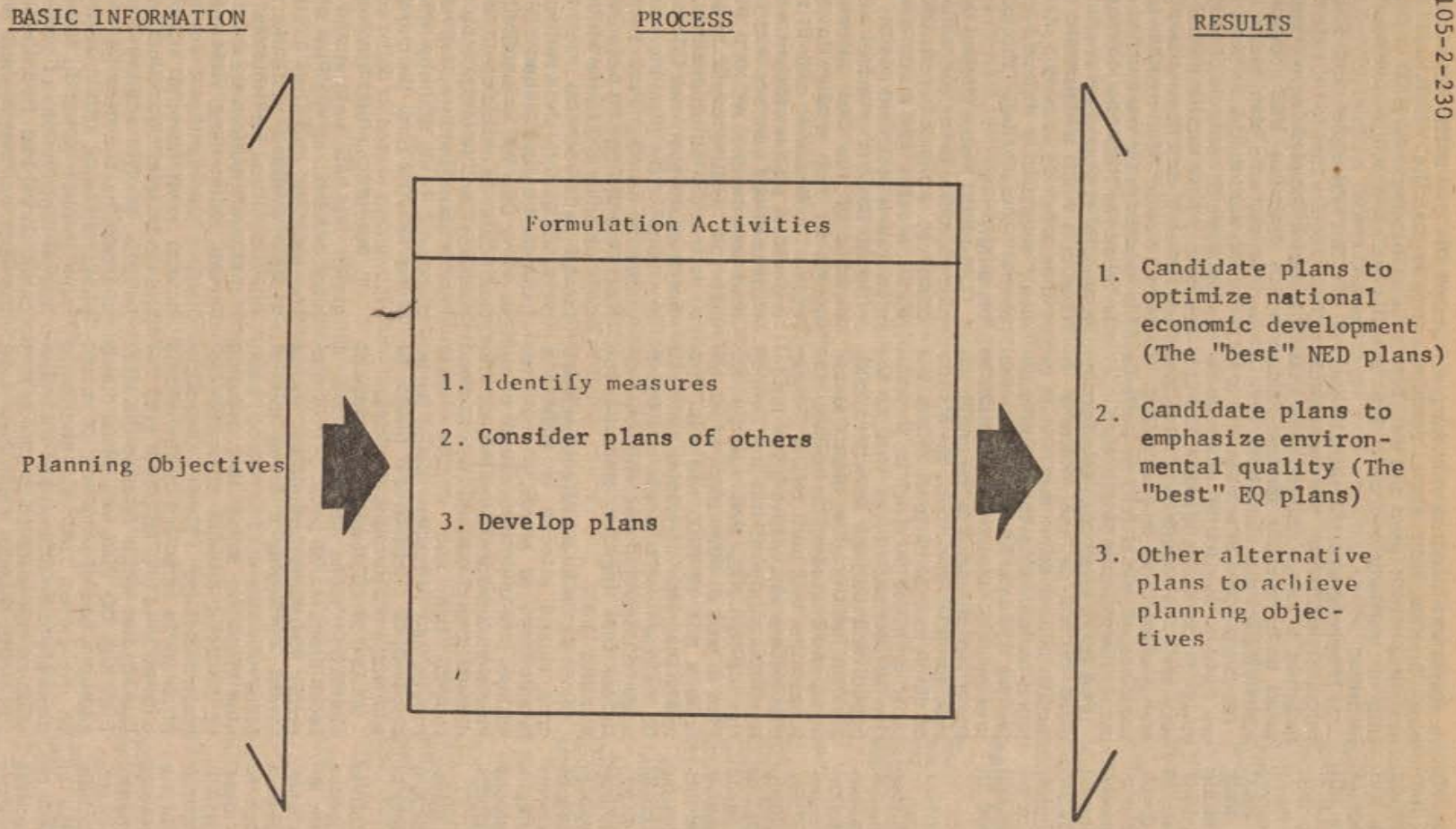

Figure 1: Formulation of Alternatives

This activity should receive considerable attention during the initial iterations of the planning process. During the final iterations, this activity will be less critical because the range of measures applicable to the study will be reduced and more precise.

§ 293.6 Consider plans of others.

Federal, state, regional, and local governmental agencies may have plans, or parts thereof, for addressing the planning objectives of the study area. Public and private organizations may also have proposals or fully developed alternatives that should be considered during the planning process. Such plans or portions thereof should be included, where appropriate, in formulating the alternative plans. Judgement must be exercised to determine which of the proposals are viable and if they should be carried forward in the planning process.

§ 293.7 Develop plans.

This activity is crucial to each iteration since it is through combining different measures into resource management systems that alternatives are formulated to address the planning objectives. The "most probable future" employed to form the basis for establishing the planning objectives should be kept in mind during this process to aid in developing plans to complement it as well as serving as one basis for subsequently evaluating the alternative plans developed. During the initial iterations of planning, combining different measures will result in a preliminary range of alternatives for managing resources. During all subsequent iterations, most definitive systems made up by linking or combining a number of measures will be developed by applying the reformulation criteria discussed in this section.

(a) Combining the appropriate measures into alternative management systems should generally be sequenced as follows:

(1) Initially, measures that address more than one planning objective should be specified. This requires selecting a particular measure and determining the objectives it does and does not address. Care must be taken to identify conflicts between these measures and to enhance their compatibility to the extent possible. If irreconcilable conflicts between measures are apparent, the more desirable measure based on subsequent impact assessment and evaluation should be retained. After combining compatible measures that address a number of planning objectives, analysis should be conducted to establish those objectives that have not been fully or partially addressed and those for which additional measures should be considered.

(2) The second level of developing plans involves combining compatible measures which address only one planning objective. As a check, planning objectives which have not yet been fully or partially addressed will be identified.

(3) If appropriate, the third step involves reanalyzing the applicable measures to select and add ones that would be appropriate for more fully addressing the planning objectives.

(4) The purpose of this activity is to set forth a number of different resource management systems. The systems are to be composed of structural and nonstructural measures that, if implemented, would fully or partially satisfy the planning objectives.

(5) A major element in this development process is the necessity to modity, add, or delete measures in relation to addressing the planning objectives. The interactions among measures must be analyzed in relation to the criteria discussed in the evaluation task. As stated previously, the activity of developing plans must reflect the other activities involved in formulation of alternatives, as well as the imputs and outputs associated with problem identification, impact assessment, and evaluation. In addition, the formulation task must reflect the specific criteria established below for reformulating alternatives to develop the required NED Plan and the EQ Plan as well as other plans which address a mix of NED and EQ. This means that while developing plans can be expressed as a single activity, it must be integrated with the other activities that together comprise the planning tasks.

(b) All of the alternative plans developed should attempt to address a broad range of planning objectives without bias as to the economic or environmental nature of the output. Traditional project outputs such as flood control, fish and wildlife, water supply, and recreation should be included in all alternatives if related to addressing the planning objectives.

(c) As a practical guide, the range of alternative plans should reflect a broad spectrum of publicly held concerns. Therefore, formulation should involve developing a broad mix of plans reflecting the full range of planning objectives rather than focusing on justifying a single alternative for recommendation. These alternative plans are to be guided by the criteria outlined in (d), (e) and (f) of § 293.7 of this chapter which describe the NED Plan, the EQ Plan, and plans which address a mix of objectives. It should be recognized that all alternative plans are to be subjected to the evaluation criteria specified in § 295.8, Part 295 of this chapter, which may result in further modification of plans in the interest of meeting the criteria. For example, mitigation of the adverse effects of either an NED or EQ Plan to meet the evaluation criteria may be greater than that which would be provided if incremental NED or EQ benefits alone are required to exceed incremental costs.

(d) The Principles and Standards (P&S) require that to the extent possible during the planning process a plan which optimizes NED contributions and at least one plan which emphasizes EQ contributions will be formulated. Since the outputs of alternative plans may have varying economic consequences, it may be necessary to consider a number of alternatives as possible candidates for the detailed plan to be called the NED Plan. Because environmental consequences are not measured in a single standardized unit, it will be necessary to carry a number of plans emphasizing different environmental consequences through the planning process.

(1) An NED Plan addresses the planning objectives in the way which maximizes net economic benefits. Net economic benefits are maximized when plan scale is optimized and the plan is efficient. Scale is optimized when the benefits of the last increment of output for each measure in the plan equals the economic costs of that increment. A plan is efficient when the outputs of the plan are achieved in a least cost manner. An NED Plan will have net positive economic benefits. As is true for all alternatives, sound design based upon the interdisciplinary inputs of the planning team is required for an NED Plan. Because an NED Plan includes all measures to address planning objectives whose incremental dollar benefits exceed dollar costs, mitigation, preservation, or enhancement measures should be included when they are economically justified. Examples of this would be buying additional land to mitigate for wildlife habitat inundated by a reservoir or replacement of a highway when the dollar benefits from the purchase or replacement exceed its dollar costs.

(2) Recognizing that environmental quality has both natural and human manifestations, an EQ Plan addresses the planning objectives in the way which emphasizes aesthetic, ecological, and cultural contributions. Beneficial EQ contributions are made by preserving, maintaining, restoring or enhancing the significant cultural and natural environmental attributes of the study area. Determination of EQ benefits involves subjective analysis, underscoring the need for interdisciplinary planning with extensive public input to place values on the environmental contributions of plans. Designating an EQ Plan involves measuring the environmental changes related to different plans and selecting the plan which, based on public input, contributes to or is most harmonious with environmental objectives. This means

that candidate EQ Plans must make net positive contributions to the components of the EQ account. At a minimum, an alternative plan must make net positive contributions to the EQ account in order to be designated the EQ Plan.

(3) In some studies, it may be impossible to develop a plan that meets the minimum requirements for designating an EQ Plan; i.e., a plan that makes net positive contributions to the EQ account. In those cases, the plan which is least damaging to the environment will be identified.

