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THE NATIONAL ARCHIVES OF THE UNITED STATES
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1934

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Monday	Tuesday	Wednesday	Thursday	Friday
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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 August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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

[3410-02-M]

Title 7—Agriculture

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

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

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Correction of Rules

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of authority citation.

SUMMARY: The agency adopted final rules at 43 FR 9455 (March 8, 1978) and 43 FR 28433 (June 30, 1978) relating to Florida oranges, grapefruit, tangerines, and tangelos and Washington apricots. This document adds the authority citation under which those rules were issued.

DATE: March 8, 1978, and June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proper authority citation for the rule documents published at 43 FR 9455 and 43 FR 28433 is as follows: Sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

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

[FR Doc. 78-31719 Filed 11-8-78; 8:45 am]

[3410-02-M]

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 2, Amdt. 1]

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

[Grapefruit Regulation 2, Amdt. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These amended regulations continue through October 14, 1979, current minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit. The regulations will expire on November 12, 1978, unless extended. The action is necessary to assure shipment of ample supplies of mature fruit of acceptable grades and sizes in the interest of growers and consumers.

EFFECTIVE DATE: November 13, 1978, through October 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice was published in the FEDERAL REGISTER on October 16, 1978 (43 FR 47533), that the Department was considering extension of the regulations currently in effect through October 14, 1979, which are effective under the marketing agreement, and order No. 905, both as amended (7 CFR part 905), regulating handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and to a conforming extension of the regulation for imported grapefruit, effective pursuant to section 8e of the act. The notice provided that all written comments in connection with the proposed regulations be submitted by October 27, 1978. None were received.

The minimum grade and size requirements, herein specified, for domestic and export shipments reflect the Department's appraisal of the need for regulation of the designated varieties of Florida oranges, grapefruit, tangerines, and tangelos during the specified period based on the available supply and current and prospective market demand conditions. Such requirements are necessary to establish and maintain orderly marketing, and such action is consistent with the objectives of the act and the interests of producers and consumers.

The Department's Crop Reporting Board estimates the 1978-79 season's crop of all Florida round oranges at 167 million boxes, less than 1 percent under last season's production. The Board estimates early and midseason oranges, including navels at 95 million boxes, about 7.6 percent over last season's crops. It estimates grapefruit production at 51 million boxes, about one-half a percent lower than the record large 1976-77 season production. It estimates the temple orange crop at 4.8 million boxes, tangelos at 3.6 million boxes, and tangerines at 3.8 million boxes. These speciality citrus crops are comparable in size to those harvested last season.

In its recommendation for regulations, the Citrus Administrative Committee, established under the marketing agreement and order, reported that 85 percent or more of the volume of each of the varieties specified will meet the grades herein prescribed for the particular variety. It further reported that 85 percent or more of the early and midseason, valencia and other late-type oranges, navel, and temple oranges will meet or exceed the applicable sizes prescribed; and that approximately the same percentage of each of the varieties of grapefruit will meet the applicable sizes specified in the regulation for the particular grapefruit variety. For tangerines, about 80 percent of the Robinson variety, 55 percent of the Dancy variety, and 95 percent of the Honey variety, will meet or exceed the minimum sizes specified.

The committee projected the fresh market demand for early-midseason, navel, valencia and other late-type oranges at 19,500 carlots. The supply of such oranges meeting the requirements of the regulations is well in excess of the quantity required to meet such demand. Consequently, the

regulations will permit shipment of more than ample supplies to meet fresh market needs, and the regulations, herein specified, for early and midseason, navel, valencia and other late-type oranges are the same as those currently in effect, and continuance of such regulations, as hereinafter provided, are necessary to avoid disruption of the orderly marketing of such oranges in the public interest, and do not have for their purpose the maintaining of prices to farmers above the level which is declared to be the policy of Congress to establish under the act.

The committee projected fresh market demand at 4,000 carlots of temple oranges, 10 carlots of seeded grapefruit, 37,500 carlots of seedless grapefruit, 4,800 carlots of tangelos, and 6,100 carlots of tangerines. Hence, the volume of each of the varieties exceeds that which can be marketed in fresh markets at a fair return to growers, and, in such circumstance, the exclusion from fresh markets of the less desirable grades and sizes, the marketing of which tends to disrupt such markets and lower returns for the more desirable grades and sizes, is appropriate to meet the objectives of the act.

The minimum grade and size requirements for imported grapefruit are consistent with section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all matters presented, including the proposals in the aforesaid notice and other available information, it is found that the regulations, as set forth herein, are in accordance with said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of these regulations until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of rulemaking concerning the regulations, with an effective date of November 13, 1978, was published in the FEDERAL REGISTER, and no objection to the regulations or such effective date was received; (2) the recommendation for regulation was developed at an open meeting at which interested persons were afforded an opportunity to submit their views; (3) to maintain orderly marketing conditions in the interests of growers and consumers, the regulations should be continued without disruption; and (4) the regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time.

Accordingly, it is found that the provisions of the proposed regulations contained in the Notice of Proposed Rulemaking published in the FEDERAL REGISTER on October 16, 1978 (43 FR 47533), shall be and are the terms and provisions of these regulations, and are set forth in full herein.

§ 905.302 Orange, grapefruit, tangerine, and tangelo regulation 2.

Order. (a) During the period specified in column (2) of table I no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Oranges:			
Early and midseason	Nov. 13, 1978 to Oct. 14, 1979.	U.S. No. 1	2 5/16
Navel	do	U.S. No. 1 Golden.	2 4/16
Valencia and other late type	do	U.S. No. 1	2 4/16
Temple	do	do	2 5/16
Grapefruit:			
Seeded, except pink	do	do	3 13/16
Seeded, pink	do	do	3 13/16
Seedless, except pink	do	Improved No. 2	3 5/16
Seedless, pink	do	do	2 5/16
Tangerines:			
Robinson	do	U.S. No. 1	2 4/16
Dancy	do	do	2 5/16
Honey	do	Florida No. 1	2 11/16
Tangelos:			
Tangelos	do	U.S. No. 1	2 4/16

(b) During the period specified in column (2) of table II no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Oranges:			
Early and midseason	Nov. 13, 1978 to Oct. 14, 1979.	U.S. No. 1	2 5/16
Navel	do	U.S. No. 1 Golden.	2 4/16
Valencia and other late type	do	U.S. No. 1	2 4/16
Temple	do	do	2 5/16
Grapefruit:			
Seeded, except pink	do	do	3 5/16
Seeded, pink	do	do	3 5/16
Seedless, except pink	do	Improved No. 2	3 5/16
Seedless, pink	do	do	3 5/16
Tangerines:			
Robinson	do	U.S. No. 1	2 5/16
Dancy	do	do	2 5/16
Honey	do	Florida No. 1	2 5/16
Tangelos:			
Tangelos	do	U.S. No. 1	2 5/16

(c) *Size tolerances*: In the determination of minimum size as prescribed in tables I and II, the following tolerances are permitted (1) for oranges, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel and Temple Oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 51.1818; of the U.S. Standards for Grades of Florida Tangerines; (2) for grapefruit, as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for tangerines, as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for tangelos, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in rule No. 20-35.03 of the regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the revised U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140-51.1180), the revised U.S. Standards for Florida Tangerines (7 CFR 51.1810-51.1835), or the revised U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784).

§ 944.102 Grapefruit Regulation 2.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, during the period specified in column (2) of table I, in § 905.302, the importation into the United States of any variety of grapefruit listed in column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in columns (3) and (4) of said table. In the determination of minimum size as prescribed in table I, a tolerance is permitted as specified in paragraph (c) of § 905.302.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944; 43 FR 19340).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggegrate, does not exceed 10 standard packed cartons, equivalent to four-fifths (⅘) of a U.S. bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

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

Dated: November 7, 1978, to become effective November 13, 1978.

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

[FR Doc. 78-31793 Filed 11-8-78; 8:45 am]

[3410-02-M]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Approval of Reapportionment of Committee Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment will reapportion the membership of the State of Washington Potato Committee. By providing one handler member and alternate for each of the five districts this reapportionment will result in more equitable representation on the committee.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 113 and Order 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the October 2 FEDERAL REGISTER (43 FR 45375) regarding the proposal. It afforded interested persons an opportunity to file written comments by November 1, 1978. None was filed.

The order provides in § 946.31 that upon recommendation of the committee the Secretary may reapportion committee membership among districts.

At its June 7, 1978, organizational meeting the committee evaluated its handler representation, which currently is comprised of two members from District 1, none from District 2, and one each from Districts 3, 4, and 5. Because District No. 2 has become an important potato shipping area since the committee membership was last apportioned, the committee decided that reapportioning the committee to provide for one handler member and his alternate for each district would result in more equitable representation. The change will become effective July 1, 1979.

The amendment is as follows:

Section 946.104 Reapportionment of committee membership is amended to read as follows:

§ 946.104 Reapportionment of committee membership.

(a) • • •

(1) District No. 1—three producer members and one handler member;

(2) District No. 2—two producer members and one handler member;

• • • • • •

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

Dated: November 6, 1978, to become effective July 1, 1979.

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

[FR Doc. 78-31705 Filed 11-8-78; 8:45 am]

[3410-02-M]

PART 966—TOMATOES GROWN IN FLORIDA

Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment extends through June 16, 1979, the minimum

grade, size, pack, container, marking, and inspection requirements effective from October 15 through November 15, 1978, for tomatoes grown in certain counties in Florida. It should promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: November 16, 1978.

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. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the October 20, 1978, FEDERAL REGISTER (43 FR 49010 inviting comments by November 4, 1978. None was received.

This regulation is based upon recommendations made by the committee at its public meeting in Palm Beach, Fla. on September 8, 1978.

The recommendations of the committee reflect its appraisal of the composition of the 1978-79 crop of Florida tomatoes and the marketing prospects for this season. The regulation is similar to those issued during past seasons and to the temporary regulation in effect during October 15 through November 15, 1978. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This should provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, container, or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are also exempt.

The following types of tomatoes are exempt from this regulation: elongated types commonly referred to as pear shaped or paste tomatoes; cerasiform-type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes, and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Tomatoes marketed within the regulated area are not subject to the provisions of this section because of an increase in the u-pick type of harvest in the Florida production area close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption permits persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This reduces the problem of enforcement on small shipments of essentially noncommercial nature. The provisions concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several new varieties, including Flora-Dade, may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with present grade standards infeasible, the affected varieties could be exempted from the size requirements of the regulation.

Findings. After consideration of all relevant matters presented, including the above proposal recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the 1978-79 crop tomatoes grown in the production area have begun and the regulation should become effective on the effective date herein to maximize benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of tomatoes in the production area; (3) a temporary regulation with identical requirements is effective for the period October 15 through November 15, 1978; and (4) compliance with this section should not require any special preparation on the part of handlers subject thereto which cannot be completed by such effective date.

The amendment is as follows:

§ 966.317 Handling regulation.

During the period November 16, 1978, through June 16, 1979, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container, and inspection requirements.*

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 Grade.

(2) *Size.* (i) Tomatoes shall be at least 2$^{2}/_{32}$ inches in diameter and be sized in accordance with § 2851.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$^{17}/_{32}$ inches in diameter and each container shall be marked to indicate the designated sizes.

(iii) Only the generic terms as defined in § 2851.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(e) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity, or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

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

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from this regulation: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a)(1) and the size classifications of paragraph (a)(2) (except that the tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter) and the container requirements of paragraph (a)(3) if such tomatoes comply with the inspection requirements of paragraph (a)(4).

(4) *For varieties.*

Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section (Title 7, Chapter I, Part 51 was redesignated Title 7, Chapter 28, Part 2851 on June 27, 1977). Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and Section 980.212 "Import regulations" (7 CFR 980.212, as amended; 43 FR 3349) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{3}/_{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

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

Dated: November 6, 1978 to become effective November 16, 1978.

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

[FR Doc. 78-31721 Filed 11-8-78; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Miscellaneous Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule (a) changes the telephone number for the Commission's Inspection and Enforcement Regional Office I listed in Parts 20, 21, and 73 of the Commission's regulations and (b) amends the Commission's regulation "Domestic Licensing of Source Material" to exempt the general licensee under § 40.25 from the requirements of the Commission's regulation "Notices, Instructions, and Reports to Workers; Inspections."

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

SUPPLEMENTARY INFORMATION: Effective October 2, 1978, the commercial telephone number for the Commission's Inspection and Enforcement Regional Office I, King of Prussia, Pa., was changed to 215-337-5000. This number will be in effect at all times. The amendments set forth below change the telephone number for Region I as set forth in Parts 20, 21, and 73. The amendment of Part 40 set forth below amends § 40.25(e) to exempt the general licensee under § 40.25 from the requirements of 10 CFR Part 19.

Because these amendments relate solely to corrections and minor matters, the Commission has found that good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary and for making the amendments effective upon publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended,

and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 21, 40, and 73 are published as a document subject to codification.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. Appendix D of 10 CFR Part 20 is amended by changing the telephone number of NRC Regional Office I to 215-337-5000.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

§ 21.2 [Amended]

2. Footnote 1 to § 21.2 of 10 CFR Part 21 is amended by changing the telephone number of NRC Regional Office I to 215-337-5000.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

§ 40.25 [Amended]

3. Paragraph 40.25(e) of 10 CFR Part 40 is amended by deleting the words "is exempt from the requirements of Parts 20 and 21" and substituting therefor "is exempt from the requirements of Parts 19, 20, and 21."

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

4. Appendix A of 10 CFR Part 73 is amended by changing the telephone number of NRC Regional Office I to 212-337-5000.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 23d day of October 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-31528 Filed 11-8-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D; Docket No. R-0187]

PART—204—RESERVES OF MEMBER BANKS

Supplementary Reserve Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has imposed a supplementary reserve requirement of 2 percent on member bank time deposits in denominations of $100,000 or more and certain other member bank liabilites. The action is being taken to encourage member banks to decrease their domestic borrowings as a source of funds and to increase their borrowings in the Eurodollar market.

DATE: Effective on deposits outstanding beginning November 2, 1978, for reserves required to be maintained beginning November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen Raiken, Associate General Counsel, or Gilbert Schwartz, Senior Attorney, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3000.

SUPPLEMENTARY INFORMATION: The Board of Governors has amended its regulation D to modify the reserve balances that member banks are required to maintain against their deposits. The amendment imposes a 2 percent supplementary reserve requirement against member bank time deposits in denominations of $100,000 or more and certain other member bank liabilities. This action is being taken to strengthen the dollar in exchange markets and thereby counter continuing domestic inflationary pressures. The action will help to moderate recent relatively rapid expansion in bank credit and will also increase the incentive for member banks to increase their borrowings in the Eurodollar market and to decrease their domestic borrowings.

The supplementary 2 percent reserve requirement will apply to a member bank's time deposits of the following types:

(a) Time deposits of $100,000 or more; and

(b) Time deposits of $100,000 or more represented by promissory notes, acknowledgements of advance, due bills, or similar obligations (written or oral) as provided in § 204.1(f) of regulation D; and

(c) Time deposits of any denomination represented by ineligible banker's acceptances or obligations issued by a member bank's affiliate with maturities of 7 years or less to the extent that the proceeds are supplied to the member bank as provided in § 204.1(f) of regulation D.

The supplementary 2 percent reserve requirement will not apply to savings deposits and Christmas club-type deposits.

This action was taken pursuant to the Board's authority under § 19 of the Federal Reserve Act (12 U.S.C. 461) to establish reserve ratios for member banks. This amendment is effective on deposits outstanding during the week beginning November 2, 1978, and affects reserves held by member banks during the week beginning November 16, 1978.

In view of the current conditions in the foreign exchange markets, and in order to achieve the above stated objectives as soon as possible, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. § 553(b) with regard to the Board's action are impracticable and contrary to the public interest.

Effective as to the reserves required to be held during the week commencing November 16, 1978 against deposits outstanding in the week beginning November 2, 1978, § 204.5 of regulation D is amended to read as follows:

§ 204.5 Reserve requirements.

(a) *Reserve percentage.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a) and subject to paragraph (c) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances that each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve Bank of its district.

(1) If not in a reserve city—

* * * * *

(ii) 1 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 4 years or more; 2½ percent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than 4 years; 3 percent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an intitial maturity of less than 180 days, plus 6 percent of such deposits in excess of $5 million: *Provided, however,* That in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 percent. In addition, a

member bank shall maintain a reserve balance equal to 2 percent of its time deposits of the following types:

(a) Time deposits of $100,000 or more;

(b) Time deposits of $100,000 or more represented by promissory notes, acknowledgements of advance, due bills, or similar obligations as provided in § 204.1(f); and

(c) Time deposits represented by ineligible banker's acceptances or obligations issued by a member bank's affiliate, as provided in § 204.1(f).

However, the supplementary 2 percent reserve requirement shall not apply to a savings deposit, or a time deposit, open account that constitutes deposits of individuals, such as Christmas club accounts and vacation club accounts, that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months.

* * * * *

(2) If in a reserve city (except as to any bank located in such a city that is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in paragraph (a)(1) of this section)—

* * * * *

(ii) 1 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 4 years or more; 2½ percent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than 4 years; 3 percent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 percent of such deposits in excess of $5 million: Provided, however, That in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 percent. In addition, a member bank shall maintain a reserve balance equal to 2 percent of its time deposits of the following types:

(a) Time deposits of $100,000 or more; and

(b) Time deposits of $100,000 or more represented by promissory notes, acknowledgments of advance, due bills, or similar obligations as provided in § 204.1(f); and

(c) Time deposits represented by ineligible bankers' acceptances or obligations issued by a member bank's affiliate, as provided in § 204.1(f).

However, the supplementary 2 percent reserve requirement shall not apply to a savings deposit, or a time deposit, open account that constitutes deposits of individuals, such as Christmas club accounts and vacation club accounts, that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months.

* * * * *

By order of the Board of Governors, November 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-31723 Filed 11-8-78; 8:45 am]

[6210-01-M]

[Docket No. R-0184]

PART 262—RULES OF PROCEDURE

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Reconsideration of Certain Board Actions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous FEDERAL REGISTER document (FR Doc. 78-30265, filed October 10, 1978) beginning at page 49973 of the issue for Thursday, October 26, 1978. On page 49974 in the first column, paragraph (7) should read as follows: (7) Pursuant to part 262.3(i) of this chapter (Rules of Procedure) to determine whether or not to grant a request for reconsideration of any action taken by the Board with respect to an application as provided in that part.

Board of Governors of the Federal Reserve System, November 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-31722 Filed 11-8-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18434; Amdt. Nos. 11-15, 121-150, 127-36, 133-8, 137-9, 139-12]

SUBCHAPTER B—PROCEDURAL RULES

SUBCHAPTER G—AIR CARRIERS, AIR TRAVEL CLUBS, AND OPERATORS FOR COMPENSATION OR HIRE: CERTIFICATION AND OPERATIONS

OFFICIALS WITHIN THE FAA

Delegations of Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments delegate certain authority of the Administrator of the FAA to officials within the FAA to issue, amend, or repeal: (1) Appendices to parts of the Federal Aviation Regulations; (2) technical standard orders; (3) minimum en route IFR altitudes and associated flight data; and (4) standard instrument approach procedures. They also delegate certain authority of the Administrator to: (1) reconsider refusals of applications for amendments to various operating certificates, operations specifications, and airport operations manuals; and (2) reconsider amendments to operations specifications, and airport operations manuals. In addition, these amendments establish procedures for the reconsideration of denials or grants of exemptions. These amendments also delegate authority to the Regional Directors to grant or deny exemptions from the regulations concerning the certification and operations of land airports serving CAB-certificated air carriers. Finally, the amendments delegate the Chief Counsel's authority in connection with the processing of certain rules. This action is taken to provide more timely governmental response and action. These delegations will reduce review levels within the agency with corresponding savings in time, money, and resources.

DATES: Effective date November 9, 1978. Comments are due on or before March 9, 1979.

ADDRESS: Send comments on the procedures in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 18434, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Office of the Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: 202-426-3073.

SUPPLEMENTARY INFORMATION:

I. GENERAL

To reduce review levels within rulemaking areas that largely involve technical and nonpolicy matters, these amendments delegate certain responsibilities of the Administrator and the Chief Counsel to officials within the FAA and authorize certain other delegations by the Chief Counsel. The reduction of review levels will expedite the rulemaking process which will in turn save time, money, and resources and provide more timely governmental response and action. These amendments also establish procedures for the reconsideration of denials or grants of exemptions. The delegations and procedures are accomplished by specific changes to sections of the Federal Aviation Regulations.

II. DESCRIPTION OF AMENDMENTS

A. AUTHORITY OF "CHIEF COUNSEL"

By the addition of a new paragraph (c) to § 11.41, certain authority of the Chief Counsel in processing exemptions under subpart C of part 11 (14 CFR Part 11) is delegated to the Assistant Chief Counsel for Regulations and Enforcement. Further, under this paragraph the Chief Counsel may delegate responsibilities in processing petitions for rulemaking, issuing notices of proposed rulemaking, and adopting final rules. Section 11.61 of subpart D (rules and procedures for airspace assignment and use) and § 11.81 of subpart E (processing of Airworthiness Directives) are amended to delegate to the Assistant Chief Counsel for Regulations and Enforcement the authority of the Chief Counsel in processing rules under these subparts. It should be noted that under the amendment to subpart C, in contrast to existing subparts D and E, the Regional Counsel does not act as the Chief Counsel except in processing petitions for exemptions from the requirements of part 139 (14 CFR Part 139). Further, the last sentence of paragraph (a) of § 11.41 is placed in new paragraph (c) of § 11.41 since new paragraph (c) contains the definitions for the subpart. Finally, paragraph (c) of § 11.53 is deleted since its substance is incorporated in the new paragraph (c) of § 11.41 which relates to the scope of the entire subpart.

B. APPENDICES TO PARTS, TECHNICAL STANDARD ORDERS, MINIMUM EN ROUTE IFR ALTITUDES AND ASSOCIATED FLIGHT DATA, AND STANDARD INSTRUMENT APPROACH PROCEDURES

By amending § 11.49 the head of the Office or Service concerned is delegated the authority to issue, amend, or repeal appendices to parts of the Federal Aviation Regulations. These appendices contain technical details relating to specific sections within the part and they do not involve basic policy considerations. Therefore, the general involvement of the Administrator in regulatory actions related to appendices is not warranted.

Section 11.49 is also amended to delegate the authority to issue, amend, and repeal: (1) Technical standard orders; (2) minimum en route IFR altitudes and associated flight data; and (3) standard instrument approach procedures. These delegations were authorized by a document published in 25 FR 6489 (July 9, 1960) and paragraph 802 of order FSP 1100.1, as amended March 9, 1973. This amendment merely serves to publish these existing delegations in the Federal Aviation Regulations.

C. RECONSIDERATION OF DENIALS OR GRANTS OF EXEMPTIONS

A new section is added to part 11 establishing procedures for processing petitions for reconsideration of denials and grants of exemptions. Previously, there has been no prescribed procedure, but normally, reconsideration has been by the Administrator. New § 11.55 (a) and (b) codifies this procedure in the Federal Aviation Regulations.

In contrast to the above procedure, new § 11.55(c) provides that, in the case of a petition for reconsideration of a denial of an exemption from the requirements of part 67 of the Federal Aviation Regulations, (14 CFR Part 67) the petition is to be filed with, and the reconsideration is to be by, the Federal Air Surgeon. The difference in the procedure for reconsideration of denials of part 67 exemptions is due to the large quantity of part 67 exemptions requested, approximately 100 a month, and the specialized nature of the medical decisionmaking in these cases which requires specialized medical expertise. A decision on a petition for reconsideration still would be made by the Administrator if the Federal Air Surgeon referred the decision on the initial petition for exemption to the Administrator in accordance with § 11.53.

A petition for reconsideration would have to be based on either a material mistake in fact or law or the presence of an additional fact not presented to the FAA in the initial petition.

D. AIRWORTHINESS DIRECTIVES AND AIRSPACE ASSIGNMENT AND USE

Except for the amendments to §§ 11.61 and 11.81, the revisions of part 11 made by these amendments do not relate to the issuance of Airworthiness Directives and rules concerning airspace assignment and use provided for in subparts D and E of part 11. Those subparts already contain delegations sufficient to provide for appropriate decentralization of rulemaking.

E. VARIOUS OPERATING CERTIFICATES, OPERATIONS SPECIFICATIONS AND AIRPORT OPERATIONS MANUALS

Parts 121, 127, 133, 137, and 139 of subchapter G of the Federal Aviation Regulations (14 CFR Parts 121, 127, 133, 137, and 139) are revised to indicate that the Administrator delegates to the head of the Office or Service concerned the authority to reconsider refusals of applications by certificate holders for amendments to various operating certificates, operations specifications, and airport operations manuals, and to reconsider amendments initiated by the FAA to operations specifications and airport operations manuals. Certain editorial changes are also contained in these amendments which make the sections affected consistent with the delegated authority.

F. EXEMPTIONS FROM PART 139

Section 139.19 is revised to delegate to the appropriate Regional Director the authority to grant or deny exemptions from the requirements of part 139 with the exception of those petitions filed on behalf of military airports. The Assistant Administrator for Airports Programs is authorized to grant or deny the petitions for exemptions from the requirements of part 139 filed on behalf of military airports. These delegations are authorized because of the local nature of most part 139 exemptions and the necessity for coordinating a national policy for those exemptions filed on behalf of military airports. Finally, the language in § 11.41 has been changed to more accurately reflect the fact that exemptions are requested "from the requirements of" part 139 and not "filed under" that part.

III. EFFECTIVE DATE AND REQUEST FOR COMMENTS

Since these amendments are procedural in nature and implement existing statutory authority, notice and opportunity for public comment is not required. In addition, since these amendments are procedural and do not impose an additional burden, good cause exists for making them effective less than 30 days after publication. However, the FAA contemplates a review of the procedures established by these amendments after they have been in operation for at least 12 months. Interested persons are invited to submit such comments as they may desire with respect to these amendments. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All comments received on or before

March 9, 1979, will be considered during the review, and will be available both before and after that date in the Rules Docket for examination by interested persons.

IV. ADOPTION OF THE AMENDMENTS

Accordingly, parts 11, 121, 127, 133, 137, and 139 of the Federal Aviation Regulations (14 CFR Parts 11, 121, 127, 133, 137, and 139) are amended as follows, effective November 9, 1978.

1. By revising § 11.41 by deleting the last sentence of paragraph (a) and by adding a new paragraph (c) to read as follows:

§ 11.41 Scope.

* * * * *

(c) For the purposes of this subpart—

(1) The words "Office or Service" include the Aeronautical Center and the National Aviation Facilities Experimental Center, and include Regional Directors with respect to petitions for exemptions from the requirements of part 139 of this chapter; and

(2) "Chief Counsel" means—

(i) the Chief Counsel;

(ii) a Regional Counsel with respect to petitions for exemptions from the requirements of part 139 of this chapter;

(iii) the Assistant Chief Counsel for Regulations and Enforcement for all other exemptions processed under this subpart; or

(iv) any person to whom the Chief Counsel has delegated authority in the matter concerned.

2. By revising § 11.49 to read as follows:

§ 11.49 Adoption of final rules.

(a) After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the Chief Counsel prepare an appropriate rule, subject to the approval of the Chief Counsel as to form and legality. Except as provided in paragraph (b) of this section, the rule is then submitted, with the recommendations of the head of the Office or Service concerned and the Chief Counsel, to the Administrator for consideration. If a rule is adopted, it is published in the FEDERAL REGISTER.

(b) Final authority to issue, amend, and repeal—

(1) An appendix to a part is delegated to the head of the Office or Service concerned;

(2) Technical standard orders for aircraft materials, parts, processes, and appliances under part 37 of this chapter is delegated to the Director, Flight Standards Service; and

(3) Minimum en route IFR altitudes and associated flight data under part 95 of this chapter, and standard instrument approach procedures under part 97 of this chapter is delegated to the Chief, Aircraft Programs Division, Flight Standards Service.

§ 11.53 [Amended]

3. By amending § 11.53 by deleting paragraph (c).

4. By the addition of a new section to subpart C of part 11 to read as follows:

§ 11.55 Reconsideration of a denial or grant of exemption.

(a) Except as provided in paragraph (c) of this section, if a petition for exemption is denied, the petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 30 days after the petitioner is notified of the denial of the exemption.

(b) If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 45 days after the grant of exemption is issued.

(c) If a petition for exemption from the requirements of part 67 of this chapter is denied, the petitioner may file a petition for reconsideration with the Federal Air Surgeon. The petition must be filed in duplicate, within 30 days after the petitioner is notified of the denial of the exemption. However, if the final action on the initial petition was by the Administrator in accordance with the second sentence of § 11.53(a), the Federal Air Surgeon refers the petition for reconsideration and recommendations and those of the Chief Counsel to the Administrator for final action.

(d) A petition for reconsideration under this section must be based on the existence of one or more of the following:

(1) A finding of a material fact that is erroneous.

(2) A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, FAA rules, or precedent.

(3) An additional fact relevant to the decision that was not presented in the initial petition for exemption. In order for a petition under paragraph (a) or (c) of this section to be based on this ground, the petition for reconsideration must state the reason the additional fact was not presented in the initial petition.

§ 11.61 [Amended]

5. By amending paragraph (d) of § 11.61 by inserting the words "or the Assistant Chief Counsel for Regulations and Enforcement," between the words "or a Regional Counsel," and "or".

§ 11.81 [Amended]

6. By amending paragraph (c) of § 11.81 by inserting the words "or the Assistant Chief Counsel for Regulations and Enforcement," between the words "or a Regional Counsel," and "or".

§ 121.77 [Amended]

7. By amending § 121.77 as follows:

(A) By revising the introductory clause of paragraph (a) and by revising paragraph (b) to read as follows:

§ 121.77 Amendment of certificate.

(a) An operating certificate issued under this part may be amended—

* * *

(b) An applicant for an amendment to an operating certificate must file its application with the District Office at least 15 days before the proposed effective date of that amendment, unless a shorter filing period is allowed by that office.

* * * * *

(B) By deleting the word "Administrator" from paragraph (a)(1) and substituting in its place the words "FAA District Office charged with the overall inspection of the certificate holder's operations".

(C) By deleting the words "Administrator personally" from paragraph (c) and substituting in their place the words "Director, Flight Standards Service."

§ 121.79 [Amended]

8. By amending § 121.79 as follows:

(A) By deleting the word "Administrator" from the introductory clause of paragraph (a) and substituting in its place the words "FAA District Office charged with the overall inspection of the certificate holder's operations".

(B) By deleting the word "Administrator" from paragraphs (a)(1) and (a)(2) and substituting in its place the words "District Office".

(C) By amending paragraph (b) by deleting the word "Administrator" from all sentences except the third and substituting in its place the words "District Office" and by deleting the word "he" from the fourth sentence and substituting in its place the word "it".

(D) By revising the third sentence of paragraph (b) and by revising paragraph (c) to read as follows:

§ 121.79 Amendment of operations specifications.

* * * * *

(b) * * * The amendment becomes effective not less than 30 days after the holder receives notice of it, unless the holder petitions the Director,

Flight Standards Service, to reconsider the amendment, in which case its effective date is stayed pending a decision by the Director. * * *

(c) An applicant must file its application for an amendment of operations specifications with the District Office at least 15 days before the date that it proposes for the amendment to become effective, unless a shorter filing period is allowed by that office.

* * * * *

(E) By deleting the words "Administrator personally" from paragraph (d) and substituting in their place the words "Director, Flight Standards Service".

§ 127.25 [Amended]

9. By amending § 127.25 as follows:

(A) By deleting the word "he" from paragraph (a) and substituting in its place the words "the Administrator".

(B) By amending paragraph (b) by deleting the word "Administrator" and substituting in its place the words "FAA District Office charged with the overall inspection of the certificate holder's operations" and by deleting the word "he" and substituting in its place the word "it".

§ 127.27 [Amended]

10. By amending § 127.27 as follows:

(A) By deleting the word "Administrator" from the introductory clause of paragraph (a) and substituting in its place the words "FAA District Office charged with the overall inspection of the certificate holder's operations".

(B) By deleting the word "Administrator" from paragraphs (a)(1) and (a)(2) and substituting in its place the words "District Office".

(C) By amending paragraph (b) by deleting the word "Administrator" from all sentences except the third and substituting in its place the words "District Office" and by deleting the word "he" from the fourth sentence and substituting in its place the word "it".

(D) By revising the third sentence of paragraph (b) and by revising paragraph (c) to read as follows:

§ 127.27 Amendment of operations specifications.

* * * * *

(b) * * * The amendment becomes effective not less than 30 days after the air carrier receives notice of it, unless the air carrier petitions the Director, Flight Standards Service, to reconsider the amendment, in which case its effective date is stayed pending a decision by the Director. * * *

(c) An applicant must file its application for an amendment of operations specifications with the District Office at least 15 days before the date that it proposes for the amendment to become effective, unless a shorter filing period is allowed by that office.

* * * * *

(E) By deleting the words "Administrator personally" from paragraph (d) and substituting in their place the words "Director, Flight Standards Service".

11. By revising § 133.25 to read as follows:

§ 133.25 Amendment of certificate.

The holder of a Rotorcraft External-Load Certificate may apply to the FAA District Office having jurisdiction over the area in which the applicant's home base of operation is located, or to the District Office nearest the area in which operations are to be conducted, for an amendment of the applicant's certificate, to add or delete a rotorcraft or a rotorcraft-load combination authorization, by executing the appropriate portion of the form used in applying for a Rotorcraft External-Load Operator Certificate. If the applicant for the amendment shows compliance with §§ 133.19, 133.21, and 133.23, the District Office issues an amended Rotorcraft External-Load Operator Certificate to the applicant with authorization to operate with those classes of rotorcraft-load combinations for which the applicant complies with the applicable provisions of subpart D of this part.

§ 137.17 [Amended]

12. By amending §137.17 as follows:

(A) By revising the introductory clause of paragraph (a) to read as follows:

§ 137.17 Amendment of certificate.

(a) An agricultural aircraft operator certificate may be amended—

* * * * *

(B) By deleting the word "his" from paragraph (a)(1) and substituting in its place the words "the Administrator's".

(C) By deleting the word "he" from the second sentence of paragraph (b) and substituting in its place the word "it".

(D) By amending paragraph (c) by deleting the word "Administrator" and substituting in its place the words "District Office" and by deleting the word "he" and substituting in its place the word "it".

(E) By deleting the words "Administrator personally" from paragraph (d) and substituting in their place the words "Director, Flight Standards Service".

§ 139.7 [Amended]

13. By amending § 139.7 as follows:

(A) By revising the introductory clause of paragraph (a) to read as follows:

§ 139.7 Amendment of certificate.

(a) An airport operating certificate issued under this part may be amended—

* * * * *

(B) By deleting the word "Administrator" from paragraph (a)(1) and substituting in its place the words "FAA Airport Field Office in whose area the airport is located".

(C) By deleting the words "FAA Airport field office in whose area the airport is located," from paragraph (b) and substituting in their place the words "Airport Field Office".

(D) By amending paragraph (c) by deleting the words "FAA Airport field office" and substituting in their place the words "Airport Field Office" and by deleting the words "Administrator personally" and substituting in their place the words "Assistant Administrator for Airports Programs".

§ 139.9 [Amended]

14. By amending § 139.9 as follows:

(A) By deleting the word "Administrator" from the introductory clause of paragraph (a) and substituting in its place the words "FAA Airport Field Office in whose area the airport is located".

(B) By deleting the word "Administrator" from paragraphs (a)(1) and (a)(2) and substituting in its place the words "Airport Field Office".

(C) By amending paragraph (b) by deleting the word "Administrator" from all sentences except the third and substituting in its place the words "Airport Field Office" and by deleting the word "he" in the fourth sentence and substituting in its place the word "it".

(D) By revising the third sentence of paragraph (b) to read as follows:

§ 139.9 Amendment of airport operations manual or airport operations specifications.

* * * * *

(b) * * * The amendment becomes effective not less than 30 days after the certificate holder receives notice of it, unless the certificate holder petitions the Assistant Administrator for Airports Programs to reconsider the amendment, in which case its effective date is stayed pending a decision by the Assistant Administrator.

* * * * *

(E) By deleting the words "FAA airport field office in whose area the airport is located," from paragraph (c) and substituting in their place the words "Airport Field Office".

(F) By amending paragraph (d) by deleting the words "FAA airport field office" and substituting in their place the words "Airport Field Office" and by deleting the words "Administrator personally" and substituting in their place the words "Assistant Administrator for Airports Programs".

§ 139.19 [Amended]

15. By amending § 139.19 as follows:

(A) By inserting the words "from any requirement of this part. A person may petition for an exemption" between the words "for an exemption" and "from the safety" in the first sentence of paragraph (a).

(B) By deleting the words "airport field office" from paragraph (b) and substituting in their place the words "Airport Field Office".

(C) By revising the title of the section and by revising paragraph (c) to read as follows:

§ 139.19 Exemptions.

* * * * *

(c) Except for a petition filed on behalf of a military airport, each petition filed under this section is referred for action to the appropriate Regional Director who may grant or deny the petition. A petition filed on behalf of a military airport is referred for action to the Assistant Administrator for Airports Programs. However, if the Regional Director or Assistant Administrator finds that the grant or denial involves a technical or policy determination that should be made by the Administrator, the Regional Director or Assistant Administrator refers the petition to the Administrator for final action.

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

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925). In addition, these amendments are procedural in nature and the Federal Aviation Administration has determined that the expected impact of these amendments is so minimal that they do not require an evaluation.

Issued in Washington, D.C. on October 31, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-31453 Filed 11-9-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-18-AD; Amdt. 39-3320]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Model UH-12 Series Helicopters Including Military Models

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Correction of final rule.

SUMMARY: On page 49299 of the FEDERAL REGISTER for October 23, 1978 (43 FR 49299), the FAA published a final rule airworthiness directive (AD) on Hiller UH-12 series helicopters. On page 42300 of the FEDERAL REGISTER paragraph (a)(3)(ii) of the AD the rod thread major diameter was incorrect, it should read 0.3677 inch. The priority mail letter issued by the FAA on September 22, 1978, is correct.

FOR FURTHER INFORMATION CONTACT:

Gary Presba, Executive Secretary, Airworthiness Directive Review Board, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

CORRECTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is corrected, by correcting amendment 39-3320 (43 FR 49299) AD 78-22-02 paragraph (a)(3)(ii) to read as follows:

* * * * *

(ii) if the rod thread major diameter measures .3677 inch or less, before returning to service;

* * * * *

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

Issued in Los Angeles, Calif. on October 30, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-31751 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 18437; Amdt. 39-3346]

PART 39—AIRWORTHINESS DIRECTIVES

Agusta Model A109 Series Helicopters

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of certain Agusta Model A109 Series heicopters by individual letters dated April 26, 1978. The AD requires replacement of main transmission pinion gears that do not conform with the manufacturer's design specification to prevent failure of the main transmission.

DATES: November 24, 1978. Effective immediately upon receipt of letter dated April 26, 1978. Compliance schedule—As prescribed in the body of the AD.

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

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on April 26, 1978, and made effective immediately by letter as to all known operators of Agusta Model A109 Series helicopters having certain serial numbers, certificated in all categories. The AD requires replacement of main transmission pinion gears that do not conform with the manufacturer's design specification to prevent failure of the main transmission.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Agusta Model A109 Series helicopters by individual letters. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amend-

ment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ADOPTION OF AMENDMENT

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

COSTRUZIONI AERONAUTICHE GIOVANNI AGUSTA. Applies to Agusta Model A109 Series helicopters, S/N, 7107, 7111, 7126, and 7129, certificated in all categories.

Compliance required before further flight, unless already accomplished, but helicopter may be flown in accordance with FAR 21.197 and 21.199 to a base where the required work can be performed.

To prevent possible failure of main transmission P/N 109-0400-02-01, remove pinion gear P/N 109-0403-06-1, S/N 18, 24, 25, or 27, from main transmissions S/N 31, 36, 11, and 10, respectively, and replace with new pinion gear of same part number having serial number other than 17 through 32.

This amendment is effective November 24, 1978, as to all persons except those persons to whom it was made immediately effective by the letter dated April 26, 1978, which contained this amendment.

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

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

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

[FR Doc. 78-31729 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-28; Amdt. 39-3338]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Canadair CL-44D4 and CL-44J type airplanes and requires a repetitive inspection of the elevator resilient stop mechanism at spanwise stations 43 and 178 for wear so as to prevent loss of elevator travel resulting in loss of flight control on takeoff and landing.

DATE: November 10, 1978. Initial compliance is required within the next 100 hours in service.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of loss of elevator travel after extreme wear of the splines of the inner and outer torsion members which caused the connecting bolt to shear. Since this is a condition likely to exist or develop in other airplanes of similar type design, an AD is being issued which will require a repetitive inspection and repair when necessary of the elevator resilient stop mechanism. Since this deficiency affects air safety, notice and public procedure hereon are impractical and the rule may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

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

To preclude loss of elevator travel due to spline wear:

(a) Within the next 100 hours in service after the effective date of this airworthiness directive, unless already accomplished within the last 900 hours in service, and thereafter at intervals not to exceed 1000 hours in service, accomplish the following:

(1) Visually inspect each elevator resilient stop mechanism at spanwise stations 43 and 178 for wear, in accordance with inspection data paragraph of Canadair Service Information Circular (SIC) No. 406-CL44, dated May 17, 1977, or equivalent.

(2) Prior to next flight, repair or replace worn parts with parts of the same part number and install in accordance with instructions outlined in chapter 55-20-2 of the Canadair CL-44 overhaul manual, dated June 19, 1964, or equivalent.

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

(c) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD.

Effective Date: This amendment is effective November 10, 1978.

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

Issued in Jamaica, N.Y., on October 27, 1978.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[FR Doc. 78-31695 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-32; Amdt. 39-3341]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Grumman American G-164 type airplanes and requires a repetitive inspection of the aileron cables where they cross the pulley near the wing roots so as to prevent failure of the control cables.

EFFECTIVE DATE: November 13, 1978. Compliance is required in accordance with the schedule set forth in the rule.

ADDRESS: Service Bulletins may be acquired from the manufacturer at Grumman American Corp., P.O. Box 147, Elmira, N.Y. 14902.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of broken strands in the aileron control cables where they cross the pulleys near the wing roots which can result in failed cables. Since this is a condition likely to exist or develop in other airplanes of similar type design, an AD is being issued which will require a repetitive inspection of the cables and replacement where necessary. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

GRUMMAN: Applies to Grumman G-164 S/N's 1 thru 400, G-164A S/N's 401 and up, G-164B S/N's 01B and up, G-164C S/N's 01C and up, certificated in all categories.

Compliance is required as indicated.

To detect aileron balance cables containing broken strands, P/N's A1860-101 and A1860-401 at the wing root pulley, accomplish the following:

(a) Within the next 50 hours in service after the effective date of this AD, unless already accomplished within the last 550 hours, inspect the aileron cables for broken strands where they cross the pulley near the right and left wing roots.

(b) Within the next 600 hours in service after compliance with paragraph (a) of this AD, and within every 600 hours in service thereafter, repeat the inspection of paragraph (a).

(c) Replace cables containing broken strands, prior to next flight, with unused cables of the same part number or with an approved equivalent.

(d) Equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

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

(f) The aircraft may be flown in accordance with FAR 21.197 to a location where the AD can be accomplished.

(Grumman American Ag-Cat Service Bulletin No. 63, dated October 6, 1978, is concerned with this subject.

Effective Date: This amendment is effective November 13, 1978.

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

Issued in Jamaica, N.Y., on October 30, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-31697 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-20-AD; Amdt. 39-3344]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Model UH-12 Series Helicopters Including Military Models

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive which requires an inspection of service records on Hiller Model UH-12 Series Helicopters including military models. The need for this inspection arises from failure to assign sale numbers to certain finite life components with attendant possibility of failure to record time and service, and control of return to service of these components. The AD also specifies corrective action in the form of removal from service under certain conditions. The AD is necessary to prevent retention in service of finite life components beyond the established finite life which could result in loss of the rotorcraft.

DATES: Effective December 14, 1978. Initial compliance required within fifty (50) hours time and service of the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The FAA has learned that eleven (11) finite life components on Hiller Model UH-12 Series Helicopters were not serialized, i.e., did not have serial numbers assigned by the manufacturer, or assigned serial numbers were obscured by subsequent manufacturing process. In the absence of serial number identification, it is possible that recordation of hours, time and service, and control of return to service of these components may not exist.

Failure to maintain adequate recordation of time and service may result in the retention in service of finite life components beyond their safe lives which could result in loss of the helicopter.

Since this condition is likely to exist or develop in other helicopters of the same type design, an Airworthiness Directive is being issued which requires records inspection and replacement, if necessary, of certain finite life components.

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:

HILLER HELICOPTERS applies to Hiller Model UH-12D, UH-12E, and UH-12E (4 place) helicopters certificated in all categories, including military models UH-23D, OH-23G, H-23F, and turbine-powered models, equipped with the finite life components listed below:

Part No.	Nomenclature	Replacement period (hours)	Applicability
63192-7, -11	Snubber assembly, engine, longitudinal	4,650	Note A.
63192-5, -9	Snubber assembly, engine, lateral	4,650	All.
63197	Bracket, engine snubber	6,160	All.
63197-5	....do	9,850	All.
31197-3	Flyweight collective pitch ballast	2,500	All.
31318	Bellcrank, collective control	15,000	Note B.
31319-3	Tube, collective control	23,500	Do.
31321	Shaft, dual collective control	10,400	Do.
31344, -3, -5, or -9	Block assembly, collective stick	6,400	Do.
31403	Arm assembly, collective and throttle controls	21,500	E (4 place).
34141,-5	Scissor, cyclic control, lower	275	All.
AN3-7A	Attaching bolts, engine snubber (used to attach P/N 63197 bracket to deck and lord mount).	600	All.

NOTE A.—All models except turbine-powered.
NOTE. B.—All models except UH-12D and UH-23D.

To prevent failure of the above listed finite life components accomplish the following:

(a) Within fifty (50) hours time in service after the effective date of this AD, unless already accomplished, inspect the service history of each of the finite life components listed in this AD for adequacy of documentation.

NOTE.—The finite life components may be documented by serial number, part nomenclature, part number or any combination.

(b) For those finite life components listed in this AD for which service history can be documented, no further action is required by this AD.

(c) For any finite life component listed in this AD for which service history cannot be documented:

(1) Prior to further flight, remove and replace those finite life components whose replacement period is less than helicopter total time in service.

(2) Within five hundred (500) hours time in service from the effective date of this AD, remove and replace those components whose replacement period is greater than helicopter total time in service.

NOTE.—The Criteria in (c) (1) and (2) applies only to aircraft in service. Finite life criteria for aircraft submitted for original airworthiness certification are contained in AC-21-13.

(d) Only finite life components for which prior service history or representation as new can be documented may be used as replacement parts. Equivalent inspection procedures may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective December 14, 1978.