(4) Because the general criteria used for the NED Plan and the EQ Plan are different, the measures contained in the plans will generally differ. There may be cases, however, when the two plans will be similar if not identical. This may occur when the measures contained in a NED Plan have little or no adverse environmental impact or, alternatively, they make important contributions to components of the EQ objective. Like a NED Plan, an EQ Plan may contain environmental preservation or enhancement measures which utilize the potential created by other measures to serve other component needs. Unlike a NED Plan, however, such measures may be justified in terms of environmental benefits not measureable in dollar terms compared to their costs. The acquisition of an area for habitat mitigation, cited under the NED Plan discussion, is also an appropriate example here. The justification for inclusion of such a measure in an EQ Plan may be based upon benefits not measurable in dollars. An EQ Plan is not a "do nothing" plan or a plan to maintain existing conditions. However, the management option of no action, letting the "without condition" occur, will be considered throughout the plan formulation process for purpose of comparison. Specific provisions are made for deriving a "no development" plan in § 293.7 of this chapter.

(e) Plans which serve significantly different mixes of NED and EQ should be formulated so as to not overlook the best plan. When considering alternative plans which reflect major trade-offs between NED and EQ, the addition of complementary measures to serve other planning objectives may considerably enhance the plan. An example is adding measures which contribute to EQ without reducing the economic effectiveness of the plan such as beautification of channel works through design modification and landscaping. These measures have often been found essential to make a structural solution to the problem acceptable to local interests. A basic question in formulating plans which address mixes of NED and EQ is the extent to which the planner should trade off economic benefits and incur additional economic costs to avoid adverse impacts on environmental quality or to provide environmental quality benefits. This is a difficult problem because environmental quality values are subjective and cannot be valued in explicit monetary terms. Yet when dollar costs or benefits are traded off for environmental considerations, an implicit evaluation is made that the net benefits are worth the dollar cost to obtain them. There will be uncertainty as to what the public consensus may be regarding trade-offs, and decisions cannot be reached until the range of trade-offs is shown to the public. Therefore, a variety of alternative plans should be initially developed which appear to represent the preferences of the various publics. During subsequent iterations, the alternatives can be refined and those which lack significant public support can be eliminated. The number of alternatives which address a mix of NED and EQ to be carried through to the end of the planning process is a function of both the diversity of public and professional expressions and the characteristics of the outputs possible for the measure available to address the planning objectives.

(f) The P&S also permit formulation of alternative plans "reflecting significant physical, technological, legal, or public policy constraints." This permits developing an alternative plan which provides a level of flood control protection greater than that which maximizes net benefits. Such an alternative would trade off NED for Social Well-Being (SWB); i.e., life, health, and safety benefits and thus can not be the NED Plan.

(g) Plans employing nonstructural measures should be formulated if they are economically and/or environmentally sound. While purely nonstructural alternatives may not provide workable solutions, alternatives which place heavy emphasis on nonstructural measures may be highly effective in meeting the planning objectives. As indicated elsewhere, nonstructural measures will be considered without bias throughtout the process and if a detailed plan is developed which primarily employs nonstructural measures it may be labeled a "nonstructural plan." Even if a "nonstructural plan" is not developed, the report of the District Engineer will fully describe how nonstructural measures were considered throughout the planning process and the role they played in the development and selection of the recommended plan.

(h) In formulating plans to increase beneficial contribution to the EQ account, consideration may be given to an alternative which explicitly precludes any significant forms of physical construction or development. Where such a "no development" alternative is considered, positive action normally will be required to assure that the "no development" concept can be realized. Environmental characteristics that the plan is designed to maintain or enhance through the "no development" alternative may change through time as a result of changing conditions within a planning setting. Positive actions, such as zoning or public land acquisition, may be necessary to accomplish the "no development" alternative.

§ 293.8 Effective date.

This regulation is effective January 1, 1979. The provisions of § 290.12 of this chapter are applicable to this regulation.

PART 294—IMPACT ASSESSMENT (ER 1105-2-240)

Sec.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 294.1 Purpose.

This regulation provides guidance on the assessment of impacts of alternative plans in multiobjective planning, consistent with the WRC Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPA), and related policies.

§ 294.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 294.3 References.

(a) Title I, Pub. L. 91-190, National Environmental Policy Act, January 1, 1970 (83 Stat. 852).

(b) Section 122, Pub. L. 91-611, River and Harbor and Flood Control Act of 1970, December 31, 1970 (84 Stat. 1818).

(c) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290).

(d) ER 1105-2-507, Environmental Impact Statements (33 CFR 209.410).

§ 294.4 Relationship of guidelines for effect assessment pursuant to section 122, Pub. L. 91-611.

Guidelines developed to meet the requirements of section 122, Pub. L. 91-611, as approved by the Secretary of the Army, were originally issued on September 28, 1972. These guidelines are superseded by the ER 1105-2-200 series of regulations.

§ 294.5 Relationship to preparation of an environmental impact statement (EIS).

This regulation provides general guidelines which are to be utilized in conjunction with ER 1105-2-507 in the conduct of environmental assessments and preparation of Environmental Impact Statements (EIS).

§ 294.6 General.

Impact assessment is primarily an objective analysis conducted to identify and measure the likely economic, social, and environmental impacts expected to result from implementation of alternative plans. These impacts form the basis for determining the beneficial and adverse contributions of the plans during the Evaluation task. Each of the alternative plans will be analyzed in relation to the "without condition" to determine expected changes. During impact assessment it is often times necessary to expand and more specifically define the parameters of the "without condition" as established in the Problem Identification task. For example, the "without condition" described in Task 1 may have water quality identified only as meeting state standards; but, for comparison, information is needed during impact assessment on specifics of the standards such as turbidity, BOD and water temperature. In any event, a consistent description of the "without condition" must be established. Based on the foregoing information, the "with condition" and "without condition" will be compared. The difference in each pertinent parameter between the "with condition" and the "without condition" is the impact of the plan. The assessment will be commensurate with the level of detail of the alternatives. Assessment reflects increasing precision as it is conducted during the later iterations of the planning tasks in Stage 2 and throughout Stage 3. The following paragraphs discuss the activities included in impact assessment, as depicted in Figure 1.

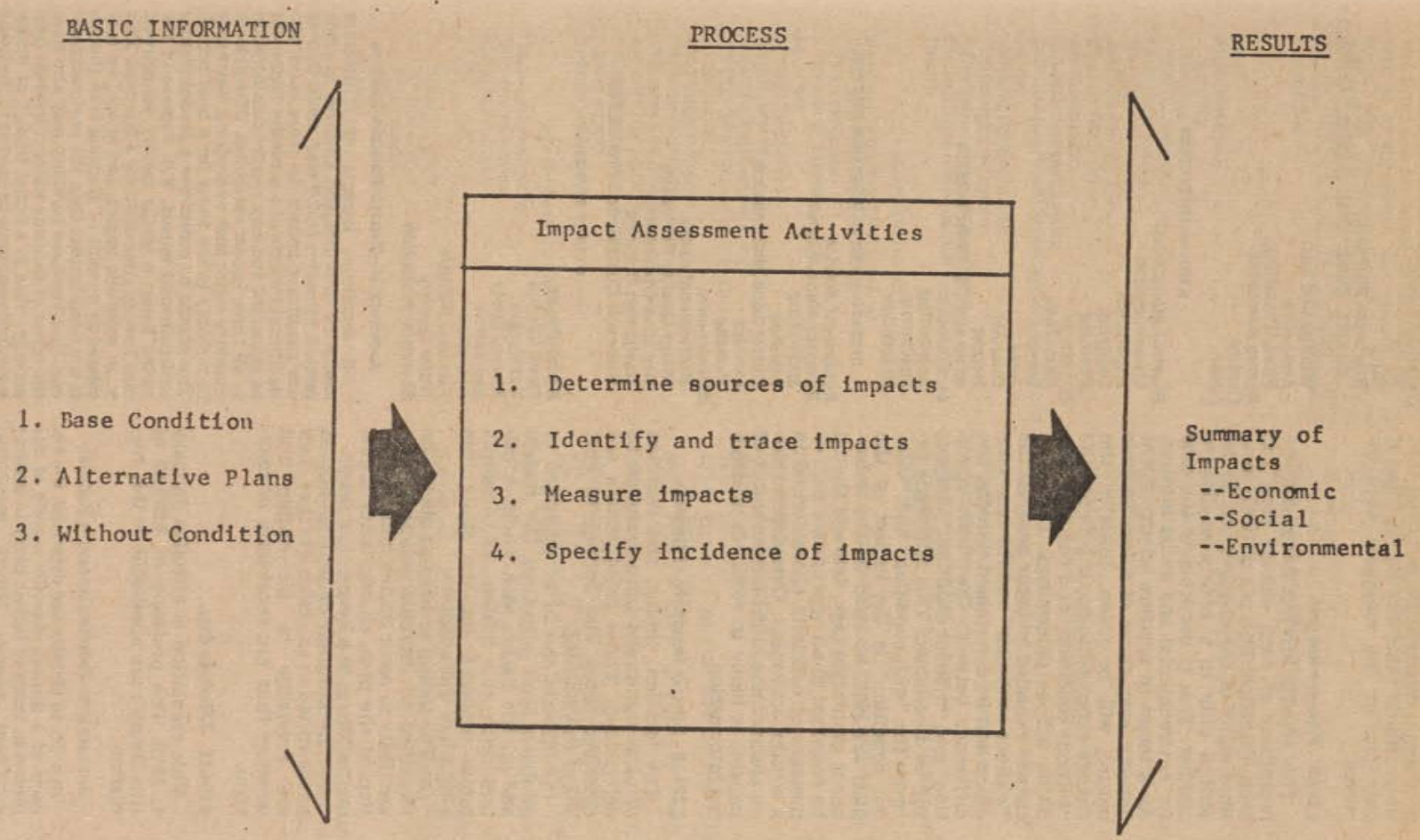

Figure 1: Impact Assessment

§ 294.7 Determine sources of impacts.

Each alternative and its component measures should be analyzed to determine potential sources of impacts. Impacts can be caused by the inputs required to carry out a measure, by the measure itself, or by the outputs resulting from it. Inputs generally include the natural resources, energy, labor, and capital that are necessary to implement a proposed management system. Outputs are the services or products such as water supply, recreation, flood control, open space, historic preservation, and the like, delivered by the plan, specified in terms of quantity and, if appropriate, quality. During this activity, particular attention must be given to identifying and categorizing all relevant sources of impact, especially in terms of the inputs and outputs associated with the measures. The information surfaced during this activity, specified by type, location, and size, forms the basis for assessment. Appendix A provides a suggestive source list of causative factors.

§ 294.8 Identify and trace impacts.

For each alternative plan, compare its inputs, measures, and outputs to the "without condition" to determine whether a change can be forecasted as a consequence of the plan. This requires tracing each cause to determine all of its significant impacts. Appendix B provides an illustrative listing of impacts which could occur. In most instances, the analysis will require tracing out an intricate network of causes and impacts to the extent practicable. Tracing out causes and impacts should be tempered so that only significant impacts are ultimately considered. Cause-impact analysis should surface all significant changes.

(a) Significance is established by determining if an impact could have a material bearing on decision making. Care must be taken to include necessary information on the one hand, but to avoid overloading the process on the other. The scarcity, fragility, or resiliency of the resources of the study area must also be considered in establishing the significance of impacts. Even though impact assessment is essentially an objective undertaking, determining whether an impact is significant or not must also reflect publicly held values.

(b) Identifying impacts should also reflect that an alternative plan or component measure thereof may not result in changing the "without condition". If no change from the "without condition" is projected, its significance should also be analyzed and the lack of change should be reflected in the subsequent assessment activities. It is particularly important for the analysis to specify instances when no net change occurs, especially in cases where the combined use of two measures, such as a dam and a fish ladder, produces a different impact than that which would otherwise be expected if only one of the measures were involved.

§ 294.9 Measure impacts.

This activity involves describing the magnitude of each change that has been identified. This is a difficult task, since many of the changes can be described only in a highly qualitative manner. This is particularly the case for environmental and social impacts. An attempt to measure all significant impacts, even those of a less tangible nature, will be made. Initially, the change expected to occur between the "without condition" and the base condition will be determined. Then, the change expected to occur between the "without condition" and the base condition will be determined. Finally, the difference between the "with condition" and "without condition" changes will be determined. This difference between the "with condition" and "without condition" is the impact of the plan and will be used in the subsequent evaluation task. Impacts should be described in an appropriate unit of measure or concisely characterized in a written statement. Over-dependence on abstract numerical measurement of impacts is likely to result in misleading information.

§ 294.10 Specify incidence of impacts.

The location, timing, and duration of each significant impact should be determined. These requirements are described below and defined in Part 393 of this chapter.

(a) Impacts should be described to establish their effect on the region, and on the nation as a whole, consistent with the System of Accounts tables prepared for the study (see § 393.20, of this chapter).

(b) The timing of impacts should be identified to establish whether they are likely to occur during implementation of the plan, shortly after implementation, or in a longer time frame.

(c) The duration of impacts should be identified to establish whether they are reversible or irreversible and whether they are short-term or long-term.

§ 294.11 Effective date.

This regulation is effective January 1, 1979. The provision of § 290.12 of this chapter are applicable to this regulation.

APPENDIX A—SAMPLE CAUSATIVE FACTORS

In order to identify and determine the impacts of a project, describe aspects of the project in terms of factors likely to produce significant impact. Impact assessment should not be carried out in greater detail than the alterative measure being considered. The list below is illustrative. It is not to be considered complete or limiting.

INPUT FACTORS

Natural Resources:
- Water
- Land
- Resources Products:
  - Gravel, Sand, Coal, Timber, Crushed Rock.
- Wildlife and Fish
- Aesthetics
- Flora (Plantlife)

Energy Resources
Capital
Labor

SYSTEMATIC FACTORS

Physical Alterations:
- Channelization
- Excavation
- Dredging
- Draining

Structures:
- Dam/Lake
- Levee
- Jetty
- Channel
- Barrier
- Road and Utility Relocation

Institutional:
- Acquisition
- Easements
- Relocation

OPERATION AND MAINTENANCE FACTORS

Equipment Service
Resource Management:
- Harvesting
- Planting
- Buffer Zone Maintenance
- Grazing
- Fencing

Maintenance:
- Recreational Areas
- Water Quality Protection
- Dredging Operations
- Navigation Controls
- Reservoir Controls and Procedures

OUTPUT FACTORS

Hydro-Power
Flood Control
Navigation
Water Supply
Recreation
Irrigation
Fish and Wildlife
Water Quality
Shoreline Protection

APPENDIX B—SAMPLE PROJECT IMPACTS

All significant impacts of a measure should be identified and assessed. In some cases, a causative factor may result in only one significant impact. In other cases, the significant impacts of a causative factor will be numerous and may require consideration in all three impact categories. (Example: A causative factor such as dredging may result in turbidity in the water for a brief period. This should be considered a predominantly environmental impact. Yet, because of the turbid water, a textile factory downstream may have to close down for a few days. This is an economic impact, and should be considered as a result of dredging even though it is a lesser impact than the environmental one. The increased turbidity may also have the effect of reducing water recreation temporarily. This is a social impact of dredging.) Judgment must be used as to the limits of tracing out impacts. Generally, the degree of detail involved in assessment should be no greater than that of the plan it addresses.

An asterisk denotes items specifically mentioned in section 122. These must be identified and evaluated. If they are considered to be significant, that should also be noted. Other impacts should be identified and evaluated only if they are considered to be significant. The list below is an illustrative one. It is not to be considered complete or limiting.

SOCIAL IMPACTS

*Noise
Population, e.g.:
  Mobility
  Density
  *Displacement of people
*Aesthetic values
Housing
Archeologic remains
Historic Structures
Transportation
Education opportunities
Leisure opportunities (recreation, active and passive)
Cultural opportunities
*Community cohesion
*(Desirable) community growth
Institutional relationships
Health

ECONOMIC IMPACTS

National Economic Development
Local government finance, e.g.:
  *Tax revenues
  *Property values
Land use
*Public Facilities
*Public services
Local/regional activity, e.g.:
  *(Desirable) regional growth
  Relocation
Real income distribution
*Employment/labor force
*Business and industrial activity
Agricultural activity:
  *Displacement of farms
  Food supply
National defense

ENVIRONMENTAL IMPACTS

*Man-made resources
*Natural resources
Pollution aspects:
  *Air:
    CO
    Sulphur oxides
    Hydrocarbons
    Particulates
    Photochemicals
  *Water:
    Pathogenic agents
    Nutrients N and P
    Pesticides, herbicides, rodenticides
    Organic materials
    Solids, dissolved and suspended
  Land: Soils
Animal and Plant:
  Birds
  Mammals
  Amphibians
  Fish, sport and commercial
  Shellfish
  Insects
  Microfauna
  Trees, shrubs and plants
  Microflora
Ecosystems:
  Habitats
  Food chains
  Productivity
  Diversity
  Stability
Physical and Hydrologic aspects:
  Erosion
  Erosion and sediment effects
  Compaction and subsidence
  Slope stability
  Groundwater regime and alteration
  Surface flow effects
  Micrometeorological effects
  Physiologic changes (e.g., wetlands destruction)

PART 295—EVALUATION (ER 1105-2-250)

Sec.
295.1 Purpose.
295.2 Applicability.
295.3 References.
295.4 General.
295.5 Period of analysis and interest rate for evaluation.
295.6 Appraise planning objective fulfillment.
295.7 Appraise system of accounts contributions.
295.8 Apply specified evaluation criteria.
295.9 Perform Trade-off analysis.
295.10 Designate the NED plan and the EQ plan.
295.11 Procedure to be followed when reiterating planning tasks.
295.12 Effective date.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Resources, 38 FR 24778-24869, September 10, 1973.

§ 295.1 Purpose.

This regulation provides guidance on the evaluation of alternative plans in multiobjective planning, consistent with the Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPA), and related policies.

§ 295.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 295.3 References.

(a) ER 1105-2-180, Wastewater Collection and Treatment Policy (33 CFR Part 275).
(b) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290).
(c) ER 1105-2-210, Plan Development stage (33 CFR Part 291).
(d) ER 1105-2-230, Formulation of Alternatives (33 CFR Part 293).
(e) ER 1105-2-240, Impact Assessment (33 CFR Part 294).
(f) ER 1105-2-921, System of Accounts (33 CFR Part 393).

§ 295.4 General.

Evaluation involves determining the beneficial and adverse contributions of each alternative plan. In evaluation, the impacts of each alternative and the impacts of the "without condition" are compared to determine the value of the contributions each plan would make when compared with what would happen in the absence of carrying out any of the plans. Then the relative contributions of the alternative plans are ranked and traded-off based on professional analysis and the perceptions of the public. At the conclusion of the planning process, the results of the evaluation provide the basis for selecting the most desirable plan and, if appropriate, recommending its implementation. A System of Accounts which will be used for displaying the results of this activity throughout a study, is discussed in Part 393 of this chapter. The evaluation task is depicted in Figure 1. Sections 6 thru 10 of this chapter discuss the activities included in evaluation.