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

Issued in Los Angeles, Calif., on October 31, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-31699 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-8-AD; Amdt. 39-3343]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This notice adopts a new airworthiness directive (AD) which requires modification of the stall warning installation on DC-9 series airplanes. This AD is needed to prevent false stall warnings just after the initiation of rotation which have resulted in rejected takeoffs and the consequent possible departure of the airplane from the runway.

DATES: Effective December 11, 1978. Compliance schedule—Within 1 year after the effective date of this AD.

ADDRESS: The applicable service information may be obtained from: McDonnell Douglas Corp., Douglas Aircraft Co., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training CI-750, 54-60.

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

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, 213-536-6398.

SUPPLEMENTARY INFORMATION: On June 15, 1978, the FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to McDonnell Douglas DC-9 series airplanes (43 FR 25832). This AD establishes a modification to the stall warning circuitry which will inhibit the stall warning system for a period of 4 seconds after nose wheel lift-off. The proposal was prompted by two unnecessary rejected takeoffs which resulted in severe damage to the airplanes and endangered passengers and crew.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposed rulemaking.

The Air Transport Association (ATA) questioned the FAA's conclusion that the 4-second time delay will reduce the probability of rejected >takeoffs due to false stall warnings. They are concerned that if the FAA is wrong, the safety problem could be worse. The FAA reached its conclusion after a review of the DC-9 and DC-10 false stall warning incidents and information presented by the ATA. The ATA information indicates that after a false stall warning there have been more successful takeoffs than successful rejected takeoffs. By adding the 4-second delay, the probability of continuing the takeoff is greatly increased after a false stall warning, since the aircraft is airborne and exhibiting all other indications of normal flight.

The ATA suggested that the best solution would be to make the stall warning system more reliable. The FAA encourages incorporation of these improvements, however, after their incorporation false stall warnings at rotation are still probable. Therefore, the FAA has determined that the delay of any possible false stall warning until the airplane is airborne will be the most effective way to prevent unnecessary rejected takeoffs.

The ATA also transmitted comments made by Air Canada. Air Canada states that the 4-second time delay is insufficient, in that a heavy airplane may not become airborne within the 4-second time delay. If a false stall warning should occur under these circumstances, the pilot may reject the takeoff making the modification ineffective. Review of the type certification data shows that with a normal rotation rate (as defined in the FAA approved airplane flight manual) and at maximum aircraft weight, the airplane will be in the air within 3½ seconds after nose wheel lift-off. If the stall warning system delay were increased beyond 4 seconds, then rapid rotations would allow an extended period of flight time without adequate stall warning. The FAA, therefore, has retained 4 seconds as the stall warning time delay value.

Finally, the ATA stated that parts availability and time required to cycle stall warning computers through airline shops would make it difficult to accomplish the modification within 1 year. The ATA, therefore, requested that if the AD were adopted it should have a 2-year compliance time.

The FAA has reviewed these aspects of the problem, including the passage of time since the NPRM was introduced, and finds that retention of the 1-year compliance time is reasonable and warranted.

The phrase "or later FAA approved revisions" has not been included in the service bulletin citations in this AD and a note has been added indicating that the cited version of the service bulletin is the only version acceptable for demonstrating compliance with the AD under the terms of paragraph (a).

After careful review of all available data, including the comments above, the FAA has determined that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule with minor editorial changes.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

MCDONNELL DOUGLAS DC-9-10, -20, -30, -40, -50 series airplanes, including the military versions, all serial numbers, certificated in all categories.

Compliance is required within 1 year after the effective date of this AD.

To reduce the probability of an unnecessary rejected takeoff due to a false stall warning just after initiation of rotation, modify the stall warning system by extending the time delay to 4 seconds between nose gear liftoff and the initiation of stall warning, by accomplishing the following:

(a) Modify the stall warning circuitry in accordance with McDonnell Douglas DC-9 service bulletin 34-131 dated January 10, 1978.

NOTE.—Service bulletin 34-131 dated January 10, 1978, is the only version of this service bulletin suitable for compliance with paragraph (a) of this AD.

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

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

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

Issued in Los Angeles, Calif., on October 30, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-31698 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-51; Amdt. 39-3339]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) amending AD 78-08-03 applicable to Piper PA-23 and PA-23-160 type airplanes and requires removal of the upper rudder hinge during the repetitive inspections so as to assure discovery of any cracks in the area of the nutplate.

DATE EFFECTIVE: November 10, 1978. Compliance is required in accordance with the schedule in the rule.

ADDRESS: Service bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 11745.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the fin spar in the nutplate area which could not be discovered when performing AD 78-08-03, since it did not require removal of the upper rudder hinge for the repetitive inspections. Since this is a condition likely to exist or develop in other airplanes of similar type design, AD 78-08-03 is being amended to require removal of the upper rudder hinge. Since the failure to discover such cracks affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 78-08-03, as follows:

(1) In paragraph (a) insert "17063-03" in lieu of 17063-00 and after P/N 17067-18 add "or equivalent."

(2) Delete paragraph (b) and insert in lieu thereof: "(b) Within 1,000 hours in service after the inspection in (a), and thereafter at intervals not to exceed 1,000 hours since the last inspection accomplish the inspections required in (a)."

(3) In paragraph (e) after "Region" add ", or accomplished in accordance with advisory circular 43.13-1A and approved by an FAA maintenance inspector."

Effective Date: This amendment is effective November 10, 1978.

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

Issued in Jamaica, N.Y., on October 27, 1978.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[FR Doc. 78-31696 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-54; Amdt. 39-3342]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-38-112 type airplane and requires an inspection and alteration or replacement of the control wheel so as to prevent separation of the wheel from the control shaft. This results from the finding of such separation due to a weld failure during a pre-flight check.

DATE: November 13, 1978. Compliance is required before further flight.

ADDRESS: Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 11745.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There had been a report of separation of the control wheel due to failure of the weld. The wheel, because of its location, became a convenient handhold to assist in getting in and out of the airplane.

Because of the serious nature of such separation, an emergency dispatch was transmitted to known owners and operators of the airplane on June 16, 1978, which required an additional weld. The subject AD requires replacement of cracked wheels and an extra weld where cracks have not been discovered. Since this is a condition likely to exist or develop in other airplanes of similar type design, and AD is being issued.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

PIPER: Applies to Piper Model PA-38-112 Serial Nos. 38-78A0001, 38-78A0004 through 38-78A0016, 38-78A0018 through 38-78A0040, 38-78A0042 through 38-78A0224, 38-78A0226 through 38-78A0232, 38-78A0234 through 38-78A0236, 38-78A0238 through 38-78A0250, 38-78A0252 through 38-78A0266, 38-78A0268, 38-78A0270 through 38-78A0273, 38-78A0276, 38-78A0277, 38-78A0279 through 38-78A0284, 38-78A0286 through 38-78A0289, 38-78A0291, 38-78A0298, 38-78A0315 through 38-78A0318, 38-78A0324, 38-78A0326, 38-78A0329 certificated in all categories.

To prevent possible separation of the control wheel from the control shaft, accomplish the following:

Before further flight, unless already accomplished, inspect and alter or replace the pilot and co-pilot control wheels in accordance with the "Instructions" section of Piper Service Bulletin No. 609 dated June 17, 1978, or equivalent which must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Upon submission of substantiating data through an FAA Maintenance Inspector, the compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

The affected airplanes may be flown in accordance with FAR 21.197 to a location where the AD compliance procedures can be accomplished.

Effective Date: This amendment is effective November 13, 1978.

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

Issued in Jamaica, N.Y., on October 30, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-31700 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-83; Amdt. 39-3340]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain Piper PA-38-112 type airplanes and requires an inspection and repair where necessary of the left and right wing rear spar attach fittings. The purpose of the inspection is to assess any missing rivets.

DATE: November 10, 1978. Compliance is required within the next 10 hours in service.

ADDRESS: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 11745.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: There have been reports of rivets missing from the wing rear spar attach fittings. Since this is a condition likely to exist or develop in other airplanes of similar type design, an AD is being issued which will require an inspection and repair where necessary of the fitting. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

PIPER.—Applies to Piper Model PA-38-112 Serial Nos. 38-78A0001, 38-78A0005 through 38-78A0016, 38-78A0018 through 38-78A0039, 38-78A0042 through 38-78A0130, 38-78A0132 through 38-78A0212, 38-78A0214 through 38-78A0233, 38-78A0235 through 38-78A0270, 38-78A0272 through 38-78A0324, 38-78A0326 through 38-78A0329, 38-78A0331, 38-78A0333 through 38-78A0356, 38-78A0358 through 38-78A0372, 38-78A0374, 38-78A0375, 38-78A0377 through 38-78A0385, 38-78A0387 through 38-78A0399, 38-78A0401 through 38-78A0410, 38-78A0413, 38-78A0415, 38-78A0416, 38-78A0418 through 38-78A0421, 38-78A0424 through 38-78A0426, 38-78A0428, 38-78A0429, 38-78A0431, 38-78A0432, 38-78A0434, 38-78A0435, 38-78A0437 through 38-78A0439, 38-78A0441 through 38-78A0443, 38-78A0445, 38-78A0446, 38-78A0449 through 38-78A0455, 38-78A0457 through 38-78A0466, 38-78A0468, 38-78A0469, 38-78A0471, 38-78A0472, 38-78A0474, 38-78A0475, 38-78A0477, 38-78A0478, 38-78A0480, 38-78A0481, 38-78A0483, 38-78A0484, 38-78A0486, 38-78A0489, 38-78A0490, 38-78A0492 through 38-78A0494, 38-78A0496 through 38-78A0498, 38-78A0500 through 38-78A0502, 38-78A0504 through 38-78A0506, 38-78A0509, 38-78A0510, 38-78A0512 through 38-78A0526, 38-78A0528 through 38-78A0532, 38-78A0534, 38-78A0535, 38-78A0537, 38-78A0538, 38-78A0540, 38-78A0541, 38-78A0544, 38-78A0546 through 38-78A0548, 38-78A0550, 38-78A0552, 38-78A0555, 38-78A0556, 38-78A0558, 38-78A0559, 38-78A0561, 38-78A0565, 38-78A0567, 38-78A0568, 38-78A0570, 38-78A0573, 38-78A0574, 38-78A0576, 38-78A0578, 38-78A0581, 38-78A0584, 38-78A0585, 38-78A0587, 38-78A0588, 38-78A0606, and 38-78A0622.

To prevent weakening of the wing rear spar to fuselage attach fitting connection due to missing rivets, accomplish the following:

(a) Within the next 10 hours in service after the effective date of this AD, unless already accomplished, perform the steps 1 through 4 as indicated under the Instructions section in Piper Service Bulletin No. 618, dated September 5, 1978, or equivalent.

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

(c) The affected airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(d) Upon submission of substantiating data through an FAA Maintenance Inspector, the Compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective Date: This amendment is effective November 10, 1978.

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

Issued in Jamaica, N.Y., on October 27, 1978.

MARTIN J. WHITE,
Acting Director,
Eastern Region.

[FR Doc. 78-31731 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 18071; Amdt. 39-3345]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls-Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections of the control box mounting bolts for integrity and replacement of failed bolts on Rolls-Royce Dart engines until bolts of new design are installed. This AD is needed to prevent failure of the control box mounting bolts which could result in loss of engine control.

DATES: Effective date—December 11, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from: Rolls-Royce Limited, P.O. Box 31, Derby DE 2 8 BJ, England. A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections of the control box mounting bolts for integrity and replacement of failed bolts on Rolls-Royce Dart engines until bolts of new design are installed was published in the FEDERAL REGISTER at 43 FR 27557 on June 26, 1978. The proposal was prompted by reports of failures of the control box mounting bolts which caused power lever movement to be restricted in one instance and also could prevent movement of the high pressure fuel shutoff operating lever. This could cause loss of engine control.

Interested persons have been afforded an opportunity to participate in the making of the amendment and due consideration has been given to the one comment received. That comment suggested an increase in the repetitive inspection interval. FAA considers the AD as proposed to provide adequately for inspection interval adjustments to accommodate an individual operator's maintenance program.

Also, upon further review the FAA has determined that paragraph (e) of the proposed AD should be deleted. If the integrity of these bolts can be established, then a special flight permit is not required. Consequently, proposed paragraph (f) is redesignated as paragraph (e). In addition, the new paragraph (e) has been clarified with respect to the approval of modification equivalents.

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:

ROLLS-ROYCE LIMITED. Applies to Rolls-Royce Dart engines and all variants of those engines listed below which have Rolls-Royce Dart Modification 1525 incorporated (covered in Rolls-Royce Dart Service Bulletin Da 72-351), as installed on, but not necessarily limited to the airplanes listed below.

Dart engine numbers and airplane models

506, 510, 525—Vickers Viscount Model 744, 745D, 810.
511, 514, 528, 532—Fairchild F-27 and FH-227 series and Fokker F-27 series.
526—Armstrong Whitworth AW-650 series 1.
527—Handley Page Herald Type 300.
529—Grumman G-159 and Fairchild F-27 and FH-227 series.
532—Hawker Siddeley 748 series 2.
542—General Dynamics Model 240 with STC No. SA1054WE installed (or Model 600), General Dynamics Model 340/440 with STC No. SA1096 WE installed (or Model 640), and Nihon YS-11 and YS-11A series.

Compliance is required as indicated, unless already accomplished.

To prevent restricted movement of the engine power lever or the high pressure fuel shut-off valve control lever caused by control box mounting bolt failure, accomplish the following:

(a) Within the next 100 hours engine time in service or 1 month after the effective date of this AD, whichever occurs first, inspect the engine control box mounting bolts for integrity as specified in paragraph 5 of Rolls-Royce Service Bulletin Da 76-A17, Revision 1, dated April 4, 1978 (hereinafter referred to as the service bulletin) or an FAA-approved equivalent.

(b) If, during an inspection required by this AD, a bolt head is found to be detached or missing, before further flight replace both mounting bolts either—

(1) With new bolts of the same part number in accordance with paragraph 6 of the Service Bulletin or an FAA-approved equivalent and continue to inspect the bolts in accordance with paragraph (a) of this AD at intervals not to exceed 400 hours engine time in service or 4 months, whichever occurs first; or

(2) Install control box mounting bolts, in accordance with Rolls-Royce Service Bulletin Da 76-16, dated April 18, 1978, or an FAA-approved equivalent.

(c) If a detached or missing bolt head is not found during inspection required by paragraph (a) of this AD, continue to inspect the bolts in accordance with that paragraph at intervals not to exceed 400 hours engine time in service or 4 months, whichever occurs first.

(d) The inspections required by paragraph (b) (1) and (c) of this AD may be discontinued upon the installation of control box mounting bolts in accordance with Rolls-Royce Service Bulletin Da 76-16, dated April 18, 1978 or an FAA-approved equivalent.

(e) Upon request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium, may adjust the inspection interval specified in paragraphs (b) and (c) of this AD provided that such requests are made through an FAA maintenance inspector and the request contains substantiating data to justify the request for that operator.

This amendment becomes effective December 11, 1978.

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

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

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

[FR Doc. 78-31730 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Docket No. 18438; Amdt. 39-3347]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Model SA 330 PUMA Helicopters

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of certain Societe Nationale Industrielle Aerospatiale Model SA 330 PUMA helicopters by individual telegrams dated May 19, 1978. The AD requires replacement of the main gear box or determination of vibration level of the input reduction gears to prevent failure of the main gear box which could result in an oil fire and loss of control of the helicopter.

DATES: November 24, 1978. Effective immediately upon receipt of telegram dated May 19, 1978. Compliance schedule: As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from: Societe Nationale Industrielle Aerospatiale, Division Helicopters, Service Technique Apres-Vente, Boite Postale 13, 13722 Marignane, France, or Aerospatiale Helicopter Corp., 1701 West Marshal Drive, Grand Prairie, Tex. 75051.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on May 19, 1978, and made effective immediately by telegram as to all known operators of certain Societe Nationale Industrielle Aerospatiale Model SA 330 PUMA helicopters, certificated in all categories. The AD requires replacement of the main gear box or determination of vibration level of the input reduction gears to prevent failure of the main gear box which could result in an oil fire and loss of control of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Societe Nationale Industrielle Aerospatiale Model SA 330 PUMA Helicopters by individual telegrams. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ADOPTION OF AMENDMENT

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

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE. Applies to Model SA 330 Puma helicopters, certificated in all categories, that have accumulated less than 500 hours total time in service on their main gear boxes and have not incorporated Puma Modification AMS 07.51.103.

Compliance required before further flight, unless already accomplished, but helicopter may be flown in accordance with FAR 21.197 and 21.199 to a base where the required work can be performed.

To prevent failure of the main gear box input reduction gears due to excessive vibration, replace the main gear box with a gear box incorporating Puma Modification AMS 07.51.103 or accomplish the following:

(a) Determine the acceleration spectral level of the input reduction gears in accordance with the accomplishment instructions of Puma SA 330 Service Bulletin No. 01.21, dated July 12, 1977, or an FAA-approved equivalent.

(b) If the acceleration spectral level found during the test required by paragraph (a) of this AD measures 52db or more, replace the forward input reduction gears with gears incorporating Puma Modification AMS 07.51.103, or an FAA-approved equivalent.

(c) If the acceleration spectral level found during the test required by paragraph (a) of this AD measures less than 52db, the input reduction gears may remain in service if the operator receives written information from Aerospatiale that a spectral analysis shows the gears to be acceptable.

(d) Continue to comply with paragraphs (a) through (c) of this AD at intervals not to exceed 20 hours time in service until the gears have been replaced with gears incorporating Puma Modification AMS 07.51.103, or an FAA-approved equivalent.

This amendment is effective November 24, 1978, as to all persons except those persons to whom it was made immediately effective by the telegram dated May 19, 1978, which contained this amendment.

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

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

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

[FR Doc. 78-31728 Filed 11-8-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WA-7]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases the designated time of use of Restricted Area R-3202, south of Mountain Home, Idaho, from 18 hours per day, 5 days per week to 20 hours per day, 7 days per week. The additional time is necessary for the U.S. Air Force to conduct its expanded training programs in fulfilling the requirements of national defense.

EFFECTIVE DATE: December 28, 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: On September 7, 1978, the FAA proposed to amend part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter the time of use for Restricted Area R-3202, subareas A, B, and C, from the current 0700 to 0100 local time, Mondays through Fridays, to intermittent (43 FR 39804). This action would provide the additional time necessary for the U.S. Air Force to complete their expanded training programs. The controlling agency will continue to be the FAA, Salt Lake City ARTC Center; the using agency is Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho. Restricted Area R-3202 will be available for use by all civil and military aircraft when not being utilized by the 366th Tactical Fighter Wing or the 124th Tactical Reconnaissance Group, ANG.

DISCUSSION OF COMMENTS

Three comments were received, two stating no objection to the proposal. The Air Force objected to the use of the word "Intermittent" for "Time of designation" for military operations within R-3202. The Air Force stated the term "Intermittent" could be construed to mean the Restricted Area is infrequently used, thereby inviting encroachment of the area by nonparticipants. Therefore, the Air Force recommended the use of actual hours of operation in place of "Intermittent" and the FAA concurs.

THE RULE

This amendment to part 73 of the Federal Aviation Regulations increases the designated time of use for Restricted Area R-3202, south of Mountain Home, Idaho, from 18 hours per day, 5 days per week to 20 hours per day, 7 days per week. This amendment does not effect the present boundaries of R-3202, however, it does change the time of designation for use, to allow the Air Force more flexibility in expanded training programs. The U.S. Air Force requested the increased time to fulfill its requirements for the national defense. The FAA has considered and granted that request under § 306 of the Federal Aviation Act of 1958, as amended.

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 682) is amended, effective 0901 GMT, December 28, 1978, as follows:

§ 73.32, R-3202 Saylor Creek, Idaho.

Subarea A

Time of designation is amended to read: Daily 0600 to 0200 local time. Other times by NOTAM.

Subarea B

Time of designation is amended to read: Daily 0600 to 0200 local time. Other times by NOTAM.

Subarea C

Time of designation is amended to read: Daily 0600 to 0200 local time. Other times by NOTAM.

(Secs. 306, 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1347, 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 3, 1978.

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

[FR Doc.78-31617 Files 11-8-78; 8:45 AM]

[7510-01-M]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1208—REPORTING PROCEDURES FOR NASA AND AEROSPACE RELATED EMPLOYMENT

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document updates the existing published regulations by deleting unnecessary sentences relevant to the dates for fiscal years 1976 and 1977, and amending an organizational title to reflect the current title which became effective on November 8, 1977, as a result of a reorganization at NASA.

EFFECTIVE DATE: November 9, 1978.

ADDRESS: Personnel Programs Division (Code NPB-33), National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

John F. Duggan, 202-755-3993.

SUPPLEMENTARY INFORMATION: Since this action is administrative and editorial in nature and does not affect the existing regulations, notice and public procedures thereon are not required.

AUTHORITY: The provisions of this Part 1208 are issued under sec. 7 of Pub. L. 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.) and Pub. L. 94-273.

§ 1208.102 [Amended]

1. In § 1208.102(f) delete the opening clause of the first sentence (With the exception of fiscal year 1976) and the last 2 sentences.

§ 1208.104 [Amended]

2. § 1208.104(d) is amended by changing "Director of Personnel" to "Director, Personnel Programs Division."

ROBERT A. FROSCH,
Administrator.

OCTOBER 27, 1978.

[FR Doc. 78-31676 Filed 11-8-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

Deletion of Requirement for Certain Information to be Entered on the Shipper's Export Declaration

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Commodities exported from the United States must sometimes be returned for repair or other servicing. Under certain circumstances, the commodity, after servicing, may be shipped back to its owner under general license even though it is under individual validated license control. Currently, when such an export is made, the exporter must enter on the Shipper's Export Declaration, (a) the U.S. Customs Entry Number (if any), (b) the country from which the commodity was imported, and (c) the port of entry. As part of its effort to reduce costs to the exporter of reporting, recordkeeping, and export documentation, the Office of Export Administration has reviewed this requirement and has found that it is no longer needed. The requirement, therefore, is being deleted from the Export Administration Regulations.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, the introductory paragraph in § 371.17 of the Export Administration Regulations (15 CFR Part 368 et seq.) is revised to read as follows:

§ 371.17 General license GLR; return or replacement of certain commodities.

A general license designated GLR is established, subject to the provisions of § 371.17, authorizing the return of certain commodities to the destination from which imported into the United States or the replacement of defective or unacceptable parts or equipment that were exported from the United States under a validated export license.

* * * * *

AUTHORITY: Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-31670 Filed 11-8-78; 8:45 am]

[3510-25-M]

PART 376—SPECIAL COMMODITY POLICIES AND PROVISION AND

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Regulation Regarding Export of Controlled Components in End Products

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Certain commodities that are under export control to all destinations for national security reasons may be used as components in end products that, because of their peaceful use, are under control only to embargo destinations, i.e., Southern Rhodesia, Cambodia, Cuba, North Korea, and Vietnam. Where a controlled component is the principal element in such an end product, however, and can feasibly be removed or used for other purposes, the object of the control program is defeated unless the end product is subject to the same control as the component. This concept applies both to exports and reexports of U.S. commodities and to the incorporation abroad of U.S. commodities in foreign-made end products for export. This rule revises the Export Administration Regulations to set forth this concept. It also explains why the Commodity Control List is being revised to control television cameras incorporating the types of electron tubes that are under validated license control.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, the Export Administration Regulations (15 CFR Parts 376 and 399) are revised as follows:

1. The note to § 376.12 is revised to read as follows;

§ 376.12 Parts, components, and materials in foreign-made end products

* * * * *

NOTE.—In order to determine whether the prior written approval of the Office of Export Administration is required for the incorporation abroad of U.S.-origin parts or components in a foreign-made end product that will be exported to another country, answer the following questions:

1. Could the U.S.-origin part or component be exported from the United States to the new country of destination under General License *G-DEST*? If the answer is "yes," prior written approval for incorporation in the foreign-made end product is not required.

2. If the answer to "1" is "no," does the U.S.-origin part or component constitute the principal element in the end product and can it feasibly be removed or used for another purpose? If the answers to both are "yes," prior written approval *is* required.

3. If the answer to "2" is "no," could the foreign-made end product, if it were of U.S.-origin, be exported to the new country of destination under General License *G-DEST*? If the answer is "no," prior written approval *is* required.

2. Subparagraph (k) is added to § 399.1 to read as follows;

§ 399.1 The commodity control list and how to use it

* * * * *

(k) Control over end products. Certain commodities that are under export control to all destinations for national security reasons may be used as components in end products that, because of their peaceful use, are under control only to embargo destinations. Where a controlled component is the principal element in such an end product, however, and can feasibly be removed or used for other purposes, the object of the control programs is defeated unless the end product is subject to the same control as the component. This explains why, in some instances, commodities that do not appear to qualify for control for national security reasons are under validated license control to all destinations.

3. The Commodity Control List, incorporated by reference at 15 CFR 399.1, is amended by adding the following entry:

Export Control Commodity Number and Commodity Description	Unit	Processing Code	Validated License Required	GLV $ Value Limits		
				T	V	Q
* * *			*	*		
1505A Television cameras incorporating electron tubes defined in entry No. 1555.	No	EE	QSTVWYZ	500	500	0
* * *			*	*		

AUTHORITY: Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; EO 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated Dec. 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 450-1, dated Dec. 4, 1977, 42 FR 64716 (1977).

Dated: November 3, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-31669 Filed 11-8-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2931]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Marathon Oil Co.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Findlay, Ohio producer and retailer of petroleum products to cease instituting, or authorizing the institution of debt collection suits in forums other than those in which consumer resided or signed the credit contract. The firm would further be required to terminate suits pending in distant counties; vacate resulting default judgments; and provide consumers and credit reporting agencies with notice of such suit terminations.

DATES: Complaint and order issued October 18, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500, Mall Building, 118 Saint Claire Ave., Cleveland, Ohio 44114, 216-522-4207.

SUPPLEMENTARY INFORMATION: On Wednesday, August 9, 1978, there was published in the FEDERAL REGISTER, 43 FR 35338, a proposed consent agreement with analysis In the Matter of Marathon Oil Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-70 Vacate court action(s). Subpart—Enforcing Dealings or Payments Wrongfully: Section 13.1045 Enforcing dealings or payments wrongfully.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-31640 Filed 11-8-78; 8:45 am]

[1] Copies of the complaint and the decision and order filed with the original document.

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release NO. 33-5991]

PART 201—RULES OF PRACTICE

Notice of Proceedings Relating to the Propriety of Issuing an Order Suspending effectiveness of a Registration Statement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an amendment to the Rules of Practice relating to the procedure to be followed by the Commission in giving notice of proceedings to persons entitled to such notice. The amendment concerns notices of proceedings relating to the propriety of the Commission's issuance of a stop order suspending the effectiveness of a registration statement. The new provision specifies that, in addition to the persons identified in the statute as entitled to such notice, if the proceedings are commenced within ninety days after the registration statement became effective, the agent for service and each person designated on the facing sheet of the registration statement to receive copies of communications to such agent must be provided notice of stop order proceedings. This amendment should obviate the need for underwriters and others to request telegrams which state that the Commission has not commenced a stop order proceeding in connection with the closing of the sale of the securities covered by the registration statement.

Accordingly, in the absence of unusual circumstances, confirmation

that a stop order proceeding has not been commenced will not be given within 90 days after a registration statement has become effective.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda Griggs, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 202-755-1803.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of an amendment to Rule 6 of the Rules of Practice (17 CFR 201.6). Rule 6 relates to notice of proceedings and hearings and sets forth the procedure to be followed by the Commission in giving notice to persons of the commencement of proceedings and of the scheduling of hearings.

Subsection (a) of Rule 6 provides that whenever the Commission issues an order for proceeding appropriate notice shall be given to each party to the proceeding and any other person entitled to notice. The provision adopted today amends Rule 6 to add subsection (f) to identify with more specificity the persons entitled to receive notice of proceedings to determine the propriety of the Commission's issuing an order which would suspend the effectiveness of a registration statement ("stop order proceeding") filed under the Securities Act of 1933 [15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975] ("Securities Act").

Stop order proceedings are authorized by section 8(d) of the Securities Act. A stop order may be issued when the Commission believes that the "registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading * * *" (sec. 8(d)). Prior to the issuance of a stop order, however, the Commission must give notice to the persons specified in section 8(f) of the Act and provide such persons with the opportunity to request a hearing within 15 days after notice was given.

Section 8(f) provides that notice should "be sent to or served on the issuer or, in the case of a foreign government or political subdivision thereof, to or on the underwriter, or in the case of a foreign or Territorial person, to or on its duly authorized representative in the United States * * *."

Managing underwriters of an offering being registered under the Securities Act, counsel for the issuer and counsel for the underwriters or the purchasers frequently request the Commission to send to them at the time of the closing of the sale pursuant to the registration statement a telegram advising them that the commission has not commenced a proceeding under section 8(d). Such requests are made despite the requirement in section 8 and Rule 6 that the Commission give notice of stop order proceedings to the issuer. The Commission's staff has attempted to comply with such requests because it understands that the underwriters and counsel desire direct assurance that the Commission has not commenced a stop order proceeding.

Occasionally the requested telegrams are not received on a timely basis. As a result, the time of the staff and the parties to the closing may be inconvenienced by last minute efforts to obtain the transmittal of the telegram or oral confirmation that no stop order proceeding has been instituted. The Commission believes that these problems are of a technical nature but are needless impediments to the capital formation process and aggravations for persons engaged in selling securities.

Accordingly, the Commission has determined to amend Rule 6 to require that, in addition to the persons identified in section 8(f) of the Securities Act as entitled to notice, notice of stop order proceedings be given to the agent for service named on the facing sheet of the registration statement and to each other person designated on the facing sheet of the registration statement as a person to whom copies of communications to such agent are to be sent in all cases when such proceedings are commenced within ninety days after the registration statement has become effective. This amendment should obviate the need for the telegrams and thereby resolve the technical problems relating to requests for such telegrams. Accordingly, in the absence of unusual circumstances, the Commission's staff will no longer give confirmation, either by telegram or orally, that a stop order proceeding has not been commenced if such confirmation is requested within ninety days after a registration statement has become effective.

17 CFR Part 201 is amended by adding the following paragraph (f) to § 201.6:

§ 201.6 Notice of proceedings and hearings.

* * * * *

(f) *Persons entitled to notice.* Any notice of a proceeding relating to the issuance of a stop order suspending the effectiveness of a registration statement pursuant to section 8(d) of the Securities Act of 1933 [15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)], shall be given to each person specified in section 8(f) of that act. In addition, if such proceeding is commenced within 90 days after the registration statement became effective, notice of the proceeding shall be given to the agent for service named on the facing sheet of the registration statement and to each other person designated on the facing sheet of the registration statement as a person to whom copies of communications to such agent are to be sent.

* * * * *

(Secs. 8, 19, 48 Stat. 79, 85; sec. 209, 48 Stat. 908; sec. 301, 54 Stat. 857; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77h, 77s.)

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act, 5 U.S.C. 551, et seq., are unnecessary. See 5 U.S.C. 553(b).

By the Commission.

November 2, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31724 Filed 11-8-78; 8:45 am]

[8010-01-M]

[Release No. SAB-25]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 25

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: These interpretations of the staff of the Commission provide guidance to issuers in disclosing relationships with independent public accountants in proxy statements. Topic 6-L provides the staff's views on various questions that have arisen since the adoption of rules in Accounting Series Release No. 250 that require the disclosure of certain relationships with independent public accountants.

DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell (202-755-0222), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpreta-

tions of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: November 2, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

STAFF ACCOUNTING BULLETIN No. 25

The following interpretation provides the staff's views on various questions concerning the requirements of 17 CFR 240.14a-101 adopted in Accounting Series Release No. 250 [43 FR 29110].

TOPIC 6: INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

L. ASR No. 250—Disclosure of Relationships With Independent Public Accountants

Facts: Instruction No. 1 to Item 8(g) of the proxy rules [17 CFR 240.14a-101] states in part that "all fees for services provided in connection with the audit function (e.g., reviews of quarterly reports, filings with the Commission, and annual reports) may be computed as part of the audit fees."

Question: What other services does the staff believe meet the criterion of being "services provided in connection with the audit function"?

Interpretive Response: The following are additional examples of services provided by the principal accountant that the staff believes may meet the criterion:

- Meetings with the audit committee or the board of directors on matters related to the audit.
- Reviews of the system of internal accounting control for the purpose of determining the adequacy of the system when done in conjunction with the examination of financial statements.
- Review of tax provisions to determine appropriateness.
- Consultations during the year on matters related to accounting and financial reporting.
- Review of financial and related information that is to be included in filings with the Commission and other regulatory agencies.
- Preparation of a letter to management on matters coming to the accountants' attention during an examination of financial statements.
- Limited reviews of financial information to be included in interim reports to shareholders and other investors or otherwise made public.
- Issuance of "comfort" letters to underwriters.
- Reviews of sensitive payments or compliance with corporate codes of conduct when done in conjunction with the examination of financial statements.
- Audits of entities that have been acquired by the issuer.
- Reviews of compliance with restrictive clauses in loan indentures or other agreements.
- Services performed in connection with the issuance of special reports under Statement of Auditing Standards No. 14.

The staff believes the following are among the services which do *not* meet the criterion:

- Reviews or examination of financial records, business practices, et cetera, of companies which the issuer is considering acquiring.
- Internal control services provided for the purpose of designing or redesigning systems and procedures.
- Preparation of tax returns or the rendering of tax advice.
- Assistance with tax authority examinations.
- Reviews of or assistance in the preparation of feasibility studies or limited purpose forecasts and projections.

Question: Should services, including audits, to employee benefit plans where the issuer engages the accountant be included in the disclosures of nonaudit services?

Interpretive Response: Yes.

Question: If tax services for executives are mandated by the audit committee as part of its monitoring of compliance with corporate conduct, should such services be disclosed as nonaudit?

Interpretive Response: Yes.

Facts: Item 8(g) states, in part, "For the fiscal year most recently completed, describe each professional service provided by the principal accountant and state the percentage relationship which the aggregate of the fees for all nonaudit services bear to the audit fees * * *"

Question: What amount should be used as the denominator for this computation?

Interpretive Response: The amount recorded as the cost for audit, including those services provided in connection with the audit function, during the most recently completed fiscal year.

Question: Does each nonaudit service have to be described if the percentage relationship of the individual fee is less than 3 percent of audit fees?

Interpretive Response: Yes. Only the individual fee relationship percentage is exempt from disclosure. However, judgment must be used to determine when it is appropriate to combine, for purposes of description, specific instances of rendering a service.

Question: Should the services and related fees of accountants who are an associated or correspondent firm of the principal accountant be included in the disclosures?

Interpretive Response: Yes. Such accountants are considered extensions of the principal accountant.

Question: Should services provided to subsidiaries of the issuer be included in the disclosures?

Interpretive Response: Yes. Services provided with respect to any subsidiaries, whether or not consolidated, should be included. Services with respect to 50 percent and less owned entities should be excluded, unless such entities are consolidated or unless substantially all of the fees were paid by the issuer.

Question: Should "out-of-pocket" expenses incurred by the accountant and reimbursed by the issuer be included in this computation?

Interpretive Response: Yes. Such expenses should be included with the services to which they apply.

Question: How should non-audit services not completed by year-end be disclosed?

Interpretive Response: Because the staff believes there would be a high correlation between the fiscal period in which a service is provided and the fiscal period in which its cost is recorded and because, in those instances where there is a difference in these fiscal periods the effect on the disclosure is only between years, the staff will not object to issuers disclosing the services and computing the percentages using the amounts recorded as a cost by the issuer during the most recently completed fiscal year if the method is consistently followed year to year.

Question: If the issuer engages the principal accountant to provide tax services for the issuer's executives, do such services have to be disclosed?

Interpretive Response: Yes.

Question: Should services that are disclosed elsewhere in the proxy statement, such as tax services provided to executives that are disclosed as management remuneration, also be disclosed as non-audit services pursuant to Item 8(g)?

Interpretive Response: Yes.

Facts: Item 8(g) states, in part, "Indicate whether, before each professional service provided by the principal accountant was rendered, it was approved by, and the possible effect on the independence of the accountant was considered by, (1) any audit or similar committee of the Board of Directors and, (2) for any service not approved by an audit or similar committee, the Board of Directors."

Question: Is generic approval of nonaudit services satisfactory for disclosures under this requirement?

Interpretive Response: Generic approval by the audit committee or board of directors of a defined group of nonaudit services may result in an affirmative response to this disclosure requirement where such approval is made at least annually and includes a limitation regarding the magnitude of the services and the audit committee or board of directors subsequently compares with earlier approvals the nature and magnitude of the services actually performed.

Question: Is disclosure of whether the audit committee or board of directors has approved a service required if that service was rendered prior to adoption of the rule?

Interpretive Response: Yes. However, the issuer may wish to indicate which services were rendered prior to the adoption of the rule and, if appropriate, indicate that the service was approved and the possible effect on independence was considered by the audit committee or board of directors after it was provided.

Facts: Instruction No. 4 to Item 8(g) states, "Describe the circumstances and give details of any services provided by the registrant's independent accountant during the latest fiscal year that were furnished at rates or terms that were not customary." In Accounting Series Release No. 250, the Commission states, in part, "Fee arrangements where the accountant has agreed to a fee significantly less than a fee that would cover expected direct costs in order to obtain the client or in response to criticism of prior services are examples of situations which would require disclosure."

Question: What costs does the staff believe should be included in direct costs?

Interpretive Response: The staff believes that at a minimum the compensation and fringe benefits of the personnel assigned to the engagement and out-of-pocket expenses should be included in direct costs.

Question: Must the provision of a service without charge or at a nominal charge to an audit client be described if the accountant's usual fee for such service is de minimus?

Interpretive Response: No description of the circumstances is necessary if the service is concomitant to the audit and if the accountant's normal fee for such a service is de minimus.

[FR Doc. 78-31725 Filed 11-8-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER A—GENERAL RULES

PART 1—RULES OF PRACTICE AND PROCEDURE

Procedures for Review of Remedial Orders Issued by the Secretary of Energy

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final regulations.

SUMMARY: The Federal Energy Regulatory Commission is amending its Rules of Practice and Procedure to provide procedures for Commission review of remedial orders issued by the Secretary of Energy. The final regulations implement the Commission's authority under section 503(c) of the Department of Energy Organization Act.

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Alexander M. Peters, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4227.

Bonnie Cord, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4210.

A. Background

On May 2, 1978, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (43 FR 19669, May 8, 1978) to establish procedures, pursuant to section 503 of the Department of Energy Organization Act, Pub. L. 95-91 (Act), for review by the Commission of remedial orders issued by the Secretary of Energy (Secretary). A public hearing was held on May 25, 1978, at which six persons testified, five representing large oil companies and the American Petroleum Institute, and one representing an association of small companies. Thirty-two written comments were received. While those testifying at the hearing predominantly represented large integrated oil companies, the written comments were received from a wide spectrum of persons affected by the regulations, including large integrated oil companies, trade associations, independent producers, refiners, resellers, retailers, distributors, municipalities owning electric systems, the consumer division of a State attorney general's office and an energy consulting firm. Many of the suggestions made in the testimony and in the comments have been incorporated into the final rule.

B. Summary of the Commission's Final Regulations

This rulemaking establishes procedures necessary to implement the Commission's responsibility under section 503 of the Act. Section 503(a) gives the Secretary authority to issue a remedial order to any person, firm, or association whom he believes, after investigation, has violated any regulation, rule, or order issued pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), as amended (EPAA). Section 503(b) of the Act provides that the remedial order will become effective 30 days after receipt by the person to whom it is issued unless the person notifies the Secretary that he intends to contest the order. Section 503(c) provides that the Secretary, if notified that a remedial order will be contested, must immediately notify the Commission, and the Commission is required to stay the effect of the remedial order unless it finds that the public interest requires immediate compliance. Section 503(c) further states:

> The Commission shall, upon request, afford an opportunity for a hearing, including, at a minimum, the submission of briefs, oral or documentary evidence, and oral arguments. To the extent that the Commission in its discretion determines that such is required for a full and true disclosure of the facts, the Commission shall afford the right of cross examination. The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute a final agency action * * *.

This rulemaking establishes a new § 1.38 in part 1 of title 18, Code of Federal Regulations, consisting of procedures to implement the Commission's responsibility under section 503 of the Act.

Scope. As provided in paragraph (a), § 1.38 is applicable to the review of the contested orders issued by the Secretary pursuant to section 503(a) of the Act and initiated by notices of probable violation, proposed remedial orders or other formal administrative initiating documents issued on or after October 1, 1977. Several comments have suggested that the scope be enlarged to include review of orders initiated by formal administrative documents prior to October 1, 1977. However, in light of section 503(f), the Commission declines to take jurisdiction over matters initiated prior to October

1, 1977. Section 1.38 is thus limited to review of contested remedial orders which were initiated by a formal administrative document on or after October 1, 1977.

Request for nondisclosure. Section 1.38(c) of the final rules describes the procedures by which a party may request that information, which is submitted in a proceeding conducted under this section, be withheld from public disclosure. The party must: (1) Request the presiding officer not to disclose the information; (2) submit a second copy of the document from which the information which is claimed to be exempt from disclosure has been deleted; (3) indicate in the original document that it contains information which is exempt from disclosure; and (4) submit a statement that would justify the withholding of the information under an exception in the Freedom of Information Act (5 U.S.C. 522), under 18 U.S.C. 1905, or under other law. Information thus submitted will be treated as being exempt from public disclosure. Subject to the requirements of the Freedom of Information Act, the information will not be disclosed except to participants in the proceeding, upon request, under the restriction that they may not use or disclose the information except in the context of the proceeding conducted under this section and that they must return all copies of the information, at the conclusion of the proceeding, to the person who submitted the information.

The final rule differs from the proposed rule in two respects. First, the final rule provides that information which is claimed to be exempt from public disclosure requirements is automatically treated as exempt, whereas in the proposed rule the presiding officer was required to make a determination as to its exempt status. The final rule thus eliminates the delay to the proceeding caused by the requirement to make determinations on all information claimed to be confidential, while still providing protection for information which is confidential.

The final rule also differs from the proposed rule in that, in the final rule, information claimed to be exempt from disclosure is automatically disclosed on the aforementioned conditions to other participants in the proceeding, if they request the information and if they agree to the restrictions on its use. Under the proposed rule, the presiding officer was required to make a second determination as to whether the information could be disclosed to other participants. The purpose of the second determination in the proposed rule was to reduce the possibility that a party may be required to risk disclosing trade secrets or sensitive financial data to competitors in order to defend itself in an action before the Commission. However, the proposed rule allowed for the possibility that the presiding officer's decision in the proceeding might be based upon information to which other participants had no access or which they had no opportunity to contest. In order to balance these conflicting interests, the Commission specifically sought comments on the issue in its notice of proposed rulemaking. The comments and testimony suggested that the information should be released to other participants under a protective order, limiting use of the information to the proceeding conducted pursuant to this section and requiring return of the information at the conclusion of the proceeding. The Commission has adopted this suggestion in the final rule.

Commencement of proceedings. Section 1.38(d) provides that a proceeding under this section is commenced by written notice to the Commission by the Secretary or his delegate that he has been notified by the recipient of an order (the petitioner) that the order will be contested. At the same time the Secretary is required to serve the contested order on participants in the prior proceedings and on persons denied participation in the prior proceedings. The contested order may be a remedial order under 10 CFR 205.199B, an interim remedial order for immediate compliance under 10 CFR 205.199D, or an order of disallowance under 10 CFR 205.199E. The proceeding is also commenced by the petitioner's filing a notice of petition for review of an interim remedial order for immediate compliance under 10 CFR 205.199D. Upon notice from the Secretary in the case of an interim or remedial order for immediate compliance, from the petitioner, a presiding officer shall be designated, by the Commission or its designee, for the proceeding. In the notice of proposed rulemaking, the Commission requested comments as to the desirable qualifications and experience of the presiding officer to be appointed in view of the Commission's resources. While some comments responded that only an administrative law judge would be qualified to preside, the majority of comments indicated that the nature of the particular case would determine the necessary qualifications of the presiding officer; that is, where a particular proceeding involved an extensive or complex evidentiary hearing, an administrative law judge should preside, whereas in other cases a staff lawyer knowledgeable in administrative law would suffice. Accordingly, the Commission has decided to retain the flexibility to determine whom it will appoint as presiding officer.

Stay of contested order. Section 1.38(e), which is essentially unchanged from its proposed form, provides that upon filing of the notice by the Secretary under paragraph (d)(1) or the petitioner under paragraph (d)(2) the contested order is automatically stayed unless the presiding officer finds, upon request of the Secretary or other participants, that the public interest requires immediate compliance with the contested order. A request not granted within 10 days would be denied. The presiding officer could extend the time for a determination for up to 7 days. The presiding officer will notify participants of the determination, which may be appealed to the Commission under § 1.28.

Pleadings. Section 1.38(f)(1) of the final rule provides that, within 20 days after filing of notice by the Secretary under paragraph (d), the Secretary must file with the Secretary of the Commission, for the presiding officer, a copy of the contested order, which should contain a complete statement of the factual and legal basis of the order, and must certify to the Secretary of the Commission, for the presiding officer, two copies of the entire record developed in the proceedings before the Secretary. One copy of the record must be complete. The second copy shall have had deletions made of information which the Secretary has determined is confidential or otherwise exempt from public disclosure. The first copy will be made available to participants under the conditions set forth in paragraph (c) (6) and (7). In addition, the Secretary may file a statement, similar to a complaint, setting forth the elements of the alleged offense.

Paragraph (f)(2) provides that the petitioner, within 15 days after the Secretary files the contested order and the record, must file, and serve on all parties, an answer admitting or denying each of the Secretary's findings in the contested order and setting forth affirmative defenses, if any. In the answer, the petitioner may also contest any portion of the record of proceedings before the Secretary which the Secretary certified to the presiding officer and may request permission to raise new facts and issues and to conduct discovery under the criteria set forth in paragraphs (g) and (h), respectively. The reason for allowing the Secretary 20 days to file his statement and allowing the petitioner only 15 days to file the answer is that it has been estimated that 20 days are necessary for the Secretary to compile the record which he must certify to the presiding officer. In contrast, 15 days appears to be sufficient for the petitioner to submit an answer, which need only be a simple statement of his case.

Paragraph (f)(1)(ii) provides that if the petitioner, in the answer, has requested permission to raise new facts or issues, the Secretary may, within 10 days after the filing of the petitioner's answer, file a reply responding to the petitioner's request and requesting permission to raise new facts and issues which: (1) Are necessary to support the Secretary's case as a result of the new facts and issues raised by the petitioner; and (2) are necessary for a full and true disclosure of the facts. In his reply, the Secretary may also request permission to conduct discovery relating to the new facts and issues he wishes to raise.