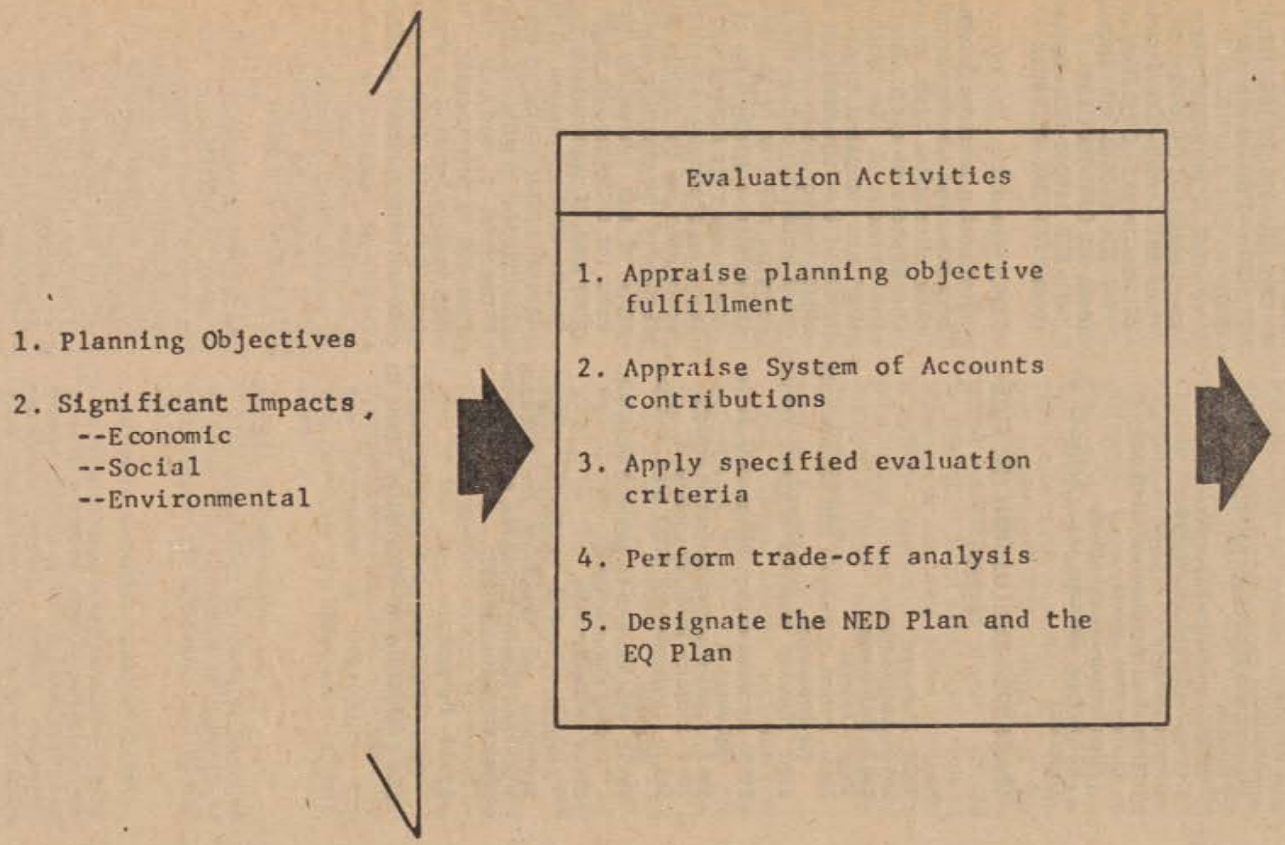

Figure 1: Evaluation

§ 295.5 Period of analysis and interest rate for evaluation.

(a) A 100-year period will be used for evaluation of major reservoirs, main line agricultural levees, local flood control in urban areas, and hurricane protection. A 20-year period will be used for cost-effective analysis of wastewater collection and treatment facilities (see part 275 of this chapter). The period of analysis to be used for economic evaluation of nonstructural measures shall be no longer than 100 years. A 50-year period of analysis will be used in all other cases. The period of analysis used for evaluation, however, will in no case exceed the estimated useful life of the measures being evaluated.

(b) Interest rates for evaluation are established annually by the Water Resources Council. Guidance on interest rates is published annually by DAEN-CWP in an engineer circular, following publication of the new rate in the FEDERAL REGISTER.

§ 295.6 Appraise planning objective fulfillment.

The first evaluation activity is to determine the relationship of the impacts of alternative plans to the planning objectives. Establishing the extent to which alternatives satisfy the objectives involves comparing the impacts of the plans and making a subjective judgment regarding the degree of satisfaction. Subjective judgments must reflect both professional analysis and public perceptions about how well the planning objectives are addressed. The purpose of this activity is to provide information about objective fulfillment as a basis for redirecting subsequent iterations to recast the objectives or to consider different measures that more adequately address the objectives.

(a) The appraisal of planning objective fulfillment initially involves comparing the significant impacts, both intended and unintended, of each alternative plan to the planning objectives. If an impact is related to an objective, then the degree of objective fulfillment should be determined. Possible methods for accomplishing this are by establishing a scale and measuring objective fulfillment in relation to it, by describing the degree of fulfillment or by making a subjective ranking of fulfillment. Then the net effect of the alternative in relation to the objective will be established by aggregating the separate impacts and subjectively determining the extent to which a net beneficial or adverse contribution will be made by the alternative. This process will be repeated for all objectives on which the alternative plan impacts and subsequently for each plan until the net effect of each plan on all the planning objectives is established.

(b) One aspect of the appraisal is to distinguish between what could be actual or potential contributions of the alternatives. An actual contribution is one that will occur as a result of a plan either under the auspices of a governmental agency or through the normal working of the economic system. A potential contribution is one that requires additional positive action by another agency or entity. This identification of contributions is important for reiteration of the planning tasks (see § 295.11).

(c) Establishing the degree of net beneficial or adverse contributions does not necessary involve a numercal measure. When appropriate, numbers may be used in measuring contributions. However, many contributions may be expressed only in terms of ordinal differences such as "high, medium, or low" or in terms of net effects such as "beneficial or adverse". An overdependence on numerical relationships is not necessary, and may not be appropriate. Discretion must be exercised when using any form of depicting objective fulfullment.

§ 295.7 Appraise system of accounts contributions.

The significant impacts of each plan will be evaluated to establish the plan's contributions to the National Economic Development (NED), Environmental Quality (EQ), Regional Development (RD), and Social Well-Being (SWB) accounts of the Principles and Standards (P&S). In general, the process followed in appraising planning objective fulfillment will be repeated to accomplish this activity. Identifying contributions to the four accounts involves a wide range of uncertainties which should be specified quantitatively or qualitatively, including who gains or loses, locational incidence, and time of occurrence. Because they are especially critical to the efficacy of the overall planning process, unintended contributions should also be identified. If the unintended contribution is significantly beneficial, it suggests the existence of previously unidentified concerns that reformulation could potentially address more fully. However, if the unintended contribution is significantly adverse, further reformulation is indicated.

§ 295.8 Apply specified evaluation criteria.

The third evaluation activity involves applying specified criteria to the alternative plans to test their responsiveness. These criteria are: Acceptability, completeness, effectiveness, and efficiency, as explicitly stated in the P&S; and certainty, geographic scope, NED benefit-cost ratio, reversibility, and stability, which are derived from the first four.

(a) Acceptability of a plan is determined by analyzing its acceptance by concerned publics. A plan is acceptable if it is, or will likely be, supported by some significant segment of the public. However, during reiterations of the planning tasks, every attempt should be made to eliminate, to the extent possible, unacceptability to any significant segment ot the public.

(b) The completeness of a plan is determined by analyzing whether all necessary investments or other actions necessary to assure full attainment of the plan have been incorporated.

(c) The effectiveness of a plan is determined by analyzing the technical performance of a plan and its contributions to the planning objectives and to the System of Accounts.

(d) The efficiency of a plan is determined by analyzing its ability to achieve the planning objectives and NED and EQ outputs in the least cost way.

(e) The certainty of a plan is determined by analyzing in general terms the likelihood that if the plan is implemented the planning objectives and the contributions to the NED and EQ accounts will be attained.

(f) The geographic scope is determined by analyzing the relevancy of the geographic area encompassed by the plan; it must be large enough to encompass a full understanding of the problems and focused enough to make the proposed solutions effective.

(g) The NED benefit-cost ratio of a plan is determined by analyzing the economic benefits in relationship to the economic costs.

(h) The reversibility of a plan is determined by analyzing the capability, as public needs and values change or should unusual future circumstances so warrant, of restoring the partially or fully implemented plan to approximate the "without condition".

(i) The stability of a plan is determined by analyzing the range of alternative futures, data and/or assumptions which can be meaningfully accommodated within the recommended plan or minor modifications thereof. Greater stability generally indicates a more desirable plan.

§ 295.9 Perform trade-off analysis.

Subsequent to identifying the contributions of the alternative plans to the planning objectives and the System of Accounts and establishing their response to the specific evaluation criteria, trade-off analysis will be conducted to analyze the comparative contributions of the alternative plans. When this has been accomplished for each alternative, the resulting information should be compiled so that what is gained or foregone by choosing a given alternative over other alternatives is clearly set forth.

(a) To accomplish this activity, monetary units, numerical data, and qualitative information will be compared.

Monetary relationships are only one part of the trade-off analysis; major aspects of the analysis will involve the consideration of qualitative information regarding the social and environmental values of each plan. Although more difficult to analyze, this information must be considered equally with the more tangible economic and engineering data.

(b) Trade-offs will involve subjective judgments and must therefore reflect public preferences. Through incorporation of public inputs, the trade-off analysis should surface the alternative or alternatives which appear to be the most acceptable to major segments of the public.

§ 295.10 Designate the NED Plan and the EQ Plan.

The alternative plans which appear to best meet the criteria for the NED Plan and the EQ Plan (as stated in Part 293 of this chapter) should be designated as a basis for subsequent iterations. This requires analyzing the overall economic and environmental contributions of each alternative when compared to the "without condition." The plans that result in the maximum net economic return will be candidates for the NED Plan. The plans that emphasize environmental contributions and, at a minimum make net positive contributions to the EQ account, will be candidates for designation as the EQ Plan. If it is impossible to designate an EQ Plan that meets the specified criteria, the plan least damaging to the environment will be identified. (See Part 293 of this chapter for further guidance.) The designation of the NED Plan can be made based on analysis of the economic returns to each alternative. The designation of the EQ Plan is subjective and must reflect societal preferences for the environmental contributions of the alternative plans. The NED Plan and the EQ Plan could be similar in certain instances where both sets of criteria are met by the same measures.

§ 295.11 Procedures to be followed when reiterating planning tasks.

The results of each iteration of the planning tasks will be analyzed to establish the necessity for or direction of the next iteration. If reiteration is to be undertaken, it will be necessary to establish which plans will be carried forward and the criteria that will be applied to their reformulation. This determination will be based on the results of the evaluation activities and the public's perceptions of the alternatives. Generally, reiteration will be undertaken for three reasons. Principally, reiteration will be undertaken to develop more precise and detailed plans that more fully address the planning objectives within the constraints of the study. Secondly, reiterations will be undertaken to attempt to reduce the significant adverse economic, social, and environmental impacts of the alternative plans. And thirdly, reiterations may be undertaken to increase the RD and SWB benefits of alternative plans, only in those specific cases when prior approval from the Secretary of the Army has been obtained.

(a) For all alternatives to be carried through to the next iteration, the specificity of the plans should be increased. This is accomplished by more precisely defining the planning objectives and by more fully exploring the range of means for addressing them. In addition, reiterating the planning tasks should be directed toward changing "potential" benefits into "actual" benefits, as well as reducing the uncertainties associated with the alternative plans. The following criteria will be applied to the reformulation of alternatives designated as the NED Plan and the EQ Plan, including those plans which address a mix of the two national objectives:

(1) For the alternative designated as the NED Plan, add new measures or modify or delete those already employed to develop a plan which is fully implementable and represents the best plan that can be formulated on the basis of economic criteria alone. To accomplish this, the following should be carried out in sequence during the subsequent formulation activity:

(i) Attempt to increase net NED benefits by analyzing the incremental benefits and costs of each measure and by making appropriate adjustments.