Paragraph (f)(3) provides that a person may request permission to intervene in the proceedings conducted under this section if the person claims: (1) That he or she has an interest which may be directly affected and which is not adequately represented by existing parties, and that he or she may be bound by Commission action in the proceeding; or (2) that he or she has any other interest so that participation by the person may be in the public interest. A person who wishes to intervene must file with the Secretary of the Commission, for the presiding officer, a request to intervene within 20 days after the commencement of the proceedings under paragraph (d). The presiding officer may, in extraordinary circumstances and for good cause shown, authorize a late filing. The request to intervene must thoroughly advise the presiding officer and participants in the proceeding as to the nature of the filing party's interest and grounds for intervention as well as the facts or law to be raised, citing authorities relied on.

The request to intervene may also request permission to raise new facts and issues and to conduct discovery in accordance with paragraphs (g) and (h), respectively. Participants in the proceedings may file answers to the request for intervention within 15 days after the filing of the request. If a participant does not file an answer, he shall be deemed to waive any objection to the granting of the request. The presiding officer may grant or deny requests to intervene, in whole or in part, or may authorize limited participation where appropriate. The determination of the presiding officer shall be served on all participants. A person whose request for intervention is denied by the presiding officer may submit comments under paragraph (m)(3) requesting the Commission to allow the intervention.

Subparagraphs (1)(iii) and (2)(iii) of paragraph (f), respectively, require the Secretary and the petitioner each to file, and serve on other participants, a brief which fully states the respective case, supported by references to all authorities relied on. The time within which the Secretary must file his brief depends on the nature of the particular proceeding. If none of the participants, including persons requesting intervention, have requested permission to raise new facts or issues or to conduct discovery, the brief is due within 20 days after the filing of the petitioner's answer. If the presiding officer determines that no discovery will be permitted, the Secretary must file his brief within 20 days after the presiding officer so determines. If discovery is permitted, the Secretary must file his brief within 20 days after the conclusion of the time period set for discovery. The petitioner's brief must be filed within 15 days after the filing of the Secretary's brief.

The comments received suggested changes to the proposed pleading procedures, many of which have been adopted in the final regulations. Objection was made to the requirement in the proposed rules that the Secretary and the petitioner were required to file briefs before discovery had been conducted. Accordingly, paragraph (f) of the final regulations requires the Secretary to submit his statement of the case (either by relying on the contested order or by submitting a separate statement) and the petitioner to file only a simply answer prior to discovery. Full briefs are to be submitted after discovery.

A few comments objected to the Secretary being permitted to file a reply under proposed § 1.38(f)(1)(ii) to the petitioner's answer on the grounds that such additional pleadings gave the Secretary an advantage. In the final regulations, the Secretary is permitted under § 1.38(f)(1)(ii) to file a reply to the petitioner's answer only if the petitioner has requested permission to raise new facts or issues and only to the extent that the Secretary may respond to the petitioner's request and may request permission to raise new facts and issues, and to conduct discovery, necessary to support his case in light of the petitioner's new facts and issues.

Several comments objected to § 1.38(f)(3) and (4) of the proposed regulations, which permitted intervention by all persons who had participated in the prior proceedings and by persons denied the opportunity to participate in the prior proceeding upon a showing that the denial was wrongful. Some of the comments argued for no intervention or very limited intervention on the basis that the Secretary adequately represents the public interest, while others, notably consumers of petroleum products, argued that liberal intervention should be permitted especially as to those persons who would receive the economic benefits of the remedial orders. Almost all of the comments responding to this issue agreed that the Commission should set its own standards for intervention rather than rely on the Secretary's determination as to who could intervene in the prior proceedings. The Commission agrees that it should set its own standards for intervention and has done so.

A large number of the comments objected to the requirement that the Secretary certify the record of the prior proceedings to the presiding officer under paragraph (f)(1)(i) and to the requirement that the petitioner contest the portions of the record in dispute, expressed in the final rules in paragraph (f)(2)(ii). The comments argued that these requirements favor the Secretary, shifting the burden to the petitioner to disprove the Secretary's record. They suggest that the Commission must conduct a *de novo* proceeding in every case in order to establish an independent record. The Commission has rejected this suggestion based in part upon the conclusion that a *de novo* proceeding is neither required nor desirable in every case, as discussed below, and in part upon the belief that the Commission's procedures effectively require the Secretary to sustain the burden of proof. The Commission's procedures are designed to obtain a record which satisfies due process standards from which a determination may be made as to whether the remedial order should issue. This record may be established in part by the Secretary's record and in part by the proceeding conducted before the presiding officer. Those portions of the Secretary's record which are contested by the petitioner or other participants, and those portions found to be inadequate by the presiding officer, may be opened for further proceedings before the Commission. Furthermore, new facts and issues may be raised in accordance with paragraph (g). In all cases, the presiding officer will conduct an independent scrutiny of all parts of the record, including the uncontested portions, in order to arrive at a decision. The record as supplemented and the review thereof should provide a sound basis for a determination of whether the Secretary has sustained the burden of demonstrating that the remedial order should issue.

New Facts and Issues. Section 1.38(g) sets forth the conditions under which the various participants may request permission to raise new facts or issues not raised in prior proceedings on the contested order. The petitioner may raise new facts of issues if they are necessary for a full and true disclosure of the facts and if the new facts or issues: (1) were not known and could not, with the exercise of due care, have been known at the time they would otherwise have been raised

in prior proceedings; (2) are facts or issues that the petitioner was unable to raise in the prior proceedings because of unduly restrictive time limits imposed by the Secretary; or (3) are facts or issues that the petitioner was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings. The Secretary may request permission to raise new facts or issues not raised in the prior proceedings, which shall be granted if they are necessary for a full and true disclosure of the facts and if they are necessary to support the Secretary's case as a result of new facts and issues raised by the petitioner. Intervenors who did not participate in the prior proceedings may raise new facts or issues subject to the same criteria applicable to the petitioner. Intervenors who participated in the prior proceedings may raise new facts or issues if they are necessary for a full and true disclosure of the facts and if the new facts or issues: (1) were not known, and could not, with the exercise of due care, have been known to the intervenor at the time they would otherwise have been raised during the prior proceedings; (2) are facts or issues that the intervenor was not able to raise at the time they could have been raised during the prior proceeding because of unduly restrictive time limits imposed by the Secretary; or (3) are facts or issues that the intervenor was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings. The presiding officer shall determine whether to grant or deny, in whole or in part, the request to raise new facts or issues.

Comments suggested that the Commission allow new facts or issues to be raised which are necessary for a full and true disclosure of the facts without regard to whether they were, or could have been, raised below. The Commission has rejected this suggestion, believing that, in the interest of administrative efficiency, the parties should be required to present their case fully before the Secretary and that the Commission's proceedings should be directed toward correcting inequities in the prior proceedings.

Discovery. Section 1.38(h) permits the petitioner and intervenors who participated in the prior proceedings to request permission to conduct discovery which is necessary for a full and true disclosure of the facts and which: (1) relates to new facts or issues permitted to be raised under paragraph (g); or (2) was not permitted to be conducted by the petitioner or the intervenors, respectively, in prior proceedings due to erroneous adverse rulings. The Secretary and intervenors who did not particiapte in the prior proceedings may request discovery related to new facts and issues which the Secretary or an intervenor, respectively, has raised in accordance with paragraph (g). The presiding officer shall determine whether to grant or deny, in whole or in part, the requests for discovery and shall set a time limit within which such discovery must be completed.

Section 1.38(h) adds written interrogatories to the devices by which discovery may be conducted.

Hearing. Section 1.38(i) provides that any participant may request a hearing, which request shall be granted, or the presiding officer may convene a hearing on his own motion. The hearing shall include an opportunity for the submission of oral or documentary evidence and oral arguments. Any participant may request an opportunity for cross-examination, which request must include the reasons why the cross-examination is necessary for full and true disclosure of the facts. The presiding officer may also provide the opportunity for cross-examination on his own motion if he or she determines that it is necessary for a full and true disclosure of the facts. Comments suggested that more specific guidance be given in the regulations to direct the presiding officer as to when cross-examination is necessary for a full and true disclosure of the facts, such as a provision stating that opportunity for cross-examination shall be granted as a matter of right on any material fact in dispute. The Commission believes that the statutory standard is sufficient guidance, and that since a presiding officer's denial of a request for cross-examination may be the subject of written comments to the Commission under paragraph (m)(3), due process is not denied.

The presiding officer may convene a prehearing conference and may determine the issues to be resolved in the proceeding and the time available for oral argument.

Conduct of the hearing. Section 1.38(j) states that the presiding officer shall be responsible for the conduct of the hearing including the order of procedure.

Burden of proof. Section 1.38(k) provides that the Secretary shall have the burden of going forward and must sustain the burden of proof with respect to all elements of his case, by a preponderance of the evidence.

Proposed findings of fact, conclusions of law and comments. Section 1.38(l) provides that any participant may, within 10 days after the conclusion of the hearing, or if no hearing is held, within 20 days after the filing of the petitioner's brief under (f)(2)(iii), file proposed findings of fact and conclusions of law, comments in support thereof and any objections to procedural rulings of the presiding officer. Any participant may file a reply to proposed findings of fact and conclusions of law within 10 days after the filing thereof.

Proposed order. Section 1.38(m) provides that the presiding officer shall issue a decision and proposed order, based on findings of fact, affirming, modifying or vacating the contested order or directing other appropriate relief. The proposed order shall be based upon the entire record before the presiding officer, including the record certified by the Secretary. The presiding officer shall certify a copy of the record in the hearing including the proposed order, to the Commission. The proposed order shall be served on all participants. Participants may, within 15 days of the issuance of the proposed order, file with the Commission written comments on the proposed order or on any procedural or substantive rulings of the presiding officer.

Commission action. Section 1.38(n) provides that, upon consideration of the entire record and the proposed order, the Commission shall issue a final order affirming, modifying, or vacating the contested order or directing other appropriate relief. The final order constitutes final agency action for purposes of judical review. The Commission may, instead of issuing a final order, remand the proceeding to the presiding officer or take other appropriate action.

Ex parte communications. Section 1.38(o) states that the ex parte provisions of § 1.4(d) of Part 1 apply to proceedings under this section as if such proceedings were contested on-the-record proceedings pending before the Commission. The ex parte provisions shall apply commencing with the Secretary's issuance of a proposed remedial order under 10 CFR 205.192, an interim remedial order for immediate compliance under 10 CFR 205.199D, or a proposed order of disallowance under 10 CFR 205.199E.

Withdrawal of petition for review. Section 1.38(p) provides that the petitioner may at any time submit to the presiding officer and serve on other participants, a request to withdraw the petition for review of the contested order. The presiding officer shall then issue, and serve on all participants in the proceeding, an order terminating the proceeding conducted pursuant to this section. The order shall become effective 10 days after issuance. Termination of the proceeding may be appealed to the Commission, within 10 days after issuance, except that if the Commission has not acted on an appeal within 30 days, it shall be deemed denied. The termination order shall be stayed pending the appeal. If the termination order is rescinded by the Commission, the proceeding shall continue in accordance with this sec-

tion. The Commission believes that any intervenor who claims to be damaged by the petitioner's withdrawal of the petition for review can obtain judicial review thereof and, accordingly, its interest is protected.

Sanctions. Paragraph (g) sets forth certain civil and criminal sanctions the Commission may seek to impose on any person who is violating, or is about to violate, any rule, regulation, restriction, condition, or order the Commission made or imposed under this section.

The nature of the Commission's review. The Commission believes, based upon an examination of the statute and the legislative history, that section 503 of the Act does not require the Commission to conduct a de novo proceeding in every case of remedial order review. The statute requires only a hearing consisting of the submission of briefs, oral and documentary evidence and oral argument. The fact that an opportunity for cross-examination is to be granted only if, in the discretion of the Commission, it is necessary for a full and true disclosure of the facts, indicates that a full de novo hearing is not required. Further, the authority of the Secretary under section 503(d) to set reasonable time limits for the Commission to complete its review indicates that a de novo proceeding is not intended as a matter of course.

In the legislative history, the statement of managers accompanying the conference report explained that the purpose of the Commission's review was to guarantee a separation of the prosecutorial and judicial functions by assuring a departmental review of remedial orders by officials who had no part in the issuance of the order. S. Rep. No. 95-367, 95th Congress, 1st sess. 85 (1977). The managers further emphasized that section 503 was intended to reaffirm Congress intent that "notions of fair play and due process be followed in administrative proceedings." Id. at 85-86. Neither of these concerns, separation of prosecutonial and judicial functions and the extension of due process, requires a de novo hearing in every case. A separation of the judicial and prosecutonial functions is accomplished by Commission review supplemented by limited evidentiary proceedings where necessary. Second, the extension of due process is satisfied in many cases by an independent scrutiny of the record and by less than a de novo proceeding, so long as each side has been afforded an opportunity to present its case in full.

During the debate in the Senate on the amendment adding section 503 to the bill, there was concern about possible delay of a final decision that might be caused by the amendment, frustrating congressional intent to speed up the administrative process. Senator Javits, who introduced the amendment, indicated that delays could be minimized by providing the Commission the discretion to deny opportunity for cross-examination where appropriate and by the fact that the Secretary could impose a reasonable time limit for Commission review, process. Senator Javits, who introduced the amendment, indicated that delays could be minimized by providing the Commission the discretion to deny opportunity for cross-examination where appropriate and by the fact that the Secretary could impose a reasonable time limit for Commission review, which he estimated to be 3 or 4 months. 123 Cong. Rec. S7935-36 (daily ed. May 18, 1977). If the proceedings were entirely de novo, the process would take much longer.

The House debate confirms the proposition that a de novo proceeding was not contemplated. Note the statement of Representative Eckhardt, who introduced the amendment regarding section 503, stating that section 503 provides "an oral hearing, gives [the petitioner] an opportunity to contest the agency position and gives him a record on which a court may ultimately determine whether the agency decision was based substantially on the record as a whole." 123 Cong. Rec. H5372 (daily ed. June 3, 1977). These procedures are provided under the Commission's rule.

Concern in the House centered around the inability of small companies to obtain review of remedial orders due to a lack of financial resources. Representative Brown of Ohio stated:

> It seems to me that it is very important to have a sound, prudent, regular administrative procedure. [This] amendment ideally does that. One of the things we have been observing over the past few months is that small independent producers who are challenged by the FEA just simply have to abandon their cases and accept the FEA ruling because they do not have the wherewithal to fight the FEA's decision. This will help assure that they will have the same kind of rights that bigger outfits with stronger resources have in trying to respond to the bureaucracy.
>
> *Mr. Eckhardt:* The gentleman has stated the situation accurately.

Id. A proceeding that unnecessarily duplicates that part of a record established in prior proceedings, which is not contested, unnecessarily delays a resolution of the case and increases the financial burden on a person seeking relief.

Accordingly, in view of the congressional intent that due process considerations be meshed with minimization of the time required for review and minimization of financial burdens imposed by Commission review, the Commission concludes that de novo proceedings are not required for Commission review of remedial orders under section 503 of the act.

(Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267, Natural Gas Act, 15 U.S.C. § 717 et seq., Federal Power Act, 16 U.S.C. 792 et seq.)

In consideration of the foregoing, Part 1, Subchapter A of Chapter I, Code of Federal Regulations, is amended as set forth below, effective December 11, 1978.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended in the table of contents by adding in the appropriate numerical order a new section number and heading to read as follows:

PART I—RULES OF PRACTICE AND PROCEDURES

* * * * *

§ 1.38 Commission Review of Remedial Orders.

* * * * *

2. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended in the Statement of Authority by inserting between "under" and "unless otherwise noted," a phrase to read as follows:

AUTHORITY:

* * * * *

15 U.S.C. 717 et seq., 16 U.S.C. 792 et seq., 42 U.S.C. 7101 et seq., E.O. 12009, 42 FR 46467,

* * * * *

3. Part 1, Subchapter A, Chapter I of Title 18, Code of Federal Regulations, is amended by adding a new § 1.38 to read as follows:

§ 1.38 Commission review of remedial orders.

(a) *Scope.* (1) The provisions of this section shall apply to proceedings of the Commission held in accordance with section 503(c) of the Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7913(c), to review orders issued by the Secretary of Energy pursuant to section 503(a) of the Department of Energy Organization Act and initiated by notices of probable violation, proposed remedial orders, or other formal administrative initiating documents issued on or after October 1, 1977, which are contested by the recipient.

(2) Except as otherwise specifically provided in this section, the following provisions of the Part shall apply to proceedings under this section:

(i) § 1.1—The Commission;
(ii) § 1.2—The Secretary;
(iii) § 1.3—Notice of public sessions and proceedings;
(iv) § 1.4—Appearances and practice before the Commission;
(v) § 1.11—Amendments and withdrawal of pleadings;
(vi) § 1.12—Motions;
(vii) § 1.13—Time, extensions of time, issuance of orders;
(viii) § 1.14—Filings; docket; hearing calendar;
(ix) § 1.15—Formal requirements as to pleadings, documents and other papers filed in proceedings;
(x) § 1.16—Subscription and verification;
(xi) § 1.17—Service;
(xii) § 1.18 (b) and (d)—Conferences;
(xiii) § 1.21—Copies of transcripts;
(xiv) § 1.22—Witnesses;
(xv) § 1.23—Subpoenas;
(xvi) § 1.24—Depositions;
(xvii) § 1.25—Stipulations;
(xviii) § 1.26—Evidence;
(xix) § 1.27—Presiding officers;
(xx) § 1.36—Public information and requests; and
(xxi) § 1.51—Certificate of service.

(b) *Definitions.* For purposes of this section: "Commission" means the Federal Energy Regulatory Commission;

"contested order" means the remedial order, interim remedial order for immediate compliance, or order of disallowance being contested in proceeding pursuant to this section;

"interim remedial order for immediate compliance" means an interim remedial order for immediate compliance issued pursuant to 10 CFR 205.199D;

"order of disallowance" means an order of disallowance issued pursuant to 10 CFR 205.199E;

"participant" means, as appropriate, the Secretary, the petitioner, and intervenors;

"person" means any individual, association, company, corporation, partnership, or other entity however organized;

"petitioner" means a person who has received a remedial order, interim remedial order for immediate compliance, or order of disallowance who notifies the Secretary that he intends to contest the order;

"remedial order" means a remedial order issued pursuant to 10 CFR 205.199B;

"Secretary" means the Secretary of Energy or his delegate.

(c) *Request for nondisclosure of information.* (1) For purposes of this paragraph, nondisclosure means nondisclosure except as to the participants in the proceeding under conditions provided in subparagraphs (4) and (5).

(2) If any person filing under this section claims that some or all of the information contained in a document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, the person:

(i) shall request the presiding officer not to disclose such information, except to the participants in the proceeding under the conditions provided in subparagrahs (4) and (5), which request the person shall serve upon all participants in the proceeding;

(ii) Shall file, together with the document, a second copy of the document from which has been deleted the information for which the person requests nondisclosure and shall indicate in the original document that the original document is exempt, or contains information which is exempt, from disclosure;

(iii) Shall include a statement specifying why the information is privileged or confidential, if the information for which nondisclosure is requested is claimed to come within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information;

(iv) Shall include a statement specifying the justification for nondisclosure, if the information for which nondisclosure is requested is not within the exception in 5 U.S.C. 552(b)(4).

(3) If the person filing a document does not submit a second copy of the document from which the appropriate information has been deleted, the presiding officer may assume that there is no objection to public disclosure of the document in its entirety.

(4) If information is submitted in accordance with subparagraph (2) of this paragraph, the information will not be disclosed except (i) as provided in the Freedom of Information Act, in accordance with § 1.36 of this Part, and (ii) upon request in accordance with subparagraph (5), to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding conducted pursuant to this section and that the participants must return all copies of the information at the conclusion of the proceeding to the person who submitted the information under subparagraph (2).

(5) At any time, any participant may request the presiding officer to direct a person submitting information under subparagraph (2) to provide that information to the participant requesting the information under this subparagraph. The presiding officer shall so direct if the participant requesting the information agrees (i) not to use or disclose the information except in the context of the proceeding conducted pursuant to this section, and (ii) to return all copies of the information, at the conclusion of the proceeding, to the person submitting the information under subparagraph (2).

(6) If the information contained in the record of prior proceedings submitted by the Secretary under paragraph (f)(1)(i)(A), has been determined by the Secretary to be exempt from disclosure, the information shall not be disclosed except (i) as provided in the Freedom of Information Act, in accordance with § 1.38 of this Part, and (ii) upon request in accordance with subparagraph (7), to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding conducted pursuant to this section and that the participants must return all copies of the information at the conclusion of the proceeding to the presiding officer.

(7) At any time, any participant may request the presiding officer to direct that the complete record of prior proceedings, including information determined by the Secretary to be exempt from disclosure, be made available to that participant. The presiding officer shall so direct if the participant requesting the complete record agrees (i) not to use or disclose the information determined to be exempt except in the context of the proceeding conducted pursuant to this section, and (ii) to return all copies of the information determined to be exempt to the presiding officer at the conclusion of the proceeding.

(d) *Commencement of proceeding.* (1) Except as provided in subparagraph (2), the proceeding pursuant to this section shall be commenced by the filing with the Secretary of the Commission, for the Commission, written notice by the Secretary that he has been notified by a petitioner that the petitioner intends to contest an order reviewable under this section. At the same time, the Secretary shall serve a copy of the contested order upon other participants in the prior proceedings and upon persons denied intervention in the prior proceedings and shall certify to the Commission that he has made such service, stating the names and addresses of persons served.

(2) The proceeding pursuant to this section with respect to an interim remedial order for immediate compliance shall be commenced by a petitioner's filing with the Secretary of the Commission, for the Commmission, and serving on other participants in the prior proceedings, if any a notice of petition for review of an interim remedial order for immediate compliance pursuant to 10 CFR 205.199D(h)(i)(1). The Commission

shall defer consideration of the merits of the order until a final remedial order is issued by the Secretary.

(3) Upon receipt of notice from the Secretary under subparagraph (1), or upon receipt of a notice of a petition for review by the petitioner under subparagraph (2), the Commission or its designee shall designate a presiding officer for the proceeding, and the Commission or its designee shall notify participants in the prior proceedings and persons denied intervention in the prior proceedings of such designation.

(e) *Stay of contested order.* (1) Upon the filing of the notice with the Commission by the Secretary under paragraph (d)(1), or by the petitioner under paragraph (d)(2), the contested order shall be automatically stayed pending review pursuant to this section unless and until, upon request of the Secretary or other participant, the presiding officer finds that the public interest requires immediate compliance with the contested order.

(2) The Secretary or other participants may at any time, prior to the hearing under paragraph (i), or if there is no hearing, prior to the issuance of a proposed order under paragraph (m), file a petition requesting that the contested order not be stayed, or that the stay be lifted, and setting forth the legal and factual basis for the request.

(3) The presiding officer may request a written statement of the views of any participant regarding whether the contested order should be stayed or continue to be stayed and may convene an expedited hearing or conference on a petition under subparagraph (2).

(4) The presiding officer may grant the petition requesting immediate compliance where he finds that the public interest so requires and shall notify all participants of the determination.

(5) If the presiding officer has not granted the petition under subparagraph (2) within 10 days after it is filed, the petition shall be deemed denied. Prior to the expiration of the 10-day period the presiding officer may extend the period for decision up to 7 days. At the end of the extension, the petition, if not granted, shall be deemed denied.

(6) If the petition under subparagraph (2) is denied, the presiding officer shall notify the participants of such denial.

(7) A grant or denial of a petition under subparagraphs (2) and (3) may be appealed, within 10 days after the grant or denial, to the Commission in accordance with § 1.28. The contested order will remain stayed ending the Commission's disposition of the appeal.

(f) *Pleadings.* (1) *By the Secretary.*— (i) Within 20 days after the filing of notice by the Secretary under paragraph (d)(1), the Secretary:

(A) Shall file with the Secretary of the Commission for the presiding officer two certified copies of the entire record developed in prior proceedings on the contested order: One copy shall be complete and shall be deemed a part of the record upon which the order of the Commission is based, and shall be available to the participants subject to the conditions set forth in paragraph (c) (6) and (7); the second copy shall have had deletions made of information which the Secretary has determined to be confidential or not subject to disclosure;

(B) Shall file with the Secretary of the Commission for the presiding officer a copy of the contested order; and

(C) May, in addition, elect to file a statement setting forth the factual elements of the alleged violation, which statement the Secretary must serve on all participants in the proceeding.

(ii) If the petitioner requests permission to raise new facts or issues pursuant to paragraph (g)(1), the Secretary may file, within 10 days after the filing of the petitioner's answer, a reply responding to the petitioner's request to raise new facts or issues. In the reply, the Secretary may also request the permission of the presiding officer to raise new facts or issues under the criteria set forth in paragraph (g)(2) and to conduct discovery relating to the new facts or issues he may raise pursuant to paragraph (g)(2). Failure by the Secretary to request permission to raise new facts or issues or to conduct discovery in this reply shall constitute a waiver of the opportunity to do so at a later time in the proceeding.

(iii) The Secretary shall file with the Secretary of the Commission, for the presiding officer, and serve upon other participants in the proceedings, a brief in support of the affirmative case, which must set forth:

(A) The elements of the alleged violation, including references to all authorities upon which the Secretary relies, including but not limited to regulations, rulings, interpretations and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission; and

(B) A complete statement of the factual and legal basis of the contested order.

(iv) The Secretary's brief shall be filed according to the following time period appropriate to the particular proceeding:

(A) If no participant (including persons requesting intervention) has requested permission to raise new facts or issues or to conduct discovery pursuant to paragraphs (f)(1)(ii), (f)(2)(ii), (f)(3)(vii), and (f)(3)(viii), within 20 days after the filing of the petitioner's answer under paragraph (f)(2)(i);

(B) If the presiding officer has determined, under paragraph (h)(4), that no discovery shall be permitted, within 20 days after the presiding officer's determination under paragraph (h)(4); or

(C) If discovery is permitted under paragraph (h)(4), within 20 days after the conclusion of the time period set for discovery under paragraph (h)(4).

(2) *By the petitioner.* (i) Within 15 days after the filing by the Secretary under subparagraph (1)(i), the petitioner shall file with the Secretary of the Commission, for the presiding officer, and serve upon the Secretary and other participants in the proceedings, an answer to the contested order admitting or denying each of the Secretary's findings in the contested order and setting forth affirmative defenses, if any.

(ii) In the answer, the petitioner may:

(A) Contest any part of the record which the Secretary certified to the presiding officer under subparagraph (1)(i)(A);

(B) Request permission to raise new facts or issues not raised in the prior proceedings if the new facts or issues meet the criteria set forth in paragraph (g)(1); and

(C) Request permission to conduct discovery, subject to the criteria provided in paragraph (h)(1). Failure by the petitioner to contest the record or to request permission to raise new facts or issues or to conduct discovery in this answer shall constitute a waiver of the opportunity to do so at a later time in the proceeding.

(iii) Within 15 days after filing of the Secretary's brief under paragraph (f)(1)(iii), the petitioner shall file with the Secretary of the Commission, for the presiding officer, and serve upon other participants in the proceeding, a brief stating fully the objections to the contested order, including references to all authorities upon which the petitioner relies, including but not limited to regulations, rulings, interpretations, and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission.

(3) *By intervenors.* (i) A person qualifying under (ii) may request the presiding officer to permit intervention in the proceeding under this section in accordance with the procedures described in this subparagraph.

(ii) A request to intervene may be filed by any person claiming: (A) An interest which may be directly affected and which is not adequately pro-

tected by existing parties and as to which the person requesting intervention may be bound by the Commission's action in the proceeding; or (B) any other interest of such nature that participation by the person requesting intervention may be in the public interest.

(iii) A request to intervene shall set out clearly and concisely the facts from which the nature of the requester's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the intervenor in the proceeding, so as fully and completely to advise the participants and the presiding officer as to the specific issues of fact or law to be raised or controverted, by admitting, denying, or otherwise answering, specifically and in detail, each material allegation of fact or law raised or controverted, including references to all authorities upon which the requester relies, including, but not limited to, regulations, rulings, interpretations, and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission.

(iv) Requests to intervene may be filed with the Secretary of the Commission, for the presiding officer, within 20 days after the Secretary's commencement of the proceeding under paragraph (d) unless, in extraordinary circumstance and for good cause shown, the presiding officer authorizes a late filing. A person requesting intervention shall serve the request to intervene on all participants in the proceeding at the same time the request is filed with the Secretary of the Commission.

(v) Any participant in the proceedings may file an answer to a request to intervene. Failure to object shall constitute a waiver of any objection to the granting of such request. If made, answers shall be filed within 15 days after the filing of the request to intervene.

(vi) After expiration of the time for filing answers to requests to intervene or default thereof, as provided in (v), the presiding officer will grant or deny such request, in whole or in part, or may, if found to be appropriate, authorize limited participation. The presiding officer shall serve the determination on a request to intervene upon all participants in the proceeding and upon the person requesting intervention. If the presiding officer denies a request for intervention, the person requesting intervention may submit comments to the Commission under paragraph (m)(3) requesting the Commission to permit the intervention under the standards set forth in paragraph (f)(3)(ii).

(vii) A person filing a request to intervene, may request therein the permission of the presiding officer to raise new facts or issues not raised in the prior proceedings on the contested order, if the new facts or issues meet the criteria set forth in paragraph (g)(3). Failure by the person requesting permission to intervene to request permission to raise new facts or issues in the request to intervene shall constitute a waiver of the opportunity to do so at a later time in the proceeding.

(viii) A person filing a request to intervene may request the permission of the presiding officer to conduct discovery, subject to the conditions set forth in paragraph (h)(3). Failure by the person requesting permission to intervene to request permission to conduct discovery in the request to intervene shall constitute a waiver of the opportunity to do so at a later time in the proceeding.

(g) *New facts and issues.* (1) *Raised by the petitioner.* In the answer, as provided in paragraph (f)(2)(ii)(B), the petitioner may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that (i)(A) are facts or issues that were not known and could not, with the exercise of due care, have been known to the petitioner at the time they would otherwise have been raised during the prior proceedings; (B) are facts or issues that the petitioner was unable to raise at the time they could have been raised during the prior proceedings because of unduly restrictive time limits imposed by the Secretary; or (C) are facts or issues that the petitioner was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings; and (ii) are necessary for a full and true disclosure of the facts.

(2) *Raised by the Secretary.* In his reply under paragraph (f)(1)(ii), the Secretary may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that (i) are necessary to support the Secretary's case as a result of new facts or issues raised by the petitioner under paragraph (f)(2)(ii)(B) and this paragraph; and (ii) are necessary for a full and true disclosure of the facts.

(3) *Raised by intervenors.* In the request to intervene under paragraph (f)(3)(iii) and this paragraph, an intervenor may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that: (i) if the intervenor did not participate in the prior proceedings, meet the criteria of subparagraph (1) (i) and (ii); or (ii) if the intervenor participated in the prior proceedings, are (A)(I) facts or issues that were not known and could not, with the exercise of due care, have been known to the intervenor at the time they would otherwise have been raised during the prior proceedings; (II) facts or issues that the intervenor was unable to raise at the time they could have been raised during the prior proceedings because of unduly restrictive time limits imposed by the Secretary; or (III) facts or issues that the intervenor was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings; and (B) are necessary for a full and true disclosure of the facts.

(4) *Determination by the presiding officer.* The presiding officer shall determine whether to grant or deny, in whole or in part, the requests of the participants to raise new facts or issues and shall serve those determinations on all participants in the proceeding.

(h) *Discovery.* (1) *By petitioner.* In the answer under paragraph (f)(2)(ii) the petitioner may request permission of the presiding officer to conduct discovery, where such discovery (i) relates to new facts or issues raised in accordance with paragraph (g)(1); or (ii)(A) was not permitted in the prior proceedings on the contested order due to erroneous adverse procedural rulings; and (B) is necessary for a full and true disclosure of the facts.

(2) *By the Secretary.* In the reply under paragraph (f)(1)(ii), the Secretary may request permission of the presiding officer to conduct discovery where such discovery relates to new facts or issues raised in accordance with paragraph (g)(2).

(3) *By intervenors.* In a request to intervene under paragraph (f)(3)(viii), an intervenor may request permission of the presiding officer to conduct discovery where such discovery: (i) relates to new facts or issues raised in accordance with paragraph (g)(3); or (ii) if the intervenor participated in the prior proceedings, (A) such discovery was not permitted in prior proceedings on the contested order due to erroneous adverse procedural rulings; and (B) such discovery is necessary for a full and true disclosure of the facts.

(4) *Determinations by the presiding officer.* The presiding officer shall determine whether to grant or deny, in whole or in part, the requests of the participants for discovery and shall set a time limit within which all discovery must be conducted.

(5) *Interrogatories.* In addition to discovery devices applicable to this section under paragraph (a)(2), participants may conduct discovery by means of written interrogatories under conditions determined by the presiding officer.

(i) *Hearing.* (1) Any participant may, within 10 days after filing of the petitioner's brief under paragraph (f)(2)(iii), file a request for a hearing

or a motion for the opportunity for cross-examination including the reasons why cross-examination is necessary for a full and true disclosure of the facts.

(2) If a participant has filed a request for a hearing, the presiding officer shall grant the request for a hearing. The hearing shall include an opportunity for the submission of oral or documentary evidence and oral arguments.

(3) The presiding officer may at any time, on his own motion, convene a hearing.

(4) As soon as practicable after receiving a request for hearing under subparagraph (1) or after determination on his own motion that a hearing will be held under subparagraph (3), the presiding officer shall give notice to all participants of the time and place of the hearing.

(5) The presiding officer shall determine the issues to be resolved in the proceeding, may specify the time available for oral argument and shall give notice thereof to the participants. The presiding officer may require additional information from the participants and may convene a prehearing conference for the purpose of determining the issues or the nature of the proceeding to be held.

(6) If at any time prior to the issuance of a proposed order pursuant to paragraph (m), upon motion of any participant or on his own motion, the presiding officer in his discretion determines that it is necessary for a full and true disclosure of the facts, he may order that the participants be afforded the opportunity for cross-examination on any facts or issues raised in the proceeding.

(j) *Conduct of the hearing.* The presiding officer shall be responsible for conduct of the hearing, including the order of procedure.

(k) *Burden of proof.* (1) The Secretary shall have the burden of going forward and must sustain the burden of proof with respect to all disputed elements of his affirmative case.

(2) The proposed order under paragraph (m) shall be based upon a preponderance of the evidence.

(l) *Proposed findings of fact, conclusions of law and comments.* (1) Within 10 days after the conclusion of the hearing, or, if no hearing is held, within 20 days after the filing of the petitioner's brief under paragraph (f)(2)(iii), any participant may file with the Secretary of the Commission for the presiding officer, and serve upon the other participants, proposed findings of fact and conclusions of law, comments in support thereof and any objections with respect to procedural rulings of the presiding officer.

(2) Within 10 days after the filing of proposed findings of fact and conclusions of law under subparagraph (1), any participant may file, and shall serve on other participants, a reply thereto.

(m) *Proposed order.* (1) After the conclusion of the hearing and after the filings under paragraph (l) (1) and (2), the presiding officer shall issue a decision and proposed order based on findings of fact affirming, modifying, or vacating the contested order or directing other appropriate relief. The proposed order shall be based on the entire record before the presiding officer, including the record of prior proceedings certified by the Secretary.

(2) The presiding officer shall certify and file with the Secretary of the Commission, for the Commission, a copy of the record in the proceedings, including the proposed order.

(3) Participants may, within 15 days of issuance of the proposed order of the presiding officer, file with the Secretary of the Commission, for the Commission, written comments on any rulings of the presiding officer and the decision and proposed order.

(n) *Commission action.* The Commission shall upon consideration of the entire record and the proposed order issue a final order affirming, modifying, or vacating the contested order or directing other appropriate relief. The Commission shall serve the final order on all participants.

(o) *Ex parte communications.* The provisions of §1.4(d) of this subpart shall apply to proceedings pursuant to this section, commencing at the time the Secretary issues a proposed remedial order under 10 CFR 205.192, an interim remedial order for immediate compliance under 10 CFR 205.199D, or a proposed order of disallowance under 10 CFR 205.199E, as if proceedings were contested on-the-record proceedings pending before the Commission.

(p) *Withdrawal of petition for review.* (1) At any time, including after a hearing has been held or convened, the petitioner may submit to the presiding officer, and serve on other participants in the proceeding, a withdrawal of the petition for review of the contested order. The presiding officer shall thereupon issue, and serve all participants, an order terminating the proceeding conducted pursuant to this section, which order shall be effective 10 days after issuance.

(2) Termination of the proceeding under subparagraph (1) may be appealed to the Commission, within 10 days after issuance of the termination order, except that if the Commission has not acted on an appeal within 30 days, it shall be deemed denied. The termination order shall be stayed pending the appeal. If the Commission rescinds the termination order, the proceeding shall continue in accordance with this section.

(q) *Sanctions.* Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of any rule, regulation, or order made or imposed by the Commission or the presiding officer under this section, it may in its discretion bring an action in the proper court of the United States to enjoin such acts or practices and to enforce compliance with the order, and upon a proper showing, a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who in his discretion, may institute the necessary criminal proceedings.

[FR Doc. 78-31702 Filed 11-8-78; 8:45 am]

[4310-02-M]

Title 25—Indians

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

SUBCHAPTER D—SOCIAL WELFARE

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

OCTOBER 30, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations relating to its financial assistance and social services program. The purpose of this amendment is to rescind a previous revision in the regulations which provided that the Assistant Secretary—Indian Affairs could waive, under certain conditions, Bureau adherence to public assistance standards when determining the amount of financial assistance to be provided to applicants or recipients. This most current amendment rescinds that previous revision and reaffirms Bureau practice and policy of adhering to established public assistance standards when determining the amount of financial assistance to be provided to applicants or recipients.

EFFECTIVE DATE: This amendment shall become effective December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, 1915 Constitution

Avenue NW., Washington, D.C. 20245, 202-343-7911; principal author, Raymond V. Butler.

SUPPLEMENTARY INFORMATION: It is generally the policy of the Department of the Interior to allow time for interested persons to take part in the rulemaking process. However, this amendment is entirely administrative in nature. The public rulemaking process is dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970).

This amendment is made pursuant to the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Subchapter D, Chapter 1, Title 25 of the Code Federal Regulations is hereby amended as follows:

Part 20, § 20.1(s) is amended by deleting the following phrase from the end of the existing section:

§ 20.1 Definitions.

(s) * * *; except that Bureau use of these established basic item/special item cost standards may be waived by the Assistant Secretary—Indian Affairs when required to insure provision of a level of financial assistance not exceeding the absolute limit of appropriated funds.

* * * * *

No further changes are made to Subchapter D.

These regulations will be effective December 1, 1978.

NOTE. —The Bureau of Indian Affairs 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.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-31639 Filed 11-8-78; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

[DOD Directive 5105.42]

PART 361—DEFENSE INVESTIGATIVE SERVICE (DIS)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule—DOD Charter Directive 5105.42 [1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Director, Defense Investigative Service (DIS), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Director, DIS, to carry out the charter.

EFFECTIVE DATE: July 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Brent N. Rushforth, Assistant to the General Counsel (Intelligence, International, and Investigative Programs), Office of the General Counsel, Telephone 202-695-6804.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administration Conference of the United States.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 30, 1978.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 361, reading as follows:

PART 361—DEFENSE INVESTIGATIVE SERVICE

Sec.
361.1 Purpose.
361.2 Definitions.
361.3 Mission.
361.4 Organization and management.
361.5 Responsibilities and functions.
361.6 Authority.
361.7 Relationships.
361.8 Administration.
361.9 Delegation of authority.

AUTHORITY: The provisions of this part 361 are issued under 10 U.S.C. Chapter 4.

§ 361.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, U.S. Code, this Part is issued to assign direction, authority, and control over the Defense Investigative Service (hereafter referred to as "DIS") to the General Counsel of the Department of Defense, and to prescribe the functions, authorities and relationships described below.

§ 361.2 Definitions.

(a) *DOD components* means the Office of the Secretary of Defense and its field activities, Organization of the Joint Chiefs of Staff, Military Departments, Unified and Specified Commands and Defense Agencies.

(b) *DOD contractor* means any individual, corporation or other commercial or nonprofit entity that has a present or had a past contract or agreement with a DOD component to supply or to dispose of goods or to supply services, and any employee or agent thereof.

(c) *Law enforcement investigations* are investigations of suspected criminal, fraud, conflict of interest, or other activities intended to detect violations of law or DOD directives, and to identify persons who are violaters so that they may be prosecuted or made subject to administrative sanctions.

(d) *Personnel security investigations* are investigations required for the purpose of making a determination as to eligibility for access to classified information, assignment or retention in sensitive duties, or other designated duties requiring such investigation. Personnel security investigations include investigations, of subversive affiliations, suitability information, or hostage situations conducted for the purpose of making personnel security determinations; and also include investigations of allegations that arise subsequent to adjudicative action that requires resolution to determine an individual's current eligibility for access to classified information, or assignment or retention in a sensitive position.

§ 361.3 Mission.

The DIS is a Federal law enforcement and personnel security investigative agency and shall:

(a) Provide a single, centrally directed personnel security investigative service to conduct personnel security investigations within the 50 States, District of Columbia, and the Commonwealth of Puerto Rico for DOD Components and, when authorized by the General Counsel of the Department of Defense (hereafter referred to as "the General Counsel"), for other U.S. Government departments and agencies. DIS will request the Military Departments to accomplish investigative requirements of the DIS in other geographic areas.

(b) Conduct within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, when authorized by the General Counsel, law enforcement investigations of activities involving DOD Components or DOD contractors. The military Department investigative agencies will continue to have responsibility for, and unless the Secretary of Defense directs otherwise, DIS will not have responsibility for, law enforcement investigations involving the personnel, property facilities, or contracts, both awarded and administered by a single Military Department, or law enforcement investigations involving in-

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120; attention Code 301.

stances in which a single Military Department is the victim.

(c) Conduct such other investigations as the General Counsel may direct.

(d) Interface with existing relationships between the Military Departments and civilian Federal investigative agencies and provide liaison with and support for law enforcement investigations involving DOD personnel, facilities, or contractors conducted by the Federal Bureau of Investigation or other Federal investigative agencies in those instances in which the Posse Comitatus Act, 18 U.S.C. 1385 limitations or DOD policy restrict participation by military personnel.

(e) operate a consolidated central Personnel Security Investigation Control Center in accordance with the provisions of DOD Directive 5200.27.[1]

(f) Manage the Defense Central Index of Investigations.

§ 361.4 Organization and Management.

(a) The DIS is a separate agency of the Department of Defense under the direction, authority and control of the General Counsel.

(b) The DIS shall consist of a Director, a headquarters establishment, and such subordinate units, field activities and facilities as are established by the Director within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, or as are assigned to the DIS by the Secretary of Defense.

§ 361.5 Responsibilities and Functions.

The *Director, DIS*, shall:

(a) Organize, direct, and manage the DIS and all resources assigned to DIS to include:

(1) Conducting, managing and controlling DIS activities in accordance with applicable DOD directives and applicable law.

(2) Programing, budgeting, funding, accounting for, and reporting the activities of DIS in accordance with the policies and procedures established by the Secretary of Defense.

(3) Assuring that DIS investigators receive appropriate training and are qualified as Federal law enforcement officers and accredited as special agents of the Department of Defense.

(b) Conduct personnel security investigations within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for the Department of Defense and, as authorized by the General Counsel, for other U.S. Government departments and agencies.

(c) Conduct law enforcement investigations within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, as authorized by the General Counsel.

(d) Conduct other investigations and related operations as directed by the General Counsel.

(e) Provide investigative assistance, upon request and within available resources, to other DOD components.

(f) Maintain liaison on matters of mutual interest with and, within limits of established policy, render appropriate assistance to investigative, law enforcement, and other U.S. and foreign government activities.

(g) Conduct surveys and prepare analyses, special studies, and estimates.

(h) Obtain from DOD components and other U.S. Government departments and agencies, for record and statistical purposes, information on actions taken and final disposition of matters investigated by DIS.

(i) Refer to the appropriate civilian and military investigative agency, in accordance with the provisions of the Delimitation Agreement, February 23, 1949, matters developed as a result of DIS investigations which have a significant intelligence or counterintelligence aspect.

(j) Report to the General Counsel, for referral to the investigative agency or the appropriate military department, matters of a criminal nature involving a single military department.

(k) Establish standards and procedures for certification and accreditation of civilian and military personnel assigned to DIS investigative duties.

(l) Review criminal justice records of civilian police departments, local, State or Federal law enforcement agencies, and their record repositories as required.

(m) Provide personnel investigations support to the Director, National Security Agency.

§ 361.6 Authority.

The Director, DIS, is specifically delegated authority to:

(a) Exercise direction, authority, and control over DIS.

(b) Obtain such reports, information, advice and assistance, consistent with the policies and criteria of DOD Directive 5000.19 [1] as may be necessary for the performance of assigned mission, functions and responsibilities.

(c) Excercise the administrative authorities contained in § 361.9.

§ 361.7 Relationship.

(a) In the performance of assigned functions, the Director, DIS, shall:

(1) Maintain appropriate liaison with DOD components and other agencies for the exchange of information and programs in the field of assigned responsibilities.

(2) Maintain a close working relationship with military department investigative agencies, commanders, and security and military police program managers to insure a coordinated and integrated effort in matters of common concern.

(3) Enter into agreements with Heads of DOD components to provide for direct communication on investigative lead matters between the DIS investigative staff and the military department investigative agency staffs.

(4) Make use of existing DOD facilities and services whenever practical to achieve maximum efficiency.

(b) The General Counsel, for matters pertaining to DIS missions, shall:

(1) Serve as the principal point of contact within DOD and with other U.S. Government departments and agencies.

(2) Serve as the DOD member on interdepartmental boards, committees, and other groups.

(c) DOD components shall cooperate with and assist the Director, DIS, by providing access to information within their respective fields as required for DIS to carry out missions assigned by this part.

(d) The military department shall insure that overseas military investigative agencies provide prompt responses to DIS lead requests in order to expedite investigative matters within the DIS mission. The Director, DIS, will provide, as necessary, programing and workload projection information to the military departments for use in budgeting, and otherwise organizing the provisions of military department operational support to DIS.

§ 361.8 Administration.

(a) The Director, DIS, will be appointed by the Secretary of Defense.

(b) The DIS will be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(c) Military personnel will be assigned to the DIS from the military departments in accordance with approved authorizations and procedures for assignment to joint duty.

§ 361.9 Delegation of Authority.

Pursuant to the authority vested in the Secretary of Defense, the Director, DIS, or in the absence of the Director, a person acting for the Director is hereby delegated, subject to the direction, authority and control of the Secretary of Defense, and in accordance with DOD policies, directives, and instruction, and pertinent OSD regulations, authority as required in the administration and operation of DIS to:

(a) Exercise the powers vested in the Secretary of Defense by 5 U.S.C. 302 and 3101, pertaining to the employ-

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120; attention Code 301.

ment, direction, and general administration of DIS civilian personnel.

(b) Fix rates of pay for wage board employees exempted from chapter 51 of title 5, U.S.C. on the basis of rates established under the Coordinated Federal Wage System. In fixing those rates, the wage schedules established by DOD Wage Fixing Authority shall be followed.

(c) Establish advisory committees and employ part-time advisors for the performance of DIS functions pursuant to the provisions of 10 U.S.C. 173, and to hire experts and consultants pursuant to the provisions of 5 U.S.C. 3109(b), and the Agreement between the DOD and the Civil Service Commission on employment of experts and consultants, dated June 21, 1977.

(d) Administer oaths of office incident to entrance into the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with the provisions of 5 U.S.C. 2903(b), and to designate in writing other officers and employees of DIS to perform this function.

(e) Establish a DIS Incentive Awards Board and pay cash awards to and incur necessary expenses for the honorary recognition of civilian employees of the Government whose suggestions, inventions, superior accomplishment, or other personal efforts, including special acts or services, benefit or affect DIS or its subordinate activities in accordance with the provisions of 5 U.S.C. 4503, and Civil Service Regulations.

(f) Perform the following functions in accordance with the provisions of 5 U.S.C. 7532; Executive Order 10450; and 32 CFR 156:

(1) Designate any position in DIS as a "sensitive" position;

(2) Authorize, in case of an emergency, the appointment of a person to a sensitive position in the Agency for a limited period of time for whom a full field investigation or other appropriate investigation, including the national security check, has not been completed; and

(3) Authorize the suspension, but not including termination, of the services of an employee in the interest of national security in positions within DIS.

(g) Clear DIS personnel and such other individuals as may be appropriate for access to classified defense material and information in accordance with the provisions of DOD Directive 5210.8,[1] and of Executive Order 11652.

(h) Act as agent for the collection and payment of employment taxes imposed by chapter 21 of the Internal Revenue Code of 1954, and, as such agent, make all determinations and certifications required or provided under 26 U.S.C. 3122, and 42 U.S.C. 405(p) (1) and (2), with respect to DIS employees.

(i) Authorize and approve overtime work for DIS civilian officers and employees in accordance with the provisions of section 550.111 of the Civil Service Regulations.

(j) Authorize and approve:

(1) Travel for DIS civilian officers and employees in accordance with Joint Travel Regulations, Volume 2, Department of Defense Civilian Personnel.

(2) Temporary duty travel only for military personnel assigned or detailed to DIS in accordance with Joint Travel Regulations, Volume I, for Members of the Uniformed Services.

(3) Invitational travel to persons serving without compensation whose consultative, advisory, or highly specialized technical services are required in a capacity that is directly related to or in connection with DIS activities, pursuant to the provisions of 5 U.S.C. 5703, and Part A, Chapter 6, Volume II, Joint Travel Regulations.

(k) Approve the expenditure of funds available for travel by military personnel assigned or detailed to DIS for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense or his designee is required by law (37 U.S.C. 412). This authority cannot be redelegated.

(l) Develop, establish, and maintain an active and continuing records management program, pursuant to the provisions of 44 U.S.C. 3102.

(m) Enter into and administer contracts, directly or through a DOD component, a DOD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment and services required to accomplish the mission of the DIS. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the secretarial level of a military department, such authority will be exercised by the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

(n) Establish and use imprest funds for making small purchases of material and services other than personal for DIS when it is determined more advantageous and consistent with the best interest of the Government, in accordance with the provisions of DOD Instruction 5100.71.[1]

(o) Authorize the publication of advertisements, notices, or proposals in public periodicals as required for the effective administration and operation of DIS pursuant to 44 U.S.C. 3702.

(p)(1) Establish and maintain appropriate property accounts for DIS.

(2) Appoint boards of survey, approve reports of survey, relieve personal liability, and drop accountability for DIS property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

(q) Promulgate the necessary security regulations for the protection of property and activities under the jurisdiction of the Director, DIS, pursuant to subsections III.A. and V.B. of DOD Directive 5200.8.[1]

(r) Establish and maintain, for the functions assigned, appropriate publications system for the promulgation of regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DOD Directive 5025.1.

(s) Enter into support and service agreements with the military departments, other DOD agencies, or other Government agencies as required for the effective performance of responsibilities and functions assigned to DIS.

(t) Issue appropriate implementing documents and establish internal procedures to assure that the selection and acquisition of ADP resources are conducted within the policies contained in DOD Directive 4105.55, the Federal Property Management Regulations and Armed Services Procurement Regulations.

The Director, DIS, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulations.

This delegation of authority is effective immediately.

[FR Doc. 78-31648 Filed 11-8-78; 8:45 am]

[3810-70-M]

[DOD Directive 5105.19]

PART 362—DEFENSE COMMUNICATIONS AGENCY

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule—DOD Charter Directive 5105.19[1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Director, Defense Communications Agency (DCA), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Director, DCA, to carry out the charter.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

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[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120; attention Code 301.

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administration Conference of the United States.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 30, 1978.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 362, reading as follows:

PART 362—DEFENSE COMMUNICATIONS AGENCY

Sec.
362.1 Purpose.
362.2 General.
362.3 Mission.
362.4 Organization.
362.5 Responsibilities.
362.6 Authority.
362.7 Administration.
362.8 Definitions.
362.9 Delegation of authority.

AUTHORITY: The provisions of this Part 362 are issued under 10 U.S.C. Chapter 4.

§ 362.1 Purpose.

This Part is issued to define the mission, responsibilities, authorities, and command relationships of the Defense Communications Agency (DCA) and its Director.

§ 362.2 General.

Pursuant to the authority vested in the Secretary of Defense and the provisions of Title 10, U.S. Code, Section 125, DCA is established as an agency of the DOD and is placed under the direction, authority, and control of the Assistant Secretary of Defense (Communications, Command, Control and Intelligence) (ASD(C³ I)). Guidance with regard to military and communications doctrine, operational policies and procedures shall be furnished to the Director, DCA, by the JCS.

§ 362.3 Mission.

The mission of the DCA is to:

(a) Perform system engineering for the Defense Communications System (DCS) and insure that the DCS is planned, improved, operated, maintained, and managed effectively, efficiently, and economically to meet the long-haul, point-to-point, and switched network telecommunications requirements of the National Command Authorities (NCA), the DOD, and, as authorized and directed, other governmental agencies.

(b) Provide system engineering and technical support to the National Military Command System (NMCS) and the Minimum Essential Emergency Communications Network (MEECN). Provide other engineering and technical support to the Worldwide Military Command and Control System (WWMCCS), as assigned.

(c) Perform system architect functions for current and future Military Satellite Communications (MILSATCOM) systems.

(d) Provide analytical and automated data processing (ADP) support to the Joint Chiefs of Staff, the Secretary of Defense, and other DOD components, as directed and authorized.

(e) Procure leased communications circuits, services, facilities, and equipment for the DOD, where authorized, and for other Government agencies as directed by the Secretary of Defense. Initiate or process actions relating to regulatory and tariff matters, including rates for communications facilities leased by the DOD.

(f) Perform those functions and carry out those responsibilities, assigned by such other directives as may be issued by competent authority, that are not explicitly addressed in this part or that may be issued to add to, delete, or modify the contents of this part.

§ 362.4 Organization.

The DCA shall consist of a Director, a headquarters establishment, and such subordinate units, facilities, and activities as established by the Director or specifically assigned to the agency by the Secretary of Defense or by the Joint Chiefs of Staff acting by authority and direction of the Secretary of Defense.

§ 362.5 Responsibilities.

(a) The *Director, DCA,* shall:

(1) Command, organize, direct, and manage the DCA and its field organizations in accordance with assigned missions.

(2) Within assigned authorities, insure systems responsiveness to the requirements of the NCA, the DOD, the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands, and all other authorized users, to include management of communications support for the national emergency preparedness functions.

(3) Function as a principal adviser to ASD(C³ I) on the DCS and as an adviser to the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands, and other DOD components on assigned mission responsibilities.

(4) Execute such tasks for the National Communications System (NCS) as may be assigned and directed by the Secretary of Defense in his capacity as Executive Agent, NCS.

(5) Provide appropriate planning documents to the ASD(C³ I), the Deputy Under Secretary of Defense for Policy and the Joint Chiefs of Staff.

(6) Develop or recommend, as appropriate, research, development, test, and evaluation (R.D.T. & E.) programs or projects required to accomplish the assigned mission. Manage DCA-funded R.D.T. & E. programs. Monitor the status of, coordinate, and provide guidance for R.D.T. & E. programs, for which DCA is assigned responsibility, that are included in the programs of other DOD components.

(7) Develop and promulgate procedures to insure the continuing supervision, review, and approval of acquisition, implementation, and engineering actions necessary to carry out approved plans and assigned missions.

(8) Perform financial management functions relating to DCA-funded programs. As requested by the ASD(C³ I), assist in the OSD review of programs and budgets supporting DCA missions. Maintain the Communications Services Industrial Fund.

(9) Develop technical standards, in coordination with the Military Departments and all other appropriate DOD Agencies for the DCS and other systems, as assigned and directed.

(10) Exercise through the DCA Operations Control Complex operational direction over the DCS either directly, over technical control facilities, switching centers, and other DCS operating elements, or through the appropriate Military Service operation and maintenance manager.

(11) Provide communications support to the OJCS and provide direct ADP support for: The Joint Chiefs of Staff and OSD analysis and simulation studies, operation of the command centers of the NMCS, and other appropriate tasks from OSD and the Joint Chiefs of Staff and their designated representatives.

(12) Provide computer software programs for the DCS and the NMCS, as required.

(13) Establish in coordination with the Military Departments, equipment levels for DCS switching centers, including the cryptographic equipment that supports the DCS.

(14) Allocate, reallocate, and direct restoral of subsystems, trunks, circuits, channels and networks of the DCS for the authorized users of the system, based on approved requirements and in accordance with established priorities and procedures. The restoration of service requiring use of available resources not currently in

operation or committed will be coordinated with the Joint Chiefs of Staff or the appropriate operation and maintenance managers of the Military Departments.

(15) Perform subsystem/project engineering as specifically assigned within mission responsibilities.

(16) Perform the centralized engineering and management function for all nontactical offbase DOD multiplex systems.

(17) Coordinate actions with other DOD components and governmental agencies having collateral or related functions in the field of its assigned responsibility.

(18) Coordinate communications security requirements other than communications security monitoring policy, which is not within the purview of this part, with the National Security Agency, the Military Departments, and the Joint Chiefs of Staff.

(19) Maintain active liaison for the exchange of information and advice with all DOD components and other governmental agencies.

(20) Make full use of established facilities of the DOD components and other departments of the Government, rather than unnecessarily duplicating such facilities.

(21) Establish requirements for and recommend assignment of responsibility for preparation of logistic engineering, and other support plans.

(22) Analyze and evaluate the performance of the DCS according to prescribed standards and practices, including the conduct of onsite performance evaluation visits. Inform users and operating elements regarding system status and make recommendations for improvements.

(23) Recommend the composition and identity of the DCS to the ASD(C³ I) in coordination with the Joint Chiefs of Staff.

(24) Coordinate in the management of resources allocated for the National Military Command System (NMCS) ADP support with supported users.

(25) Forward copies of requirements to the ASD(C³ I) and the Deputy Under Secretary of Defense for Policy. The latter official shall confirm and set priorities for such requirements.

(b) The *Deputy Under Secretary of Defense for Policy* shall provide guidance on matters of communications policy, requirements, and priorities.

(c) The *Chairman, Joint Chiefs of Staff* (for the Joint Chiefs of Staff) under the authority and direction of the Secretary of Defense shall:

(1) Provide guidance and, as appropirate, tasking to the Director, DCA, on military and communications doctrine and operational policies and procedures with regard to the development and operation of the Defense Communications System.

(2) Review and provide recommendations to the ASD(C³ I) or to the Director, DCA, as appropriate, on DCS plans, subsystem/project plans, ADP support plans, other joint communications plans and related programing documents, and for those functions where DCA is responsive to the Joint Chiefs of Staff, review and provide recommendations on the joint manpower program submitted by DCA.

(3) Provide advice to the ASD(C³ I) regarding the mission, functions, and responsibilities of the Director, DCA.

(4) Provide guidance and direction on matters pertaining to the planning, design, maintenance, testing and evaluation on systems software for the WWMCCS standard ADP systems.

(5) Develop and submit Joint Chiefs of Staff ADP requirements and priorites to the DCA.

(6) Provide policy and guidance concerning the utilization and implementation of MILSATCOM systems.

(7) Provide guidance concerning the relationships between the Commanders of the Unified and Specified Commands and DCA.

(8) Provide operational direction and guidance to the Director, Defense Communications Agency, on matters related to:

(i) Insuring that adequate and responsive communications support is provided the National Command Authorities, the JCS/OJCS, Unified and Specified Commanders, and the Military Departments, and that interfaces between DCS and tactical communications are maintained.

(ii) Providing systems engineering and technical support for the operation of the National Military Command System (NMCS) and the Minimum Essential Emergency Communications Network (MEECN).

(iii) Providing analytical and automated data processing (ADP) support to the JCS.

(iv) Providing centralized technical support to the JCS, Military Departments, Defense Agencies and Unified and Specified Commands for the WWMCCS standard ADP program.

(9) Provide advice to the Deputy Under Secretary of Defense for Policy regarding matters of communications policy, requirements, and priorities.

(d) *Commanders of Unified and Specified Commands* shall:

(1) Assess the responsiveness of the DCS to their operational needs. Conduct and participate in exercises and technical tests of the DCS and other communications systems.

(2) Develop agreements to delineate clearly the command/operational relationships with the DCA field organization, within the commander's area of responsibility, to insure mutual responsiveness and coordination of effort.

(e) The *Secretaries of the Military Departments*, in support of the DCA mission, shall:

(1) Provide, within the limitation of available resources, full support and assistance to the Director, DCA, in accomplishing his mission. The operating elements of the DCS will be responsive to the operational direction of the Director, DCA.

(2) Accomplish related functions in supports of systems, subsystems, programs, and projects for which DCA is responsible; such as planning, programing, budgeting, funding, providing detailed engineering, procuring, transporting, installing, testing, accepting, manning, activating, deploying, operating, maintaining, training, administering, conducting research and development, and providing logistic support.

(3) Obtain DCA concurrence on advance procurement plans and provide to DCA, for review and approval, technical specifications, statements of work, and, prior to execution, proposed contract changes impacting on configuration, cost, performance, or schedules of schedules of all systems for which DCA is responsible. Request DCA representation on source selection advisory councils and source selection evaluation boards for such systems, subsystems, and projects.

(4) Advise the Director, DCA, of shortages of funds, personnel, facilities, or materials that would prevent effective operation and maintenance of existing systems or prevent or delay scheduled implementation of new subsystems/projects.

(5) Submit long-haul, point-to-point telecommunications requirements to DCA for possible satisfaction within the DCS.

(f) *Other Defense Agencies* within their assigned areas of responsibility shall:

(1) Provide, within the limitation of available resources, full support and assistance to the Director, DCA, in accomplishing his mission.

(2) Submit their long-haul, point-to-point, telecommunications requirements to the DCA for possible satisfaction within the DCS.

§ 362.6 Authority.

The Director, DCA, or his designee, is specifically delegated authority to:

(a) Command the DCA and its field organizations.

(b) Establish DCA headquarters and field organizations and, within overall authorized manpower, allocate military and civilian spaces among such organizations in accordance with the policy of the Office of the Secretary of Defense.

(c) Have free and unrestricted communications with all elements of DOD, as well as with other organiza-

tions having national command, control, and communications responsibilities.

(d) Exercise management control and operational direction of the DCS and redelegate such authority over DCS facilities and resources, as appropriate.

(e) Establish the single control and reporting system for operational direction of the DCS and designate those DCS stations which shall function as reporting/reported-on stations within the system. DCA will coordinate information to be reported with the Military Departments to insure their requirements for DCS information are satisfied. Specific reporting requirements, as they are developed and prescribed, will be processed and approved consistent with the policies and criteria of DOD Directive 5000.19.[1]

(f) Exercise subsystem/project management or management control over the activities of the Military Departments, the Unified and Specified Commands, and all of the other DOD Agencies in those areas of endeavor that directly support the establishment and progressive improvement of the DCS and provide technical support of the NMCS.

(g) Prescribe, in coordination with appropriate DOD components, procedures, principles, standards, and practices to accomplish the assigned mission.

(h) Prescribe interface parameters and standards, monitor the installation status of new facilities, specify data and reports required for system traffic engineering and traffic management, and provide DCS traffic managment service with respect to subscriber terminal facilities accessing the DCS and as required to protect network integrity or to serve better the user's needs. In those cases where resource implications prevail, exercise of this authority requires mutual agreement with the Military Department or Defense Agency concerned, and the Assistant Secretary of Defense (Comptroller) when in excess of Military Department or Defense Agency resource authority or availability.

(i) Obtain, in coordination with the appropriate DOD components, such plans, reports, and information as are required to accomplish the DCA mission.

(j) Exercise the administrative authorities contained in § 362.8.

§ 363.7 Administration.

(a) The Director and Vice Director, DCA, shall be appointed by the Secretary of Defense. The Deputy Director, DCA, Military Satellite Communications System, will be appointed in accordance with DOD Directive 5105.44.

(b) The appointment of other personnel to the DCA will be subject to the approval of the Director, DCA.

(c) The DCA will be authorized such personnel, facilities, funds, and other administrative support as deemed necessary by the Secretary of Defense.

(d) The Military Departments and other DOD components shall, within available resources, provide support as necessary to the DCA.

(e) Personnel, facilities, equipment, and other support required to maintain and operate specific elements of the DCS and other national communications facilities as assigned, for which a Military Department or any other DOD component has been assigned responsibility, shall be provided from resources available to the Military Department or DOD components.

§ 362.8 Definitions.

(a) *Defense Communications System (DCS).*

(1) The DCS is a composite of DOD owned and leased telecommunications subsystems and networks comprised of facilities, personnel, and material under the management control and operational direction of the DCA. It provides the long-haul, point-to-point, and switched network telecommunications needed to satisfy the requirements of DOD and certain other Government agencies.

(2) The DCS includes fixed, transportable, and mobile facilities as appropriate. It consists of:

(i) Switching/relay facilities, to include associated software, of the general purpose (common user) networks such as AUTOVON, AUTODIN, and Automatic Secure Voice Communications (AUTOSEVOCOM).

(ii) Transmission media/circuits, which provide user/subscriber connection into or interconnect the switching/relay facilities of the DCS general purpose (common user) networks, or which interconnect the switching/relay facilities and/or the user/subscriber terminals in special purpose and operational (dedicated) networks which are authorized use of the DCS.

(iii) The assets of the Defense Satellite Communications System, except any portions which are specifically excluded from the DCS.

(3) The DCS does not include:

(i) The mobile/transportable communications facilities organic to Army forces, Air Force forces, fleets, and Fleet Marine forces.

(ii) Ship/ship, ship/shore/ship, air/air, ground/air/ground, and other tactical telecommunications as defined in DOD Directive 4630.5.[1]

(iii) Post, camp, base, and station user/subscriber facilities.

(iv) The onsite telecommunications facilities associated with or integral to weapon systems and to missile launch complexes.

(4) The above definition of the DCS is amplified as follows:

(i) Generally, the interface point of post, camp, base, or station (fixed or mobile) facilities (non-DCS) with the DCS is established at the main distribution frame of the user/customer facility. In specific cases, if required, the interface point may be any other point agreed to between the DCA and the Services or as prescribed by the ASD(C^3I) or the Joint Chiefs of Staff.

(ii) Telecommunications for weapon destruct at missile and air defense launch and firing complexes and for command, countdown, control, and range safety are non-DCS, unless specifically included; however, the establishment of standards for interface with the DCS is a DCA responsibility.

(iii) Consoles and display devices integral to Unified and Specified Commands, their Component headquarters, and the Military Services' operations centers are non-DCS. The communications interfaces with these facilities, when operated with DCS communications, must be operationally and technically compatible with the DCS. Prescribing such interface standards is a DCA responsibility.

(iv) The DCS includes those telecommunications required to interconnect the National Command Authorities (NCA), the Joint Chiefs of Staff, and Commanders of Unified and Specified Commands with the general purpose networks.

(b) *Operating Elements of the DCS.* Organizations and units of DOD Components that operate and maintain DCS facilities.

(c) *DCA Field Organizations.* Those elements of the DCA that are under the command of the Director, DCA, but are organizationally separate from the DCA headquarters.

(d) *Worldwide Military Command and Control System (WWMCCS).* As defined in DOD Directive 5100.30.[1]

(e) *National Military Command System (NMCS).* As defined in DOD Directive 5100.30.[1]

(f) *NMCS Technical Support.* The engineering and ADP support efforts requisite to insure that NMCS functional requirements and performance objectives are met.

(g) *Military Satellite Communications (MILSATCOM) Systems.* As defined in DOD Directive 5105.44.[1]

(h) *The Minimum Essential Emergency Communications Network (MEECN).* For purposes of this part, MEECN is defined as a composite of designated WWMCCS communications assets that, netted together, provide assurance that decisions of the NCA can be delivered from the NCA to U.S. Forces during all periods of stress.

(i) *MEECN Technical Support.* The engineering and support effort requisite to insure that the functional requirements and performance objectives of the Joint Chiefs of Staff are met. It includes system analysis, development and supervision of technical plans and tests, technical interface recommendations, and recommendations for development efforts to meet system objectives as assigned.

(j) *Operational Direction.* The authoritative direction necessary to insure effective operation of the DCS. It includes authority to: Direct the operating elements of the DCS, assign tasks to those elements, and supervise the execution of those tasks; allocate and reallocate DCS facilities to accomplish the DCA mission; develop technical standards, practices, methods, and procedures for the performance and operation of the DCA.

(k) *Management Control.* The review, evaluation, coordination, and guidance of management actions necessary to fulfill the responsibilities outlined in this Directive.

(l) *Subsystem.* A functional component of a system which provides a specific capability.

(m) *Project.* An undertaking to analyze, plan, improve, modify, expand, or otherwise change a portion of a system. A project may pertain to elements of a subsystem, an entire subsystem, or a number of related subsystems or elements thereof.

(n) *Subsystem/Project Management.* The continuing review, guidance, and approval, as appropriate, of actions taken in the development, processing, and implementation of approved subsystems/projects.

(o) *The DCS Plan.* A master plan for the evolutionary development and improvement of the DCS in fulfilling communications requirements of the DOD and other Government agencies as authorized and directed. The DCS Plan will cover the period from the budget year to 10 years in the future and will be in consonance with the Joint Strategic Planning System.

(p) *Subsystem/Project Plan (S/PP).* A plan which supports the processing of major telecommunications requirements. Normally it provides justification for the acquisition of a new subsystem, or modification of an existing subsystem, portions thereof, or a combination of related subsystems.

(q) *Management Engineering Plan (MEP).* The control document to effect program implementation by all participating organizations. It is a compilation of documents which places in context the plans, schedules, costs, and scope of all work and resources to be provided by each participating organization. It identifies or specifies subsystem configuration, performance, and interface requirements; technical and operational standards and specifications; type of equipment to be used; work statements required; logistic support planning, integrated testing, and training; management approach to implementation; assignment of responsibility for conduct of all effort; a schedule for task accomplishment; and progress reports required.

(r) *Implementation/Installation Plan (I/IP).* The document which provides such detail as is necessary to serve as a guide for the implementation phase. It specifies the efforts required by participating organizations, establishes detailed schedules, and includes or identifies, as appropriate, supporting plans and documents containing technical and performance specifications, detailed work statements, applicable standards, advanced procurement plans, logistics, training, installation and test plans, and supporting facility requirements. The I/IP responds to and supports the MEP.

(s) *Systems Engineering.* The application of recognized engineering skills, techniques, and principles to the development of system concepts, associated technical design, and performance criteria used in planning, engineering, and implementing a system.

(t) *Subsystem/Project Engineering.* That initial engineering necessary to support the development of the S/PP and similar plans and, subsequent to S/PP approval, the additional engineering refinements needed to define explicitly subsystem configuration, performance, reliability, maintainability, and other values or thresholds applicable to each subsystem component. This additional engineering, which may be included either in the MEP or issued separately, prescribes specific technical guidance for preparation of equipment specifications, control specifications, and other engineering detail to be included in the I/IP.

(u) *Detailed Engineering.* That engineering necessary to prepare complete equipment and software technical design or performance specifications which provide a basis for procurement, design/development, and test and acceptance. It also includes that engineering performed to accomplish site surveys and to install and check out subsystem elements or components.

§ 372.9 Delegation of authority.

Pursuant to the authority vested in the Secretary of Defense, the Director, Defense Communications Agency (DCA), or, in the absence of the Director, the person acting for him is hereby delegated, subject to the direction, authority, and control of the Secretary of Defense and in accordance with Department of Defense (DOD) policies, directives, and instructions and pertinent Office of the Secretary of Defense regulations, authority as required in the administration and operation of DCA to:

(a) Exercise the powers vested in the Secretary of Defense by sections 301, 302(b), and 3101 pertaining to the employment, direction and general administration of DCA civilian personnel.

(b) Fix rates of pay for Wage Board employees exempted from the Classification Act by section 5102(c)(7) of Title 5 of the U.S.C. on the basis of rates established under the Coordinated Federal Wage System. DCA, in fixing such rates, shall follow the wage schedules established by the DOD Wage Fixing Authority.

(c) Establish such advisory committees and employ such part-time advisers as approved by the Secretary of Defense for the performance of DCA functions pursuant to the provisions of 10 U.S.C. 173, 5 U.S.C. 3109(b), the Federal Advisory Committee Act (Pub. L. 92-463, October 6, 1972), and the agreement between the DOD and the Civil Service Commission on employment of experts and consultants, dated July 22, 1959.

(d) Administer oaths of office incident to entrance into the executive branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with the provisions of the Act of June 26, 1943, as amended (5 U.S.C. 2903(b)) and designate in writing, as may be necessary, officers and employees of DCA to perform this function.

(e) Establish a DCA Incentive Awards Board and pay cash awards to and incur necessary expenses for the honorary recognition of civilian employees of the Government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect DCA or its subordinate activities in accordance with DOD Directive 5120.15.[1] (Act of September 1, 1954, as amended (5 U.S.C. 4503) and Civil Service regulations.)

(f) In accordance with the provisions of the Act of August 26, 1950, as amended, (5 U.S.C. 7532); Executive Order 10450, dated April 27, 1953, as amended; and DOD Directive 5210.7[1]

(1) Designate any position in DCA as a "sensitive" position.

(2) Authorize, in case of emergency, the appointment of a person to a sensitive position in the agency for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed.

(3) Authorize the suspension, but not terminate the services, of an em-

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120; attention Code 301.

ployee in the interest of national security in positions within DCA.

(g) Clear DCA personnel and such other individuals as may be appropriate for access to classified material and information in accordance with the provisions of DOD Directive 5210.8,[1] and of Executive Order 11652, dated March 8, 1972, as implemented by National Security Council Directive, dated May 17, 1972, and the provisions of DOD Directive 5200.1.[1]

(h) Act as agent for the collection and payment of employment taxes imposed by Chapter 21 of the Internal Revenue Code of 1954, and, as such agent, make all determinations and certifications required or provided for under Section 3122 of the Internal Revenue Code of 1954 (26 U.S.C. 3122) and Section 205(p) (1) and (2) of the Social Security Act, as amended (42 U.S.C. 405(p) (1) and (2)), with respect to DCA employees.

(i) Authorize and approve overtime work for DCA civilian officers and employees in accordance with the provisions of Section 550.111 of the Civil Service regulations.

(j) Authorize and approve:

(1) Travel for DCA civilian officers and employees in accordance with Joint Travel Regulations, Volume 2, Department of Defense Civilian Personnel, dated July 1, 1965, as amended.

(2) Temporary duty travel only for military personnel assigned or detailed to DCA in accordance with Joint Travel Regulations, Volume I, for Members of the Uniformed Services, dated November 1969, as amended.

(3) Invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to or in connection with DCA activities, pursuant to the provisions of Section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 5703).

(k) Approve the expenditure of funds available for travel by military personnel assigned or detailed to DCA for expenses incident to attendance at meetings of technical scientific, professional, or other similar organizations in such instances where the approval of the Secretary of Defense or a designee is required by law (37 U.S.C. 412). This authority cannot be redelegated.

(l) Develop, establish, and maintain an active and continuing Records Management Program, pursuant to the provisions of Section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 3102), the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552(a)).

(m) Establish and use Imprest Funds for making small purchases of material and services other than personal for the DCA when it is determined more advantageous and consistent with the best interests of the Government, in accordance with the provisions of DOD Instruction 5100.71[1] and the Joint Regulation of the General Services Administration—Treasury Department—General Accounting Office, entitled "For Small Purchases Utilizing Imprest Funds."

(n) Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals, as required, for the effective administration and operation of the DCA (44 U.S.C. 3702).

(o) Establish and maintain appropriate Property Accounts for the DCA. Appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for the DCA property contained in the authorized Property Accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

(p) Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DCA, pursuant to subsections III.A. and V.B. of DOD Directive 5200.8.[1]

(q) Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DOD Directive 5025.1.

(r) Enter into support and service agreements with the Military Departments, other DOD agencies, or other Government agencies, as required, for the effective performance of responsibilities and functions assigned to the DCA.

(s) Exercise the authority delegated to the Secretary of Defense by the Administrator of the General Services Administration with respect to the disposal of surplus personal property.

(t) Enter into and administer contracts, directly or through a Military Department or other Government department or agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of the DCA. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

(u) Enter into contracts for leasing communications facilities for periods not to exceed 10 years as prescribed in DOD Directive 5100.32.[1]

The Director, DCA, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

This delegation of authority is effective immediately.

[FR Doc. 78-31647 Filed 11-8-78; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-230]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Victoria Channel, Texas

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of Central Technology on behalf of the Missouri Pacific Railroad Co., the Coast Guard is amending the regulations for the railroad bridge across Victoria Channel, mile 29.4, near Bloomington, Tex., to permit automated operation of this draw. Additionally, the regulation provides information to navigational interests on the manner in which the automated draw operates.

EFFECTIVE DATE: This amendment is effective on December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 30, 1978, the Coast Guard published a proposed rule (43 FR 23001) concerning this amendment. The Commander, Eighth Coast Guard District, also published these proposals as a Public Notice dated June 12, 1978. Interested persons were given until July 5, 1975 and July 12, 1978, respectively, to submit comments.

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

DISCUSSION OF COMMENTS

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.554 immediately after § 117.553 to read as follows:

§ 117.554 Victoria Channel, mile 29.4 near Bloomington, Tex.

(a) The bridge need not be manned by a regular attendant.

(b) The lift span is normaly in the down position, providing a vertical clearance of 22 feet above mean high water.

(c) Three long blasts of a horn or whistle from an approaching vessel activates navigational approach detectors, located one-half mile upstream and downstream from the bridge. If the span is inoperable, these sound signals will activate an alarm to alert bridge maintenance crews.

(d) Interruption of the approach detector beams by a vessel will cause (1) the draw to open to the fully raised position of 50 feet above mean high water for 10 minutes, (2) a navigation warning siren to sound, (3) the navigtion light in the center of the lift span to change from red to green, (4) the indicator lights, located one quarter mile of each side of the bridge, to change from red to yellow. However, if a train is approaching the bridge so closely that the train may not be safely stopped, the light will remain red and the bridge will not open until the train has passed.

(e) Interruption of the detector beam, located at the end of the bridge fender system will cancel the existing time intervals and start a new 5-minute interval during which the bridge will remain open. The span will not close until the vessel clears the detector located at the opposite end of the fender system, or the 5-minute interval elapses, whichever occurs earlier.

(f) If a vessel is unable to reach the detectors located on the outer ends of the fender system before the span closes, an additional signal of three long blasts of a horn or whistle will cause the span to reopen and initiate a new 10-minute interval.

(g) If the draw is in the open position for the passage of a vessel, and a train enters an approach circuit to the bridge, the bridge will remain open for 5 minutes if the detector beam has been interrupted. If the detector beam has not been interrupted the span will close at the end of the original 10-minute opening period and will not reopen in response to the additional signal described in paragraph (f). After the train passes, the span will open on signal for any waiting vessels.

(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).)

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: November 1, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant

[FR Doc. 78-31735 Filed 11-8-78; 8:45 am]

[3710-92-M]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 15-2-13]

PART 223—BOARDS, COMMISSIONS AND COMMITTEES

Mississippi River Water Control Management Board

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This document establishes and prescribes the objectives, composition, responsibilities and authority of the Mississippi River Water Control Management Board. In the past, each division office located within the Mississippi River Basin has acted as a separate entity in the operation of Corps projects with respect to downstream water releases. These releases could have an overall adverse effect on the lower Mississippi River. The establishment of this Water Control Management Board will develop and provide control over a basin-wide operating plan for Corps water activities within the Mississippi River Basin.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Vernon K. Hagen, Chief, Hydrologic Engineering Section, Office, Chief of Engineers, Washington, D.C. 20314, 202-693-7330.

Accordingly, 33 CFR is amended by adding a new Part 223 as follows:

§ 223.1 Mississippi River Water Control Management Board.

(a) *Purpose.* This regulation establishes and prescribes the objectives, composition, responsibilities and authority of the Mississippi River Water Control Management Board.

(b) *Applicability.* This regulation is applicable to the Board members and to all field operating agencies concerned with water control management within the Mississippi River Basin.

(c) *Objectives.* The objectives of the Board are:

(1) To provide oversight and guidance during the development of basin-wide management plans for Mississippi River Basin projects for which the U.S. Army Corps of Engineers has operation/regulation responsibilities.

(2) To serve as a forum for resolution of water control problems among U.S. Army Corps of Engineers Divisions within the Mississippi River Basin when agreement is otherwise unobtainable.

(d) *Composition.* The Mississippi River Water Control Management Board is a continuing board consisting of the Director of Civil Works and Division Engineers serving in LMVD, MRD, ORD, NCD and SWD. The Director of Civil Works serves as permanent chairperson.

(e) *Responsibilities.* The Board functions under the general direction of the Chief of Engineers and is responsible for:

(1) Oversight of procedures for maintaining and improving inter-divisional coordination of water control management activities within the Mississippi River Basin.

(2) Oversight of the development and use of facilities (physical and computer models, Automatic Data Processing Equipment, and communications and information dissemination networks) needed to provide the best obtainable water control system for the entire Mississippi River Basin, utilizing the coordinated capabilities of projects now in operation and scheduled to be placed in operation in the reasonably near future.

(3) Oversight of basin-wide operating/regulation plans for U.S. Army Corps of Engineers projects in the Mississippi River Basin.

(4) Periodic reports to the Chief of Engineers regarding the Board's activities and its plans.

(f) *Procedures.* The procedures used by the board to carry out its responsibilities are as follows:

(1) The Board meets periodically to review past activities and project operations, and to discuss new or revised basin-wide operating/regulation plans.

(2) The Board acts on all proposals for (temporary or permanent) deviation from approved basin-wide operating plans.

(3) The Board provides instructions to committees under its jurisdiction and reviews their recommendations for improvements in basin-wide water control management.

(g) *Board Authority.* The Mississippi River Water Control Management Board is delegated authority to establish continuing or ad hoc inter-divisional operating or study committees comprised of U.S. Army Corps of Engineers personnel to facilitate the work of the Board.

(h) *Funding.* Routine activities of the Mississippi River Water Control Management Board and its commit-

tees, such as travel and meeting expenses, will be funded by the separate members' offices using General Expense funds otherwise available. Major expenses connected with special studies or activities will be funded through the normal budgetary process. Budget requests will be supported by appropriate justification material.

(Act of Congress approved 1 March 1917, (33 U.S.C. 701) and Section 2 of the Act of Congress approved 28 June 1938 as amended (33 U.S.C. 701c-1).)

Dated: November 1, 1978.

THOMAS J. WOODALL,
LTC, Corps of Engineers, Assistant Executive Director, Engineer Staff.

[FR Doc. 78-31488 Filed 11-9-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1004-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: South Coast Air Quality Management District and Los Angeles, Riverside and San Bernardino Air Pollution Control Districts (Southeast Desert Portions)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve new source review rules for the south coast portion of the California State Implementation Plan (SIP) submitted by the Governor's designee.

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Lloyd Kostow, Chief, Air Section, Permits Branch, Enforcement Division (E-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone: 415-556-8005.

SUPPLEMENTARY INFORMATION: On April 21, August 2, and November 19, 1976 the State of California submitted to the Regional Administrator, Region IX, revisions of the Southern California Air Pollution Control District (previously Los Angeles County APCD, Orange County APCD, Riverside County APCD, and San Bernardino County APCD) regulations. On February 1, 1977 the State split the Southern California Air Pollution Control district into the South Coast Air Quality Management District in the western region and three separate APCDs formed out of the remaining parts of Los Angeles, Riverside, and San Bernardino counties in the eastern desert areas. These eastern areas are designated as the Los Angeles, Riverside, and San Bernardino County APCDs (Southeast Desert Portions).

The State of California resubmitted rules for these eastern areas on June 6, 1977, merely to reflect this split. The rules were identical to the previous submittals. South Coast Air Quality Management District and Los Angeles, Riverside, and San Bernardino Air Pollution Control Districts (Southeast Desert Portions) regulation II, rules 201, 202, 203, 204, 205, 206, 207, 209, 210, 211, 212, 213, 213.1, 213.2, 214, 215, 216, 217, and 219 will provide a procedure by which persons who wish to construct, modify or operate any article, machine, equipment, or other contrivance that may cause the issuance of air contaminants may be granted a permit to do so. A permit shall not be granted, if it is determined that such construction, modification, or operation would interfere with the attainment or maintenance of a national ambient air quality standard.

The State of California has certified, by letters of August 2, December 22, 1976, and June 6, 1977, that these revisions to the state implementation plan were adopted after public hearings held on January 9, February 6, and May 7, 1976 in Pomona, Calif., October 4 and 5, 1976 in Fresno, Calif., and October 8, 1976, in Los Angeles, Calif., after notice conforming to 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans was given.

On January 6, 1977 (42 FR 1273), the Environmental Protection Agency published a notice of proposed rulemaking (42 FR 1273) advising the public of receipt of the revised Southern California Air Pollution Control District (both western region and eastern desert areas) regulation II, rules 201-207, 209-217, and 219 and requested public comments within thirty (30) days. Five (5) comment letters were received. Comment letters were received from the following parties: Western Oil & Gas Association, Gulf Oil Co.-U.S., California Council for Environmental and Economic Balance, Union Oil Co. of California, and Southern California Gas Co.

DISCUSSION OF MAJOR COMMENTS

The following are the major comments made, together with EPA's response:

1. The inclusion of emissions from carriers is improper for alleged lack of notice, alleged lack of support in the State record and an alleged burden upon interstate and foreign commerce. The interpretative ruling (December 21, 1976) specifically states (footnote 3) that indirect or secondary impacts which can be accurately quantified should be considered when determining whether the source would cause or exacerbate a violation of the NAAQS. The State certified public hearings were held in accord with 40 CFR 51.4. The rules meet the requirements of 40 CFR 51.18 and the interpretative ruling—IR (41 FR 55524, December 21, 1976). EPA will not inquire into the State record so long as these requirements are met by the State submitted SIP revision. The requirement being commented upon does not regulate or burden carriers. It merely states that emissions from carriers, associated with the new or modified stationary source to be constructed, will be considered in determining the net emissions resulting from the proposed source.

2. "New source review (as required by section 110 of the Clean Air Act) should be required only for sources for which there are standards of performance for new stationary sources, promulgated pursuant to section 111 of the Act." EPA believed the Clean Air Act of 1970 required preconstruction review of all major new or modified stationary sources for determination of interference with attainment or maintenance of the national ambient air quality standrds (NAAQS). The Clean Air Act Amendments of 1977 verified this belief. Section 129 of Pub. L. 95-95 provides that the IR shall apply before July 1, 1979. (Note under 42 U.S.C. 7502.) The IR and the 1977 amendments state that the term "major source" shall cover any source that emits more than a specified amount of pollutant. Thus new source review is required for all new or modified major sources, regardless of whether there are applicable standards of performance.

3. "The proposed rules are impermissibly vague." The IR indicates precisely how "interference" will be determined. Moreover, rule 213 contains adequate guidance for assessing air quality impact.

4. "There has been no showing that the rules are necessary to the attainment and maintenance of the NAAQS." The South Coast Air Basin in nonattainment for most of the criteria pollutants. The IR has been established for dealing with new source construction in areas exceeding the

NAAQS. Emissions from new sources would otherwise exacerbate existing violations of the NAAQS. Therefore new source review rules implemented by either EPA or the SCAQMD are necessary to the attainment and maintenance of the standards. EPA is presently implementing the IR and issues permits for sources in the SCAQMD. The effect of this approval will be to transfer primary authority under the SIP to the SCAQMD.

5. "The requirement (on certain exemptions) of concurrence by California Air Resources Board and EPA will 'guarantee interminable and very expensive delays on proposed projects'." Concurrence by the State and EPA insures that the granting of exemptions does not violate either State or Federal requirements. Normally EPA and ARB will grant concurrence within the time requirements of the public comment period. In cases where the SCAQMD grants an exemption that is inconsistent with Federal requirements, EPA, or ARB will conduct a review within the time requirements specified in 40 CFR 51.18.

6. One commentor alleged that the California Air Resources Board (ARB) failed to follow State procedural requirements in adoption of new source review rules for the SCAQMD. The ARB is the only agency designated by the Governor of California as the agency for submittal of SIP revisions and has certified that such regulations were adopted in accordance with EPA requirements. Matters of alleged procedural irregularities under State law are best addressed at the State level.

7. Various commentors suggested various substantive changes to rules 213, 213.1, and 213.2. EPA must review and approve or disapprove the SIP revisions as submitted by the State. We do not have the authority to rewrite the State submitted regulations. So long as the proposed SIP revision is equal to or more stringent than the EPA requirements, it will be approved. Proposed substantive changes in the SCAQMD regulations are most appropriately addressed to the adopting body during the regulation's formative stages.

These comments have not caused EPA to change its position, as summarized below:

EPA has thoroughly reviewed the South Coast Air Quality Management District and Los Angeles, Riverside, and San Bernardino Air Pollution Control Districts (Southeast Desert Portions) revised regulation II, rules 201-207, 209-217, and 219. This was done by comparing them to the requirements of section 110 of the Clean Air Act, the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans (particularly 40 CFR 51.18—Review of New Sources and Modifications), EPA's Interpretative Ruling for Implementation of the Requirements of 40 CFR 51.18 (41 FR 55524, December 21, 1976). A comparison of the effectiveness of control of emissions of new sources, both for sources proposed for construction within the District and for sources representative of a national projection was also prepared. It is concluded that these rules are broader in scope and at least as stringent as are required under the Clear Air Act and 40 CFR 51.18.

The Administrator hereby approves South Coast Air Quality Management District and Los Angeles, Riverside, and San Bernardino Air Pollution Control Districts (Southeast Desert Portions) rules 201, 202, 203, 204, 205, 206, 207, 209, 210, 211, 212, 213, 213.1, 213.2, 214, 215, 216, 217, and 219 as part of the California State Implementation Plan.

In accordance with this approval the Administrator hereby deletes 40 CFR 52.233 (d)(2), (d)(8)(i-iii), (g)(1)(ii), and (g)(1)(ix)(a-c) which were substitute regulations, implemented and enforced by EPA, for the review of new sources and modifications in the South Coast Air Quality Management District and Los Angeles, Riverside, and San Bernardino Air Pollution Control Districts (Southeast Desert Portions). This approval transfers primary authority for implementation and enforcement from EPA to the District.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. sections 7410 and 7601(a)).)

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart F—California

1. Section 52.220, paragraph (c)(31)(vi)(C), (32)(iv)(C), (36)(i)(A), (39)(ii)(B), (39)(iii)(B), and (39)(iv)(B) are added to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

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(31) * * *

(vi) Southern California APCD.

(C) Rules 201-207, 209-212, 214-217, and 219.

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(32) * * *

(iv) Southern California APCD.

(C) Rules 202 and 219.

* * * * *

(36) Revised regulations for the following APCD were submitted on November 19, 1976, by the Governor's designee.

(i) Southern California APCD.

(A) Rules 213, 213.1, and 213.2.

* * * * *

(39) * * *

(i) * * *

(ii) San Bernardino County APCD (Southeast Desert Portion).

(A) * * *

(B) Rules 201-207, 209-212, 213, 213.1, 213.2, 214-217, and 219.

(iii) Los Angeles County APCD (Southeast Desert Portion).

(A) * * *

(B) Rules 201-207, 209-212, 213, 213.1, 213.2, 214-217, and 219.

(iv) Riverside County APCD (Southeast Desert Portion).

(A) * * *

(B) Rules 201-207, 209-212, 213, 213.1, 213.2, 214-217 and 219.

* * * * *

2. Section 52.233 is amended by revoking and reserving paragraphs (d)(2), (d)(8)(i-iii), (g)(1)(ii), and (g)(1)(ix)(a-c).

§ 52.233 Review of new sources and modifications.

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(d) * * *

(1) * * *

(2) [Reserved]

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(8) * * *

(i) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

* * * * *

(e) * * *

(f) * * *

(g) * * *

(1) * * *

(i) * * *

(ii) [Reserved]

* * * * *

(ix) * * *

(a) [Reserved]

(b) [Reserved]

(c) [Reserved]

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[FR Doc. 78-31610 Filed 11-8-78; 8:45 am]

[6560-01-M]

[FRL 1004-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

West Virginia State Implementation Plan; Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule announces the Administrator's decision on the amended portion of regulation X of the West Virginia State Implementation Plan. The amendments provide for the relaxation of sulfur dioxide emission limitations at certain power plants, the deletion of the provisions related to secondary standards for all fuel burning units in the State, and a number of administrative changes. The Administrator is approving the portions of the amendments relating to the Fort Martin and Mitchell power plants and the deletion of the provisions related to the secondary standards for all fuel burning units in the State except the portion of § 3.03(b) relating to the Rivesville facility. For the Rivesville facility the Administrator has determined that the existing emission limitation is inadequate to protect National Ambient Air Quality Standards and is calling for a revision for this part of the State implementation plan. Furthermore, the Administrator is delaying action on the portion related to the Kammer facility and approving an interim emission limitation for the Harrison power plant.

EFFECTIVE DATE: January 9, 1978.

ADDRESSES: Copies of the approved West Virginia revision of regulation X and the analysis on which it is based, are available during normal business hours at the following locations:

United States Environmental Protection Agency, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106 Attention: Mr. Howard Heim (3AH10).