(ii) Without reducing the level of net NED benefits, attempt to increase net EQ benefits taking into consideration the full range of EQ costs.

(iii) Without reducing the level of either net NED or EQ benefits, seek the best combination of SWB and RD benefits possible.

(iv) Reduce adverse effects on RD and SWB to extent possible without incurring unreasonable losses in net NED or EQ benefits.

(2) For the alternative designated as the EQ Plan, add new measures, or modify or delete those already employed, to develop a plan which is fully implementable and represents the best plan that can be formulated on the basis of environmental criteria alone. To accomplish this, the following should be carried out in sequence during the subsequent formulation activity:

(i) Attempt to increase net EQ benefits, taking into consideration the full range of EQ costs.

(ii) Without reducing net EQ benefits or incurring additional EQ costs, attempt to increase the net NED benefits.

(iii) Without reducing either the net EQ or the level of net NED benefits, seek the best combination of SWB and RD benefits possible.

(iv) Reduce adverse effects on RD and SWB to extent possible, without incurring unreasonable losses in net NED or EQ benefits.

(3) For the alternatives that address a mix of the two national objectives, add new measures, or modify or delete those already employed, to develop plans which can be fully implemented and represent a viable mix of NED and EQ. To accomplish this, the following should be carried out in sequence during the subsequent formulation activity:

(i) Attempt to increase net EQ and/or net NED benefits.

(ii) Without reducing the level of either net EQ or net NED benefits, achieve the best combination of SWB and RD benefits possible.

(iii) Reduce adverse effects on RD and SWB to extent possible without incurring unreasonable losses in net NED and EQ benefits. This means that net EQ or NED benefits may be reduced to offset adverse RD or SWB effects only when the NED or EQ cost incurred, or benefits foregone, are less than the RD or SWB adverse effects reduced.

(b) As stated above, and discussed more fully in Part 291 of this chapter, positive RD and SWB effects can only be pursued when specifically approved by higher authority.

(c) When significant adverse impacts cannot be avoided, reiteration should surface viable mitigation measures. Mitigation will always be based on adverse impacts; that is, change measured from the "without condition". When mitigation is necessary, the following action must be taken:

(1) For significant water-related adverse impacts which cannot be eliminated by further planning iterations, consider mitigation actions based on the Corps' initiative rather than waiting to respond to technical questions or concerns raised by another public entity. This action is required by § 294.8 of this chapter.

(2) For significant non-water related adverse impacts outside the normal range of Corps' planning, assistance from other Federal, State and local agencies is to be sought regarding pertinent means to address or mitigate the adversity in question.

§ 295.12 Effective date.

This regulation is effective January 1, 1979. The provisions of § 290.12, of this chapter, are applicable to this regulation.

PART 393—FEASIBILITY REPORTS: SYSTEM OF ACCOUNTS (ER 1105-2-921)

Sec.
393.1 Purpose.
393.2 Applicability.

Sec.

AUTHORITY: Water Resources Council, Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869, September 10, 1973.

§ 393.1 Purpose.

This regulation provides guidelines for reporting the results of evaluating alternative plans, consistent with the requirements of the WRC Principles and Standards (P&S), The National Environmental Policy Act of 1969 (NEPA), and related policies.

§ 393.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 393.3 References.

(a) ER 1105-2-200, Multiobjective Planning Framework (33 CFR Part 290).

(b) ER 1105-2-220, Problem Identification (33 CFR Part 292).

(c) ER 1105-2-240, Impact Assessment (33 CFR Part 294).

(d) ER 1105-2-250, Evaluation (33 CFR Part 295).

(e) ER 1165-2-6.

(f) EM 1120-2-112.

§ 393.4 Function of the system of accounts.

The System of Accounts (SA) is a display requirement of the P&S and is integral to the iterative planning process established by section 393.3(a). The SA has two primary functions: First, the final SA displays the significant beneficial and adverse impacts of alternative plans for the purpose of trade-off analysis and decisionmaking. Second, interim SAs can be effectively used at the end of each iteration to display the information developed to that point and to determine what is still to be accomplished. Thus, the SA is prepared with increasing refinement and detail as the study progresses.

§ 393.5 General.

The SA can display only a limited amount of the information derived during the planning process. Therefore, the interdisciplinary planning team will be allowed considerable latitude in the format and level of detail of the SA. Most of its content results from the evaluation or significant impacts. Thus, only significant beneficial and adverse contributions will be displayed. In addition, the SA must describe each alternative carried through Stage 3; display the planning objectives; present each plan's performance against the specified evaluation criteria, i.e., indicate the timing, geographical, incidence, uncertainty, exclusivity, and actuality associated with the evaluation of significant impacts, as discussed in Part 295 of this chapter. Because the SA does not include all information, this ER does not affect display requirements established in other regulations. However, the SA satisfies the display requirements of section 122 guidance (see significant impacts indicated by an asterisk in Appendix B, Part 294 of this chapter.)

This regulation supersedes ER 1105-2-921, November 10, 1975.

§ 393.6 Suggested tables.

Although no rigid format is required, two suggested tables are presented.

(a) Table 1 will be general and brief. It will present the crucial and determinative factors that underly each final alternative and are relevant to plan selection. This table is intended for decision-makers and the general public. Therefore, it should be presented in the conclusions section of the main report.

(b) Table 2 will display the breadth and detail of the assessment and evaluation of final alternative plans. It will cover all significant impacts. This table is intended for reviewers and others who wish to determine the comprehensiveness of the planning and the trade-offs among plans. It should be presented in the evaluation section of the report.

ER 1105-2-921

Table 1 - Summary Comparison of Final Alternative Plans

	Base Condition (Designate Year(s))	Without Condition No action (Most Probable Alternative Future)	With Condition Plans		
			Plan A	Plan B	Plan N
A. Plan Description					
B. Impact Assessment 1/ (Significant gross amounts, indicators and/or descriptions are to be shown for all conditions.) Re:					
Objectives NED					
EQ					
Accounts SWB					
RD					
C. Plan Evaluation 1/					
1. Contributions to Planning Objectives (The beneficial and adverse contributions of each plan to the planning objectives are to be listed.)					
2. Net (with vs. without) beneficial and adverse affects of each plan are to be shown.					
Objectives NED					
EQ					
Accounts SWB					
RD					
3. Plan Response to Associated Evaluation Criteria 2/					
4. Rankings of plan contributions (A thru N = 1 thru X), in relation to:					
Objectives NED					
EQ					
Accounts SWB					
RD					
are to be shown, and NED Plan and EQ Plan or the plan least damaging to the environment.					
D. Implementation Responsibility Federal, including both Corps and Non-Corps requirements, State, local, and private actions necessary to implement each plan are to be listed.)					

FOOTNOTE 1/ Significant impacts specified in Section 122 of PL 91-611 will be noted with an*, APP B ~~ER 1105-2-240~~. Part 294 of this Chapter

FOOTNOTE: 2/ Each plans' acceptability, completeness, effectiveness, efficiency, certainty, geographic scope, NED benefit/cost ratio, reversibility, and stability should be noted if useful in plan selection.

ER 1105-2-921

Table 2 - System of Accounts

Accounts	Plan A Plan Description	Plan B Plan Description	Plan N Plan Description	Footnotes
1. National Economic Development (NED)				
a. Beneficial impacts (specify separate benefits and source, if possible.)				
Location of Impacts (Incidence)				
(1) Value of increased outputs of goods and services.				
(2) Value of output resulting from external economies.				
(3) Value of output from use of unemployed or underemployed resources in construction or installation.				
(4) Total NED benefits.				
b. Adverse impacts (specify separate costs and source, if possible.)				
Location of Impacts (Federal-Local)				
(1) Project costs.				
(2) Losses resulting from external diseconomies.				
(3) Total NED costs.				
c. Net NED benefits.				
d. B/C ratio.				
2. Environmental Quality (EQ)				
Location of Impacts (Incidence)				
a. Environmental quality enhanced (specify resources impacted and quantify if possible designate rare and endangered species)				
b. Environmental quality destroyed (specify resources impacted and quantify if possible designate rare and endangered species.)				
3. Social Well-Being (SWB)				
a. Beneficial impacts (specify and quantify to extent possible)				
Location of Impacts (Downstream beneficiary, etc.)				
(1) Enhancement of health, safety, and community well-being.				
(2) Educational, cultural, and recreation opportunities.				
(3) Community cohesion maintained.				

Index of footnotes:

Timing

1. Impact is expected to occur prior to or during implementation of the plan.
2. Impact is expected within 15 years following plan implementation.
3. Impact is expected in a longer time frame (15 or more years following implementation.)

Uncertainty 1/

4. The uncertainty associated with the impact is 50% or more.
5. The uncertainty is between 10% and 50%.
6. The uncertainty is less than 10%.

Exclusivity

7. Overlapping entry; fully monetized in NED account.
8. Overlapping entry; not fully monetized in NED account.

Actuality

9. Impact will occur with implementation.
10. Impact will occur only when specific additional actions are carried out during implementation.
11. Impact will not occur because necessary additional actions are lacking.

Section 122

*. Items specifically required in Section 122 and App B in ~~ER 1105-2-340~~ Part 294 of this Chapter

1/ Easily reversible measures are desirable in cases where uncertainty of impact is high.

1. Impact is expected to occur prior to or during implementation of the plan.
2. Impact is expected within 15 years following plan implementation.
3. Impact is expected in a longer time frame (15 or more years following implementation.

Uncertainty 1/

4. The uncertainty associated with the impact is 50% or more.
5. The uncertainty is between 10% and 50%.
6. The uncertainty is less than 10%.

Exclusivity

7. Overlapping entry; fully monetized in NED account.
8. Overlapping entry; not fully monetized in NED account.

Actuality

9. Impact will occur with implementation.
10. Impact will occur only when specific additional actions are carried out during implementation.
11. Impact will not occur because necessary additional actions are lacking.

Section 122

*. Items specifically required in Section 122 and ~~ER 1105-2-340~~ Part 294 of this Chapter

1/ Easily reversible measures are desirable in cases where uncertainty of impact is high.