West Virginia Air Pollution Control Commission, 1558 Washington Street East, Charleston, W. Va. 25311, Attention: Carl G. Beard II.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard Heim (3AH10), Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106, phone 215-597-8175.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 25, 1978, the Governor of West Virginia submitted to EPA, region III a revision of regulation X (1973) for the control of sulfur dioxide. In his letter, Governor Rockefeller advised that the revision of regulation X had been adopted by the West Virginia Air Pollution Control Commission on December 19, 1977, and approved by the West Virginia Legislature on February 11, 1978. Further, the Governor asked that EPA consider the revision of regulation X as a change of the existing State Implementation Plan (SIP).

The revision primarily concerns section 3 of regulation X, wherein emission limits for electric power generating plants are set forth. These emission limits are intended to protect both the national primary and secondary standards for sulfur dioxide. The new emission limits proposed by West Virginia constitute a relaxation of existing limits. West Virginia's request represents the third proposed modification of regulation X since it was first approved by EPA in 1972.

The first change occurred in 1973 when the State deleted its own secondary standard for sulfur dioxide which was more stringent than the Federal secondary standard.

The second change was adopted by West Virginia on November 4, 1976, and submitted on November 10, 1976, to EPA as a proposed revision of the West Virginia State Implementation Plan. These 1976 revisions constituted a relaxation of emission limits for certain major power generating stations including the Mitchell and Kammer Plants of Ohio Power Co., the Willow Island station of the Monongahela Power Co. and the John Amos plant of the Appalachian Power Co. In addition, the State proposed a deletion of §§ 3.01(b) and 3.03(b) which pertain to emission limitations intended to protect the national secondary standard for sulfur dioxide. These changes reflected the "moratorium" on all sulfur oxide controls deemed to be more stringent than needed to protect air quality standards as declared by the Governor of West Virginia in April, 1976, in an Executive order. The order resulted out of the Governor's concern for West Virginia's coal economy and the parity between West Virginia and Ohio in the enforcement of regulations to control sulfur dioxide. However, the State had not submitted a certification of public hearing and had not adequately demonstrated that air quality standards would be attained and maintained as a result of the changes as required by Federal law. Consequently, the State, on advice of EPA region III, announced its withdrawal of the proposed revision submitted in 1976 and its replacement by the submittal of January 25, 1978.

The most recent proposal primarily concerns the emission limitations of sulfur dioxide as they apply to the Kammer, Mitchell, Fort Martin, and Harrison power plants. The emission limits proposed by West Virginia constitute a relaxation of existing emission limits related to the primary standard. Furthermore, unlike the 1976 revisions, these new changes for the above four power plants, with the exception of deletions of §§ 3.01(b) and 3.03(b), are based on the results of an extensive modeling study performed by the EPA in cooperation with the West Virginia Air Pollution Control Commission. The deletion of §§ 3.01(b) and 3.03(b) is based on an additional study performed by the State. As discussed earlier, these sections are intended to protect the national secondary standard for sulfur dioxide and were effective on June 30, 1978, according to the federally-approved regulation X. Finally, the proposed revision includes changes to certain requirements for emission data reporting and operating conditions.

On June 23, 1978 (43 FR 27208), the Regional Administrator proposed several actions on the amendments to regulation X submitted by the State of West Virginia as a requested revision of the West Virginia State Implementation Plan and provided for a 30-day comment period ending July 23, 1978. The Regional Administrator proposed that the portions of the regulation relating to the Fort Martin and Mitchell power plants and the deletion of §§ 3.01(b) and 3.03(b) concerning the protection of the secondary standard for sulfur dioxide be approved. For the portion relating to the Rivesville power plant of Monongahela Power Co., the Regional Administrator proposed disapproval. For the portion relating to the Kammer power plant of the Ohio Power Co., he proposed to delay rulemaking until the results of a wind tunnel study are available. Finally, for the Harrison power plant of Monongahela Power Co., the Regional Administrator invited the state to submit to EPA an interim emission limitation of 5.12 lbs. $SO_2/10^6$ Btu, approximately a 3.2 percent sulfur-in-fuel requirement, based on an estimated "good engineering practice" stack height which would apply for a short period such as one year or until final promulgation of the section 123 regulation, whichever is the shorter period of time.

On September 13, 1978, the Governor of West Virginia submitted to EPA at the invitation of the Regional Administrator (June 23, 1978, 43 FR 27208), an interim emission limitation of 5.12 lbs $SO_2/10^6$ Btu, approximately

3.2 percent sulfur-in-fuel, for the Harrison facility of Monongahela Power Co. In his letter, Governor Rockefeller advised that the interim limitation had been adopted by the Air Pollution Control Commission on September 7, 1978, and approved by the West Virginia Legislative Rulemaking Committee on September 11, 1978, to be effective on October 16, 1978, for a period of one year or until final promulgation of the Section 123 regulations, whichever was the shorter period of time.

PUBLIC COMMENTS

During the public comment period, comments were received from the Monongahela Power Co., the Virginia Electric and Power Co., (VEPCO), the State of Maryland, the law offices of Kaufman and Ratliff, and the Pennsylvania Department of Environmental Resources. In addition, comments were received prior to the public comment period from the West Virginia Citizens Action Group and two private citizens.

The first two commentors, Monongahela Power Co., and Virginia Electric and Power Co. supported the proposed action by EPA. The remaining commentors including the West Virginia Citizens Action Group, opposed EPA's action. Generally, these commentors raised concern about the adequacy of the modeling performed by EPA in protecting public health.

FINAL ACTION

The Administrator has reviewed the comments submitted during the public comment period and is today finalizing the action proposed by the Regional Administrator on June 23, 1978, 43 FR 27208.

The Administrator is approving the portion of the revision to regulation X relating to the Fort Martin and Mitchell Power Plants. The basis for his approval is the modeling study performed by EPA which demonstrated adequate protection of the National Ambient Air Quality Standards for Sulfur Dioxide.

With regard to the deletion of §§ 3.01(b) and 3.03(b) relating to protection of the secondary three (3) hour standard for sulfur dioxide, the Administrator hereby approves the amendment except as it relates to the Rivesville facility. The basis for the approval of the deletion is that these sections were intended to protect the National Secondary Ambient Air Quality Standards for sulfur dioxide; the Administrator in 40 CFR 50.5 deleted the National Secondary Annual and 24-hour sulfur dioxide standards and had also approved a deletion of the same standard in 41 FR 51018 for the West Virginia State Implementation Plan. The State submitted information showing the relationship between the 24-hour National primary standard and the 3-hour National secondary standard. On the basis of that information, the Administrator has concluded that the 24-hour primary standard is limiting when compared to the 3-hour secondary standard.

In the case of the Rivesville facility, the Administrator has found through modeling that the existing emission limitations in §§ 3.03(a)1 and 3.03(b) are inadequate to protect National Ambient Air Quality Standards for sulfur dioxide.

Therefore, the Administrator requests that the State of West Virginia correct the emission limitations set forth in § 3.03 as they apply to the Rivesville facility in order to assure attainment and maintenance of sulfur dioxide standards. Until such revisions are submitted to EPA, the current federally approved emission limitations shall apply.

With regard to the Kammer facility of the Ohio Power Co., the Administrator is delaying rulemaking until the results of a wind tunnel study applicable to Kammer are available. The Ohio Power Co. has petitioned the EPA for a public hearing to allow modeling credit for a 900-foot stack under construction. At 900 feet, the stack would substantially exceed two and one-half times the height of the power plant. (See Clean Air Act Section 123(c).) When the results of the wind tunnel study are available, the Administrator will conduct a public hearing as requested by the Ohio Power Co. and in conjunction with the future regulations for section 123 take final action on the portion of regulation X relating to the Kammer facility.

For the portion of the revision relating to the Harrison power plant, the Administrator approves the interim emission limitation as submitted by the Governor on September 13, 1978. The emission limitation of 5.12 lbs $SO_2/10^6$ Btu will remain in effect for a period of 1 year or until such time as the final regulations for section 123 are finalized, whichever is the shorter period of time. After the section 123 regulations are finalized, West Virginia will apply them and determine whether a different emission limitation is authorized for Harrison. Upon making this determination, West Virginia will submit an emission limitation to the EPA for review and public comment as a proposed SIP revision. If the section 123 regulations are not finalized in a timely manner, or if West Virginia does not submit a proposed SIP revision to EPA by a date sufficient to allow review, public comment, and final action before the end of the one-year period, EPA will require West Virginia to amend its SIP to provide an emission limitation to be effective after the one-year period.

With regard to the regulation relating to the Prevention of Significant Deterioration (PSD) the Administrator reminds the State of West Virginia that a periodic assessment must be performed to verify that the applicable PSD increments are not exceeded. If a violation is found, the State is further reminded that a revision of the SIP will be required to correct any such violation.

Finally, the Administrator approves all administrative changes of regulation X.

Dated: October 31, 1978.

(Authority: 42 U.S.C. 7410 and 7601)

DOUGLAS M. COSTLE,
Administrator.

Part 52 of title 40, Code of Federal Regulations is amended as follows:

Subpart XX—West Virginia

1. The section 52.2520, paragraph (c)(9), is added as follows:

§ 52.2520 Identification of plan.

* * * * *

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

(9) Amendments to regulation X (to prevent and control air pollution from the emission of sulfur oxides) §§ 2.07 (added), 2.08 (former section 2.07), 2.09 (added), 3.01(a), 3.02, 3.03(a) (sections 3.01(b) and 3.03(b) are deleted), 3.05, 3.06 through 3.08 (added), 5.01, 6.01, 10 (added) and 11 (former section 10) of the West Virginia Administrative Regulations; submitted on January 25, 1978 (as amended September 13, 1978), by the Governor.

2. In § 52.2522, subsection (b) is added as follows:

§ 52.2522 Approval status.

(a) * * *

(b) The Administrator approves the deletion of the provisions found in § 3.03(b) of regulation X except as it applies to the Rivesville plant, Monongahela Power Co.

3. Section 52.2525 is added as follows:

§ 52.2525 Control strategy: Sulfur dioxide.

(a) The provisions of § 51.13(e) are not met because the State did not adequately demonstrate that the deletion of § 3.03(b) of West Virginia regulation X as it applies to the Rivesville plant would not interfere with attainment and maintenance of the national ambient air quality standard.

[FR Doc. 78-31604 Filed 11-8-78; 8:45 am]

[6560-01-M]

[FRL 979-7]

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Approval of Submittal Date Extension for Controlling Phosphate Fertilizer Plants in Texas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves a request from the Texas Air Control Board (TACB) to extend the date for submittal of the plan to control fluoride emissions from phosphate fertilizer plants in Texas to October 31, 1978. Delays in developing adequate control regulations prompted the extension request from the TACB. No adverse impact from extending the submittal date is expected since the currently estimated fluoride emissions from applicable plants are comparable with control levels recommended by EPA.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack S. Divita, Air Program Branch, Environmental Protection Agency, Region 6, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the TACB submitted a request to EPA to extend the submittal date for the plan to control fluoride emissions from applicable phosphate fertilizer plants. EPA reviewed the supporting material for the request and determined that since current emission rates from applicable plants were comparable to levels recommended by EPA, there would be no adverse impact resulting from a delayed plan submittal. Accordingly, a proposed approval notice was published on June 11, 1978 (43 FR 29805).

Interested persons were given 30 days in which to comment on the proposed approval. No comments were received. Therefore, there is no reason for EPA to deviate from an approval position.

CURRENT ACTION

This action approves a submittal date extension for the plan to control fluoride emissions from phosphate fertilizer plants in Texas to October 31, 1978.[1]

[1] EPA plans to codify its approval of the submittal date for the subject plan in Subpart SS of Part 62.

This action is issued under the authority of section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-31339 Filed 11-8-78; 8:45 am]

[6560-01-M]

[FRL 978-5]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by Iowa Department of Environmental Quality to Iowa Public Service Co., George Neal Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a delayed compliance order issued by the Iowa Department of Environmental Quality to the Iowa Public Service Co., George Neal Station. The order requires the company to bring air emissions from its boiler No. 2 at Salix, Iowa into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP). Because of the Administrator's approval, Iowa Public Service Co.'s compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the order is in effect.

DATES: This rule takes effect on November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

ADDRESSES: A copy of the delayed compliance order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the order are available for public inspection and copying during normal business hours at: Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Mo. 64108.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Regional Administrator of EPA's Region VII office published in the FEDERAL REGISTER, 43 FR 36654, a notice proposing approval of a delayed compliance order issued by the Iowa Department of Environmental Quality to the Iowa Public Service Co., George Neal Station. The notice asked for public comments by September 18, 1978, on EPA's proposed approval of the order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Iowa Public Service Co. is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order placed Iowa Public Service Co., George Neal station, on a schedule to bring its boiler No. 2 at Salix into compliance as expeditiously as practicable with sub<rule 400—4.3(2) b and d Iowa Administrative Code Combustion for indirect heating and visible emissions, a part of the federally-approved Iowa State Implementation Plan. The Order also requires installation of continuous monitors by January 1979, interim operating conditions, which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emissions monitoring and reporting requirements. If the conditions of the order are met, it will permit Iowa Public Service Co., George Neal Station, to delay compliance with the SIP regulations covered by the Order until September 26, 1978. The company is unable to immediately comply with these regulations.

Because the order has been approved by EPA, compliance with its terms will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order during the period the order is in effect. Citizen suits under section 304 of the Act are similarly precluded. If the Administrator determines that Iowa Public Service Co., George Neal Station, is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedures for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing the orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for 40 CFR Part 65, published at 40 FR 149876 (April 2, 1975), will be withdrawn, and replaced

[1] Published at 43 FR 44522 (September 28, 1978).

by a notice promulgating these new regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Iowa Public Service Co., George Neal Station, on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Iowa State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601.)

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By amending the table in § 65.201 by adding the following entry:

§ 65.201 EPA Approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulations involved	Date of FR proposal	Final compliance date
Iowa Public Service Co., George Neal Station.	Salix, Iowa.....	Docket No. VII-78-DCO-4.	Subrule 400—4.3(2) b and d, Iowa Administrative Code.	Aug. 18, 1978.	Sept. 26, 1978.

[FR Doc. 78-31500 Filed 11-8-78; 8:45 am]

[6560-01-M]

[FRL 978-6]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by Iowa Department of Environmental Quality to John Deere Tractor Works, Waterloo, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a delayed compliance order issued by the Iowa Department of Environmental Quality to the John Deere Tractor Works. The order requires the company to bring air emissions from its boilers Nos. 6, 7, 8, and 9 at Waterloo into compliance with certain regulations contained in the federally approved Iowa State implementation plan (SIP). Because of the Administrator's approval, John Deere's compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the order during the period the order is in effect.

DATE: This rule takes effect on November 9, 1978.

FOR FURTHER INFORMATION CONTACT

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore Ave., Kansas City, Mo. 64108, 816-374-2576.

ADDRESS: A copy of the delayed compliance order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the order are available for public inspection and copying during normal business hours at: Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore Ave., Kansas City, Mo. 64108.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43 FR 36654, a notice proposing approval of a delayed compliance order issued by the Iowa Department of Environmental Quality to the John Deere Tractor Works. The notice asked for public comments by September 18, 1978, on EPA's proposed approval of the order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to John Deere Tractor Works is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places John Deere Tractor Works on a schedule to bring its boilers Nos. 6, 7, 8, and 9 at Waterloo into compliance as expeditiously as practicable with subrule 400—4.3(2)b Iowa Administrative Code, combustion for indirect heating, a part of the federally approved Iowa State implementation plan. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit John Deere Tractor Works to delay compliance with the SIP regulations covered by the order until February 10, 1979. The company is unable to immediately comply with these regulations.

Because the order has been approved by EPA, compliance with its terms will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order during the period the order is in effect. Citizen suits under section 304 of the Act are similarly precluded. If the Administrator determines that John Deere Tractor Works is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedures for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing the orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for 40 CFR Part 65, published at 40 FR 149876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

EPA has determined that its approval of the order shall be effective upon publication of this notice because of the need to immediately place John Deere Tractor Works on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement of the Iowa State implementation plan.

(Authority: 42 U.S.C. 7413(d), 7601.)

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[1] Published at 43 FR 44522 (September 28, 1978).

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By amending the table in § 65.201 to add the following entry:

§ 65.201 EPA approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulations involved	Date of FR proposal	Final compliance date
John Deere Tractor Works.	Waterloo, Iowa ...	Docket No. VII-78-DCO-2.	Subrule 400—4.3(2)b, Iowa Administrative Code.	Aug. 18, 1978.	Feb. 10, 1979.

[FR Doc. 78-31501 Filed 11-8-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-764]

PART 0—COMMISSION ORGANIZATION

Delegations to the Chief Cable Television Bureau

AGENCY: Federal Communications Commission.

ACTION: Order—Rule amendment.

SUMMARY: The Commission has reviewed the delegations of authority to the Chief, Cable Television Bureau, and has concluded that a general revision of them is appropriate. Under the revised delegations, the staff will be empowered to process all applications and petitions in the Cable Television Service and the Cable Television Relay Service at staff level, unless they involve a novel question of fact, law, or policy which cannot be resolved under existing precedents and guidelines. The changes should reduce the Commission's workload of routine cases, and will aid the Bureau in expediting the processing of pending cases and thereby reducing its backlog.

EFFECTIVE DATE: November 10, 1978.

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

FOR FURTHER INFORMATION, CONTACT:

Jerold L. Jacobs, Cable Television Bureau, 202-632-6483.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: October 24, 1978.

Released: November 2, 1978.

By the Commission:

1. The Commission has reviewed the delegations of authority to the Chief, Cable Television Bureau, and has concluded that a general revision of § 0.288 of the rules is in order to simplify them and to take account of the substantial development of precedents in the Cable Television and Cable Television Relay Services since February 1975, when the last general revision occurred. Under the revised delegations, the staff will be empowered to process all applications and petitions in the two services at staff level, unless they involve a novel question of fact, law, or policy which cannot be resolved under existing precedents and guidelines. The changes should reduce the Commission's workload of routine cases, allowing more time to be spent on larger policy issues, and will aid the Cable Television Bureau in expediting the processing of pending cases and thereby reducing its backlog.

2. Since the revisions are either editorial or relate to Commission organization, procedures, or practice, or restate existing requirements, the prior notice provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. For the same reason, the revisions will be made effective immediately.

Authority for the rule amendment adopted herein is contained in sections 2, 3, 4 (i) and (j), 5 (b) and (d), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, *it is ordered*, That effective November 10, 1978, Part 0 of the Commission's rules and regulations is amended as set forth below.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 0.288 is revised to read as follows:

§ 0.288 Authority delegated.

The Chief, Cable Television Bureau, is delegated authority to perform all functions of the Bureau, described in §§ 0.83-0.90, as follows:

(a) To extend or shorten the time required to comply with Commission orders or rules, effectuate a transfer of control or assignment of license or other authorization, or to file pleadings, comments, briefs, annual reports, or responses to official correspondence;

(b) To initiate official correspondence;

(c) To act on requests for withdrawal of papers, and to dismiss petitions and applications, as provided in §§ 76.8 and 78.21 of this chapter, or those which are premature, repetitive, not timely filed, not acceptable under the Commission's rules, or moot;

(d) To modify or set aside on his own motion any action taken pursuant to delegated authority;

(e) To act on all applications for authorization, petitions to deny, objections, waiver requests, complaints, and requests for declaratory rulings in the Cable Television Relay Service, unless novel questions of fact, law, or policy are involved which cannot be resolved under existing precedents and guidelines;

(f) To designate for hearing, upon appropriate issues, mutually exclusive applications for authorization in the Cable Television Relay Service;

(g) To impose or delete conditions on any authorization granted pursuant to this section, to issue corrected authorizations, and to cancel authorizations in accordance with existing precedents and guidelines;

(h) To issue rulings and interpretations concerning complaints arising under section 315 of the Communications Act and §§ 76.205 and 76.209 of this chapter;

(i) To act on petitions for special relief, waiver requests, objections, complaints, and requests for declaratory rulings and stays in the Cable

Television Service, unless novel questions of fact, law, or policy are involved which cannot be resolved under existing precedents and guidelines;

(j) To act on requests for special temporary authority in the Cable Television Service and for temporary authority for special operations in the Cable Television Relay Service;

(k) To act on petitions for orders to show cause, or to issue orders to show cause on his own motion, unless novel questions of fact, law, or policy are involved which cannot be resolved under existing precedents and guidelines;

(l) To enter into consent agreements pursuant to §§ 1.93 and 1.94 of this chapter;

(m) To issue citations pursuant to § 1.80 of this chapter, and to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) in the amounts of $4,000 or less for cable television systems and $2,000 or less for facilities in the Cable Television Relay Service.

[FR Doc. 78-31675 Filed 11-8-78; 8:45 am]

[6712-01-M]

[FCC 78-767]

PART 0—COMMISSION ORGANIZATION

Delegation of Forfeiture Authority to the Staff

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: FCC delegates authority to its staff to impose forfeitures under the new forfeiture law (Pub. L. 95-234). Where the maximum forfeiture is $20,000 the staff is authorized to impose forfeitures up to $4,000; where the maximum is $5,000, the staff is authorized to impose forfeitures up to $2,000. Forfeitures in larger amounts are acted on by the Commission.

EFFECTIVE DATE: November 9, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

In the Matter of Delegation of Forfeiture Authority to the Staff Pursuant to Pub. L. 95-234: Order.

Adopted: October 24, 1978.

Released: November 2, 1978.

By the Commission:

1. By Pub. L. 95-234, February 21, 1978, the Congress enacted new provisions governing the imposition of forfeitures by the Commission. The law applies to conduct taking place on or after March 23, 1978. Conduct which took place on or before March 22, 1978, continues subject to pre-existing law and regulation (47 CFR 1.80, 1.621, and 1.991 (October 1, 1978, ed.)).

2. Procedural changes implementing the new law were adopted on October 5, 1978 (FCC 78-709). The rules set out in the attached appendix delegate to the staff authority to issue citations, notices of apparent liability, orders canceling and reducing forfeitures, and final forfeiture orders, subject to specified monetary limits.

3. The new rules delegate to the Chief of the Field Operations Bureau authority to issue notices of apparent liability subject to statements of policy provided by the other bureaus and offices. In addition, in the case of violation of section 301 or 318 of the Communications Act of 1934, as amended, or of parts 13 or 17 of the Commission's rules (and if the amount of the notice of apparent liability is $2,000 or less) the Chief of the Field Operations Bureau may issue final forfeiture orders and orders canceling or reducing forfeitures. This additional authority in the case of violation of section 301 is limited to instances where the subject holds no station authorizations issued by the Commission in any service.

4. Authority for these rules is contained in sections 4(i), 5(d), 503(b), and 504(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), 503(b), and 504(b). Because the rules concern internal organization, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

5. Accordingly, *it is ordered*, effective November 9, 1978, that parts 0 and 1 of the rules and regulations are amended as set forth below.

(Secs. 4, 5, 503, 504, 48 Stat., as amended, 1066, 1068, 1101, 47 U.S.C. 154, 155, 503, 504.)

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

1. Section 0.115(f) is revised to read as follows:

§ 0.115 Regional services division.

* * * * *

(f) Upon request of the Violations Division, conducts personal interviews in the field of persons who have received citations issued under § 1.80(d) of this chapter.

* * * * *

2. Section 0.243(b) is revised to read as follows:

§ 0.243 Authority delegated to the Chief Engineer.

* * * * *

(b) The Chief Engineer, upon securing concurrence of the General Counsel, is authorized to issue notices of apparent liability, final forfeiture orders, and orders canceling or reducing forfeitures imposed under § 1.80(f) of this chapter, in the amount of $2,000 or less; and is authorized to issue citations pursuant to § 1.80(d).

* * * * *

3. Section 0.281(c)(3) is revised to read as follows:

§ 0.281 Authority delegated.

* * * * *

(c) * * *

(3) Notices of opportunity for hearing pursuant to § 1.80(g) of this chapter; and notices of apparent liability, final forfeiture orders, and orders canceling or reducing forfeitures imposed under § 1.80(f) if the amount set out in the notice of apparent liability is $4,000 or more.

* * * * *

4. Section 0.288(x) is revised to read as follows:

§ 0.288 Authority delegated.

* * * * *

(x)(1) To issue notices of apparent liability, final forfeiture orders, and orders canceling or reducing forfeitures imposed under § 1.80(f) of this chapter, in the amounts of $4,000 or less for cable television systems and $2,000 or less for stations operating in the Cable Television Relay Service; and

(2) To issue citations pursuant to § 1.80(d).

* * * * *

5. Section 0.291(g) is revised to read as follows:

§ 0.291 Authority delegated.

* * * * *

(g) *Authority concerning forfeitures.* Authority to issue a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders canceling or reducing forfeitures imposed under § 1.80(f) if the amount set out in the

notice of apparent liability is $4,000 or more.

* * * * *

6. Section 0.311(d) is added, to read as follows:

§ 0.311 Authority delegated.

* * * * *

(d)(1) The Chief of the Field Operations Bureau is authorized to issue notices of apparent liability pursuant to § 1.80(f) of this chapter and (in the case of violation of sections 301 or 318 of the Communications Act, or parts 13 and 17 of this chapter) to issue final forfeiture orders and orders canceling or reducing forfeitures, if the amount set out in the notice of apparent liability is $2,000 or less. (The scope of the Field Operations Bureau's authority to issue notices of apparent liability will be specified in statements of policy provided by the other bureaus and offices. These statements of policy shall be available for inspection in the Field Operations Bureau.)

(2) The Chief of the Field Operations Bureau is authorized to issue citations pursuant to § 1.80(d) of this chapter.

7. Section 0.331(a)(9) is added, to read as follows:

§ 0.331 Authority delegated.

* * * * *

(a) * * *

(9) Authority to issue a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders canceling or reducing forfeitures imposed under § 1.80(f) of this chapter if the amount set out in the notice of apparent liability is $2,000 or more.

* * * * *

[FR Doc. 78-31259 Filed 11-8-78; 8:45 am]

[6712-01-M]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

PART 23—INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATION SERVICES

PART 25—SATELLITE COMMUNICATIONS

PART 78—CABLE TELEVISION RELAY SERVICE

PART 87—AVIATION SERVICES

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This action changes the address listed in the Commission's rules for the Department of Commerce's Radio Frequency Management Coordinator for the Table Mountain (Colorado) Radio Receiving Zone. The address is found in §§ 21.113(b), 23.20(d), 25.203(f), 78.19(e), and 87.31(f) of the FCC's Rules and Regulations.

DATE: Effective November 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Charles M. Oliver, Common Carrier Bureau 202-632-6363.

ORDER

Adopted: October 27, 1978.

Released: November 2, 1978.

1. The following editorial changes will be made to the Rules and Regulations: §§ 21.113(b), 23.20(d), 25.203(f), 78.19(e), and 87.31(f) will be amended to reflect the new address and telephone number of the Department of Commerce's Radio Frequency Management Coordinator for the Table Mountain (Colorado) Radio Receiving Zone:

From	*To*
Radio Frequency Management Coordinator, Department of Commerce, NOAA/OT/NBS, Time and Frequency Division, Boulder Laboratories, Boulder, CO 80303, telephone: 303-499-1000, ext. 3542 or 3294.	Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, CO 80303, telephone: 303-499-1000, ext. 6548 or 6549.

2. Since the amendments are editorial in nature the prior notice and effective date provisions of the Administrative Procedure Act are not applicable. Authority for the promulgation of this amendment is contained in Section 4(i) and 5(d) of the Communications Act of 1934, as amended, and § 0.231(d) and the Rules.

3. Accordingly, *it is ordered*, Effective November 14, 1978, §§ 21.113(b), 23.20(d), 25.203(f), 78.19(e), and 87.31(f) of the Rules and Regulations are amended as set forth below.

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

In chapter I of title 47 of the Code of Federal Regulations, part 21, 23, 25, 78, and 87 are amended as follows:

1. In § 21.113, paragraph (b)(2) is amended to read as follows:

§ 21.113 Quiet zones.

* * * * *

(b) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, CO 80303; telephone 303-499-1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

* * * * *

2. In § 23.20, paragraph (d)(2) is amended to read as follows:

§ 23.20 Assignment of frequencies.

* * * * *

(d) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, CO 80303; telephone 303-499-1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

* * * * *

3. In § 25.203, paragraph (f)(3) is amended to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(f) * * *

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, CO 80303; telephone 303-499-1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

* * * *

4. In § 78.19, paragraph (e)(2) is amended to read as follows:

§ 78.19 Interference.

• • • • •

(e) • • •

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, CO 80303; telephone 303-499-1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

• • • • •

5. In § 87.31, paragraph (f)(2) is amended to read as follows:

§ 87.31 Application for ground station authorization.

• • • • •

(f) • • •

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA; R5X3, Boulder Laboratories, Boulder, CO 80303; telephone 303-499-1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

• • • • •

[FR Doc. 78-31716 Filed 11-8-78; 8:45 am]

[6712-01-M]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: We are amending our rules to eliminate an error in one of the ship calling frequencies on which public coast radiotelegraph stations are required to maintain a watch. This frequency is stated incorrectly in our rules and this action will correct it.

EFFECTIVE DATE: November 17, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: November 3, 1978.

Released: November 3, 1978.

1. It has been brought to our attention that the table in § 81.209(a) (watch on ship calling frequencies) has an error in the last line on the 6 MHz column. The frequency reads 6277 when it should read 6277.5.

2. We are amending our rules to correct this error. Therefore, under the authority of section 4(i), section 303(c) and section 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of our rules we are amending § 81.209(a) as shown in the attached Appendix. Since this amendment is editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553 are not applicable.

3. Regarding questions on matters covered in this document contact Kemp J. Beaty, 202-632-7197.

4. In view of the above, *it is ordered*, That the rule amendment set forth below is adopted effective November 17, 1978.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 81 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

§ 81.209 [Amended]

In the table under § 81.209(a), the last line under the column labeled "6 MHz" is amended to read 6277.5.

[FR Doc. 78-31714 Filed 11-8-78; 8:45 am]

[1505-01-M]

(Docket No. 21039; FCC 78-713)

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Reflecting the Availability of Land Mobile Channels in the 470-512 MHz Band in 13 Urbanized Areas of the United States

Correction

In FR Doc. 78-29584 appearing at page 49794 in the issue for Wednesday, October 25, 1978, in the first column of page 49803, in the table for § 21.501, the first item under Philadelphia, Channel 19, now reading "470.0125" should have read "500.0125".

[1505-01-M]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-69-2, Amdt. No. 78-2]

PART 395—HOURS OF SERVICE OF DRIVERS

Driver's Daily Log and Multiday Log, Extension of Use

Correction

In FR Doc. 78-30621 appearing at page 50438 in the issue for Monday, October 30, 1978 in the paragraph beginning "§ 395.8 Drivers daily log," the citation § 895.9 in the first line should be corrected to read "§ 395.9."

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION DEPARTMENT OF TRANSPORTATION

[Docket No. 1-22; Notice 6]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Vehicle Identification Number

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to petitions for reconsideration and corrections.

SUMMARY: This notice responds to petitions for reconsideration of the August 17, 1978, notice (43 FR 36448) amending Federal Motor Vehicle Safety Standard No. 115, Vehicle identification number.

Petitions requesting that the responsibility for assigning the vehicle identification number (VIN) to vehicles manufactured in more than one stage be shifted from the final stage manufacturer to the incomplete vehicle manufacturer are granted. Petitions to amend the wording of the standard to clarify the agency's intent that the check digit must be displayed with the VIN on the vehicle, that the engine type must reflect its make and model, and that the production sequence rep-

resents the number assigned by the manufacturer in the production process are granted.

Petitions to extend the effective date of the standard are granted to the following extent. The effective date of the standard for passenger cars is extended from January 1, 1980, to September 1, 1980. The date by which manufacturer identifiers must be submitted to the agency is extended from January 1, 1979, to September 1, 1979.

A petition to remove the requirement that the VIN appear on a contrasting background is granted.

Petitions to exempt trailers from the standard are denied. A petition to assign the same multiplication factor to each position as is used in the Federal Republic of Germany is denied, as is a petition to increase the weight increments reflected in the VIN of passenger cars. Petitions to stay or withdraw the standard because the agency lack statutory authority, is acting unconstitutionally, or for other legal impediments are denied.

In addition, this notice corrects typographical and clerical errors in the previous notice.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Frederic Schwartz, Jr., Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the National Highway Traffic Safety Administration (NHTSA) published a notice amending Federal Motor Vehicle Safety Standard No. 115, vehicle identification number (43 FR 36448). The new standard established a 16 character vehicle identification number (VIN) with an associated check digit. The check digit is a device for insuring the accuracy of a VIN, and is derived from a mathematical computation utilizing the VIN.

The VIN itself consists of three sections. The first section consists of three characters which identify the manufacturer, make, and type of vehicle. The second section consists of five characters which identify the attributes of the vehicle. This is called the vehicle descriptor section (VDS). The third section consists of eight characters which identify the model year, plant of manufacture, and production sequence of a specific vehicle.

The amendment was issued after an exhaustive review of past efforts to establish a VIN system by various standard-setting organizations, particularly the Vehicle Equipment Safety Commission (VESC) and the International Standards Organization (ISO), as well as the comments in response to prior rulemaking notices and other available information. A number of petitions for reconsideration were received, and some are responded to below. Other petitions for reconsideration are responded to in a notice of proposed rulemaking issued today.

VIN ASSIGNMENT FOR VEHICLE MANUFACTURED IN MORE THAN ONE STAGE

The final rule provides that the VIN for a vehicle manufactured in more than one stage shall be assigned by the manufacturer of the vehicle. The "manufacturer" was defined in S3 as the entity responsible for affixing the vehicle's certification label. That entity is the final stage manufacturer in almost all instances.

The NHTSA concluded that the final stage manufacturer would be the most appropriate party to affix the VIN to multistage vehicles since it usually has the responsibility under 49 CFR Part 567 of affixing the certification plate to the vehicle and would in all likelihood be the only entity knowing fully the final form the vehicle would take.

The notice of proposed rulemaking (NPRM) specified that the "manufacturer" would assign the VIN. The NHTSA had assumed that it was implicit that the final stage manufacturer would be the manufacturer that would assign the VIN, since only the final stage manufacturer would know all of the characteristics that would have been required to be decoded from the VIN. However, it was clear from the comments received that a more precise definition was required. Therefore, the responsibility for assigning the VIN was made explicit in the final rule.

Petitions for reconsideration of this assignment of responsibility were received from the Truck Body and Equipment Associations, Inc. (TBEA), a number of its members, several States, and several chassis manufacturers. These petitioners asked that final stage manufacturers be removed from the ambit of the regulation entirely, and that the responsibility of assigning the VIN be given to the incomplete vehicle manufacturers as they currently assign an identifying number to the vehicle. In the alternative, some of the petitioners asked that final stage manufacturers only be required to complete a VIN which has been derived, to the fullest extent possible, by the incomplete vehicle manufacturer.

The arguments presented by the petitioners were not raised in the comments on the NPRM, perhaps because of the confusion which some parties apparenty had about the NPRM's assignment of responsibility. The major argument presented by the petitioners is that, in general, final stage manufacturers do not purchase vehicles for conversion and resale. Rather, the chassis is purchased by the ultimate owner who, in essence, contracts out the completion. Thus, final stage manufacturers do not issue certificates of origin or other documents on which the VIN must appear, and are not a part of the procurement process.

Further, petitioners stated that because of the variety of work being done and the needs of the customers, production sequence for vehicles manufactured in more than one stage would be a useless designation since it bears no relation to the production sequence of the chassis. In this regard, the petitioners pointed out that some conversions can be carried out in less than 60 days, even though this is the minimum notice period for manufacturers submitting information concerning the coding of the information contained in the VIN. Thus, technically invalid VINs would have to be attached to the vehicles by the final stage manufacturers. Likewise, a designation for the model year could also be partially inaccurate, as the conversion could take place after the actual model year of manufacture of the chassis. The year of chassis manufacture, however, is important to the NHTSA and the States.

The petitioners also pointed out that having the VIN indicate the final stage manufacturer's manufacturer identifier could cause significant defect recall and law enforcement problems. Since the final stage manufacturer is not in the ordinary channels of distribution as explained above, the use of its manufacturer identifier in the VIN would make tracing the true owner exceedingly difficult. This is because the majority of multistage vehicle recall campaigns involve defects in power units or chassis components, rather than body or equipment items. Most multistage vehicles can be readily identified on the road as incorporating a vehicle manufactured by the incomplete vehicle manufacturer. Thus, it would usually be preferable for the VIN to identify the incomplete vehicle manufacturer instead of the final stage manufacturer.

Finally, the petitioners pointed out that a body is sometimes transferred to a different chassis, and the information contained in the VIN would be inaccurate when this occurs.

After reviewing the petitions, the NHTSA has concluded that the arguments have merit, and that the manufacturer of incomplete vehicles, except for motor homes, should continue to bear the responsibility of assigning an identification number to multistage vehicles as they do now.

A willingness—even a strong desire—to continue affixing identification numbers was articulated by incomplete vehicle manufacturers petitioning for reconsideration. While this may mean that some information required to be decipherable from the VIN is unavailable when the VIN is affixed, the agency determines that the difficulties which arise from having final stage manufacturers establish the VIN far outweigh the disadvantages of not having complete information decipherable from the VIN. Consequently, the amendment relieves the incomplete vehicle manufacturer of the responsibility of encoding data which is unknown to it and requires less information be encoded than was previously required.

Motor home manufacturers currently assign identifying numbers to their vehicles, and did not petition for relief from the standard. Further, motor homes are constructed so that the identity of the incomplete vehicle manufacturer is not so readily determinable as in the case of other multistage vehicles. Consequently, they were not excluded from the ambit of the standard. However, the information required to be deciphered from the VIN is decreased.

Reconstructed Vehicle VIN

California raised the question of the assignment of VINs to reconstructed vehicles. The standard would not apply to these vehicles, as they would be considered vehicles in use so long as the chassis utilized was not new.

Check Digit Procedure

The check digit procedure assigns to each position in the VIN a value which is multiplied by the value of the character in that position. BMW of North America petitioned to assign the same multiplication factor to each position of the VIN as is used in the Federal Republic of Germany. If this petition were to be granted, it would entail multiplying the check digit by a factor other than 0. This is not possible, however, as the check digit which appears within the VIN must be multiplied by 0 so that it will not change the result of the mathematical process. Therefore, this petition is denied.

Meaning of "Chassis"

The agency wishes to clarify the meaning of the term "chassis" as used in the standard. The precise meaning of the term as encoded in the VIN is left to the manufacturer, but it shall at least discriminate between a truck and a truck-tractor.

Display of the Check Digit

California suggested that the wording of the standard is ambiguous as to the inclusion of the check digit with the VIN displayed on the vehicle. S5.1 of the standard is amended to show even more clearly that this is required. The petition of BMW of North America to exclude the check digit from display on the vehicle is denied, as the VIN on the vehicle is used by police officers and others in a number of instances. They must be able to record or transmit the check digit with the VIN so that recipients of the VIN can check the VIN's accuracy.

Effective Date

Several vehicle manufacturers and the AAMVA petitioned for an extension of the effective date because of the time needed to develop computer programs, acquire marking equipment, and in other ways comply with the standard. Further, manufacturers desired that the standard become effective at the time of new model introduction, which for U.S. manufacturers occurs in September. After reviewing these petitions, the NHTSA concludes that the standard's effective date for passenger cars should be extended from January 1, 1980, until September 1, 1980. Likewise, the date by which manufacturer identifiers must be submitted to the agency is extended from January 1, 1979, until September 1, 1979. The agency finds that this period of time will be necessary to achieve the effective implementation of this standard because of the changes being made in the standard by this notice, the proposal today of additional changes and the reasonableness of the manufacturers' desire to institute a new VIN systems at the beginning of the model year. The agency is aware that some manufacturers will be able to adopt the VIN system required by the standard prior to September 1, 1980. The agency urges manufacturers to do so, and specifically proposes optional early compliance in the notice of proposed rulemaking issued today.

This action should also ease the burden on the States suggested by the AAMVA petition, although the agency is not pursuaded that leadtimes as substantial as those suggested by the AAMVA are needed by the States.

Petitions to establish later effective dates are denied because the petitioners did not demonstrate the necessity for such extensions.

Engine Type

The California Highway Patrol petitioned to include a requirement that an engine's make and model be encoded within the VIN. This is the current practice of the industry. The agency intended that this requirement be clear from the definitions of "manufacturer" and "engine type", since make and model are the overall designation for engines with the stated characteristics. Nonetheless, the NHTSA concurs that it should be made even clearer and so amends the standard.

The AAMVA pointed out that engine type was eliminated from the information proposed by the NPRM to be decipherable from the motorcycle VIN. This was a clerical error. Engine type was not meant to be deleted from the proposed requirements as no comments in opposition were received. It is therefore added to the standard. The AAMVA also pointed out that "horsepower" must be further defined as there are several types. "Net brake horsepower" was the type of horsepower meant by the agency, and the standard is so amended.

Notice of Change in Encoded Data

Several States have again raised the issue of the requirement that manufacturers give 60 days notice before changing the information decodable from a particular VIN. These States believe that this will create problems for their computer systems, since they will continually have to update their systems. As the NHTSA pointed out in the final rule, however, the VESC proposal which the States recommend allows the manufacturers to make these same changes, but does not provide for any notice of the changes to the States or other users. The NHTSA requirement is meant to ensure reasonable notice to the States. Otherwise such notice might be unavailable. A period of 60 days was considered reasonable to allow necessary computer program changes, although it is unlikely that changes in the meaning of a particular VIN will be made during a model year.

Production Sequence

Mack Truck, Inc., and Freightliner Corp. petitioned to change the wording of the standard to make it clearer that the production sequence number is meant to represent the number assigned by the manufacturer in the production process. The agency believes that this matter is already clear, but nevertheless amends the standard to make this change.

VIN Legibility

General Motors Corp. (GM) petitioned to remove the requirement that the VIN appear on a contrasting background. GM based its petition on substantial costs involved in retooling, as well as what GM believes is the superiority of its VIN plate embossing technique even though a contrasting background is not used to insure legibility.

The NHTSA has concluded that the requirement for a contrasting background can be eliminated so long as the other visibility requirements of

the standard, which relate to the actual ability of a person to read the VIN, are met. The contrasting background requirement was promulgated because the legibility of VIN plates where characters and background are the same color may be reduced by cloudy weather and other atmospheric conditions, angle of mounting vis-a-vis the windshield, and normal accumulation of dirt and dust on the windshield and VIN plate. The agency is reluctant, however, to require GM to incur considerable retooling cost in light of GM's method for improving legibility and the other visibility requirements. The NHTSA will carefully monitor VIN plates installed in vehicles-in-use under varying daylight conditions to insure that the remaining visibility requirements of the standard are met.

The legibility requirements found in S4.3.1 are also amended to specify the minimum spacing requirement between the groups of characters required by S4.5. The spacing requirement was inadvertently eliminated when the final rule was issued, although the requirement for grouping was retained.

VIN Requirements for Trailers

Petitions for exemption from the standard were received from Hogg & Davis, Inc., and Florig Equipment Co., Inc., two small manufacturers of trailers, American Trailer, Inc., and Strick Corp. They argued that having to comply with the standard would be a major burden, and that they currently use a VIN system sufficient for their needs.

The NHTSA considered carefully the position of the small- and medium-size manufacturers in developing the final standard, and attempted to tailor the requirements to meet their needs and problems as well as those of the large manufacturers. Unlike final-stage manufacturers, trailer manufacturers construct their vehicles themselves. Consequently, the responsibility cannot be shifted to other manufacturers. Further, as pointed out in the final rule, allowing trailer manufacturers to utilize a system different from all other vehicles would damage the integrity of the overall system by requiring a separate computer program to process trailer VIN's, as well as destroying the uniform length which is one of the standard's methods for improving the accuracy of transcribed VIN's.

The burden on manufacturers of 500 vehicles per year or less is not so great as it may appear, however, and the burden on medium-size manufacturers is only slightly greater. In the case of producers of less than 500 vehicles per year, such as two of the petitioners, only five characters (and possibly fewer) of the VIN would change during each production year. Thus, the VIN could be predetermined to a large extent. Further, the agency has received from the Truck Trailer Manufacturers Association a draft recommended practice for a relatively simple VIN scheme for trailers.

Statutory and Legal Authority

Several petitioners attacked the statutory and legal authority of the agency to promulgate the standard. The petition of the Vehicle Equipment Safety Commission, which encompasses all of the significant arguments raised by these petitions, will be discussed in detail.

The first objection raised by the VESC is that the system adopted by the NHTSA is not supported by the evidence and its promulgation constitutes an abuse of discretion. The petitioner argues that the States are the largest users of the VIN, and that the NHTSA disregarded their desires in the interest of international comity and other users. The key indication of this, they believe, is the NHTSA's adoption of the check digit which the VESC concludes is an unworkable attempt to compensate for the flexibility of the NHTSA system.

A number of these points have been mooted by the agency's action today in proposing the adoption of the fixed format system along with the check digit system to insure VIN accuracy for passenger cars, multipurpose passenger vehicles with a GVWR of 10,000 pounds or less and trucks with a GVWR of 10,000 pounds or less. Nonetheless, the agency wishes to address these issues. It should first be pointed out that the record indicates, and the NHTSA again acknowledges, that the States are a major user of the VIN. Consequently, the impact of the standard on State activities was carefully considered, and the conclusions of the agency in this regard were discussed at length in the previous notices. Weighing the State comments regarding the impact of the rule was complicated by the limited amount of information about implementation costs made available by the States.

Nevertheless, the views of the States were considered and discussed. Further, in response to their comments, a number of changes were incorporated into the final rule. The plant of origin has been assigned a fixed position in the VIN, the amount of data required to be encoded in the VIN had been reduced, the position of the characters representing model year and plant of origin had been rearranged to be consistent with the desires of the States, and the definition of "model year" had been amended to accommodate State needs. The proposal today of a fixed format is additional evidence of the agency's continuing consideration of State comments.

The alternative presented by the VESC system was carefully considered throughout the rulemaking process. If the scheme proposed by the VESC were adopted, 6 additional characters of the 16 character VIN would be required to be either alphabetic or numeric. Thus, if a person placed an alphabetic character in a space reserved for a numeric character, or vice versa, trained personnel could determine an error has been made. If, however, the same person substituted an erroneous character of the same type, this could not be discovered, and the erroneous VIN would be made a part of the permanent records. Likewise, if that person transposed characters, misread a character, or made an error in any way but substituting the wrong type of character in one of the six specified positions, the error would not be discovered.

The agency did not adopt the VESC request to substitute its fixed format for the check digit because the ability to correct a limited number of errors at the initial transcription phase would not compensate for the loss of a system which will discover almost all errors prior to permanent storage. The agency notes the advancing state of the art in data processing and the increased use by the States of automated titling equipment. Further, the agency generally funds a substantial portion of the cost of this equipment through section 402 of the Highway Safety Act. The agency believes these factors will substantially reduce the size and significance of the technical and financial problems envisioned by the States in the use of the check digit procedure.

The agency acknowledges that transcription errors at the initial stage will occur if access to data processing equipment is not available. By using both systems, as proposed in the notice of proposed rulemaking issued today, this would be considerably less of a problem.

The VESC also argues that the standard is neither practicable nor reasonable because it utilizes the check digit audit procedure which will create, in its view, a large error factor which can only be corrected by a "very costly after-the-fact correction procedure in which the vehicle itself has to be traced and physically inspected." Further, it argues the States will have to substantially modify their computer programs and compile dictionaries of vehicle attributes. This, the VESC states, will be at much greater cost than would be necessary if the VESC system were adopted. In this regard, the VESC argues that most States will be unable to obtain from their legislatures funds to pay for these changes

in sufficient time to meet the effective date of the standard.

Throughout the rulemaking process, the VESC, AAMVA, and many States have stated that substantial additional costs would be involved if the VESC system was not chosen, but only Minnesota has submitted specific cost data to the docket. Further, the States have not yet explained why the check digit routine, which is a fairly simple data processing technique, will be expensive to develop or why it must be developed fully and individually by each State, rather than by a consortium such as the VESC or the AAMVA.

Further, the NHTSA believes that there are simple solutions which States and other users may adopt to correct errors discovered by the check digit audit system, such as a return postcard advising the vehicle's owner that the VIN is in error and requesting a correction.

The VESC also argues that the NHTSA standard is not authorized by the National Traffic and Motor Vehicle Safety Act because the designation of the VIN content exceeds the agency's performance standard setting authority and bears little relationship to the "operational" safety of motor vehicles. The Act, and its legislative history and associated case law, establish that the agency's safety standards may be specific as necessary to insure a particular type of safety performance. Thus, our authority is similar to that possessed by the VESC under articles I and V of the Vehicle Equipment Safety Compact.

As to the contribution of the NHTSA VIN standards to motor vehicle safety, the improved accuracy of recorded VIN's will aid the manufacturers in notifying owners of defective or noncomplying vehicles of a threat to their safety and of the availability of a free remedy to remove the threat. Each year, millions of defective noncomplying vehicles are recalled by their manufacturers under the recall and remedy provisions of the Act. More accurately recorded VIN's will increase the percentage of owners who receive notification and take their vehicles in for repair. The agency concludes therefore that the standard not only will aid in carrying out the purposes of the Act, but is necessary to that end. The focus of the practicability requirement of the Act, which some petitioners believe have been violated, is whether the manufacturers are capable of complying with the standard. No petitioner has suggested that the manufacturers lack this capability. Further, the NHTSA also considered independently and is seeking to accommodate appropriately the problem which might be encountered by the various users of the VIN.

The VESC and the others opposing the check digit system have not demonstrated that the procedure itself is technologically difficult, ineffective, or not feasible when carried out by data processing equipment. Nor have they suggested that they are incapable of carrying out the process. They prefer to correct some errors by clerks than to obtain the capability of correcting most errors through more complicated and expensive means. While this is certainly an understandable position, the agency concludes otherwise. Under the proposal issued today, this would no longer be an issue. The use of the check digit and fixed format as proposed by the agency today, would insure the availability of a relatively error-free file of VIN's which is the key to an effective defect and noncompliance recall process. The agency believes that adoption of measures to achieve this goal would be a reasonable exercise of its discretion and expertise.

This standard is now unlike standard No. 115 as previously promulgated by Administrator Bridwell in 1968. That standard did not specify requirements concerning either the content or the format of the VIN, and therefore did not preempt State activities in those areas. The amended standard will regulate VIN content and format, and therefore does preempt the States in this regard.

The VESC also believes the standard is unconstitutional, as they argue it is in violation of the 10th amendment. This issue, and the case cited in support of that conclusion, *National League of Cities* v. *Usery*, were discussed in detail in the notice accompanying the final rule. It was pointed out there that the standard will not have substantial effect upon the States under the criteria established by *Usery*, nor will it impair the ability of the States to function effectively in a Federal system.

Additionally, it should be pointed out that the States are not required to collect or maintain information for the NHTSA as the VESC maintains, and are therefore not acting as collectors or repositories of information for the agency. Nor is the agency interfering with the police powers of the States. Indeed, the regulatory authority of the agency extends only to manufacturers. Thus, in the final analysis, no State is required to utilize the VIN, although the agency recognizes that the States use the VIN now and are likely to continue to do so.

In circumstances such as these, the agency's task is to consider the effects of its rulemaking on States and to accommodate the problems of the States in a reasonable manner consistent with the agency's duty, regulations, and legislative authority. The agency believes that the rulemaking record demonstrates that it has accomplished that task.

Passenger Car VIN's

BMW petitioned to increase the gross vehicle weight rating increments encoded in passenger car VIN's. As the agency proposes in the companion notice to eliminate the requirement that gross vehicle weight rating be encoded in the VIN of passenger cars, their concerns have been met. Petitions to eliminate the requirement for encoding the restraint system type in the VIN are denied, as the agency concludes this information is important and encoding it in the VIN is relatively simple.

Technical Corrections

Several technical corrections are also made to the standard. The previous notice number is changed from No. 5 to No. 5A, as a notice No. 5 has been issued previously. The word "type" is substituted for the word "class" in S6.1 and S6.2 to make this section consistent with the rest of the standard.

The principal authors of this notice are Nelson Erickson of the Office of Vehicle Safety Standards and Frederic Schwartz, Jr. of the Office of Chief Counsel.

In consideration of the foregoing, standard No. 115, 49 CFR 571.115, is amended as follows:

§ 571.115 [Amended]

1. By revising S2 *Application* to include "motor homes" as a category of vehicles to which the standard applies. As revised S2 reads as follows:

S2. *Application.*

This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, motorcycles, and motor homes.

2. By revising S3 *Definitions* to delete the definition of "Manufacturer", to substitute new definitions of "Engine Type" and "Plant of manufacture", and to add a definition of "Motor Home" and "Incomplete vehicle". As revised, S3 reads as follows:

S3. *Definitions.*

"Body type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

"Check digit" means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

"Engine Type" means a power source of a specific make and model with defined characteristics such as fuel utilized, number of cylinders, displacement, manufacturer and net brake-horsepower.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

"Make" means a name which a manufacturer applies to a group of vehicles.

"Model" means the term applied to a family of vehicles of the same type, make, line, series, and body type.

"Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than 2 years.

"Motor Home" means a multipurpose passenger vehicle that provides living accommodations for persons.

"Plant of manufacture" means the plant where the manufacturer affixes the VIN.

"Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacturer for marketing purposes.

"Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multi-purpose passenger vehicles, trucks, buses, trailers, motor homes and motorcycles are separate types.

"Vehicle identification number" means a series of arabic numbers and roman letters which is assigned to a motor vehicle for identification purposes.

3. S4 *Requirements* is amended by revising S4.1 to give the responsibility for assigning the VIN for vehicles manufactured in more than one stage, except for motor homes, to the incomplete vehicle manufacturer. The responsibility for assigning the VIN for motor homes remains with the final stage manufacturer. As revised S4.1 reads as follows:

S4. *Requirements.*

S4.1 Each vehicle manufactured in one stage shall have a vehicle identification number that is assigned by the manufacturer and a check digit which meet the requirements of this standard. Each vehicle manufactured in more than one stage, except a motor home, shall have a VIN and check digit assigned by the incomplete vehicle manufacturer. Each motor home manufactured in more than one stage shall have a VIN and check digit assigned by the final stage manufacturer.

4. S4.3.1 is revised to remove the requirement that the VIN appear on a contrasting background and to indicate the spacing between groups of characters. As revised S4.3.1 reads as follows:

S4.3.1 The type face utilized for the vehicle identification number and check digit shall consist of capital, sans serif characters. Each character shall have a minimum height of 4 mm. The space between groups shall be no less than twice that between characters.

5. S4.5.2 is revised by deleting the requirement that the incomplete vehicle manufacturer of a vehicle completed in more than one stage be decipherable from the second section of the VIN, by indicating that the VIN of vehicles completed in more than one stage, except for motor homes, shall reflect those attributes known to the incomplete vehicle manufacturer and specified in Table I, and by adding engine type to the information required to be decipherable from the motorcycle VIN. As revised, S4.5.2 reads as follows:

S4.5.2 The second section shall consist of five characters which shall uniquely identify the attributes of the vehicle as specified in Table I. If the vehicle is to be completed in more than one stage, the VIN shall identify those attributes which are known to the incomplete vehicle manufacturer and specified in Table I. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer under S6. In submitting data to the NHTSA relating to the gross vehicle weight rating, the following designations shall be utilized. No designations are specified for the VIN.

TABLE I

Type of vehicle	*Information decipherable*
Passenger car	Line, series, body type, engine type, gross vehicle weight rating, and restraint system type.
Multipurpose passenger vehicle.	Line, series, body type, engine type, and gross vehicle weight rating.
Truck	Model or line, series, chassis, cab type, engine type, brake system, and gross vehicle weight rating.
Bus	Model or line, series, body type, engine type, and brake system.
Trailer	Type of trailer, series, body type, length, and axle configuration.
Motorcycle	Type of motorcycle, line, engine type, and net brake horsepower.
Motor home	Model or line, series, engine type, and brake system.
Incomplete vehicle.	Model or line, series, cab type, engine type, and brake system.

A: Not greater than 1,000 pounds.
B: 1,000 pounds-1,500 pounds.
C: 1,500 pounds-2,000 pounds.
D: 2,000 pounds-2,500 pounds.
E: 2,500 pounds-3,000 pounds.
F: 3,000 pounds-3,500 pounds.
G: 3,500 pounds-4,000 pounds.
H: 4,000 pounds-4,500 pounds.
I: 4,500 pounds-5,000 pounds.
J: 5,000 pounds-5,500 pounds.
K: 5,500 pounds-6,000 pounds.
L: 6,000 pounds-6,500 pounds.
M: 6,500 pounds-7,000 pounds.
N: 7,000 pounds-7,500 pounds.
O: 7,500 pounds-8,000 pounds.
P: 8,000 pounds-8,500 pounds.
Q: 8,500 pounds-9,000 pounds.
R: 9,000 pounds-9,500 pounds.
S: 9,500 pounds-10,000 pounds.
T: Over 10,000 pounds.

6. S4.5.3.3 is revised to clarify the meaning of production sequence number. As revised S4.5.3.3 reads as follows:

S4.5.3.3. The third through the eighth characters of the third section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually the third, fourth, and fifth characters of the third section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth character of the third section shall represent the number sequentially assigned by the manufacturer in the production process.

7. S5.1 is revised to indicate that the check digit shall appear on the vehicle along with the VIN. As revised S5.1 reads as follows:

S5.1 A check digit shall be provided with each vehicle identification number. The check digit shall immediately follow the fifth character of the second section and appear with the vehicle identification number on the vehicle and on any transfer documents containing the vehicle identification number and prepared by the manufacturer to be given to the first owner for purposes other than resale.

8. The word "type" is substituted for the word "class" in S6.1 and S6.2 to make this section consistent with the rest of the standard, and the date by which manufacturer identification information must be submitted is extended from January 1, 1979, to September 1, 1979. As revised, S6.1 and S6.2 read as follows:

S6. *Reporting Requirements.*

S6.1 Manufacturers of motor vehicles subject to this standard shall

submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures by September 1, 1979.

S6.2 Manufacturers which begin production of motor vehicles subsequent to September 1, 1979, shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 30 days before affixing the first vehicle identification number. Manufacturers whose unique identifer appears in the third section of the vehicle identification number shall also submit the three characters of the first section which constitute a part of their identifer.

(Sec. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50.)

Issued on November 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-31420 Filed 11-2-78; 2:00 pm]

[3510-22-M]

Title 50—Wildlife and Fisheries

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

PART 651—ATLANTIC GROUNDFISH

Notice of Fishery Closures; Adjustments to Catch Limits

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of fishery closures and adjustments to catch limitations.

SUMMARY: This notice announces (1) closure of the haddock fisheries in the Gulf of Maine and Georges Bank and South for the 0-60 GRT vessel class, effective November 12; (2) closure of the cod and haddock fisheries in the Gulf of Maine for the over 125 GRT vessel class, effective November 12; (3) closure of the haddock fishery in the Gulf of Maine for the 61-125 GRT vessel class, effective November 19; (4) closure of the haddock fishery for Georges Bank and south for the over 125 GRT vessel class, effective November 19; (5) closure of the cod fishery in the Gulf of Maine for the fixed gear vessel class, effective November 19; (6) closure of the cod and haddock fisheries for Georges Bank and south for the fixed gear vessel class, effective November 26; and, (7) adjustments to weekly catch limitations for four vessel classes, as set forth in the supplementary information, effective November 12.

EFFECTIVE DATES: These actions are effective as of the dates noted in the summary above.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordan, Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The regulations governing fishing for Atlantic groundfish (cod, haddock, and yellowtail flounder) were revised and published on October 4, 1978 (43 FR 45872). These regulations implement the Fishery Management Plan for Atlantic groundfish, as amended, (FMP), prepared by the New England Fishery Management Council and approved by the Assistant Administrator for Fisheries, NOAA, pursuant to the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* The regulations establish quarterly quotas for each fishery by species, area and vessel class. They also provide weekly or per-trip catch limitations to spread fishing effort over the quarter. The regulations provide for adjustment of these catch limitations to achieve specified purposes. Fishery closures are mandated when it becomes apparent that the catch, plus the anticipated incidental catch for the rest of the quarter, equals the quarterly quota.

The Regional Director has monitored landings of groundfish for the first month of the quarter which began October 1, 1978. Between 38 and 92 percent of the quotas for the entire quarter was taken during this 1-month period by some vessel classes.

The Regional Director has, pursuant to § 651.24(a), projected that the following vessel classes will catch their quarterly quotas, less an anticipated amount to be taken as an incidental catch during the period of closure, as of the listed dates:

Cod, Gulf of Maine:
- Over 125 GRT—November 12.
- Fixed gear—November 19.

Cod, Georges Bank and south:
- Fixed gear—November 26.

Haddock, Gulf of Maine:
- 0-60 GRT—November 12.
- 61-125 GRT—November 19.
- Over 125 GRT—November 12.

Haddock, Georges Bank and south:
- 0-60 GRT—November 12.
- Over 125 GRT—November 19.
- Fixed gear—November 26.

The Regional Director has recommended, therefore, that these fisheries be closed on those dates. The Assistant Administrator has reviewed the Regional Director's findings and has confirmed that they set forth appropriate dates to close these fisheries in order to prevent the quarterly quotas from being exceeded. Closures for these fisheries, therefore, will become effective on the dates listed.

During the period of closure, which will continue until the beginning of the next quarter of the fishing year on January 1, 1979, the affected vessel classes are limited to an incidental catch of each species under § 651.24(d) as follows:

0-60 GRT: 500 pounds or 4 percent by weight of all fish on board, whichever is the *lesser* amount, per trip.

61-125 GRT: 1,000 pounds or 4 percent by weight of all fish on board, whichever is the *lesser* amount, per trip.

Over 125 GRT: 2,000 pounds or 4 percent by weight of all fish on board, whichever is the *lesser* amount, per trip.

Fixed Gear: 500 pounds or 4 percent by weight of all fish on board, whichever is the *lesser* amount, per trip.

In some other groundfish fisheries, catches during the first month of the quarter have indicated, and the Assistant Administrator has found, that the quarterly allocation is likely to be taken before the end of the quarter, although not within the next 30 days, if current catch rates continue. In order to spread effort out over the quarter, and considering the various factors specified in the regulations, the Assistant Administrator finds the following adjustments to weekly catch limitations to be necessary, effective November 12, 1978:

Cod, Gulf of Maine:
- 61-125 GRT—2,500 pounds.

Cod, Georges Bank and south:
- 61-125—4,900 pounds, with a 1,500 pound overrun.
- Over 125 GRT—7,000 pounds, with a 1,500 pound overrun.

Haddock, Gulf of Maine:
- Fixed gear—5,000 pounds.

Haddock, Georges Bank and south:
- 61-125 GRT—3,500 pounds, with a 1,500 pound overrun.

For all cod and haddock fisheries not listed above, catches and landings will continue to be monitored. It is anticipated that some action, either to reduce catch limitations or to close fisheries might be necessary before the end of the quarter.

For yellowtail flounder, it is not anticipated that any further action will be necessary during this quarter. This projection may change as new information becomes available, particularly if significant effort is diverted from closed fisheries to those where catch rates during the first month of the quarter were relatively low.

Appendix B to the regulations, which contains the catch limitations by vessel class, species, and area, has been revised to conform with the actions stated in this notice, and is reprinted at the bottom of this notice.

Because these adjustments must be implemented quickly to be effective and because they merely carry out

pre-existing provisions in the regulations for adjustments of catch limitations, the Assistant Administrator finds that advance notice and opportunity for comment are unnecessary, impractical, and contrary to the public interest. Any delay in carrying out these adjustments would interfere with meeting the objectives of the FMP.

The Assistant Administrator also finds that this is not a significant Federal action within the meaning of the National Environmental Policy Act and does not require compliance with Executive Orders 12044, 11821, and 11949.

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

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 et seq.)

APPENDIX B—CATCH LIMITATIONS

	Gulf of Maine		Georges Bank and South Vessel class	
	Limits	Overruns	Limits	Overruns
	Cod (Pounds/Week)			
0–60 GRT	2,500	1,500	4,900	3,500
61–125 GRT	2,500	1,500	4,900	1,500
Over 125 GRT	Closed Nov. 12		7,000	1,500
Fixed gear	Closed Nov. 19		Closed Nov. 26	
	Haddock (Pounds/Week)			
0–60	Closed Nov. 12		Closed Nov. 12	
61–125 GRT	Closed Nov. 19		3,500	1,500
Over 125 GRT	Closed Nov. 12		Closed Nov. 19	
Fixed gear	5,000		Closed Nov. 26	

Vessel class	West of 69° west	East of 69° west
	Yellowtail Flounder [1]	
0–60	5,000	
61–125	5,000	
Over 125 GRT	5,000	

[1] Pounds per week or trip, whichever time period is longer. A vessel may land no more than 5,000 pounds, even if it fished on both sides of the 69° West line. No overruns are allowed.

[FR Doc. 78-31868 Filed 11-8-78; 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.

[6720-01-M]

FEDERAL HOME LOAN BANK SYSTEM

[12 CFR Part 526, 545]

FEDERAL SAVINGS AND LOAN SYSTEM

Amendments Relating to Payments to Third Parties

NOVEMBER 1, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The proposed amendments would expand third party payment powers available to account holders of Federal associations while limiting the rate of return on savings accounts of all member institutions of the Federal Home Loan Bank System subject to nonnegotiable, nontransferable written orders for payment to third parties.

COMMENTS MUST BE RECEIVED BY: December 1, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Reserve Board and the Federal Deposit Insurance Corporation have adopted regulations effective November 1, 1978, that permit member banks to arrange with their members for automatic transfer of funds from savings accounts to checking accounts to cover checks drawn by depositors or to replenish or maintain a minimum balance in such accounts. In response to that action by those agencies the Federal Home Loan Bank Board hereby proposes to amend § 545.4-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.4-1) to authorize Federal associations to offer a new category of accounts subject to withdrawal by nonnegotiable, nontransferable orders for payment to third parties. The Bank Board also proposes to add to the Regulations for the Federal Home Loan Bank System (12 CFR Subchapter B) a new paragraph to § 526.3 to limit to 5 percent the return which any member of the Bank System may pay on such a payment order account. This proposed amendment to the Bank Regulations is intended to maintain competitive parity in the offering of such accounts among all member institutions of the Bank System and between such institutions and commercial banks subject to regulation by the Federal Reserve or the Federal Deposit Insurance Corporation.

Section 5(b)(1) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464) specifically authorizes the Bank Board to provide for withdrawal or transfer of funds from a Federal association upon nontransferable order or authorization.[1]

Present regulations allow such withdrawals with limitations. Section 545.4-1(a) allows a holder of a savings account in a Federal association to order or authorize payment to a third party. Under the present regulation, an accountholder may direct an association to pay third parties, e.g., by telephone authorization, once-a-month written authorization mailed to the association, or standing authorization for the association to pay recurring bills. However, § 545.4-1(a)(2) precludes an accountholder from sending or delivering a payment order or authorization directly to a third party for presentation for payment by the association unless such orders or authorizations are processed through an automated clearing house.

The Bank Board proposes to amend § 545.4-1(a) to permit an account holder of a Federal association to transfer or withdraw funds from his or her account for payments to third parties by any form of payment order or authorization which is not a check or other negotiable or transferable instrument. A written instrument could be drawn on a new category of account (a payment order account) which would be limited to an interest rate not in excess of 5 percent per annum. Section 526.1 would be amended to add the definition for a payment order account and a new subparagraph would be added to § 526.3 to set the maximum rate of return payable on such accounts. The proposal would continue to allow payments to third parties from regular passbook accounts on the basis of direct order or authorization given to the associations by the accountholder.

Present § 545.4-1(a)(2) would be revoked.

By this action, the Bank Board would expand the third party payment powers of Federal savings and loan associations only; however, all institutions which are members of the Federal Home Loan Bank System would be subject to the maximum rate payable on accounts subject to nonnegotiable written orders of withdrawal.

Nonnegotiable, nontransferable payment orders such as Federal associations would be authorized by these proposed amendments to honor may involve matters such as deposit, collection, and payment procedures, and rights and obligations of the parties involved, which should be governed by regulation. The Bank Board invites comment as to regulation of such matters and especially as to the costs and benefits which such regulation would involve.

Accordingly, the Board hereby proposes to amend § 526.1 by adding a new paragraph (n) thereto, to amend § 526.3 by adding a new subparagraph (a)(10) thereto, and to amend § 545.4-1 by revising subparagraph (a)(1) and revoking subparagraph (a)(2) thereof as set forth below.

§ 526.1 Definitions.

* * * * *

(n) *Payment order account.* A payment order account is a savings account consisting of funds deposited to the credit of or the entire beneficial interest is held by, one or more individuals or by a non-profit organization subject to withdrawals by nonnegotiable, nontransferable written drafts for payment to third parties.

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) * * *

(10) 5 percent—payment order accounts.

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[1] * * * Savings accounts shall not be subject to check or to withdrawal or transfer on negotiable or transferable order or authorization to the association, but the *Board may by regulation provide for withdrawal or transfer of savings accounts upon nontransferable order or authorization* (emphasis added).

§ 545.4-1 Payments to third parties by withdrawals or transfer of savings accounts; checks and money orders.

(a) *Withdrawals and transfers.* (1) *General.* A holder of a savings account in a Federal association may order or authorize payments therefrom to third parties, provided that no such order or authorization is by check or in other negotiable or transferable form. The association may charge a fee for its services in making any payment under this section.

(2) *Restrictions.* (Revoked.)

* * * * *

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464). Sec. 5B, 47 Stat. 727, as added by Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR 1943-48 Comp. 1071).

By The Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-31764 Filed 11-8-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[Docket No. VII-78-DCO-14; FRL 1002-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposal Approval of an Administrative Order Issued by Iowa Department of Environmental Quality to Iowa Valley Milling Co., West Branch, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Iowa Department of Environmental Quality to Iowa Valley Milling Co. The order requires the company to bring air emissions from its alfalfa dehydrating plant hammermill cyclone in West Branch, Iowa into compliance with certain regulations contained in the federally approved Iowa State Implementation Plan (SIP) by May 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before December 11, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA Region VII, 1735 Baltimore, Kansas City, Mo. 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: Iowa Valley Milling Co. operates an alfalfa dehydrating plant at West Branch, Iowa. The order under consideration addresses emissions from the hammermill cyclone at the facility, which are subject to subrule 400—4.3(2)a Iowa Administrative Code, Process weight rate. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by May 1, 1979, through the installation of a bagfilter on the hammermill cyclone. The source has consented to the terms of the order. The source has satisfied increments Nos. 1 and 2 contained in the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will pubish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: October 26, 1978.

KATHLEEN Q. CAMIN, PH.D.,
Regional Administrator,
Region VII.

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR QUALITY COMMISSION, DES MOINES, IOWA

Order

Docket No. 78-A-010

In the matter of: Iowa Valley Milling Co., West Branch, Iowa.

Whereas employees of the Department of Environmental Quality conducted an inspection of the Iowa Valley Milling Co. facility in Downey, Iowa on June 1, 1978, and determined that the emissions from the hammermill cyclone exceeded the emission standard(s) of subrule 400—4.3(2)a I.A.C.

Whereas the said subrule is a part of the federally-approved implementation plan applicable to Air Quality Control Region 091 in which the Iowa Valley Milling Co. in Downey, Iowa, is located;

Whereas Iowa Valley Milling Co. has acknowledged that it is in violation of subrule 400—4.3(2)a I.A.C. and has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa Code;

Whereas Iowa Valley Milling Co. is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in Subparagraph A-5 by July 1, 1979, it shall be required to pay a noncompliance penalty under Section 120 of the Clean Air Act as amended (42 U.S.C. 7420) or under Iowa Law subsequently enacted to obtain delegation under that section;

Whereas after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply the source cannot immediately comply and compliance with the order below is reasonable and expeditious;

Therefore, it is ordered by the Air Quality Commission:

A. That Iowa Valley Milling Co. complete the following acts with respect to the hammermill cyclone at its plant in Downey, Iowa, on or before the dates specified.

1. June 22, 1978—Submit final control plan. *Completed*

2. July 22, 1978—Award bids and execute contracts for emission control equipment. *Completed*

3. November 1, 1978—Initiate on-site construction or installation of emission control equipment.

4. May 1, 1979—Complete on-site construction or installation of emission control equipment.

5. May 1, 1979—Complete shakedown operations and performance test on system

and achieve final compliance with subrule 400—4.3(2)a I.A.C.

B. That specific interim requirements for emission reduction, prior to final compliance as specified in subparagraph A-5 are not feasible.

C. That specific monitoring and reporting requirements pursuant to subrule 400—2.1(6)(455B) I.A.C., prior to final compliance as specified in subparagraph A-5, are not required.

D. That Iowa Valley Milling Co., prior to the initiation of on-site construction or installation of emission control equipment required by paragraph A-3, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of the Department of Environmental Quality, as defined in subrule 400—3.1 I.A.C.

E. That Iowa Valley Milling Co. certify to the Chief of the Surveillance Section of the Air and Land Quality Division of the Department of Environmental quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

F. That Iowa Valley Milling Co., 15 days prior to conducting the performance tests required by this order, give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

Dated: September 21, 1978.

For the Air Quality Commission.

HAL B. RICHERSON,
Chairman.

Dated: July 14, 1978.

For the Iowa Valley Milling Co.

H. R. SPENCER.

A public notice was published on July 14, 1978, in the *West Branch Times* regarding this order (and the schedule for compliance contained herein), and a public hearing was held before the Iowa Air Quality Commission on September 14, 1978, at the Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa.

DEPARTMENT OF ENVIRONMENTAL QUALITY,
DES MOINES, IOWA

Waiver

In the Matter of: Iowa Valley Milling Co., West Branch, Iowa.

Iowa Valley Milling Co. acknowledges that it is in violation of subrule 400—4.3(2)a I.A.C. and agrees to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and its rights under 455B.17 of the Iowa Code. Furthermore, Iowa Valley Milling Co. has reviewed Order 78A-A-010, believes it to be a reasonable means to attain compliance with the applicable regulations in that it accords with the intentions of Iowa Valley Milling Co. regarding the hammermill cyclone at its plant in Downey, Iowa, and it consents to the terms of the order. Finally, Iowa Valley Milling Co. acknowledges that compliance with Order 78-A-010 does not relieve it of the responsibility to comply with the provisions of the Rules of the Air Quality Commission.

For the Iowa Valley Milling Co.

Dated: July 14, 1978.

H. R. SPENCER.

[FR Doc. 78-31492 Filed 11-8-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 405 and 419]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Intermediary Nominations Contracts, Evaluations, and Notices

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would establish standards, criteria, and procedures for evaluating the performance of agencies or organizations serving or desiring to serve as fiscal intermediaries under the Medicare program. It would also be applied by the Secretary in determining whether (1) to assign or reassign any provider to a fiscal intermediary, and (2) to designate a single fiscal intermidiary to service a class of providers on a regional or national basis. Affected providers and intermediaries would be given a notice of any assignment or reassignment and afforded a hearing. The proposal implements section 14 of the Medicare-Medicaid Anti-Fraud and Abuse Act (Pub. L. 95-142). The intent is to improve the administration of the medicare program.

DATES: Consideration will be given to written comments or suggestions received on or before January 8, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to MAB-61-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today, in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m., to 5 p.m. (telephone 202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Martin L. Keppert, telephone 301-594-9415.

SUPPLEMENTARY INFORMATION:

BACKGROUD

Under sections 1816 and 1842 of the Social Security Act, private organizations participate in the administration of the Medicare program under contract with the Secretary, and perform the bulk of the actual bill processing and benefit payment functions. The private organizations which administer the Part A paying process are know as "intermediaries". Providers of services submit claims to these intermediaries, which determine whether the services are covered under the program, and determine reasonable costs. The intermediaries reimburse the providers, on behalf of the beneficiaries. The private organizations which administer the Part B program are known as "carriers". Beneficiaries receiving Part B services either pay the physicians' or suppliers' bills themselves, and receive medicare payments from the carrier, or assign their right to payment to the physician or other supplier of the Part B service, who is paid directly by the carrier. In either case, the carrier must determine whether the service is covered and whether the charge is reasonable.

Under the medicare Act prior to enactment of Pub. L. 95-142, groups or associations of providers could nominate an agency or organization to act as fiscal intermediary. Alternatively, a provider could individually elect to receive reimbursement directly from the Secretary. This provision of the law afforded providers considerable latitude in their selection of intermediaries. (See 42 CFR 405.651 through 405.656.) Experience under the program has shown that this nomination process has not, in a number of instances, produced the most effective and efficient administration of the medicare program. Section 14 of Pub. L. 95-142 was designed to permit improvement in the administration of the medicare program by requiring that the Secretary develop standards, criteria, and procedures to be used in evaluating the adequacy of agencies or organizations serving or desiring to serve as fiscal intermediaries. A decision to enter into, renew, or terminate an intermediary agreement must be based on a finding, made after applying the required standards and criteria, that in the particular instance to do so would be in the best interests of the program.

Additionally, Pub. L. 95-142 gives the Secretary the authority, after applying the appropriate standards and criteria, to (1) assign or reassign a provider to a fiscal intermediary, and (2) designate a national or regional intermediary to service a class of providers, if such actions would be consistent with the effective and efficient admin-

istration of the medicare program. Classes of providers may be established on the basis of the type of provider, or on common characteristics such as size or type of ownership or control. When the Secretary determines that, to improve program administration, a provider should be assigned or reassigned to a fiscal intermediary or that a national or regional intermediary should be designated, he need not establish poor performance on the part of any specific intermediary to assign or reassign such providers or class of providers to a designated intermediary. The Secretary may also assign or reassign a provider or class of providers to a designated intermediary for an experiment being conducted in a geographic area.

MAJOR PROVISIONS

As discussed more fully below, this regulation would move existing provisions concerning intermediaries and carriers to a new part 419 in 42 CFR. Additionally, the regulation would amend existing regulations to fully implement the provisions of section 14 of Pub. L. 95-142. The regulation does not affect the Secretary's right not to renew an agreement when it expires.

(1) CRITERIA AND STANDARDS FOR EFFICIENT AND EFFECTIVE ADMINISTRATION OF THE MEDICARE PROGRAM

The standards and criteria developed by these regulations would enable the Secretary to evaluate the performance of an intermediary or prospective intermediary in (1) its overall performance of claims processing and related functions, and (2) its performance with respect to specific providers. These standards, criteria, and procedures would be applied whenever the Secretary enters into, renews, or terminates an agreement with an agency or organization to serve as an intermediary or whenever the Secretary assigns or reassigns a provider or providers or designates an intermediary to serve a class of providers.

The criteria and standards would be applied in two steps. First, an assessment would be made as to whether the intermediary meets all of the criteria described in § 419.216. The criteria established by this regulation are designed to aid the Secretary in evaluating the overall capabilities of an intermediary or prospective intermediary. The Secretary would not enter into or renew an agreement with an intermediary unless the intermediary satisfied the listed criteria. The criteria consist of the categories of general administration, fiscal management, beneficiary service activities, bill processing, provider reimbursement, and utilization review. If an intermediary were found not to meet all of the criteria, the Secretary could determine that such failure was sufficient grounds for adverse action such as the reassigning of providers, or nonrenewal, or termination of the agreement.

The second step, undertaken only if the criteria under § 419.216 were met, would consist of measuring the intermediary's performance using standards that we will develop in accordance with § 419.218. The standards consist of measures of timeliness, cost, and quality of the intermediary's, or prospective intermediary's, performance of its medicare operations. For example, we would plan to develop a generally applicable benchmark for the unit cost of processing bills. The standards would be based in part on national intermediary experience by applying acceptable statistical measures of variation to that experience during a base period. The development and occasional revision of the standards would be a continuing process, and the specific standards would be published as a notice in the FEDERAL REGISTER.

(2) ASSIGNMENT, REASSIGNMENT, AND DESIGNATION OF A NATIONAL OR REGIONAL INTERMEDIARY

The regulation would provide that the Secretary, after taking into consideration the preferences of a provider of group of providers, may assign or reassign any provider of services to an intermediary other than the one nominated by the provider or group of providers. The determination to assign or reassign a provider could be made only after the Secretary had applied the standards, criteria, and procedures established by this regulation and had found that such action would result in the more effective and efficient adminstration of Part A of the program. Similarly, the Secretary could designate a national or regional intermediary for a class of providers. The Secretary would determine the class of providers on the basis of the category of services provided such as hospitals, skilled nursing facilities, or home health agencies. Other common characteristics such as ownership or control which impact on the efficient and effective administration of the Medicare program could be used by the Secretary to define a class of providers. Before designating a national or regional intermediary, the Secretary would apply the criteria, standards, and procedures established by this regulation and determine that the designation would result in the effective and efficient administration of Part A of the program.

The regulation would provide that the Secretary, prior to taking any action to assign, reassign, or designate a national or regional intermediary, must furnish the affected providers and intermediaries with a full explanation of the reasons for his determination. Any intermediary which would be adversely affected by the determination would be given an opportunity for a hearing and a final determination would be subject to judicial review.

(3) PROVIDERS OF OUTPATIENT PHYSICAL THERAPY AND SPEECH PATHOLOGY SERVICES

The proposed definition of "provider" includes clinics, rehabilitation agencies, and public health agencies furnishing physical therapy and speech pathology services under Part A of Medicare. (See 42 CFR 405, Subpart Q for the conditions of participation for these providers.) The purpose is to treat these providers the same as hospitals and other providers with respect to the selection and assignment of intermediaries. Under § 140 of the Outpatient Physical Therapy Provider Manual (HIM-9), these agencies are currently given some say in the selection of intermediaries, but are not accorded the same rights as other providers.

WITHDRAWAL OF PRIOR PROPOSED RULE

This proposal supersedes a Notice of Proposed Rulemaking published on October 5, 1976 (41 CFR 43917). That proposal would have revised Medicare regulations relating to the provider's right to change its intermediary, with the Secretary's approval. That proposal became outdated with the enactment of Pub. L. 95-142.

RECODIFICATION OF EXISTING REGULATIONS

Current regulations in 42 CFR Part 405, Subpart F, deal with intermediaries (§§ 405.656-405.651 and 405.660-405.663) and with carriers (§§ 405.670-405.678). This proposal would revise the first group of sections to implement section 14 of Pub. L. 95-142. Since that law does not apply to carriers, no substantive changes are being proposed to the second group of sections. We are currently developing standards, criteria, and procedures for evaluating the performance or potential performance of organizations serving or wishing to serve as carriers. We will publish those standards, criteria, and procedures as a Notice of Proposed Rulemaking.

This proposal contains editorial and organizational changes to improve the clarity and readability of both groups of existing regulations. In addition, in anticipation of an eventual recodification of the Medicare regulations, we are placing these regulations in a new part of Title 42, CFR. The following table will help the reader to identify and locate the new sections that are derived from current regulations.

Old Sec.	New Sec.
405.651(a), 405.652, 405.653	419.13.
405.651(b)	419.3(c).
405.651(c)	419.3(b).
405.654	419.12.
405.655	419.14.
405.656	419.13.
405.660	419.25.
405.662, 405.663	419.30.
405.670, 405.677, 405.678	419.40.
405.671	419.2.
405.672	419.3(a).
405.673	419.41.
405.675	419.44.
405.676	419.45.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. Sections 405.651 through 405.656 and 405.660 through 405.678 are vacated and reserved, and their content is revised and recodified under a new Part 419.

2. A new Part 419 is added, to read as follows:

PART 419—INTERMEDIARIES AND CARRIERS

Subpart A—Scope, Definitions, and General Provisions

Sec.
419.1 Scope.
419.2 Definitions.
419.3 General provisions.

Subpart B—Intermediaries

419.10 Intermediary functions.
419.12 Option available to providers.
419.13 Nominations for intermediary.
419.14 Notification of action on nomination.
419.15 Change to another intermediary or to direct payment.
419.16 Assignment and reassignment of intermediaries by the Secretary.
419.17 Designation of national or regional intermediaries.
419.18 Designation of intermediaries for experiments.
419.25 Requirements for approval of an agreement.
419.26 Performance criteria.
419.28 Statistical standards.
419.29 Intermediary's failure to meet criteria or standards.
419.30 Termination of agreements.
419.31 Intermediary's opportunity for hearing and right to judicial review.

Subpart C—Carriers

419.40 Carrier functions.
419.41 Requirements and conditions.
419.44 Provision for automatic renewal of contracts.
419.45 Termination by the Secretary.

AUTHORITY: Sections 1102, 1816, 1842, 1961(u), 1971, 1975 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, 1395x(u), 1395hh, and 1395).

Subpart A—Scope, Definitions, and General Provisions

§ 419.1 Scope.

The provisions of this part apply to agreements with Part A intermediaries and contracts with Part B carriers. They specify criteria and standards to be used in selecting intermediaries and evaluating their performance; in assigning or reassigning a provider or providers to particular intermediaries, and in designating regional or national intermediaries for certain classes of providers or for experiments. They also set forth the opportunity for hearing for intermediaries and carriers affected by certain adverse actions and the adversely affected intermediaries right to judicial review of hearings decisions on (a) assignment or reassignment of a provider or providers or (b) designation of an intermediary or intermediaries to serve a class of providers.

§ 419.2 Definitions.

As used in this part:

"Act" means the Social Security Act.

"Carrier" means an organization that has entered into a contract with the Secretary to perform designated functions in the administration of Part B of the Medicare program.

"Intermediary" means a national, State, or other public agency or a private agency or organization that has entered into an agreement with the Secretary to perform designated functions in the administration of the Medicare program.

"Provider" means a hospital, skilled nursing facility (SNF), home health agency (HHA), or a clinic or agency furnishing outpatient physical therapy or speech pathology services, that furnishes services under Part A of the Medicare program.

"Secretary" means the Secretary of Health, Education, and Welfare or his delegate.

§ 419.3 General provisions.

(a) *Competitive bidding not required.* The Secretary may enter into contracts with carriers, or with intermediaries to act as carriers in certain circumstances, without regard to section 3709 of the U.S. Revised Statutes or any other provision of law that requires competitive bidding.

(b) *Indemnification of intermediaries and carriers.* Intermediaries and carriers act on behalf of the Secretary in carrying out certain administrative responsibilities that the law imposes on him. Accordingly, their agreements and contracts contain clauses providing for indemnification with respect to actions taken on behalf of the Secretary and the Secretary is the real party of interest in any litigation involving the administration of the program.

(c) *Use of intermediaries to perform carrier functions.* The Secretary may contract with an intermediary to perform carrier functions with respect to services for which Part B payment is made to a provider.

(d) *Nonrenewal of agreement or contract.* Notwithstanding any of the provisions of this part, the Secretary has the authority not to renew an agreement or contract when its term expires.

Subpart B—Intermediaries

§ 419.10 Intermediary functions.

An agreement between the Secretary and an intermediary shall provide for the performance of the following functions:

(a) *Coverage.* The intermediary must assure that it makes payments only for services that:

(1) Are furnished to Medicare beneficiaries;

(2) Are covered under medicare part A or part B; and

(3) Are medically necessary.

(b) *Fiscal management.* The intermediary must receive, disburse, and account for funds in making medicare payments.

(c) *Provider audits.* The intermediary must audit the records of providers of services as necessary to assure proper payments.

(d) *Utilization patterns.* The intermediary must assist providers to:

(1) Develop procedures relating to utilization practices;

(2) Make studies of the effectiveness of those procedures and devise methods to improve them;

(3) Evaluate the results of utilization review activity; and

(4) Assist in the application of safeguards against unnecessary utilization of services.

(e) *Resolution of cost report disputes.* The intermediary must establish and maintain procedures approved by the Secretary to consider and resolve any disputes that may result from provider dissatisfaction with an intermediary's determinations concerning provider cost reports.

(f) *Review and reconsideration of determinations.* The intermediary must establish and maintain procedures approved by the Secretary for the review and reconsideration of determinations that deny payments to an individual or to the provider who furnished services to the individual.

(g) *Information and reports.* The intermediary must furnish to the Secretary any information and reports that he needs to carry out his responsibilities in the administration of medicare program.

(h) *Other terms and conditions.* The intermediary must comply with all applicable laws and regulations and with any other terms and conditions included in its agreement.

§ 419.12 Option available to providers.

A provider may elect to receive payment for covered services furnished to medicare beneficiaries:

(a) Directly from the Secretary; or

(b) Through an intermediary, when both the Secretary and the intermediary consent.

§ 419.13 Nominations for intermediary.

(a) *Nomination by groups or associations of providers.* (1) An association of providers may nominate an organization or agency to serve as intermediary for its members.

(2) The nomination is not binding on any member of the association if it notifies the Secretary of its nonconcurrence with the nomination.

(3) The nomination must be made in writing, to the Secretary, and must:

(i) Identify the proposed intermediary by giving complete name and address;

(ii) Include, or furnish as an attachment, the name, address, and bed capacity (or patient care capacity in the case of home health agencies) of each member of the association;

(iii) List the members that have concurred in the nomination of the proposed intermediary; and

(iv) Be signed by an authorized representative of the association.

(4) The Secretary is not required to enter into an agreement with a proposed intermediary solely because it has been nominated.

(b) *Nomination by nonmembers or nonconcurring members.* Providers that nonconcur in their association's nomination, or are not members of an association, may:

(1) Form a group of 2 or more providers for the specific purpose of nominating an intermediary, in accordance with provisions of paragraph (a) of this section; or

(2) Exercise their right to receive payment directly from the Secretary in accordance with § 419.12.

§ 419.14 Notification of action on nomination.

(a) The Secretary will send, to each member of a nominating association or group, written notice of his decision to enter into or not enter into an agreement with the nominated organization or agency.

(b) Any member of a group or association having more than one nominated intermediary approved by the Secretary to act on its behalf may withdraw from all but one or may exercise the the option provided in § 419.12.

§ 419.15 Change to another intermediary or to direct payment.

(a) Any provider may request a change of intermediary, or that it be paid directly by the Secretary, by

(1) Giving the Secretary written notice of its desire at least 120 days before the end of its current fiscal year; and

(2) Concurrently giving written notice to its intermediary.

(b) If the Secretary finds the change is consistent with effective and efficient administration of the program and approves the request under paragraph (a) of this section, he will notify the provider, the outgoing intermediary and the newly elected intermediary (if any) that the change will be effective on the first day following the close of the fiscal year in which the request was filed.

§ 419.16 Assignment and reassignment of intermediaries by the Secretary.

The Secretary may assign or reassign any provider to any intermediary if he determines the assignment or reassignment will result in more effective and efficient administration of the medicare program than the assignment preferred by the provider. Before making this determination, the Secretary will consider:

(a) The preferences of the provider; and

(b) The criteria and standards specified in §§ 419.26 and 419.28.

§ 419.17 Designation of national or regional intermediaries.

(a) The Secretary may designate a particular intermediary to serve a class of providers in the entire Nation or in any geographic area he designates if he determines, after reviewing the criteria and standards specified in §§ 419.26 and 419.28, that the designation will result in more effective and efficient administration of the medicare program than the assignment preferred by the providers.

(b) For this purpose, the Secretary may establish classes of providers on the basis of:

(1) The type of provider, for example, hospital, skilled nursing facility, home health agency; or

(2) Common characteristics such as type of ownership or control, size, or number of medicare beneficiaries served.

§ 419.18 Designation of intermediaries for experiments.

(a) To facilitate experiments conducted under section 1875(b) of the act, the Secretary may:

(1) Assign or reassign a provider to a particular intermediary; or

(2) Designate a regional intermediary for a class of providers or for all providers within the geographical area where the experiment is being conducted.

(b) Action by the Secretary under this paragraph is not subject to appeal by any party.

§ 419.25 Requirements for approval of an agreement.

Before entering into or renewing an agreement with an intermediary, the Secretary will determine that all of the following requirements are met:

(a) Use of the particular intermediary would be consistent with effective and efficient administration of the medicare program.

(b) The intermediary, is willing and able to assist providers in the application of safeguards against unnecessary utilization of services.

(c) The intermediary, and any subcontractor that will perform some or all of the intermediary's functions, meet all solvency and financial responsibilty requirements imposed by the statutes and regulatory authorities of the State or States in which it would serve.

(d) The intermediary has the overall resources and experience to administer its responsibilities under the medicare program and has an existing operational, statistical, and recordkeeping capacity to carry out the additional program responsibilities it proposes to assume. The Secretary will presume that an intermediary meets this requirement if it has at least 5 years experience in paying for or reimbursing the cost of health services.

(e) The intermediary will serve a sufficient number of providers to permit a finding of effective and efficient administration. Under this criterion no intermediary shall be found to be not efficient or effective solely on the grounds that it serves only providers located in a single State.

(f) The intermediary has acted in good faith to achieve effective cooperation with the providers it will service and with the physicians and medical societies in the area.

(g) The intermediary has established a record of integrity and satisfactory service to the public.

(h) The intermediary has an affirmative equal employment opportunity program that complies with the fair employment provisions of the Civil Rights Act of 1964 and Executive Order 11246.

§ 419.26 Performance criteria.

(a) *General administration.* To demonstrate overall effectiveness in carrying out its medicare responsibilities, the intermediary must:

(1) Appropriately identify program integrity issues for referral in accordance with medicare instructions;

(2) Observe provisions in its agreement regarding subcontracts with a third party;

(3) Establish and observe procedures for identification and control of conflict-of-interest situations;

(4) Carry out an effective program designed to maintain good relations

with providers and medical professionals;

(5) Maintain proper safeguards of program funds, records, and property; and

(6) Comply with all laws and regulations concerning disclosure of information and establish safeguards against invasion of individual privacy, in accordance with the Privacy Act.