EP 1105-2-921

Table 2 - System of Accounts (Con't)

	Plan A Plan Description	Plan B Plan Description	Plan N Plan Description
Footnotes			
b. Adverse impacts (specify and quantify to extent possible)			
Location of Impacts (Project site, etc.)			
(1) Deterioration in quality of life, health, and safety. (2) Degraded educational, cultural, and recreational opportunities. (3) Injurious displacement of people and community disruption.			
4. Regional Development (RD)			
a. Beneficial impacts (specify separate benefits and source, if possible.)			
Location of Impacts (Area-Region)			
(1) Value of increased income. (2) Quantity of increased employment. (3) Desirable population distribution. (4) Increased stability of regional economic growth.			
b. Adverse impacts (specify separate costs and source.)			
Location of Impacts (Area-Region)			
(1) Value of income lost.			
(2) Quantity of jobs lost.			
(3) Undesirable growth.			

Index of footnotes:

Timing

1. Impact is expected to occur prior to or during implementation of the plan.
2. Impact is expected within 15 years following plan implementation.
3. Impact is expected in a longer time frame (15 or more years following implementation.)

Uncertainty

4. The uncertainty associated with the impact is 50% or more.
5. The uncertainty is between 10% and 50%.
6. The uncertainty is less than 10%.

Exclusivity

7. Overlapping entry; fully monetized in NED account.
8. Overlapping entry; not fully monetized in NED account.

Actuality

9. Impact will occur with implementation.
10. Impact will occur only when specific additional actions are carried out during implementation.
11. Impact will not occur because necessary additional actions are lacking.

Section 122

*. Items specifically required in Section 122 and ~~ER 1105-2-240~~. Part 944 of this Chapter

§ 393.7 Final planning objectives displayed.

The SA will display each planning objective carried through the final iteration and the beneficial and adverse contributions thereto made by each alternative. Contributions will be indicated in essentially physical terms with considerable flexibility allowed the interdisciplinary planning team to choose an appropriate discriptive unit; e.g.

Planning objective	Contribution
Reduce flood hazard in area X.	Provides 100-yr level of protection.
Address long term irrigation needs.	Provides 100,000 AF.
Increase riverbank preservation.	Preserves 2 mi. of riverbanks.
Improve water quality of river X.	Increases water quality to a level suitable for swimming.

§ 393.8 Alternatives to be displayed.

While no specific number of alternatives is required for the SA, all alternatives carried through the final planning stage will be displayed in the final SA. This means that the National Economic Development (NED) Plan and the Environmental Quality (EQ) Plan, as well as other plans which meet significantly different mixes of NED and EQ, will be displayed. Resource management measures associated with each alternative should be presented in the Plan Description portion of Tables 1 and 2. In addition, although "no-action" may not be presented as an alternative plan, the "without condition," may be displayed in the SA to provide a point of reference and facilitate comparisons.

§ 393.9 Display of impact assessment.

Significant gross amounts and indicators will be presented for the "base condition," "without condition" and all "with plan" conditions (see Table 1). Emphasis will be placed on quantifying environmental and social impacts in an appropriate manner; e.g., acres of habitat, size of herd or flocks, number of trees, miles of shoreline, numbers of people and/or households directly affected (under each of the conditions); and/or brief but adequate descriptions of qualitative factors. Economic impacts will be quantified in dollar terms.

§ 393.10 Plan evaluation.

A summary of net beneficial and adverse effects, measured from the "without condition," will be shown for each alternative plan. This information, along with each plans response to associated evaluation criteria, will be used to determine the comparative rank of plans, from best to worst, and to designate the NED Plan and the EQ Plan(s) in accordance with criteria specified in § 295.10 of this chapter.

§ 393.11 Alternative futures.

The alternative future which reflects the "without condition" will be the basis for the SA display. There is no other SA display requirement associated with alternative futures. For further details on alternative futures see § 295.9 of this chapter.

§ 393.12 Section 122 requirements.

Section 122 specifies kinds of effects which must be assessed. These are discussed in Part 294 of this Chapter. These effects will be identified, assessed, and evaluated. If significant, they will be displayed in the SA. When displayed, they will be asterisked.

§ 393.13 Display of specified evaluation criteria.

Each plan's acceptability, completeness, effectiveness, efficiency, certainty, geographical scope, NED benefit/cost ratio, reversibility, and stability will be noted on Table 1, if critical to plan selection. Except for the NED benefit/cost ratio, most of these criteria will be useful primarily in the process of filling out the interim SA as part of the functional planning tasks. Therefore, for the final display, emphasis should be on brevity; the accompanying write-up may be used to expand on the display.

(a) *Acceptability.* For purposes of display, the planner should indicate whether or not the plan is supported by any significant segment of the local, state, or regional publics. In addition, strong opposition by a significant segment of the public should be noted.

(b) *Completeness.* A brief statement will be made as to which investments or actions necessary to obtain the outputs are not part of the plan. Notations "9", "10" and "11" (see § 393.19) will already have addressed the major aspects of completeness and further information will be supplied in relation to the "implementation responsibility" section of Table 1.

(c) *Effectiveness and efficiency.* These two related criteria center on the concept of achieving maximum net outputs, where outputs and inputs are conceived broadly to include intangible factors. Effectiveness includes, in addition, the concept of technological feasibility. All plans described in the SA should be the least costly way of achieving the outputs. It will be sufficient for display purposes to indicate that the plan is the least costly means of obtaining the outputs of that plan, where cost includes intangible costs, and that the plan is technologically feasible.

(d) *Certainty.* A brief statement will be made as to the likelihood of the contributions in the SA being obtained. Notations "4", "5", and "6" (see § 393.17) will already have addressed the major aspects of uncertainty.

(e) *Geographical Scope.* This criteria is closely related to the choice of study area. For final display purposes, indicate those areas beyond the study area whose problems are solved by the plan, such as, by interbasin transfers of water. In addition, where a report concerns only a portion of study authority area, this fact will be noted.

(f) *NED benefit/cost ratio.* This ratio will always be shown.

(g) *Reversibility.* A brief statement of the degree of reversibility will be made.

(h) *Stability.* A simple notation of "high," "low," and "medium" stability is sufficient. Since detailed analysis of each plan under each alternative future is not required, this criteria will usually involve considerable judgment. The concept of stability is also inherent in notations "4", "5", and "6". As a guide, plans which are highly sensitive to data or assumptions about which knowledgeable people might differ have low stability.

§ 393.14 Implementation responsibility.

Federal, including both Corps and non-Corps, state, regional, local, and private actions required to implement each plan are to be listed in Table 1.

§ 393.15 Use of footnotes in table 2.

Since the basic nature of the line items usually determines the timing, uncertainty, exclusivity and actuality of impacts, one footnote column containing 4-digit codes for the 4-footnote categories may normally be used. If major differences in impacts between plans are encountered, each entry (line and column) may be followed by the 4-digit footnote code.

§ 393.16 Timing.

The timing of an effect is a critical variable in plan formulation. Therefore, the SA provides for the following notations:

(a) A "1" will be used to designate impacts expected to occur prior to or during plan implementation.

(b) A "2" will be used to designate impacts expected in a short time frame. These will generally be impacts estimated to occur in 15 years or less after implementation of a plan.

(c) A "3" will be used to designate impacts expected in a long time frame. These will generally be impacts estimated to occur later than 15 years after implementation of a plan.

§ 393.17 Uncertainty.

The concept of uncertainty is a broad one. It encompasses two of the specified evaluation criteria, certainty and stability, discussed in § 295.8 of this chapter. A rigorous statistical analysis to establish certainty or stability is not required. As used in this

guidance, the concept represents a judgmental balancing of the following factors: The sensitivity of the impact on plan recommendation; the data limitations inherent in either the assessment or evaluation of the impacts; and limitations inherent in the theoretical framework or methodology. Based upon these factors, the following notations will be made recognizing that the percent designations are suggestive and are not intended to imply statistical rigor.

(a) A "4" will be used to designate that the level of uncertainty associated with an impact in the judgment of the analyst is greater than 50 percent. Many components of the regional account, and external economies and diseconomies will likely fall into this notation.

(b) A "5" will be used to designate an uncertainty range of 10 percent to 50 percent.

(c) A "6" will be used to designate an uncertainty range of 0 to 10 percent, thus suggesting that the impact is virtually certain.

§ 393.18 Exclusivity.

The components of accounts are not mutually exclusive. There are two major area where such non-exclusivity may distort the display of accounts.

(a) *Regional development (RD).* Regional components of the NED, EQ, and SWB accounts must sum to the national totals. This will avoid double counting of effects geographically.

(b) *Double classification of monetary and non-monetary effects.* Some contributions are dollar quantifiable but deserve special handling as non-monetary contributions as well. For example, while elimination of land scour due to flood flows can be quantified in dollars and counted as an NED benefit, it should also be included as a positive contribution to the environmental account since it improves the quality of land resources. Therefore, the SA provides for the following notations:

(1) The designation "7" will be used when the SWB, EQ or RD contribution has been fully monetized and counted as an NED beneficial or adverse contribution.

(2) The designation "8" will be used when the SWB, EQ, or RD contribution has been partially monetized.

§ 393.19 Actuality.

Many of the contributions of plans depends upon the actions of others. The SA will include notations indicating the proximity of cause between a plan and an impact. The following notation will be used in Table 2.

(a) A "9" will be used to designate that the contribution will likely occur without any action by any entity other than the proposed implementing agency, normally the Corps, or the required action is extremely likely to occur through the economic or natural physical systems.

(b) A "10" will be used to designate that the achievement of the beneficial contribution requires positive governmental action, other than cost sharing, by another agency. The adverse contribution associated with this action can and likely will be prevented by government action. This situation can be specified only when coordination indicates that the necessary action will be taken.

(c) An "11" will be used when coordination indicates that the action required by other agencies will not be forthcoming.

§ 393.20 Location of impacts.

The SA will describe geographical locations of any significant beneficial or adverse impacts. The Principles and Standards (P&S) require, as a minimum, that at least one region and the rest of the nation be shown. The locations suggested in the line items in Table 2 are examples of the likely geographical areas where impacts may occur. These areas are as follows:

(a) NED.

(1) Benefits are national, by definition. The localized incidence of these benefits should be shown here and/or in the Social Well-Being (SWB) account.

(2) Costs are Federal and/or local.

(b) EQ impacts are also national. The incidence of these impacts should be shown here. Particular attention should be given to endangered species, and migration routes and patterns.

(c) SWB.