(b) *Fiscal management.* To manage Federal funds, including benefit payments and administrative costs, in an efficient and effective manner, the intermediary must:

(1) Allocate allowable Medicare administrative expenses in an equitable manner;

(2) Submit timely budget proposals in accordance with Medicare Bureau instructions;

(3) Limit expenditures to those in the approved budget;

(4) Obtain advances of funds through proper letter of credit procedures; and

(5) Submit accurate and timely financial reports as required.

(c) *Beneficiary service activities.* To insure that beneficiaries are treated in accordance with the existing law, regulations, and policies, the intermediary must:

(1) Accurately and promptly process beneficiary and provider appeals of individual claims determinations;

(2) Accurately identify and resolve claims overpayments;

(3) Assure that providers accurately and promptly refund incorrectly collected money to affected beneficiaries; and

(4) Respond promptly and accurately to beneficiary inquiries.

(d) *Bill processing.* In order to process Medicare bills in an accurate, timely, and economical manner and perform other contractual functions related to the claims process, the intermediary must:

(1) Maintain an adequate system for the control of all bills;

(2) Process admission and Start-of-Care notices so that accurate and timely Reports of Eligibility are released to the provider;

(3) Review provider bills and make correct coverage determinations, providing the beneficiary with accurate and timely notice where required;

(4) Accurately and promptly determine provider requests for waiver of liability and accurately apply these determinations to bills;

(5) Transmit accurate and timely bill information to the Medicare Bureau; and

(6) Furnish the Secretary with timely and accurate reports of the bill processing function.

(e) *Provider reimbursements.* To insure that Medicare payments are made properly, in accordance with Part 405, Subpart D, of this chapter, the intermediary must:

(1) Accurately and promptly establish, review and, where appropriate, adjust interim rates for providers;

(2) Establish and manage a provider cost report settlement program to insure timely receipt of cost reports from providers and arrange for the review, audit, and settlement of cost reports;

(3) Accurately apply the principles of reimbursement to insure that only reasonable and allowable costs incurred in furnishing covered services to Medicare beneficiaries are reimbursed by the Medicare program based on cost reports received from providers;

(4) Promptly and in accord with program instructions, identify, control, and recover or otherwise dispose of, overpayments incurred by providers;

(5) Promptly notify providers of their rights to appeal cost report settlements, explain the procedures involved, and process appeals; and

(6) Furnish the Secretary with provider reimbursement, cost report, and overpayment data as required in program instructions or when requested.

(f) *Utilization review.* (1) To insure that each provider that is not under PSRO review has an effective utilization review, the intermediary must:

(i) Monitor that provider's utilization review committee activities to insure its effectiveness; and

(ii) Maintain effective coordination with the State survey agency and the HCFA regional office regarding UR matters.

(2) Where PSRO's exist, the intermediary must follow guidelines related to intermediary-PSRO activities.

§ 419.28 Statistical standards.

(a) The Secretary will develop standards of timeliness, cost, and quality, to be used in further evaluating the performance of those intermediaries that satisfy the criteria in § 419.26.

(b) These standards will be derived from application of acceptable statistical measures of variation to nationwide intermediary experience during a base period. Any standards derived from base period experience and dealing with administrative cost will be adjusted to reflect the estimated effect of inflation and increased productivity.

(c) The performance of intermediaries during the base period will also be studied, using multiple regression analysis, to determine measurable factors that are not within the intermediary's control, but significantly affect selected performance standards. The Secretary will determine which noncontrollable facotrs will be used in adjusting performance standards.

(d) The development and revision of standards for evaluating intermediary performance will be a continuing process. Before the beginning of each evaluation period, the Secretary will publish a list of standards as a notice in the FEDERAL REGISTER.

§ 419.29 Intermediary's failure to meet criteria or standards.

Failure by an intermediary to meet, or demonstrate the capacity to meet, the criteria and standards specified in §§ 419.26 and 419.28 will be grounds for adverse action, such as reassigning providers, offering a short-term agreement, or termination. If an intermediary meets all criteria and standards in its overall performance, but does not meet them with respect to a specific provider or class of providers, the Secretary may reassign that provider or class of providers to another intermediary in accordance with § 419.16.

§ 419.30 Termination of agreements.

(a) *Termination by intermediary.* An intermediary may terminate its agreement at any time by:

(1) Giving written notice of its intention to the Secretary and to the providers it services at least 180 days before its intended termination date; and

(2) Giving public notice of its intention by publishing a statement of the effective date of termination at least 60 days before that date. Publication must be in a newspaper of general circulation in each community served by the intermediary.

(b) *Termination by the Secretary, and right of appeal.* (1) The Secretary may terminate an agreement if:

(i) The intermediary fails to comply with the requirements of this subpart;

(ii) The intermediary fails to meet the criteria and standards specified in §§ 419.26 and 419.28; or

(iii) The Secretary has reassigned, under §§ 419.16 or 419.17, all of the providers assigned to the intermediary.

(2) If the Secretary decides to terminate an agreement, he will offer the intermediary an opportunity for a hearing, in accordance with § 419.31.

(3) If the intermediary does not request a hearing, or if the hearing decision affirms the Secretary's decision, the Secretary will provide reasonable notice of the effective date of termination to:

(i) The intermediary;

(ii) The providers served by the intermediary; and

(iii) The general public.

(4) The providers served by the intermediary will be given the opportunity to nominate another intermediary, in accordance with § 419.13.

§ 419.31 Intermediary's opportunity for hearing and right to judicial review.

(a) *Basis for appeal.* An intermediary adversely affected by any of the following actions will be granted an opportunity for a hearing:

(1) Assignment or reassignment of providers to another intermediary.

(2) Designation of a national or regional intermediary to serve a class of providers.

(3) Termination of the agreement.

(b) *Request for hearing.* The intermediary shall file the request with the Secretary within 15 days from the date on the notice of intended action.

(c) *Hearing procedures.* The hearing officer shall be a representative of the Secretary not on the staff of the Medicare Bureau and not otherwise a party to the initial administrative decision. The intermediary may be represented by counsel and may present evidence and examine witnesses. A complete recording of the proceedings at the hearing will be made and transcribed.

(d) *Judicial review.* An adverse hearing decision concerning action under paragraph (a)(1) or (a)(2) of this section is subject to judicial review in accordance with chapter 7 of Title 5, United States Code.

Subpart C—Carriers

§ 419.40 Carrier functions.

A contract between the Secretary and a carrier shall provide for the performance of the following functions:

(a) *Coverage.* (1) The carrier must assure that payment is made only for services that:

(i) Are rendered to Medicare beneficiaries;

(ii) Are covered under Medicare Part B; and

(iii) Are medically necessary.

(2) If it determines that the services were not medically necessary or the claim does not properly reflect the kind and amount of services furnished, the carrier must take appropriate action to reject or adjust the claim.

(b) *Payment on a cost basis.* If payment is on a cost basis, the carrier must assure that payments are based on reasonable costs, as determined under Part 405, Subpart D, of this chapter.

(c) *Payment on a charge basis.* If payment is on a charge basis, under Part 405, Subpart E of this chapter, the carrier must assure that:

(1) Charges are reasonable and not higher than the charge for a comparable service furnished under comparable circumstances to the carrier's policyholders and subscribers; and

(2) Payment is based on:

(i) An itemized bill; or

(ii) An assignment under the terms of which the reasonable charge for the service (see § 405.251(b) of this chapter); or

(iii) If the beneficiary has died before the bill is paid, an agreement by the person or persons who furnished the services, to accept the reasonable charge as the full charge for those service.

(d) *Fiscal management.* The carrier must receive, disburse, and account for funds in making payments under Medicare.

(e) *Provider audits.* The carrier must audit the records of providers to whom it makes Medicare Part B payments, to assure that payments are made properly.

(f) *Utilization patterns.* (1) The carrier must have methods and procedures for identifying utilization patterns that deviate from professionally established norms and bring the deviant patterns to the attention of appropriate professional groups.

(2) The carrier must assist providers and other persons who furnish Medicare Part B services to:

(i) Develop procedures relating to utilization practices;

(ii) Make studies of the effectiveness of those procedures and devise methods to improve them;

(iii) Apply safeguards against unnecessary utilization of services; and

(iv) Develop procedures for utilization review, and establish groups to perform such reviews of providers to whom it makes Medicare Part B payments.

(g) *Information and reports.* The carrier must furnish to the Secretary any information and reports that he needs to carry out his responsibilities in the administration of the Medicare program. The carrier must be responsive to requests for information from the public.

(h) *Maintenance and availability of records.* The carrier must maintain and make available to the Secretary the records necessary for verification of payments and for other related purposes.

(i) *Hearings to Part B beneficiaries.* (1) The carrier must provide an opportunity for a fair hearing if it denies the beneficiary's request for payment, does not act upon the request with reasonable promptness, or pays less than the amount claimed.

(2) The hearing procedures must be in accordance with Part 405, Subpart H, of this chapter.

(j) *Other terms and conditions.* The carrier must comply with any other terms and conditions included in its contract.

§ 419.41 Requirements and conditions.

Before entering into or renewing a carrier contract, the Secretary will determine that the carrier:

(a) Has the capacity to perform its contractual responsibilities effectively and efficiently;

(b) Has the financial responsibility and legal authority necessary to carry out its responsibilities; and

(c) Will be able to meet any other requirements the Secretary considers pertinent.

§ 419.44 Provision for automatic renewal of contracts.

Contracts under this subpart may contain an automatic renewal provision, continuing the contract from term to term unless either party gives at least 90 days notice of its intention to terminate it at the end of the current term.

§ 419.45 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate a contract with a carrier at any time if he determines that the carrier has failed substantially to carry out any material terms of the contract or has performed its function in a manner inconsistent with the effective and efficient adminstration of the Medicare Part B program.

(b) *Notice and opportunity for hearing.* If the Secretary notifies the carrier of his intent to terminate the contract, the carrier may request a hearing within 15 days after the date on the notice of intent to terminate.

(c) *Hearing procedures.* The hearing procedures will be those specified in § 419.31(c).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: September 11, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: November 1, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-31726 Filed 11-8-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 25, 34, 76, 95, 108, 162, 181, and 193]

[CGD 77-039]

FIRE EXTINGUISHING EQUIPMENT

Wheeled Semiportable Fire Extinguishers

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to allow limited use of wheeled semiportable fire extinguishers on

merchant vessels, offshore structures, and mobile offshore drilling units. Specifically, the proposals would allow their use as excess equipment in addition to extinguishers that are currently required by other regulations, and would allow their use as required equipment on offshore structures and helicopter landing decks of mobile offshore drilling units. Existing regulations prohibit approval and use of wheeled extinguishers. However, in certain vessel operations wheeled extinguishers could be used effectively in conjunction with non-wheeled extinguishers to provide increased fire protection capability. On offshore structures, a prohibition against wheeled extinguishers is unnecessary. The proposals also include stowage and installation requirements for semiportable extinguishers.

DATE: Comments must be received on or before: December 26, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 77-039), U.S. Coast Guard, Washington, D.C. 20590. Comments received on the proposed regulations, and a copy of the Draft Evaluation, will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Frank K. Thompson, Office of Merchant Marine Safety (G-MMT/83), Room 8301, U.S. Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2174.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments, persons submitting comments should include their names and addresses, identify this notice (CGD 77-039) and the specific section of the proposal to which their comments apply, and give reasons for the comments. The proposal may be changed in light of comments received. All comments received before the expiration of the public comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank K. Thompson, Project Manager, Office of Merchant Marine Safety; and William R. Register, Project Counsel, Ofice of the Chief Counsel.

BACKGROUND

1. The fire protection equipment regulations for merchant vessels in Parts 25, 34, 76, 95, 181, and 193 of Title 46 require carriage of approved semiportable fire extinguishers and require their placement at specified locations. Proposed regulations for mobile offshore drilling units, which were published in the FEDERAL REGISTER of May 2, 1977 (42 FR 22296), contain similar requirements. These regulations further require that fire protection equipment provided in excess of required equipment on vessels must be approved.

2. Subpart 162.039 of Title 46 contains the equipment specification for approving semiportable fire extinguishers. Section 162.039-3 of the specification prohibits approval of wheeled semiportable fire extinguishers and requires that approved fire extinguishers be arranged for stowage in fixed locations. The principal purposes of these provisions are to provide for the availability of extinguishers in the locations where their placement is required and to preclude use of an extinguisher that could roll out of control across the deck of a vessel during heavy sea conditions and cause damage or personal injury.

DISCUSSION OF PROPOSALS

3. The proposed amendments would allow approval of wheeled semiportable extinguishers and would clarify the requirement in § 162.039-3 that extinguishers be arranged for stowage in fixed locations to provide that required semiportable fire extinguishers must be welded or otherwise permanently attached to a bulkhead or deck. The proposal also includes requirements to stow wheeled extinguishers in a secure manner when not in use and a provision to allow use of wheeled extinguishers as required equipment on helicopter landing decks of mobile offshore drilling units. These proposals would continue to carry out the purposes of the current provisions in § 162.039-3 and would carry out other purposes discussed below.

4. The principal effect of deleting the prohibition against approving wheeled semiportable extinguishers would be to allow their use as excess equipment in addition to required extinguishers. On some vessels, approved wheeled extinguishers added as excess equipment could be used effectively in conjunction with required extinguishers during cargo transfer operations and other shipboard operations to provide augmented fire protection capability. The requirements in proposed §§ 25.30-20(b)(4), 34.50-20(b), 76.50-20(b), 95.50-20(b), 108.496(b)(2), 181.30-12(b), and 193.50-20(b) that wheeled extinguishers carried as excess equipment be securely stowed when not in use are included as safety measures to prevent accidents during heavy sea conditions.

5. The proposed clarification to § 162.039-3 is more appropriately an equipment requirement than a specification and, accordingly, would be added to each set of fire protection equipment regulations in Title 46. Specifically, the requirement would be added to §§ 25.30-20(b)(3), 34.50-20(a), 76.50-20(a), 95.50-20(a), 108.496(a), 181.30-12(a), and 193.50-20(a).

6. Proposed § 108.496(a) provides that semiportable extinguishers required on a mobile offshore drilling unit, except wheeled extinguishers provided for a helicopter landing deck, must be welded or otherwise permanently attached to a bulkhead or deck. Thus, required extinguishers at a helicopter landing deck, if wheeled, need not be permanently installed. However, proposed § 108.496(b)(1) provides that these extinguishers must be securely stowed when not in use. The proposal would allow wheeled extinguishers as required fire protection equipment on helicopter landing decks since they can often provide more effective fire protection capability than fixed extinguishers can in these locations.

7. The regulations in Parts 145 and 149 of Title 33, Code of Federal Regulations, for artificial islands, fixed structures, and deepwater ports require the use of approved semiportable fire extinguishers in machinery spaces that have a gas fired or oil fired boiler. The current prohibition in § 162.039-3 against wheeled extinguishers also applies to offshore structures. However, the prohibition is unnecessary. Offshore structures are stable platforms and use of a wheeled extinguisher on one of these platforms poses little hazard to personnel. Also, its removal from the space where its placement is required would be unlikely since to do so would normally be both difficult and impractical. Accordingly, the proposed amendments do not include a requirement that semiportable extinguishers on offshore structures be permanently attached to a bulkhead or deck and, by deleting the prohibition against approving wheeled extinguishers, these extinguishers would be allowed on offshore structures.

DRAFT EVALUATION

A Draft Evaluation for these proposed regulations has been prepared in accordance with Department of Transportation Notice 78-1 entitled

"Improving Government Regulations" (43 FR 9582-9584).

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 46, Code of Federal Regulations, as follows:

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

1. In § 25.30-20, by adding new paragraphs (b)(3) and (b)(4) to read as follows:

§ 25.30-20 Fire extinguishing equipment required.

* * * * *

(b) * * *

(3) The frame or support of each Type B-III fire extinguisher required by paragraph (b)(2)(ii) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

(4) If an approved semiportable fire extinguisher has wheels and is not required by this section, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

SUBCHAPTER D—TANK VESSELS

PART 34—FIRE FIGHTING EQUIPMENT

2. By adding a new § 34.50-20 to read as follows:

§ 34.50 Semiportable fire extinguishers—TB/ALL.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 34.50-10(a) must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If a size III, IV, or V fire extinguisher has wheels and is not required by Table 34.50-10(a), it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

SUBCHAPTER H—PASSENGER VESSELS

PART 76—FIRE PROTECTION EQUIPMENT

3. By adding a new § 76.50-20 to read as follows:

§ 76.50-20 Semiportable fire extinguishers.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 76.50-10(a) must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If an approved size III, IV, or V fire extinguisher has wheels and is not required by Table 76.50-10(a), it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 95—FIRE PROTECTION EQUIPMENT

4. By adding a new § 95.50-20 to read as follows:

§ 95.50-20 Semiportable fire extinguishers.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 95.50-10(a) must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If an approved size III, IV, or V fire extinguisher has wheels and is not required by Table 95.50-10(a), it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 108—DESIGN AND EQUIPMENT

5. By adding a new § 108.496 to read as follows:

§ 108.496 Semiportable fire extinguishers.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 108.495(a), except a wheeled size V extinguisher provided for a helicopter landing deck, must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If the following semiportable fire extinguishers have wheels, they must be securely stowed when not in use to prevent them from rolling out of control under heavy sea conditions:

(1) Each size V extinguisher required for a helicopter landing deck.

(2) Each size III, IV, and V extinguisher that is not required by Table 108.495(a).

SUBCHAPTER Q—SPECIFICATIONS

PARTS 162—ENGINEERING EQUIPMENT

§ 162.039-3 [Amended].

6. In § 162.039-3, by deleting the words "as a stationary unit" from paragraph (a), and by deleting the words "arranged for stowage in a fixed location (wheeled units not permitted)," from the first sentence of paragraph (b).

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 181—FIRE PROTECTION EQUIPMENT

7. By adding a new § 181.30-12 to read as follows:

§ 181.30-12 Semiportable fire extinguishers.

(a) The frame or support of each semiportable fire extinguisher permitted under § 181.30-10(b) in lieu of a portable fire extinguisher required by Table 181.30-01(a) must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If an approved semiportable fire extinguisher has wheels and is not required by Table 181.30-01(a), it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

PART 193—FIRE PROTECTION EQUIPMENT

8. By adding a new § 193.50-20 to read as follows:

§ 193.50-20 Semiportable fire extinguishers.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 193.50-10(a) must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If an approved Size III, IV, or V fire extinguisher has wheels and is not required by Table 193.50-10(a), it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

(46 U.S.C. 375, 390b, 416, 481, and 526p; 49 U.S.C. 1655; 49 CFR 1.46.)

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

Dated: November 6, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-31734 Filed 11-8-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 42 and 43]

[CC Docket No. 78-302]

PROVIDING FOR THE REPORTING OF DETAILED TRAFFIC STATISTICS OF TELEPHONE COMMON CARRIERS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order, Docket No. CC 78-302.

SUMMARY: On petition of American Telephone & Telegraph Co., the Acting Chief, Common Carrier Bureau, upon a finding of good cause, extends the times for filing comments and replies.

DATES: Comments to be filed on December 1, 1978; and replies to be filed January 2, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Dr. Boyd Nelson, Common Carrier Bureau, 202-632-7084.

In the matter of changes in Parts 42 and 43 of the Commission's rules so as to Provide for the Reporting of Detailed Traffic Statistics of Telephone Common Carriers (CC Docket No. 78-302; See 43 FR 45892)

Adopted: November 2, 1978.

Released: November 3, 1978.

1. The American Telephone & Telegraph Co. (AT&T) has requested 32 additional days to comment upon the Notice of Proposed Rulemaking in the above captioned docket. It lists several reasons in support of its motion, only one of which appears to warrant more time. The fact that the proposed rule change does (as noted by AT&T in its Request) call for "reports on facilities in place" may justify additional time because AT&T was not forwarned of this requirement and the matter is an involved one which necessitates considerable time to adequately address.[1]

2. Furthermore, we have received a Request from General Telephone & and Electronics Corp. (GT&E) for an extension of time to permit an adequate review of the possibility of its participating in the process of submitting detailed traffic and other data. In the light of our action on AT&T's motion, it will not be necessary for us to consider GT&E's Request.

3. Accordingly, *it is ordered*, pursuant to delegated authority, That the Motion for Extension of Time, filed October 23, 1978, by American Telephone & Telegraph Co. is granted.

4. *It is further ordered*, That the dates for filing comments and replies in this proceeding are extended to the following:

Comments by December 1, 1978.

Replies by January 2, 1979.

LARRY F. DARBY,
Acting Chief, Common Carrier Bureau.

[FR Doc. 78-31715 Filed 11-8-78; 8:45 am]

[1] AT&T claims that the Notice "invites comments on pervasive, complex and costly computer format traffic, tariff and facilities systems . . ." We simply note that the formats and systems proposed are essentially those devised and utilized by the Bell System and AT&T's fear of "freezing pres<ent record keeping practices, reporting and data gathering techniques, and supporting procedures and data systems to an outmoded technology . . ." is always a factor whenever standard procedures and formats are proposed. However, there is sufficient flexibility in Commission procedures to handle any necessary changes if and when the need should arise.

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 78-16; Notice 01]

MOTOR VEHICLE SAFETY STANDARDS

Occupant Protection In Interior Impact; Impact Protection for the Driver from the Steering Control System; Steering Control Rearward Displacement

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking and invitation for applications for financial assistance in the preparation of comments.

SUMMARY: Accident data show that the number of occupants being killed and injured in light trucks and vans is rapidly increasing. In view of this data and the requirement in the National Traffic and Motor Vehicle Safety act for the issuance of appropriate motor vehicle safety standards, this agency is proposing to amend several important occupant crash protection standards, standards Nos. 201, 203, and 204, to extend their applicability to light trucks, buses, and multipurpose passenger vehicles, such as vans. This proposal also responds to petitions filed by the Center for Auto Safety and Insurance Institute for Highway Safety. The performance requirements of standard No. 201 would reduce occupant deaths and injuries by requiring the use of energy absorbing material on such interior components as the instrument panel and seat backs. Standard No. 203 would reduce driver deaths and injuries by limiting the amount of force that can be exerted on the driver by the steering assembly in a frontal crash, while standard No. 204 would limit the rearward movement of the steering assembly to reduce the likelihood of death and injury to the driver.

DATES: Comments must be received on or before February 7, 1979. Applications for financial assistance in commenting on this notice must be received on or before December 11, 1978. The proposed effective date for the extension of standard No. 201 is September 1, 1980. The proposed effective date for the extension of standards Nos. 203 and 204 is September 1, 1980, for vehicles that are nonforward control. The proposed effective date for standards Nos. 203 and 204 for forward control vehicles is September 1, 1981.

ADDRESSES: Comments should refer to the docket number and must be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. Applications for financial assistance should be submitted in writing to: Ms. Jeanette Feldman, Public Affairs and Consumer Participation, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0670.

FOR FURTHER INFORMATION CONTACT:

Mr. Lee Stucki, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION:

APPLICATIONS FOR FINANCIAL ASSISTANCE

NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. All applications submitted before the deadline specified at the beginning of this notice will be examined by an evaluation board, composed of NHTSA and other 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 eligible 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 view 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.

Each applicant should specify in its application which rulemaking actions and issues it proposes to address if its

application for funding is approved, and the nature of its proposed work product. 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.

BACKGROUND

From 1968 to 1977, the number of trucks and multipurpose passenger vehicles (MPV's) on the road increased 80 percent, from 15.7 million to 28.2 million, while the number of passenger cars increased only 32 percent, from 75.4 million to 99.8 million. Light truck and van sales account for the sharp increase in the number of trucks and MPV's. In 1968, light truck and van sales made up 80 percent of all truck and MPV sales and, by 1977, light truck and van sales increased to 89 percent of the market. All indications point to the continued rapid growth in both the number of light trucks and vans and the amount of miles traveled by those vehicles. Additional information on these and other matters discussed in this notice can be found in the agency's explanation of rulemaking and impact assessment which have been placed in the docket.

The increasing popularity of light trucks and vans has been accompanied by a marked increase in the number of fatalities and injuries to people riding in those vehicles. Crash statistics taken from the agency's Fatal Accident Reporting System (FARS) show that between 1975 and 1977, fatalities in light trucks and vans increased 25.2 percent, from 4,672 in 1975 to 5,848 in 1977 while the number of fatalities in passenger cars increased only 3.9 percent, from 25,929 fatalities in 1975 to 26,929 fatalities in 1977.

A further indication of the vulnerability of light truck and van occupants to injury is the difference in the fatality rates beween those vehicles and full-size passenger cars. In theory, the amount of harmful crash forces experienced by the occupants of a larger and heavier vehicle will be less than those experienced by the occupants of a smaller and lighter vehicle in the same type of crash. Although most light trucks and vans are comparable in weight to full-size passenger cars, the fatality rate for light truck and van occupants is higher. An NHTSA analysis of FARS data and exposure estimates for 1977 shows that 1975 and 1976 model year light trucks had 21.9 fatalities per billion miles and 1975-76 vans had 13.8 fatalities per billion miles compared to 11.7 fatalities per billion miles for full-size cars of the same model years. The agency believes that the differences in the fatality rates can be reduced by applying standards Nos. 201, 203 and 204 to light trucks and vans.

Research done by Karlson, Baker, and Morton on fatal injuries to tractor-trailer and light truck drivers found that "particular attention is needed to prevent steering assembly injuries of the chest and abdomen in drivers of heavy trucks and pickups." They reported that seven of the 22 light truck drivers they studied "had injury patterns and crash configurations consistent with steering column injuries." In addition, the researchers called for extending the applicability of standard No. 201 to trucks and vans. They also concluded that, "it is clear that our greatest need today is to apply available knowledge and technology. The fact that a medical examiner can autopsy the driver of a late-model truck and report 'typical steering column injuries' epitomizes our failure to take obvious and available steps to prevent injuries of long recognized etiology."

In its July 1978 study of light truck and van safety, the General Accounting Office (GAO) also concluded that the safety of those vehicles needs to be improved. GAO said that occupants of light trucks and vans should have "similar assurances as passenger car occupants against unreasonably hazardous dash panels, and steering columns, as well as side and roof structure."

In an effort to substantially reduce the number of deaths and injuries in light trucks, buses, and multipurpose passenger vehicles, the agency is proposing to extend the applicability of Federal Motor Vehicle Safety Standard No. 201, Occupant Protection in Interior Impact, Standard No. 203, Impact Protection for the Driver From the Steering Control System, and Standard No. 204, Steering Control Rearward Displacement. Such an extension has been sought in petitions for rulemaking made by the Center for Auto Safety and the Insurance Institute for Highway Safety.

The purpose of standard No. 201 is to reduce occupant injuries and fatalities by requiring that instrument panels, seat backs, sun visors, and arm rests be designed to lessen injuries when persons are thrown against them in crashes. Performance of the instrument panel and seat backs is measured by impacting those components at a speed of 15 miles per hour with a head form. The deceleration of the head form cannot exceed 80g's for more than 3 milliseconds.

The purpose of standard No. 203 is to reduce driver injuries and fatalities by requiring steering assemblies to absorb the impact forces which occur when the driver strikes the steering column in frontal crashes. The performance requirements of the standard specify that when the steering assembly is impacted at a speed of 15 miles per hour by a body block resembling a human torso and head, the force imposed by the body block on the steering control system shall not exceed 2,500 pounds.

Standard No. 204 is designed to reduce driver injuries and fatalities by limiting the rearward movement of the steering assembly. The standard prohibits more than five inches of rearward displacement of a vehicle's steering assembly when the vehicle is subjected to a 30-mile-per-hour frontal barrier crash.

This proposal would require all trucks, MPV's and buses, including forward control vehicles, to meet standards Nos. 203 and 204. In addition, each light truck, MPV and bus would have to be equipped with a lap and shoulder belt for the front outboard seating positions. Nonforward control vehicles are currently required to have passenger car-type lap and shoulder belts with inertial reels, while forward control vehicles are only required to have a lap belt. At present, Volkswagen voluntarily equips its forward control vehicles with passenger car-type lap and shoulder belts and both General Motors and Chrysler offer lap and shoulder belts as optional equipment for their forward control vehicles. Because a lap and shoulder belt provides more protection than a lap belt against contract with interior vehicle structures in a crash, the agency believes that such belts should be required in all forward control vehicles.

The agency intends to propose additional rulemaking to eliminate the forward control exemption found in other Federal motor vehicle safety standards.

The agency has previously given notice that it was considering applying standards Nos. 203 and 204 to forward control vehicles. In September 1970, the agency formally proposed upgrading standards Nos. 201, 203, and 204 and extending them to all multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating of 10,000 pounds or less, including forward control vehicles (35 FR 1490). In explaining why it was proposing to apply the standards to forward control vehicles, the agency said that "the need for protection" in those vehicles "is evidently as great as with conventional vehicles." The agency pointed out that "drivers of these vehicles need protection from steering control displacement that occurs from crushing of the front of the vehicle as well as from displace-

ment of the steering gear box." The agency reiterates those reasons in issuing this proposal.

EFFECTIVENESS OF CURRENT STANDARDS

The accident experience of passenger cars complying with standards Nos. 201, 203, and 204 continues to show that those standards have substantially reduced occupant injuries. NHTSA has recently conducted a preliminary analysis of data from the agency's National Crash Severity Study file comparing injuries sustained by occupants of cars manufactured before standards Nos. 201, 203, and 204 went into effect, with injuries sustained by occupants of cars manufactured after the standards went into effect.

To determine the effectiveness of standard No. 201, the analysis looked at injuries caused by components covered by the standard, such as instrument panels, seat backs, arm rests and sun visors. The analysis estimated that standard No. 201 reduced severe to fatal occupant injuries (i.e., injuries with an abbreviated injury scale ranking of 3 or more) by approximately 23.2 percent. This and other similar figures in this notice are averages of the results of several methodologies discussed in the agency's explanation of rulemaking and impact assessment. The analysis also estimated that the probability of an occupant injured in a crash being injured by a component covered by standard No. 201 was 22.2 percent. Thus, multiplying the probability of injury (i.e., 22.2 percent) by the effectiveness of the standard in reducing serious and fatal injuries (i.e., 23.2 percent) the analysis estimated that the overall reduction in severe to fatal injuries attributable to standard No. 201 is 5.2 percent.

A similar comparison was made for injuries in cars manufactured before and after standards Nos. 203 and 204 went into effect. The comparison looked at two sets of driver injuries that occurred in frontal crashes. One set consisted of injuries that could be specifically attributed to contact with the steering assembly; the other set consisted of neck, chest and abdomen injuries, sustained by drivers in frontal crashes, the type of steering assembly related injuries the standards are designed to reduce. The comparison found that standards Nos. 203 and 204 reduced severe to fatal injuries attributable to steering assembly by an average of 14 percent. The probability of an injured driver receiving an injury specifically attributable to the steering assembly was estimated to be 20.9 percent. The analysis estimated that standard Nos. 203 and 204 produced an overall reduction of 2.9 percent in severe to fatal driver injuries.

Because passenger cars, light trucks and vans all share the same motoring and crash environment, unrestrained passengers in those vehicles face a similar risk of injury presented by hazardous instrument panels and rigid steering assemblies. The agency has tentatively concluded that applying standards Nos. 201, 203, and 204 to light trucks and vans can result in a reduction of deaths and injuries comparable to the reduction experienced in passenger cars complying with those standards.

In the case of standard No. 201, information supplied by Ford for the General Accounting Office's light truck and van safety study shows that extending the applicability of the standard to light trucks and vans will reduce occupant deaths and injuries. Ford estimated that standard No. 201 would reduce severe to fatal injuries to front seat occupants in frontal crashes by 17 percent. According to Ford, the probability of being injured by a component covered by standard No. 201 is 12 percent. Thus, Ford said that the overall reduction in severe to fatal injuries attributable to the standard is 2 percent.

Ford told GAO that its analysis of accident data showed that standards Nos. 203 and 204 would reduce severe to fatal injuries to light truck drivers in frontal crashes by 11.5 percent. Ford estimated that there is a 30 percent probability of being injured by the steering assembly and thus the overall injury reduction in light trucks attributable to standards Nos. 203 and 204 is 3.4 percent. However, it said its "presently available energy absorbing column system will not function in a van as van columns are presently packaged," and thus it assumed its current system would not reduce any deaths or injuries in vans. As with Ford, GM cited the difficulty of meeting standards Nos. 203 and 204 in vans because of their limited frontal structure and steep steering column mounting angles. In commenting on this notice, manufacturers are specifically requested to indicate the degree to which their current vehicles comply with standards Nos. 201, 203, and 204 so that the agency will have up-to-date information from all manufacturers.

Work done by Volkswagen and Chrysler shows that, even in forward control vans with limited frontal structure and steep steering column mounting angles, currently available designs that comply with standards Nos. 203 and 204 are practicable. In a 1977 society of Automotive Engineers paper, Volkswagen reported that it had developed a steering assembly currently for use in its forward control vans that can meet or exceed the performance requirements of standards Nos. 203 and 204.

Chrysler has told the agency that their 1979 model vans, which are forward control vehicles, incorporate an energy-absorbing steering assembly that can probably comply with standards 203 and 204.

UPGRADING STANDARD'S REQUIREMENTS

The agency is aware of data from laboratory tests and investigations of real-world crashes which indicates that while energy absorbing steering assemblies complying with standard No. 203 have substantially reduced driver deaths and injuries, further requirements may be needed to provide additional protection in angular impacts. The Center for Auto Safety and the Insurance Institute for Highway Safety sought additional requirements for steering assemblies in angular impacts in their standard No. 203 petitions for rulemaking. The agency is currently conducting tests to determine what additional requirements may be appropriate to increase protection in angular impacts. The agency is actively working on that testing and on analysis of accident data concerning the performance of energy absorbing steering assemblies in angular impacts and expects to begin rulemaking by the beginning of next year to increase the performance requirements of the standard. However, because of the demonstrated effectiveness of energy absorbing steering assemblies in passenger cars, the agency does not want to delay providing the benefits of that protection to the drivers of light trucks, buses and multipurpose passenger vehicles, while it continues to examine the issue of whether to set additional performance requirements.

The agency is also evaluating whether to extend the applicability of standards Nos. 201, 203, and 204 to large trucks (i.e., trucks with a GVWR greater than 10,000 pounds). The agency invites comments on appropriate performance requirements for those vehicles.

COST AND LEADTIME

The NHTSA has conducted a preliminary evaluation of the economic and other consequences of the proposal on the public and private sector. A copy of the impact assessment has been placed in the docket for this rulemaking.

The agency's cost estimate for meeting standards Nos. 201, 203, and 204 in light trucks, buses and multipurpose passenger vehicles reflect the substantial compliance of many of those vehicles with the standards. For example, General Motors told GAO that most of its current light trucks generally meet the requirements of standard No. 201. Chrysler also told GAO that its current light trucks and multipurpose passenger vehicles generally meet

standard No. 201. As already pointed out, Chrysler and Volkswagen have developed designs that apparently comply with standards Nos. 203 and 204. In its comments to GAO, GM indicated that some of its light trucks may already meet standard No. 203.

The estimated retail price increase (including a combined 25 percent profit for the manufacturer and dealer) resulting from meeting standard No. 201 in trucks and vans that do not currently have any components that comply with the standard and which only have front seats is approximately $21. In the case of standards Nos. 203 and 204, the estimated retail price increase for noncomplying nonforward control trucks, buses and multipurpose passenger vehicles is $8 to $26. Based on the Chrysler and Volkswagen examples of apparently complying steering assembly designs in forward control vans with limited frontal structures, the agency estimates that manufacturers need not make major modifications to forward control vehicles to comply with standards Nos. 203 and 204, and thus the cost of compliance will not be substantial.

Given the fact that many of the vehicles to which this proposal would apply are in partial or full compliance with standards Nos. 201, 203, and 204, the estimated average retail price increase per vehicle will at most be between $10 and $20. The actual average retail price increase should be even less, since the agency's estimate assumes that vehicles whose current level of compliance is unknown do not have any components which comply with standards Nos. 201, 203, and 204, when in fact those components may fully or partially meet the standards.

The proposed effective date is September 1, 1980, for standard No. 201 in all trucks, multipurpose passenger vehicles and buses and for standards Nos. 203 and 204 in nonforward control vehicles. The proposed effective date is based on engineering judgment and analysis of available information, including information prepared for the agency by Pioneer Engineering on the extent to which current vehicles incorporate designs related to the requirements of standards Nos. 201, 203, and 204 and the amount of time necessary to incorporate complying designs, and the material submitted by manufacturers to GAO and NHTSA indicating the degree to which their current vehicles comply with standards Nos. 201, 203, and 204.

The proposed effective date for complying with standards Nos. 203 and 204 in forward control trucks, buses, and multipurpose passenger vehicles is September 1, 1981, to allow manufacturers sufficient leadtime to make any necessary modifications to those vehicles.

As in the case with all proposals, all provisions of this proposal are tentative. Provisions in the final rule may vary with those in the proposal consistent with the purposes of this rulemaking.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited 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.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the chief counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for considertion in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it it recommended that interested persons continue to examine the docket for new material.

The principal authors of this notice are Mr. Lee Stucki, Office of Vehicle Safety Standards, and Mr. Stephen Oesch, Office of Chief Counsel.

In consideration of the foregoing, it is proposed that the following amendments be made in part 571, title 49 of the Code of Federal Regulations:

1. Section S2 of Standard No. 201, Occupant Protection in Interior Impact (49 CFR 57.201), would be amended to read as follows:

§ 571.201 Standard No. 201; Occupant protection in interior impact.

* * * * *

S2. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less.

* * * * *

2. Section S2 and S4 of Standard No. 203, Impact Protection for the Driver from the Steering Control System (49 CFR 571.203), would be amended and S5 would be added to Standard No. 203 to read as follows:

§ 571.203 Standard No. 203; Impact protection for the driver from the steering control system.

* * * * *

S2. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. However, it does not apply to vehicles that conform to the frontal barrier crash requirements (S5.1) of standard No. 208 (49 CFR 571.208) by means of other than seat belt assemblies.

* * * * *

S4. *General requirements.*

S4.1 *Passenger cars.* Each passenger car shall meet the performance requirements of S5.1 and S5.3.

S4.2 Multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. Each multipurpose passenger vehicle, truck and bus with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1980, shall meet the requirements of S5.1, S5.2 and S5.3, except that forward control vehicles manufactured before September 1, 1981, may instead meet the requirements of S5.2.

S5. *Impact protection requirements.*

S5.1 When the steering control system is impacted by a body block in accordance with Society of Automotive Engineers Recommended Practice J944, "Steering Wheel Assembly Laboratory Test Procedure," December 1965, or an approved equivalent, at a relative velocity of 15 miles per hour,

the impact force developed on the chest of the body block transmitted to the steering control system shall not exceed 2,500 pounds.

S5.2 A type 2 seat belt assembly that conforms to § 571.209 shall be installed for each front outboard designated seating position.

S5.3 The steering control system shall be so constructed that no components or attachments, including horn actuating mechanisms and trim hardware, can catch the driver's clothing or jewelry during normal driving maneuvers.

3. Section S2 and S4 of Standard No. 204, Steering Control Rearward Displacement (49 CFR 571.204), would be amended and S5 would be added to standard No. 204 to read as follows:

§ 571.204 Standard No. 204; Steering control rearward displacement.

* * * * *

S2. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less.

* * * * *

S4. *General requirements.*

S4.1 *Passenger cars.* Each passenger car shall meet the requirements of S5.1.

S4.2 Multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. Each multipurpose passenger vehicle, truck or bus with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 1980, shall meet the requirements of S5.1 and S5.2, except that forward control vehicles manufactured before September 1, 1981, may instead meet the requirements of S5.2.

S5. *Rearward displacement requirements.*

S5.1 The upper end of the steering column and shaft shall not be displaced horizontally rearward parallel to the longitudinal axis of the vehicle relative to an undisturbed point on the vehicle more than 5 inches, determind by dynamic measurement, when the vehicle is impacted perpendicularly into a fixed collision barrier at a forward longitudinal velocity of 30 miles per hour.

S5.2 A Type 2 seat belt assembly that conforms to § 571.209 shall be installed for each front outboard designated seating position.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on November 1, 1978.

A. C. MALLIARIS,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-31440 Filed 11-8-78; 8:45 am]

[4910-59-M]

[49 CFR Part 571]

[Docket No. 1-22; Notice 7]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking responds to petitions for reconsideration of the August 17, 1978, notice (43 FR 36448) which amended Federal Motor Vehicle Safety Standard No. 115, vehicle identification number. In response to petitions to utilize the fixed format method for improving the accuracy of the vehicle identification number (VIN), this method is proposed for use, in conjunction with the check digit system, for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less and trucks with a gross vehicle weight rating of 10,000 pounds or less. In response to petitions to reposition the check digit within the VIN to further harmonize it with the standard proposed by the International Standards Organization, the repositioning of the check digit in the fourth position and a technical change in the check digit procedure is proposed. In response to petitions to eliminate the requirement that gross vehicle weight rating be encoded in passenger car VINs, the elimination of this requirement is proposed. It is also proposed that Standard No. 115 be amended to allow optional compliance with the amended Standard between September 1, 1979 and September 1, 1980, and that the weight of vehicles with a gross vehicle weight rating of over 10,000 pounds be encoded in the VIN with more specificity.

PROPOSED EFFECTIVE DATE: September 1, 1979, for optional compliance with the standard as amended; September 1, 1980, for mandatory compliance with the standard as amended.

COMMENT CLOSING DATE: December 11, 1978.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108—Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Frederic Schwartz, Jr., Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the National Highway Traffic Safety Administration (NHTSA) published a notice amending Federal Motor Vehicle Safety Standard No. 115, Vehicle identification number (43 FR 36448). The new standard established a sixteen character vehicle identification number (VIN) with an associated check digit. The check digit is a device for insuring the accuracy of a VIN, and is derived from a mathematical computation utilizing the VIN.

The VIN itself consists of three sections. The first section is made up of three characters which identify the manufacturer, make and type of vehicle. The second section is made up of five characters which identify the attributes of the vehicle. This is called the vehicle descriptor section (VDS). The third section is made up of eight characters which identify the model year, plant of manufacture, and production sequence of a specific vehicle.

The amendment was issued after an exhaustive review of past efforts to establish a VIN system by various standard-setting organizations, particularly the Vehicle Equipment Safety Commission (VESC) and the International Standards Organization (ISO), as well as the comments in response to prior rulemaking notices and other available information. A number of petitions for reconsideration were received. To obtain further public comment on issues associated with several petitions, this proposal is being issued. All other petitions for reconsiderations are answered in a separate notice issued today.

ASSURING THE ACCURACY OF THE VIN

VIN errors take place when a person improperly transcribes the VIN prior to its entry into a recordkeeping system. The transcription error can take place when the VIN is being copied from the VIN plate on the vehicle, when it is being copied from a form on which it has been printed or written, or when it is heard. The most common forms of VIN error result from misreading one or more characters, transposing characters, omitting one or more characters and thereby shifting the position of the others, and mistaking one spoken character for another. Errors generally occur because of the length of the VIN and the

impossiblity of remembering it in its entirety. Errors also occur due to various environmental and psychological reasons when the VIN is being read, heard or transcribed.

Throughout the rulemaking process, two methods of improving the accuracy of recording the VIN were considered by the NHTSA. One system, requiring a fixed format, specified whether the characters which comprise the VIN shall be alphabetic, numeric or either. In this way, clerks transcribing and computers receiving the VIN can identify errors involving the substitution of a numeric character for an alphabetic character or vice versa.

The other system which was considered utilized a check digit. The check digit is the result of a arithmetic computation involving numerical values assigned to each VIN character.

After a comprehensive study of the two systems, and a consideration of their relative advantages and disadvantages, the NHTSA concluded that the check digit system should be the primary method of insuring the accuracy of the VIN.

Petitions were received from a number of States, State Farm Insurance Co., the Vehicle Equipment Safety Commission (VESC), and the American Association of Motor Vehicle Administrators requesting that the fixed format system recommended by the VESC be substituted for the check digit system. The Insurance Institute for Highway Safety, the National Safety Council, and several individual insurance companies petitioned to incorporate both systems in the standard. Several foreign manufacturers petitoned to eliminate the check digit, as they believed there was no need to utilize a means of ensuring the accuracy of the VIN.

The advantages of the fixed-format system were comprehensively outlined by the petitioners. The primary advantage is that a clerk can be easily familiarized with the appropriate VIN format, thus being able to tell immediately if an alphabetic character has been substituted for a numeric character or vice versa. Further, forms can be developed to make recognition of this type of error easier. This is important, the petitioners argued, because in many instances the initial transcription of the VIN is by hand, and there is no way to utilize the check digit process until a later stage. After the initial transcription, the petitioners believe, it becomes difficult to correct an erroneously recorded VIN.

The State of Maryland also raised the possibility that some States would refuse to use the check digit because it would require increased computer storage capability. In this instance, Maryland reasoned, there would be no check on the VIN's accuracy. Some petitioners also suggested that, based on the docket submissions, adopting the check digit was arbitrary and capricious.

The NHTSA considered carefully the advantages and disadvantages of the fixed format system. Under a fixed format system, an error would only be discovered if a letter was placed in a position reserved for a number, or vice versa. There would be no way to discover if an erroneous number or letter was placed in the position reserved for a character of the same type, e.g., a "7" placed where a "9" should be. The fixed format system would not detect transpositions in the first section, and only in limited instances in the second and third sections. The check digit system would reveal almost all transpositions within a VIN. Further, under the fixed format scheme urged by the petitoners, only six additional characters would be specified as to format. These would be in the 4th, 5th, 6th 7th, 11th, and 12th positions. The final rule provided for a fixed format for the 13th, 14th, 15th, and 16th positions, as well as specifying the character which delineated each model year.

The disadvantage of the check digit system adopted by the NHTSA is that it utilizes a arithmetic operation. While some petitioners also stated that additional computer storage capacity is needed to accommodate the check digit, the agency believes that this is clearly not the case as either the computer can be programed to eliminate the check digit prior to storage or the form on which the VIN is given to the key punch operator can be designed to indicate that the check digit is not to be entered. It should be noted that if the check digit is not stored, it can be regenerated by the computer prior to printing the VIN.

Petitioners are correct, however, in saying that the check digit system will not correct, in many instances, errors in VIN transcription made in the field since data processing equipment is not generally available. They are also correct in saying that utilizing a fixed format for the six additional positions in the VIN would aid in avoiding certain kinds of errors.

The agency has tentatively concluded that the paramount safety concern in relation to the VIN is obtaining the most accurate file for defect and noncompliance recall and other purposes, and that this need takes precedence over utilizing the VIN for research and other purposes. Consequently, the agency has decided to propose adoption of the fixed format system, to be used in conjunction with the check digit system, to insure the accuracy of the VIN for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less and trucks with a gross vehicle weight rating of 10,000 pounds or less. Thus, in a number of cases an erroneous VIN can be corrected while the vehicle or its owner is close at hand. This should aid States and other users in maintaining a relatively error-free VIN file at the least possible cost.