(1) Benefits accrue primarily to needs centers. These beneficiaries may often be removed (downstream) from the sites of structural measures.

(2) Injuries in the form of displacement, deterioration, disruption, etc., would usually occur at or near construction sites.

(d) RD impacts may be in the form of indirect external economies and diseconomies (industrial diversification, agricultural over specialization, submarginal enterprise, etc.) that accrue to areas within the region under study. The region need not necessarily follow OBERS boundaries, but should be specified in terms appropriate to the planning situation. Double counting of NED impacts must be avoided.

§ 393.21 Components of accounts.

The P&S specifies components of accounts which will be considered in filling out the SA. Only components to which a significant contribution occurs will be displayed; other components need not be shown. Sub-categorization of the components displayed will be used to further specify the source and nature of the contribution (see Table 2).

§ 393.22 Content of national economic development (NED) account.

Since this account is filled out in dollar terms, brevity is emphasized. However, it should be complete in the sense that total dollar quantifiable benefits and costs will be displayed. Benefits and costs should be specified as average annual equivalents using the appropriate period of analysis and discount rate (part 295 of this chapter). Price levels will be those current at the time of the study, updated periodically according to existing practice. WRC Guideline No. 2, Agricultural Price Standards, October 1976, as updated, will be used for agricultural price levels. The components of benefits and costs in the NED account are discussed below:

(a) *Values of increased outputs of goods and services.* These are the benefits calculated under established Corps procedures for benefit/cost analysis. No change in existing guidelines are made in this regulation. However, recreation unit day values are increased by the P&S. It is important that the source of NED benefits be specified; e.g., "flood control"; "open space"; "fish and wildlife"; "water quality", and so forth. Note that many of the benefit sources are oriented toward environmental outputs. This is because such benefit sources are often partially quantifiable in the NED account. Undue detail as to the source of benefits is not necessary. For example, "flood control" is a sufficient designation of source; sub-designations such as "existing flood damages reduced", "reduction of fill costs"; and the like not needed for the SA.

(b) *Value of output resulting from external economies.* The NED benefits resulting form external economies, sometimes referred to as "indirect" or "secondary", are to be included in the NED account only in those cases where it can be positively shown that a net gain will accrue to the Nation. These benefits have not been widely used in evaluating Corps projects because of the empirical difficulty of separating national aspects of external economies from regional or local transfers. However, their validity is clear and any language to the contrary in EM 1120-2-112, Secondary Benefits in Flood Control Evaluation, is unintended. Even where net national secondary benefits will accrue due to the outputs of a Corps plan, such benefits are not attributable to the plan if the outputs would be obtained by an alternative means. Examples of such benefits are water supply and power.

(c) *Value of output from use of unemployed or underemployed resources in construction or installation.* This is a special category of benefits which relaxes the basic assumption of a "full employment" economy. As explained in the P&S, this component is concep-

tually an adjustment to the cost of a project because there is no economic cost associated with the use of an otherwise unemployed resource. The P&S elevates benefits to unemployed and underemployed labor resources to the same level as other NED benefits. This means that there will be only one NED benefit/cost ratio.

(d) *Project costs.* These are all inputs, measures at market value, required for plan implementation. The measurement of such costs is well established. Losses in land productivity, mitigation costs, and loss of recreation opportunities at the new unit day values will be included.

(e) *Losses from external diseconomies.* Such losses are measured in the same manner as computing the value of output resulting from external economies.

§ 393.23 Content of environmental quality (EQ) account.

Emphasis will be given to this account because, unlike the NED account, there is no common denominator readily available for comparing items within the EQ account. On the other hand, extensive listing of all perceived impacts may confuse rather than enlighten reviewers and the public. Hence, the challenge is one of providing an adequate, comprehensive display. One possible method is shown in Table 2, where the components of the EQ account are not the focus of the display; rather the focus is on the values of the impacts. The interdisciplinary planning team, reflecting public inputs and expert judgment, will indicate whether EQ is enhanced, degraded, or destroyed. Where there is no impact or where evaluation indicates that the impact is neutral or otherwise insignificant, no entry is made in Table 2 for the sake of brevity. However, in certain situations where there is no impact, the report will note the lack thereof (see Part 294 of this chapter). The judgment of the interdisciplinary planning team is based upon "with condition" and "without condition" analysis and the following definitions:

(a) *EQ enhanced.* The environment is enhanced if a greater quantity or improved quality of environmental outputs is obtained with a plan than without it. Often, so called "preservation" measures are actually an enhancement because without the plan the environment would be degraded or destroyed over time. Frequently, the same plan may cause both beneficial and adverse outputs. Beneficial outputs will be displayed under EQ enhanced; adverse impacts will be displayed under EQ degraded or destroyed. However, EQ enhanced should be limited, where appropriate, by some notion of an optimum quantity of the EQ output. For example, the amount of open space needed by a certain population size is the limit on the extent of EQ achieved by additional open space.

(b) *EQ degraded.* The environment is degraded if a lesser quantity or reduced quality of environmental output is obtained with a plan than without it. Nevertheless, the environmental loss could be made up by actions outside the plan or by natural processes over a period of time.

(c) *EQ destroyed.* In this case, environmental quality is reduced to the extent that it cannot be regenerated. Loss of a species of wildlife in a given area is an example. Pollution to the point where a river becomes anaerobic is another. While the line between degradation and destruction is rarely clear and precise, the distinction is important. "Irreversible commitments of resource to future uses" as specified by the P&S, will be a subcategory of the "EQ destroyed" category.

§ 393.24 Content of social well-being (SWB) account.

This account includes most of the benefits traditionally termed intangible under existing practice, especially for flood plain management plans.

(a) *General.* The following are the general requirements and considerations in filling out the SWB account in the SA.

(1) *Flood control.* Based on paragraph 6, page 15 of the WRC Principles, intangible flood control benefits will be considered in plan formulation, selection and recommendation. Such effect will be presented briefly in the SA under "Enhancement of health, safety, and community well-being", or comparable designation (see Table 2).

(2) *Adverse SWB.* Avoidance of adverse social contributions is a consideration of plan formulation. Beneficial contributions are treated in a much more constrained manner (see Part 295 of this chapter). Therefore, Table 2 divides social impacts into those which are beneficial and those which are adverse. Although social benefits are not taken into account fully at the project planning level, planners should recognize that beneficial contributions may be important at the national program planning and budgeting level. Therefore, to the extent practicable, planners are encouraged to provide estimates of social contributions, both benefical and adverse.

(3) *Monetary SWB.* Where a social contribution can be quantified (partially or totally) in dollar terms as a national benefit, it should be included as an NED benefit or cost.

(4) *Preferable entry.* In general, as with all intangible factors, the preferable entry is a meaningful, quantified notation of the beneficial or adverse contribution. However, lack of either study funds or data may necessitate a verbal, descriptive entry.

(b) *Specifics.* The following expands on that already specified in the P&S.

(1) *Effects on distribution of real income.* The beneficiaries of plans will be specified by family incomes into upper, middle, and lower third, based on the national average. At the planner's discretion, other classes of beneficiaries may be displayed for a given study, such as "farm", "urban", and so forth.

(2) *Effects on health, safety, and community well-being.* Generalized statements are to be avoided. If an impact is significant enough to be displayed, then it is important enough to be documented. This is particularly so where the contribution is used to formulate, select, or recommend a plan.

(3) *Effects on educational, cultural, and recreation opportunities.* These impacts generally can be shown as a function of mileage/time, distance, and numbers and kinds of population affected.

(4) *Injurious displacement of people and community disruption.* This category is recognized as a recurrent problem in many plans. The display should indicate the effect of measures taken to avoid such problems; for example, betterments, early sale and leaseback, town relocation, and the like.

(5) *Other.* The social category is a broad one and unique aspects may be involved in any given plan or element thereof. The "other" category is intended to insure that all social contributions of significance are included.

§ 393.25 Content of regional development account.

General comments above, concerning the social account, are applicable to this account as well. Impacts should be quantified if possible. Avoidance of unreasonable adverse impacts is a consideration of plan formulation; thus adverse and beneficial impacts should be separately displayed. Certain "regional" contributions other than transfers may be dollar quantifiable on a national basis, particularly for external economies and diseconomies. If quantified, such contributions belong in the NED account. The following expands on that already discussed in the P&S:

(a) *Regional EQ and SWB.* These components are redundant for the type of format used in Table 2, which calls for display of EQ and SWB components by regions. Hence, there is no need for a regional EQ or SWB component.

(b) *Regional income and employment.* This discussion applies to location effects on regional income in the RD account. It also applies to employment associated with such income. This information will be displayed whenever the public has indicated a strong concern regarding regional income and employment effects. How-

ever, display is inappropriate where a competent, professional job cannot be done due to lack of time and funds. The following considerations should be reflected in Table 2. First, only when a complete accounting of all direct and indirect effects of a plan on regional income can be accomplished will the RD account be summed. Second, a qualitative description should be used whenever the assessment is limited, thereby avoiding misleading quantification. Third, when the accounting is incomplete, an entry similar to the following will be included in the display: "All other regional income and employment—not evaluated." Fourth, the uncertainty associated with the effect will be noted. And fifth, nothing in the above limits the need for a full assessment and display of adverse impacts on employment, business, and industrial activity pursuant to Section 122 requirements (Part 294 of this chapter). The following categorization defines a complete accounting for a given region and explains items 4a (1) and (2) of Table 2:

(1) *NED net benefits.* These are directly derived from the NED account.

(2) *Direct expenditures.* These are the net increases in expenditures made within the region. For example, where there are recreation expenditures, they include purchases for motel accommodations, bait, repairs, and so forth which would not be made in the region in the absence of the alternative. Where there are construction force expenditures, they include the amount of wages spent in the region over and above those which would be made in the absence of the alternative. Such construction expenditures exclude wages to residents of the region.

(3) *Subsequent impacts.* This category includes expenditures made after the NED and direct expenditures. For example, a reduction in agricultural flood losses may mean that farmers have more income which can be expended on additional farm equipment or house furnishings; obviously farm equipment and furniture retailers will, in turn, have increased income to spend; and so forth. Such second and third round economic impacts are generally referred to as "multiplier" effects. Their measurement is especially difficult, particularly for small regions. These subsequent impacts will be separately shown. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, has developed some preliminary tools for the estimation of multiplier effects. Whenever a planner decides to display multiplier effects for an area in which BEA is capable of making an estimate at reasonable cost, the BEA data will be obtained; deviations will be explained. In addition, Water Resources Council (WRC), in conjunction with BEA, has developed a set of regional multipliers. They have been provided to the field for use in regional benefit analysis.

(4) *Induced economic activity.* Exclusive of NED benefits, benefits to induced activities are properly included in the regional account. Care must be taken to exclude those benefits already implicitly or explicitly included above.

§ 393.26 Uses of SA.

The SA is to be used as an aid to the planning process established in Part 290 of this chapter. It is used at the end of each iteration as a check upon the thoroughness of carrying out the planning tasks. Also, the SA will assist in defining the additional work necessary for the subsequent iteration. The following paragraphs indicate suggested specific uses of the SA in conjuction with the planning process.

(a) *Problem identification.* There are four suggested uses of the SA to facilitate planning for subsequent iterations:

(1) *Planning objectives.* The SA will assist the interdisciplinary planning team in observing when planning objectives have been overlooked, or are too numerous, general, or specific. When combined with the specified reformulation criteria, the SA provides a tool for honing or refining plans to insure that they are the best ones from an overall societal point of view.

(2) *Study area.* Using the SA to observe the location of significant impacts, the interdisciplinary planning team can determine whether the study area has been appropriately identified. This activity is directly related to the geographical scope evaluation criteria. As with most of the specified evaluation criteria, the greatest utility is to the ongoing planning process rather than to the final SA display.

(3) *Data gaps in base condition, projections.* When the information in the SA is soft or uncertain, and the impact is crucial to reaching a decision, a data gap has been surfaced which may be remedied on subsequent iterations. Where remedying the data gap is not feasible, sensitivity analysis of alternative futures is helpful. The SA notations "4", "5", and "6" and the certainty and stability evaluation criteria are directly related to this activity. In addition, a high degree of uncertainty may imply that a plan with greater reversibility is desirable.

(4) *Alternative futures, sensitivity analysis.* Analysis leading to the SA often involves assumptions, steps, techniques, or data about which knowledgeable people could differ. Hence, the SA will be used as a basis for checking the sensitivity of the analysis and data to the results. This activity is directly related to the certainty and stability evaluation criteria.

(b) *Formulation of alternatives.* The relationship between plan outputs and plan measures lies at the heart of reformulation criteria. In filling out the SA, opportunities for increasing net outputs should become apparent. Hence, the interdisciplinary planning team should try to increase the quantity and quality of outputs, decrease costs, or both. This is done by adding, deleting, or modifying measures and assessing and evaluating outputs to see if greater net outputs can be obtained.

(c) *Assessment and evaluation.* The display of the results of these two tasks are the main content of the SA. There are three major areas where the SA will assist in improving assessment and evaluation on the next iteration. These are:

(1) *Public input to evaluation.* Many of the impacts of a plan are viewed differently by various segments of the public and Corps planners. The SA provides a focus for periodic interaction with the public as to the values placed on outputs. In many cases this may change the evaluation during subsequent iterations.

(2) *Data gap in assessment.* The SA will surface data gaps in the assessment task. Thus, improved assessment should be sought on the next iteration. A similar statement can be made for evaluation.

(3) *Unintended effects.* One of the most productive uses of the SA lies in surfacing unintended impacts. For example, suppose plans are designed primarily for wastewater management. However, one plan uses small detention reservoirs, which also reduce flood problems. This impact will be noted in the SA. On reiteration, the potential of a system for joint outputs should be explored. Alternatively, significant unintended impacts may be adverse. In such cases, mitigation measures or revision of planning objectives is called for. For example, one solution to a flood problem may have adverse impacts on ground water recharge, not mentioned previously as a concern in problem identification. The interdisciplinary planning team should determine whether the lost recharge is serious, by professional analysis and public inputs. If it is serious, recharge ought to be incorporated into the planning objectives, thus directing attention toward solutions, including mitigation, which avoid loss of recharge.

§ 393.27 Effective date.

This regulation is effective January 1, 1979. The provisions of § 290.12 of this chapter are applicable to this regulation.

[FR Doc. 78-19271 Filed 7-12-78; 8:45 am]

federal register

THURSDAY, JULY 13, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

PILOT RULES FOR INLAND WATERS AND WESTERN RIVERS

Flashing Yellow Light at the Head of Tows Being Pushed Ahead or Towed Alongside

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 80, 90]

[CGD 76-109]

PILOT RULES FOR INLAND WATERS AND WESTERN RIVERS

Flashing Yellow Light at the Head of Tows Being Pushed Ahead or Towed Alongside

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the regulations governing the lighting of barges being pushed ahead or towed alongside on inland western rivers rule waters. The proposed amendments are the result of a recent collision and requests from the towing industry. These amendments are aimed at improving safety of navigation by making barges more visible to approaching vessels and updating technical requirements to recognize present day technology.

DATE: Comments must be received by August 14, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 76-109), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 76-109) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. All comments received will be considered before final action is taken on this proposal. 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: Mr. William McGovern, Project Manager, Office of Marine Environment and Systems, and Mr. Michael N. Mervin, Project Counsel, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

In response to public and Congressional inquiries into the adequacy of barge lighting on the Mississippi River and its tributaries and connecting waters, and its effect on vessel navigation safety, the Coast Guard in late 1969 initiated a program aimed at testing and evaluating an alternative to the prescribed barge lighting arrangements for barges pushed ahead or towed alongside. The alternative examined was to substitute a flashing amber (yellow) light at the head of tows pushed ahead or towed alongside for the previously required steadily burning amber light. The tests were successful and the use of the flashing amber (yellow) light was met with enthusiasm from both the boating public and the towing industry.

Based upon the success of the test, the flashing amber (yellow) light arrangement was subsequently adopted as a requirement for the lighting of barges on the western rivers (33 CFR 95.29) and the gulf coast and gulf intracoastal waterway (33 CFR 80.16a).

A casualty in 1973 involving the deaths of three persons on the Delaware River indicated that the use of a similar light on inland waters may now be appropriate for barges pushed ahead or towed alongside on the waters to which § 80.16 applies. Neither vessel was found at fault as the required navigation lights were being properly displayed by both vessels. Since the incident, both McAllister Brothers Inc. and the American Waterway Operators have written the Coast Guard suggesting that the use of the amber (yellow) flashing light be extended to all inland rule waters. The Coast Guard agrees with this suggestion as it is in the best interest of navigation safety.

The use of the flashing amber (yellow) light on the western rivers and gulf coast and gulf intracoastal waterway has pointed out problems with the light as presently required. The required light is a 20 point light visible from right ahead to 2 points abaft the beam on each side the vessel. To meet this arc of visibility, the light often must be raised to an elevation which detracts from its ability to warn small craft of the barge's presence and interferes with the night vision of the crew on the towing vessel.

It is proposed to eliminate this problem by allowing the light to show an arc of visibility of between 16 and 20 points of the compass. This can be accomplished without any appreciable reduction in navigation safety. This will allow lights presently in use to remain in use, thus reducing the economic impact of these changes. This will involve amendments to §§ 80.16a and 95.29 of Title 33. The proposed amendment to § 80.16 would also incorporate this requirement. It is also proposed to change the word amber to yellow to be in line with the terminology used in the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

The requirement in section 80.16 that sidelights have glass globes of not less than 6 inches in diameter and 5 inches high in the clear has led to considerable confusion. It has been interpreted to mean that only glass lenses can be used as that is the only lens material mentioned. Modern plastic and acrylic lenses are equal if not superior to glass, yet this interpretation has prevented their use. It is proposed to remove the reference to glass lenses to allow the use of lenses of any material capable of meeting the range and color requirements.

This proposal has been reviewed for economic effects under the Department of Transportation "Policies and Procedures for Simplification, Analysis and Review of Regulations" (43 FR 9582). The Coast Guard estimates that there would be no more than 3,350 vessels which would be required to obtain the equipment. At the present time only two firms manufacture these lights. The units range in price from $292 to $820 per unit for self-contained battery operated units and $60 to $620 per unit for units operated via cable from a remote power source. Assuming that all 3,350 vessels purchased the most expensive unit at $820 the total first year cost of this regulation would be $2,747,000.

Because of the better warning provided by this light, the benefits from having the equipment include the probability of fewer vessel accidents. This in turn could yield a reduction in injuries and deaths, as well as savings in search and rescue costs and ship repair costs.

Accordingly, it is proposed to amend parts 80 and 95 of title 33 of the Code of Federal Regulations as follows:

§ 80.16 [Amended]

1. In § 80.16, by adding at the end of paragraphs (e) and (f) the following: "Additionally, a flashing yellow light must be displayed at the forward end of the tow, so placed as to be as nearly as practicable on the centerline of the tow."

2. In § 80.16(g), by revoking the last sentence and adding the following at the end: "The yellow flashing light must be visible on a dark night with a clear atmosphere at a distance of at least 2 miles, flash 50 to 70 times a minute, be constructed to show a uniform light over an arc of the horizon of between 16 and 20 points of the

compass, and throw the light from right ahead to between the beam and 2 points abaft the beam on each side."

3. In §80.16a(b), by substituting for the word "amber" in the first sentence the word "yellow."

4. In §80.16a, by revising paragraph (j) to read as follows:

§80.16a Lights for barges, canal boats, scows, and other nondescript vessels on certain inland waters on the Atlantic and Pacific coasts.

* * * * *

(j) The yellow light must flash 50 to 70 times per minute, be constructed to show a uniform light over an arc of the horizon of between 16 and 20 points of the compass, throw the light between 8 and 10 points each side of the tow, namely, from right to ahead to between the beam and 2 points abaft the beam on each side, and be visible at a distance of at least 2 miles.

5. In §95.29(a), by substituting for the word "amber" in the first sentence the word "yellow."

6. In §95.29 by revising paragraph (d) to read as follows:

§95.29 Lights for barges towed ahead or alongside.

* * * * *

(d) The yellow light must (1) flash 50 to 70 times per minute, (2) be constructed to show a uniform light over an arc of the horizon of between 16 and 20 points, (3) throw the light between 8 and 10 points on each side of the tow, namely, from right ahead to between the beam and 2 points abaft the beam on each side, and (4) be visible at a distance of at least 2 miles.

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.

(33 U.S.C. 353, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Dated: July 7, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 19357 Filed 7-12-78; 8:45 am]

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