These vehicles represent by far the greatest number of vehicles on the roads and involved in recalls. Further, these vehicles are the most likely to have their VIN's transcribed improperly since they are often transcribed in the first instance by owners with little experience with VIN's and are often transmitted over the telephone or police radio. The fixed format proposed is that adopted by the VESC. Specific comments are requested concerning any difficulties which manufacturers foresee in fixing either the vehicle descriptor section or the last six positions of the VIN. If any difficulties are foreseen, methods of mitigating these difficulties are requested.

The agency is aware that by utilizing a fixed format, the capacity of the VIN to reflect vehicle description information would be reduced substantially. Consequently, the agency is proposing to eliminate the requirement that the gross vehicle weight rating of passenger cars be encoded in the VIN. This will significantly lessen the information which must be encoded in the VIN. In light of this proposal, the petition of BMW of North America to increase the weight increments to be encoded in the VIN has been denied in the companion notice issued today. The requirement that restraint system type be included is retained, as little informational capacity is required to encode this information.

Check Digit Position

A number of the European vehicle manufacturers petitioned to alter the position of the check digit in the VIN. In the final rule, the check digit occupies the ninth position and immediately follows the vehicle descriptor section (VDS). Petitioners requested that it be repositioned in the fourth position, immediately preceding the VDS. This, they argue, will aid them in harmonizing the VIN they intend to use in Europe with the VIN required by the U.S. VIN standard, as it will allow them to retain the same final 13 characters for vehicles sold worldwide. Several States petitioned to move the check digit to the last position of the VIN to allow it to be disregarded with ease.

The NHTSA proposes, in the interest of ease of compliance by the manufacturers, that the check digit be placed in the fourth position of the VIN. Comments are specifically requested from the States concerning the advantages of placing the check

digit in the last position and the disadvantages of placing the check digit in the fourth position.

The National Highway Traffic Safety Administration believes it is important to harmonize, to the extent feasible, the rulemaking activities of the agency with standards in effect outside the United States. By retaining the check digit in the VDS, the NHTSA standard would not be incompatible with the standard proposed by the International Standards Organization (ISO). A VIN in the format required by this standard would satisfy the VIN requirements set forth by the ISO, i.e., it is possible to comply simultaneously with the NHTSA and ISO standards. The agency understands that to reposition the check digit at the end of the VIN, however, would make the two standards incompatible. Comments relating to the accuracy of this appraisal are requested.

It appears to the agency that whether the check digit is placed in the fourth or last position would not demonstrably affect the ease with which the digit can be used or eliminated. A computer can be programed to disregard the fourth character just as easily as the last character. Similarly, a clerk who is trained to determine which characters should be alphabetic and which should be numeric can be trained to omit the check digit when it is placed in the fourth position. Forms used to aid clerks to apply alphabetic/numeric requirements can presumably be used to identify the check digit location. The agency requests detailed cost data and explanation of the problems which the States believe may be caused by placing the check digit in the fourth position instead of the last one. Comment is requested on the need for and value of requiring hyphens, underlining or other means of highlighting the check digit to aid persons in locating it on the VIN plate. For example, hyphens could be required before and after the digit. Comment is also requested on the extent to which forms used by police officers, titling clerks and others could be voluntarily designed by users to highlight the check digit when a VIN is recorded on such forms.

The VESC, the AAMVA, and several States believe that the repositioning of the check digit in the final rule from the seventeenth position to the the ninth position is a substantive change concerning which the public was not given the opportunity to comment. Consequently, in the view of the petitioners, the Administrative Procedure Act (5 U.S.C. 551, et seq.) was violated.

The agency does not agree with this argument. The NPRM raised the issue of check digit location and discussed methods for eliminating the check digit before storage of the VIN. Further, for the reasons stated above, the ease of using or deleting the check digit does not appear to be demonstrably affected by the location of the check digit. Accordingly, NHTSA concludes that the argument about notice and impact is without merit. The agency notes also that the argument is mooted by this notice.

One of the steps in the check digit process is to assign a numerical value to each alphabetic character in the VIN. BMW of North America (BMW) also petitioned to assign the identical numerical value to the alphabetic characters in the check digit process as is currently used in the Federal Republic of Germany. The agency proposes to adopt this change in the interest of international harmonization.

Optional Early Compliance

It is apparent from the comments received that some manufacturers can comply with the amended standard prior to September 1, 1980. Consequently, it is proposed that the standard be amended to allow voluntary compliance with the amended standard between September 1, 1979, and September 1, 1980. Comments are requested on whether an earlier or later beginning date for optional compliance should be permitted.

Weight Increments for Vehicles With a Gross Vehicle Weight Rating Greater Than 10,000 Pounds

To allow more effective use of weight data for vehicles with a gross vehicle weight rating greater than 10,000 pounds, it is proposed that the weight data for these vehicles be submitted in 5,000 pound increments. Comments concerning the cost and feasibility of this proposal are specifically requested.

As in the case with all proposals, all provisions of this proposal are tentative. Provisions in the final rule may vary with those in the proposal consistent with the discussion and questions in this notice and the purposes of this rulemaking. Options may be added or deleted.

In consideration of the foregoing, it is proposed that § 571.115 of Title 49, Code of Federal Regulations, be amended as appears below. It should be noted that the proposed amendments also reflect the amendments to the rule issued today.

1. It is proposed that S4.5.2 be amended by deleting the requirements that the gross vehicle weight rating of passenger cars be decipherable from the second section of the VIN, by adding weight increments for vehicles with a gross vehicle weight rating greater than 10,000 pounds and by specifying the format for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less and trucks with a gross vehicle weight rating of 10,000 pounds or less. As revised, S4.5.2 reads as follows:

§ 571.115 Vehicle identification number.

* * * * *

S4.5.2 The second section shall consist of five characters which shall uniquely identify the attributes of the vehicle as specified in table I. For passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer under S6. In submitting data to the NHTSA relating to the gross vehicle weight rating, the following designations shall be utilized. No designations are specified for the VIN.

A: Not greater than 1,000 pounds.
B: 1,000 pounds-1,500 pounds.
C: 1,500 pounds-2,000 pounds.
D: 2,000 pounds-2,500 pounds.
E: 2,500 pounds-3,000 pounds.
F: 3,000 pounds-3,500 pounds.
G: 3,500 pounds-4,000 pounds.
H: 4,000 pounds-4,500 pounds.
I: 4,500 pounds-5,000 pounds.
J: 5,000 pounds-5,500 pounds.
K: 5,500 pounds-6,000 pounds.
L: 6,000 pounds-6,500 pounds.
M: 6,500 pounds-7,000 pounds.
N: 7,000 pounds-7,500 pounds.
O: 7,500 pounds-8,000 pounds.
P: 8,000 pounds-8,500 pounds.
Q: 8,500 pounds-9,000 pounds.
R: 9,000 pounds-9,500 pounds.
S: 9,500 pounds-10,000 pounds.
T: 10,000 pounds-15,000 pounds.
U: 15,000 pounds-20,000 pounds.
V: 20,000 pounds-25,000 pounds.
W: 25,000 pounds-30,000 pounds.
X: 30,000 pounds-35,000 pounds.
Y: 35,000 pounds-40,000 pounds.
Z: 40,000 pounds-45,000 pounds.
AA: 45,000 pounds-50,000 pounds.
AB: 50,000 pounds-55,000 pounds.
AC: 55,000 pounds-60,000 pounds.
AD: 60,000 pounds-65,000 pounds.
AE: 65,000 pounds-70,000 pounds.
AF: 70,000 pounds-75,000 pounds.
AG: 75,000 pounds-80,000 pounds.
AH: Over 80,000 pounds.

Table I

Type of vehicle	*Information decipherable*
Passenger car	Line, series, body type, engine type, and restraint system type.
Multipurpose passenger vehicle.	Line, series, body type, engine type, and gross vehicle weight rating.

TABLE I—Continued

Type of vehicle	*Information decipherable*
Truck	Model or line, series, chassis, cab type, engine type, brake system, and gross vehicle weight rating.
Bus	Model or line, series, body type, engine type, and brake system.
Trailer	Type of trailer, series, body type, length, and axle configuration.
Motorcycle	Type of motorcycle, line, engine type, and net brake horsepower.

2. S4.5.3 is revised to specify that the third through the eighth character of the third section shall be numeric for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less and trucks with a gross vehicle weight rating of 10,000 pounds or less. The requirements for other vehicles remain the same. As revised S4.5.3 reads as follows:

S4.5.3 The third section shall consist of eight characters, of which the third through the eighth shall be numeric for passenger cars, multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the fifth through the eighth shall be numeric for all other vehicles.

3. S5.1 is revised to indicate the check digit shall immediately precede the fourth character of the VIN. As revised S5.1 reads as follows:

S5.1 A check digit shall be provided with each vehicle identification number. The check digit shall immediately precede the fourth character of the VIN. It shall appear with the vehicle identification number on the vehicle and on any transfer documents containing the vehicle identification number and prepared by the manufacturer to be given to the first owner for purposes other than resale.

4. Table IV is revised to reflect the arithmetic values currently in use in Germany, and the example is amended to indicate the repositioning of the check digit to the fourth position and the fixed format proposed for the vehicle descriptor section.

TABLE IV

A=1	J=1	T=3
B=2	K=2	U=4
C=3	L=3	V=5
D=4	M=4	W=6
E=5	N=5	X=7
F=6	P=7	Y=8
G=7	R=9	Z=9
H=8	S=2	

EXAMPLE

Vehicle Identification number character:
1 G 4 4 A H 5 9 H 5 G 1 1
8 3 4 1

Assigned value:
1 7 4 4 1 8 5 9 8 5 7 1 1 8
3 4 1

Multiply by weight factor:
8 7 6 0 5 4 3 2 10 9 8 7 6 5
4 3 2

Add products:
8+ 49+24+ 0+ 5+ 32+15+18+80+
45+56+7+ 6+ 40+12+12+2=411

Divide by 11:
411/11=37 4/11,

Check digit:
4 (compare to character in 4th position).

5. S4.1 is revised to permit compliance with the amended standard effective September 1, 1980 or the current standard at the option of the manufacturer until September 1, 1980. As revised S4.1 reads as follows:

S4.1 Each passenger car shall have a vehicle identification number which meets, at the option of the manufacturer, the requirements of this standard or the requirements of this standard which will become mandatory on September 1, 1980.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited 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.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of chief counsel at the above address, with an indication of which portions of the comments are the subject to the request for confidentiality.

Because this notice does not raise issues which have not previously been raised and commented on in response to other notices, the administrator finds for good cause shown that a comment period of thirty days will be sufficient to respond to this notice.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this proposal are Nelson Erickson of the Office of Vehicle Safety Standards and Frederick Schwartz, Jr., of the Office of Chief Counsel.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegations of authority at 49 CFR 501.8).

Issued on November 2, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-31421 Filed 11-2-78; 2:00 pm]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RATEMAKING AND ECONOMIC REGULATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of meeting of the Committee on Ratemaking and Economic Regulation of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, December 14, 1978, in Hearing Room B, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C.

The Committee will meet to review the status of the two newly-commissioned projects by Prof. Alfred C. Aman examining the remedial orders and exceptions procedures of the Department of Energy.

Attendance is opened to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. Members of the public may be permitted to present oral statements, if deemed appropriate by the Committee Chairman. Members of the public may also file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact William C. Bush (202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 2, 1978.

[FR Doc. 78-31625 Filed 11-8-78; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

OFFICIAL AGENCY DESIGNATION

Assignment of Geographic Areas for the States of Idaho and Utah

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the assignment of geographic areas to the Idaho State Department of Agriculture and the Utah State Department of Agriculture for the performance of official grain inspection functions. Both agencies were designated as official agencies on July 1, 1978, under the U.S. Grain Standards Act, as amended.

EFFECIVE DATE: Date of publication.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, U.S. Department of Agriculture, Federal Grain Inspection Service, Compliance Division, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to sections 7 and 7A of the Act (7 U.S.C. 79 and 79a) the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services.

Geographic areas are assigned to each official agency purusant to section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)). This section generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The August 9, 1978, issue of the FEDERAL REGISTER (43 FR 35362) announced that on July 1, 1978, the Idaho State Department of Agriculture and the Utah State Department of Agriculture were designated as official agencies under the Act. The designations also included proposed assignments of geographic areas within which each official agency would operate.

NOTE.—Section 7(f)(3) of the Act (7 U.S.C. 79(f)(3)) provides that, except as authorized by the Administrator, no official agency shall officiallly inspect under the Act any official or other sample drawn from a lot of grain unless the lot of grain is physically located within the geographic area assigned to the agency at the time such sample is drawn.

Interested persons were given until September 8, 1978, to comment on the proposed geographic areas assigned to the Idaho and Utah State Departments of Agriculture. No comments were received regarding the August 9, 1978, notice.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic areas assigned to the aforementioned agencies will remain as originally proposed. They are: *Idaho State Department of Agriculture*—The southern half of the State of Idaho, up to the northern boundaries of the counties of Adams, Valley, and Lemhi; and *Utah State Department of Agriculture*—The entire State of utah.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a).)

Done in Washington, D.C., November 6, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-31720 Filed 11-8-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 28366]

DENVER-ALASKA SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on December 14, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before November 28, 1978, and the other parties on or before December 5, 1978. The submissions of the other

parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 2, 1978.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 78-31732 Filed 11-8-78; 8:45 am]

[6320-01-M]

[Docket 32126]

TWIN CITIES-KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled matter now assigned to be held on November 14, 1978 (43 FR 44875, September 29, 1978), at 10 a.m. in Room 1003, Hearing Room C, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned is postponed until further notice.

Dated at Washington, D.C., November 3, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc. 78-31733 Filed 11-8-78; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUS

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 the 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 October 1, 1978, and October 31, 1978.

Dated: November 3, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/Place or Special Area	County	Date of Census	Population
Arkansas			
Beedeville city	Jackson	July 18	187
Hoxie city	Lawrence	August 7	2,944
Colorado			
Pitkin County	---	June 14	10,749
Illinois			
Breese city	Clinton	July 18	3,446
Hanover Park village	Cook and DuPage	July 28	25,951
Jerseyville city	Jersey	July 26	7,252
Shorewood village	Will	August 2	4,224
Indiana			
Carmel town	Hamilton	July 13	18,050
Fishers town	Hamilton	July 13	1,350
Merrillville town	Lake	June 29	27,222
Minnesota			
Lake Elmo city	Washington	August 14	5,056
North Dakota			
Mohall city	Renville	August 21	1,081
Trenton Indian Service Area*	McKenzie and Williams	April 13	1,254
Ohio			
Westerville city	Delaware and Franklin	August 3	20,187
Pennsylvania			
Moosic borough	Lackawanna	August 14	5,423
Northampton township	Bucks	July 19	24,151
Wisconsin			
Greenfield city	Milwaukee	July 19	30,651

*Census conducted for selected households in McKenzie and Williams Counties.

[FR Doc. 78-31658 Filed 11-8-78; 8:45 am]

[3510-25-M]

Foreign-Trade Zones Board

[Docket No. 13-78]

FOREIGN-TRADE ZONES—PIMA COUNTY, ARIZ.

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Papago-Tucson Foreign-Trade Zone Corp., a private non-profit Arizona corporation, requesting authority to establish a general-purpose foreign-trade zone in Pima County, Ariz., within the San Xavier Industrial Park on the Papago Indian Reservation, adjacent to the Nogales, Arizona Customs port of entry. The applicant corporation was recently created by the Papago-Tucson Development Corp., an all-Indian nonprofit corporation, in an effort to help promote and develop the industrial park and provide employment for the Papago Reservation.

The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. section 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 3, 1978. The applicant is authorized to make this proposal under Title 44, Chapter 18, of the Arizona Revised Statutes of 1978.

The proposal calls for the establishment of a 23-acre general-purpose foreign-trade zone in Pima County within the southeastern portion of the San Xavier Industrial Park, located at U.S. Route 89 and Los Reales Road. The zone site is immediately west of the Tucson International Airport and south of the Tucson city limits. Initially a multipurpose building of at least 35,000 square feet will be constructed within the zone. The applicant has contracted with the Broadway Realty and Trust, Inc. of Tucson for the operation of the proposed zone.

The application contains economic data and information concerning the need for providing zone services to the Tucson area. Several firms have indicated their intention to use the zone for storage, assembly, light manufacturing, distribution, and exhibition activities on a wide range of products including building materials, leather goods, canned food, footwear, hardware items, cameras, burglar alarm systems, toys, and decorative household articles.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; Lee D. Volle, District Director, U.S. Customs Service, P.O. Box 670, International and Terrace Streets, Nogales, Ariz. 85621; and Colonel Gwynn A. Teague, District Engineer, U.S. Army Engineer District Los Angeles, P.O. box 2711, Los Angeles, Calif. 90053.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on December 5, 1978, beginning at 9 a.m., in the san Xavier/Papago Community Center on the Papago Indian Reservation in Pima County. The Community Center is next to the San Xavier del Bac Mission, located south of Tucson on San Xavier Mission Road, some 4 miles west of its intersection with I-19. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by November 28, notify the Board's executive secretary of their desire to be heard in writing at the address below or by phone 202-377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the executive secretary, at any time from the date of this notice through January 4, 1979. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations: Office of the Station Director, U.S. Customs Service, Gate A-2, Tucson International Airport, Tucson, Ariz. 85706; Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: November 3, 1978.

JOHN J. DAPONTE,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc. 78-31660 Filed 11-8-78; 8:45 am]

[3510-22-M]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

ALASKA DEPARTMENT OF FISH AND GAME

Issuance of Permit To Take and Import Marine Mammals

On October 3, 1978, notice was published in the FEDERAL REGISTER (43 FR 45628), that an application had been filed with the National Marine Fisheries Service by the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801, for a Permit to take by killing 100 ranged seals (*Phoca hispida*) and by tagging 200 bearded seals (*Erignathus barbatus*) for the purpose of scientific research.

Notice is hereby given that on November 3, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a scientific research permit for the above taking to the Alaska Department of Fish and Game, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: November 3, 1978.

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

[FR Doc. 78-31667 Filed 11-8-78; 8:45 am]

[3510-22-M]

SOUTHWEST FISHERIES CENTER

Modification of Permit

Pursuant to §§ 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals, Scientific Research Permit No. 151 issued to the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, Calif. on November 19, 1976, is modified as follows:

Section B is modified by deleting section B-5 and substituting therefore the following:

This permit is valid with respect to the taking and importing authorized until December 31, 1981.

The permit and documentation regarding the modification are available in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

and Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: November 2, 1978.

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

[FR Doc. 78-31666 Filed 11-8-78; 8:45 am]

[3510-17-M]

Office of the Secretary

ADVISORY COMMITTEE ON FEDERAL POLICY ON INDUSTRIAL INNOVATION

Supplemental Notice of Meetings of Subcommittees

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), public notice was given, on October 30, 1978 (43 FR 50489), that three subcommittees of the Commerce Department's Advisory Committee on Federal Policy on Industrial Innovation would each hold a series of open meetings between November 1, 1978, and December 15, 1978. Those three subcommittees are the Advisory Subcommittee on Federal Procurement and Direct Support of R. & D.; the Advisory Subcommittee on Regulation of Industry Structure and Competition; and the Public Interest Advisory Subcommittee.

The October 30 public notice did not list specific meeting times and places because the subcommittees had not yet been organized. The notice indicated reasons why the subcommittees would need to hold meetings within a very brief time after their formation, and was designed to provide the public with the maximum practicable amount of advance information concerning the subcommittees' meetings. It stated that supplementary notices would list exact meeting times and locations as they were set.

The three subcommittees have now been organized, and meetings have been scheduled. The purpose of this supplementary notice is to announce the dates, locations and times of the following subcommittee meetings:

ADVISORY SUBCOMMITTEE ON INDUSTRIAL STRUCTURE AND COMPETITION

November 14, 1978, Room 3817, Main Commerce, Washington, D.C.; 10 a.m.-3 p.m.
November 28, 1978, Room D, Main Commerce, Washington, D.C.; 10 a.m.-3 p.m.
December 12, 1978, Room B-841, Main Commerce, Washington, D.C.; 10 a.m.-3 p.m.

ADVISORY SUBCOMMITTEE ON FEDERAL PROCUREMENT AND DIRECT SUPPORT OF R. & D.

November 17, 1978, Room 6802, Main Commerce, Washington, D.C.; 9 a.m.-5 p.m.
December 1, 1978, Room B-841, Main Commerce, Washington, D.C.; 9 a.m.-5 p.m.
December 15, 1978, Room 3708, Main Commerce, Washington, D.C.; 9 a.m.-5 p.m.

PUBLIC INTEREST ADVISORY SUBCOMMITTEE

November 20, 1978, Room D, Main Commerce, Washington, D.C.; 9:30 a.m.-6 p.m.
December 8, 1978, Room B-841, Main Commerce, Washington, D.C.; 9:30 a.m.-6 p.m.
January 10, 1979, Room 6802, Main Commerce, Washington, D.C.; 9:30 a.m.-6 p.m.

Please see the October 30 public notice for information regarding the purpose and establishment of the subcommittees; public and press seating; and the availability of meeting minutes and material distributed at the meetings.

Further information may be obtained from Mr. John R. Heizer, Room 3868A, U.S. Department of Commerce, Washington, D.C., telephone 202-377-3648.

Dated: November 7, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-31832 Filed 11-8-78; 8:45 am]

[3510-15-M]

Maritime Administration

COVE CARRIERS INC. CTS ASSOCIATES

[Docket No. S-626, Sub. 1]

Amended Notice of Applications

A notice of applications was published in the FEDERAL REGISTER issue of November 1, 1978 (43 FR 50954), advising of the request of Cove Carriers Inc. and CTS Associates for written permission to engage in certain domestic trades under section 805(a) of the Merchant Marine Act, 1936, as amended, in connection with their applications for operating-differential subsidy to engage in bulk cargo carrying service in U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics. The notice incorrectly stated the identity of the managing venturer of CTS Associates in paragraph 2, sentence 2. The correct wording of this portion of the Notice is as follows:

An officer and director of Cove Tank Ships Inc. (Managing Venturer of CTS Associates) owns a pecuniary interest in Seatrain Lines, Inc.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Date: November 8, 1978.

ROBERT J. PATTON, Jr.
Assistant Secretary.

[FR Doc. 78-31688 Filed 11-8-78; 10:14 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ADJUSTING IMPORT LEVELS FOR CERTAIN COTTON APPAREL PRODUCTS FROM THE POLISH PEOPLE'S REPUBLIC

Correction

NOVEMBER 3, 1978.

On October 31, 1978, there was published in the FEDERAL REGISTER (43 FR 50730) a letter dated October 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs adjusting the import levels for certain cotton apparel products from Poland during the year which began on January 1, 1978. Paragraph 3 of that letter should read as follows:

Cotton textile products in category 334 that have been exported to the United States before January 1, 1978 shall not be subject to this directive.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-31659 Filed 11-8-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 1, 1978.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group, Air Force Systems Command, will hold meetings on December 7, 1978, from 8 a.m. to 5 p.m. and on December 8, 1978, from 8 a.m. to 1 p.m. at Wright-Patterson Air Force Base, Ohio, in Room 276, Building 828.

The group will receive classified briefings and participate in classified discussions related to FTD's program for developing future threat estimates. In addition to methodology, examples of methodology application to specific disciplines such as missiles and hypersonic aerodynamic systems will be reviewed.

The meetings concern matters listed in section 552b(c), Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings are closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

CAROL M. ROSE,
Air Force, Federal Register Liaison Officer.

[FR Doc. 78-31628 Filed 11-8-78; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 2, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee on the EF-111A will meet on November 30 and December 1, 1978, from 8:30 a.m. to 5 p.m. each day at Kirtland Air Force Base, N. Mex.

The Committee will receive classified briefings and hold classified discussions on the EF-111A flight testing.

The meetings concerns matters listed in section 552b(c), of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board at 202-697-8404.

CAROL M. ROSE,
Air Force, Federal Register Liaison Officer.

[FR Doc. 78-31626 Filed 11-8-78; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 2, 1978.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will meet on December 7, 1978, from 8:30 a.m. to 5 p.m. and on December 8, 1978, from 8:30 a.m. to 12 p.m. in the Command Management Center, Building 1606, Hanscom Air Force Base, Mass.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs.

The meetings concerns matters listed in section 552b(c), of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

CAROL M. ROSE,
Air Force, Federal Register Liaison Officer.

[FR Doc. 78-31627 Filed 11-8-78; 8:45 am]

[3710-08-M]

Department of the Army

ACQUISITION OF MANEUVER AREA II, FORT BLISS, TEX.

Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on November 3, 1978, provided the Environmental Protection Agency a draft Environmental Impact Statement (EIS) concerning the proposed acquisition of lands comprising the training area known as Maneuver Area II at Fort Bliss, Tex., which area has been and is currently being leased by the Army.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from the Commander, U.S. Army Air Defense Center and Fort Bliss, Attn: ATZC-FEE, Fort Bliss, Tex. 79916.

In the Washington area, inspection copies may be seen, during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: 202-694-3434.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-31613 Filed 11-8-78; 8:45 am]

[6740-2-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RI78-52]

A. E. PERKINS (OPERATOR)

Amended Petition for Special Relief

NOVEMBER 3, 1978.

Take notice that on September 28, 1978, A. E. Perkins (Operator), 472 W. 3rd, Hoisington, Kans. 67544, filed a petition for special relief in the above-captioned docket pursuant to section 2.76 of the Commission's Rules.

Currently selling gas at 29.45¢ per Mcf from the Bertha J. Gray Well, Sedan-Peru Field, Chautaugua, Kans. Petitioner seeks authorization now to increase this rate to $0.77 per Mcf. Previously, Petitioner requested $1.00 per Mcf. Petitioner states that the life of the well will be increased by 3 years once proposed reworking is done. However, without additional revenue, rework cannot begin.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31678 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-256]

ALGONQUIN LNG, INC., ET AL.

Technical Conference

NOVEMBER 1, 1978.

Take notice that at 10 a.m. on Monday, November 6, 1978, staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of certain data already submitted regarding the matters raised in the Commission Order of October 13, 1978, in this docket.

The conference will be held in Room 3200 of the Commission's office at 941 North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31679 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. E-7738]

BOSTON EDISON CO.

Extension of Time

OCTOBER 27, 1978.

On October 20, 1978, counsel for the Massachusetts Towns filed a motion to extend the briefing schedule as established in the Presiding Judge's certification in this proceeding dated September 8, 1978. The motion states that other commitments in FERC proceedings have precluded counsel for the Towns from preparing its brief under the schedule. The motion further states that Commission Staff, U.S. Department of Justice and Boston Edison Co. have no objection to the request.

Upon consideration, notice is hereby given that an extension of time is

granted to and including November 17, 1978 for the filing of initial briefs. Reply briefs shall be filed on or before December 19, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31680 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket Nos. E-7738, E-7738 (Remand), and ER77-558]

BOSTON EDISON CO. AND READING MUNICIPAL LIGHT BOARD

Joint Motion To Accept Settlement Agreement

OCTOBER 31, 1978.

Take notice that Boston Edison Co. and Reading Municipal Light Board on October 5, 1978, tendered for filing a Settlement Agreement and respectfully moved that the Commission accept such. The parties indicate that the Agreement resolves the parties' differences concerning the all requirements Rate S-2, Docket No. E-7738, and concerning the interest rate issue in Docket No. ER77-558. The parties further indicate that except for the deferred fuel amortization charge in Docket No. ER76-445, the Agreement, in conjunction with the Settlement Agreement filed by the parties on January 16, 1978, has the effect of ending all litigation between the parties.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 17, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31681 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-32]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Rate Schedule Filing

OCTOBER 31, 1978.

Take notice that on October 23, 1978, Central Vermont Public Service Corp. (Central Vermont) tendered for filing a rate schedule for the sale of power from William F. Wyman Unit No. 4.

Central Vermont states that service under the rate schedule is expected to be furnished to the Village of Johnson, Vt. and Lyndonville Municipal Electric Plant, and is available to Vermont Marble Co. and any wholesale customer. Central Vermont proposes an effective date of November 30, 1978.

Copies of the filing were served upon the Village of Johnson, Lyndonville Municipal Electric Plant, Vermont Marble Co. and the Vermont Public Service Board, according to Central Vermont.

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 November 13, 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. 78-31682 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-35]

COLORADO INTERSTATE GAS CO.

Application

OCTOBER 31, 1978.

Take notice that on October 18, 1978, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP79-35, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with Mountain Fuel Supply Co. (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to implement operations under a Gas Purchase and Exchange Agreement (Agreement) dated June 20, 1978, between it and Mountain Fuel. Pursuant to the Agreement, Applicant states it would gather at the wellhead Mountain Fuel's portion of the natural gas production from the Wamsutter 1-36 well located in Sweetwater County, Wyo., which is estimated to be 1,025 Mcf of gas per day. It is stated that Mountain Fuel would pay Applicant a 4-cent per Mcf fee for this service. Applicant would concurrently deliver thermally equivalent gas to Mountain Fuel at an existing point of interconnection near Green River, Wyo., it is stated. Applicant states it would have an option to purchase up to 25 percent of the volume of gas delivered by Mountain Fuel to it and would pay Mountain Fuel the highest allowable Federal Energy Regulatory Commission price applicable to such gas, including adjustments permitted or required. The stated purpose of the proposed arrangement is to enable Mountain Fuel to obtain the gas since it does not have facilities near the Wamsutter 1-36 well.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, 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. 78-31681 Filed 11-8-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket Nos. RP79-1 and RP78-51]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Conditions, and Consolidating Dockets

OCTOBER 27, 1978.

On October 2, 1978, Colorado Interstate Gas Co., (CIG) filed revised tariff sheets [1] containing rates designed to achieve an increase in jurisdictional revenues of $8,906,722.[2] The increased rates are predicated on a test period based on actual costs for the twelve months ended June 30, 1978, as adjusted for known changes in costs which are expected to be incurred by the end of the test period, March 31, 1979. The proposed effective date is November 1, 1978.

Public notice of the filing in RP79-1 was issued on October 6, 1978, providing for protests or petitions to intervene to be filed on or before October 23, 1978. Any petitions filed in RP79-1 will be deemed to be filed in the consolidated proceeding, and are referred to the Presiding Judge for appropriate disposition.

Based upon a review of CIG's filing in RP79-1, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept CIG's proposed rate increase for filing, suspend its effectiveness for 5 months or until April 1, 1979, when it shall become eligible to become effective, subject to refund, and shall set the matter for hearing as hereinafter conditioned.

CIG's proposed rates in RP79-1 reflect costs attributable to various projects which have not been certificated and are not in service as of the date of this filing. CIG anticipates that each will be certificated and in service by March 31, 1979, the last day of the test period for this filing Accordingly, CIG requests that the Commission waive § 154.63(e)(2)(ii) of its Regulations to permit the facility costs and associated expenditures to be reflected in this filing. For good cause shown, the Commission shall grant waiver of § 154.63(e)(2)(ii) of the Regulations to permit CIG to include such costs in its filing, conditioned upon the filing of revised tariff sheets reflecting the elimination of costs associated with facilities not in service before April 1, 1979. In addition, CIG shall also adjust its rates to reflect the actual balances of advance payments in Account 166 as of March 31, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver shall be granted upon condition that CIG shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

Additionally, CIG requests that the Commission waive § 154.67(a)(b) and (d) of its Regulations. This request involves the waiver of regulations requiring the company to make a motion to put the proposed rates into effect after suspension and to file a signed undertaking and agreement to comply with the regulations setting forth the requirements for refunds. CIG bases its request upon the alleged difficulty of certain of its customers to timely flow-through the costs of a rate increase, if these documents are required to be filed. CIG states in the application that these filings have become a pro forma action, which require no further action by the Commission.

CIG's arguments on this issue are not persuasive. The section of the Regulations of which CIG seeks waiver provides for undertaking agreements necessary to ensure that the amounts collected by the pipeline pending final resolution of the rate case are available for refunds to customers should the Commission find the proposed rates to be unjust and unreasonable in whole or in part. Also, CIG will be required to make a filing prior to the date the suspended rates in this docket become effective to demonstrate that it has complied with the uncertificated facilities and advance payments conditions included in this order. The Commission is not persuaded that CIG's request for waiver is in the public interest and it shall therefore be denied.

On March 31, 1978, CIG filed in Docket No. RP78-51 proposed changes to its tariff sheets [3] which would increase its jurisdictional revenues by $12,147,530 based on costs and sales volumes for the 12 months ended December 31, 1977, as adjusted for know and measurable changes through September 30, 1978. By Commission order issued May 1, 1978, these rates were accepted for filing and suspended until October 1, 1978. A hearing was initiated to determine the lawfulness of the rates in RP78-51. The Commission order further provided that Staff's top sheets would be filed on or before September 1, 1978. By order issued August 29, 1978, Presiding Administrative Law Judge Lewnes granted an extension of the date for filing of top sheets in RP78-51 until November 24, 1978.

The Commission further finds that the rate increases filed in Docket Nos. RP78-51 and RP79-1 involve a number of issues common to both proceedings. Both increases are predicated upon changes in the costs of service due to additional facilities, increased labor and general operating costs and an alleged need for an increase in the rate of return. Moreover, the rates in Docket No. RP78-51 will be locked-in when the Docket No. RP79-1 rates become effective, which makes it in the interest of all parties that these dockets be consolidated. In view of the similarity of issues in these two dockets, the Commission finds that it is in the public interest to consolidate the dockets and to treat them in one proceeding.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by CIG.

(B) Pending hearing and decision, CIG's proposed rate increase is accepted for filing and suspended until April 1, 1979, when it shall be permitted to become effective, subject to refund, upon motion filed by CIG in accordance with the provisions of the Natural Gas Act.

(C) Docket No. RP78-51 and RP79-1 are consolidated for purposes of hearing and decision.

(D) The provisions of § 154.63 (e)(2)(ii) of the Regulations are waived to permit CIG's filing to reflect the inclusion of costs associated with presently uncertificated facilities, on the condition that CIG shall file revised tariff sheets on or before April 1, 1979, reflecting the elimination of all costs included in the proposed rates associated with facilities not placed in service by April 1, 1979. CIG shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service. In addition, CIG shall aslo adjust its rates to reflect the actual balances of advance payments in Account 166 as of March 31, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the

[1] Twenty-Second Revised Sheet Nos. 5 and 6, Third Revised Sheet Nos. 198 and 262, Second Revised Sheet No. 341, to the Second Revised Volume No. 1 of CIG's FERC Gas Tariff.

[2] This annual revenue increase is above the revenues generated by the rates presently being collected subject to refund in Docket No. RP78-51.

[3] Twenty-first Revised Sheet No. 5, Twenty-first Revised Sheet No. 6, Second Revised Sheet No. 198, and Second Revised Sheet No. 262 to Second Revised Volume No. 1 of CIG's FERC Gas Tariff.

level of the original suspended rates. This waiver shall be granted upon condition that CIG shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made persuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before February 5, 1979. Staff's top sheets shall cover all issues in RP78-51 and RP79-1.

(F) The Presiding Administrative Law Judge assigned to Docket No. Rp78-51, or such other Presiding Judge as the Chief Administrative Law Judge my assign, shall convene a settlement conference in the consolidated proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever or dismiss), as provided for in the rules of practice and procedure.

(G) CIG's request for waiver of § 154.67(a)(b) and (d) of the Regulations is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31684 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

NOVEMBER 3, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on October 30, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to its PGA clause for rates to be effective October 1, 1978.

Consolidated states that the filing includes a rate reduction filed by Texas Eastern Transmission Corp. (Texas Eastern) for effectiveness October 1, 1978.

Additionally, Consolidated submitted as part of the filing Second Substitute Seventh Revised Sheet No. 16 to be effective November 1, 1978, in lieu of rates filed October 19, 1978. The substitute tariff sheet was revised to reflect the changes proposed for effectiveness October 1, 1978.

Consolidated requested a waiver of the Commission's Rules and Regulations, specifically § 154.22, Notice Requirements, citing that it did not receive the rate change in time to make a timely filing. Additionally, Consolidated requested a waiver of any other of the Commission's Rules and Regulations as may be deemed necessary to permit the rates to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons 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 November 22, 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. 78-31685 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-7]

IDAHO POWER CO.

Application

NOVEMBER 2, 1978.

Take notice that on October 23, 1978, Idaho Power Co. (Applicant), a corporation organized under the laws of the State of Maine, and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho, filed an Application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking and Order authorizing it to enter into a Construction Financing Agreement with Carty Services, Inc. (Carty) and incidental agreements and instruments pursuant thereto with respect to the financing of the Applicant's 10 percent interest (Idaho Interest) in the Number One Boardman Station on Carty Reservoir.

Carty will pay the Costs of Construction (up to $60,000,000) of the Idaho Interest with funds obtained pursuant to a Credit Agreement with Bankers Trust Co. Commencing on a date determined pursuant to the Construction Financing Agreement the Applicant will pay, over a period of three years, amounts equal in the aggregate to all Costs of Construction and Costs of Finance paid by Carty.

Any person desiring to be heard or to make any protest with reference to said Application, should, on or before November 17, 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 or 1.10). The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31686 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-8]

IOWA PUBLIC SERVICE CO.

Application

NOVEMBER 3, 1978.

Take notice that on October 24, 1978, Iowa Public Service Co. (Applicant), a corporation organized under the laws of the State of Iowa, and qualified to transact business in the State of Iowa and South Dakota, with its principal business office in Sioux City, Iowa, filed an application, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing it to negotiate privately with respect to issuance of securities in connection with financing costs of the Company's undividend share of certain pollution control facilities at Unit No. 1 of the Louisa Generating Station, in Louisa County, Iowa.

The Company and others are constructing and will own, as tenants in common, Louisa Unit No. 1, which will be a coal-fired steam electric generating facility of an expected capability of 650,000 KW, located in Louisa County, Iowa. The Company's undivided interest in Louisa Unit No. 1 is expected to be 15.4 percent.

Any person desiring to be heard or to make any protest with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 24, 1978. The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31687 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER76-848]

MONTANA POWER CO.

Compliance Filing

OCTOBER 31, 1978.

Take notice that on October 23, 1978, the Montana Power Co. tendered for filing in compliance with the Federal Power Commission's Order of May 6, 1977, a summary of sales made under the Company's FPC Electric Tariff M-1 during September 1978, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules and Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31688 Filed 11-8-78 8:45 am]

[6740-02-M]

[Project No. 2729]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice Granting Additional Time To Comment on Draft Environmental Impact Statement

NOVEMBER 1, 1978.

As a result of (1) the lengthy comments received on the staff's draft environmental impact statement (EIS) for Project No. 2729, (2) a change in personnel among Commission staff working on the draft EIS, and (3) the submittal of additional information by the applicant, it has become evident that there will be a delay in the preparation of the final EIS. Since there were a significant number of requests for additional time to comment on the draft EIS, and some of these persons were not able to file comments within the time specified, it has been determined that a further period for submitting comments will be provided. It is emphasized that this additional period is meant primarily for any person or organization that has not already filed comments on the draft EIS.

In light of the above, the period for filing comments on the draft EIS for Project No. 2729 is hereby extended to, and including, December 11, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-31689 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Project No. 2868]

SOUTHERN CALIFORNIA EDISON CO.

Application for Preliminary Permit for Unconstructed Project

NOVEMBER 2, 1978.

Public notice is hereby given that an application has been filed on September 14, 1978, under the Federal Power Act (16 U.S.C. 797) by Southern California Edison Co. (correspondence to: R. E. Woodbury, Vice President and General Counsel, 2244 Walnut Grove Avenue, Rosemead, Calif. 91770) for a preliminary permit for unconstructed Project No. 2868, a proposed hydroelectric installation to be known as the Balsam Meadow Project, located in the Sierra National Forest in the County of Fresno, Calif. The hydroelectric facilities comprising Project No. 2868 would be installed near the inlet of the North Fork of Stevenson Creek on the north shore of Shaver Lake Reservoir in the region of Shaver Lake, Calif. The proposed project will affect lands of the United States of America (U.S. Forest Service) and lands owned in fee by the applicant.

The applicant proposes to study a 140 MW project that would consist of a 5,600-foot long tunnel originating at the outlet of Tunnel No. 7 (the existing Huntington-Pitman-Shaver conduit of Project No. 67) and leading to Balsam Forebay; an 1,800 acre-foot reservoir (Balsam Forebay) to be formed by a 100-foot high dam on the West Fork of Balsam Creek near the point of origin; a 2-mile long tunnel-penstock conduit from the forebay to the powerhouse; and, a powerhouse to be located on the north shore of Shaver Lake (also part of Project No. 67) near the outlet of the North Fork Stevenson Creek. Power produced by the project would be used in Applicant's service area in central and southern California.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 18, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31690 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP72-30]

SOUTHERN NATURAL GAS CO.

Petition To Amend

NOVEMBER 1, 1978.

Take notice that on October 6, 1978, Southern Natural Gas Co. (Petitioner), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP72-30 a petition to amend the order of November 11, 1971, issued in the instant docket [1] pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas produced from Tylertown Field, Walthall County, Miss., for Florida Gas Transmission Co. (Florida), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of November 11, 1971, Petitioner was authorized to transport and redeliver to Florida up to 2,500 Mcf of natural gas per day from the Kirklin Field, Walthall County, Miss., and up to 6,000 Mcf of natural gas per day from the Unknown Pass Field, Orleans Parish, La., which gas Petitioner accepts for Florida's account at the Kirklin Field delivery point and the Unknown Pass delivery point and redelivers equivalent quantities of gas to Florida at Petitioner's existing delivery point to Florida in Washington Parish, La. It is further indicated that pursuant to the terms of a transportation agreement dated June 1, 1971, Florida pays Southern for the subject

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

transportation service $68 per month for the cost of operating the Unknown Pass Field measuring facilities, and that Florida also pays Petitioner a transportation charge of .75 cent per Mcf of gas transported from the Kirklin Field delivery point and 1.5 cents per Mcf for gas transported from the Unknown Pass Field delivery point.

It is stated that pursuant to the terms of the June 1, 1971, agreement Petitioner has the right to withhold deliveries of gas to Florida on any day or days during the the months of December, January, and February in order to utilize gas from the subject fields for Petitioner's own pipeline requirements. Such withheld gas is to be redelivered to Florida as soon as practicable, it is said.

It is indicated that Florida has contracted to purchase from Florida Gas Exploration Co. and its partners certain quantities of natural gas produced from the Tylertown Field, Walthall County, Miss., and that Florida has requested Petitioner to receive, transport and redeliver the gas purchased by Florida from the Tylertown Field. Pursuant to the terms and conditions of the transportation agreement, dated June 1, 1971, petitioner proposes to transport and redeliver to Florida the volumes of gas that Florida purchases from the Tylertown Field, provided that the aggregate of all volumes tendered by Florida at the said Kirklin Field delivery point for transportation and redelivery to Florida do not exceed 2,500 Mcf per day. Accordingly, Petitioner and Florida have entered into an amendatory agreement dated September 12, 1978, which agreement amends and supplements the June 1, 1971, agreement, by adding the volumes of gas presently tendered by Florida at the Kirklin Field delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31691 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Filing of Settlement Agreement as to Curtailment Rules of Transcontinental Gas Pipe Line Corp., Commencing November 1, 1978

NOVEMBER 1, 1978.

Take notice that on October 31, 1978, Transcontinental Gas Pipe Line Corp. (Transco) filed with the Federal Energy Regulatory Commission (Commission) a "Settlement Agreement as to Curtailment Rules of Transcontinental Gas Pipe Line Corp. To Become Effective on November 1, 1978" (Settlement Agreement). Transco states the Settlement Agreement resolves the issue of supply allocation during the term of the agreement and reserves for hearing and decision by the Commission the issue of compensation.

Transco states the filed Settlement Agreement establishes curtailment procedures which will continue in force and effect through October 31, 1979, and thereafter from year to year so long as Transco's projections of annual volumes available for sale to CD, ACQ, and firm direct customers are equal to or in excess of 636,440 Mdt for annual periods subsequent to October 31, 1979. Appended to the Settlement Agreement, as Appendix A, are twenty tariff sheets, which will be filed to become effective as of November 1, 1978, upon approval of the Settlement Agreement. Transco states the tariff sheets provide procedures for the protection of annual allotments, although winter period schedules and procedures related thereto are also contained therein.

Contemporaneous with the filing of the Settlement Agreement, Transco filed a Motion For Expedited Decision. In its motion, Transco outlines the operational difficulties which would arise if the Commission were to delay action on the Settlement Agreement and requests the Commission's procedures be expedited so that the matter be considered and decided no later than November 30, 1978.

The Commission will provide for the filing of initial and reply comments on Transco's offer of settlement on an expedited basis. Any person desiring to be heard or to protest the Settlement Agreement should file initial comments by November 13, 1978, and reply comments by November 22, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments on the Settlement Agreement should address the effect of the proposal on the ability of Transco's distributor customers to serve their high priority requirements.

All protests and comments 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 party wishing to become a party must file a petition to intervene in accordance with the Commission's rules: *Provided, however,* That persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filings. Copies of the Settlement Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31692 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER 79-33]

UNION ELECTRIC CO.

Filing of Wholesale Electric Service Agreement

OCTOBER 31, 1978.

Take notice that on October 24, 1978, Union Electric Co. (Union) tendered for filing a new Wholesale Electric Service Agreement dated September 29, 1978, between Citizens Electric Corp. and Union. Union states that said Agreement primarily provides for a new delivery point and format changes have been made to conform with Union's existing wholesale tariff.

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 November 13, 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 available for public inspection at the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-31704 Filed 11-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-522]

VIRGINIA ELECTRIC & POWER CO.

Order Granting Motion for Enforcement of Prior Order

NOVEMBER 2, 1978.

On August 30, 1978, the Commission accepted for filing and suspended for one month the effectiveness of rate increases proposed by Virginia Electric & Power Co. (VEPCO). In that order the Commission also granted summary judgment of VEPCO's proposed inclusion of investment tax credit in its common equity component of its capital structure.

The Commission directed VEPCO to refile its capital structure to be consistent with the Commission's treatment of investment tax credit in Opinion No. 19, *Carolina Power & Light Co.*, within 30 days of the issuance of the August 30, 1978 order.

On October 3, 1978, VEPCO submitted revised capital structures for Period I and Period II reflecting the investment tax credit at the overall rate of return rather than at the common equity return. However, VEPCO did not revise its rates and cost support to reflect the revised capitalization.

ElectriCities of North Carolina, on October 4, 1978, moved to dismiss VEPCO's rate increase, or, in the alternative, moved for enforcement of the August 30, 1978 order to require VEPCO to file new rates reflecting the revised capitalization. On October 12, 1978, VEPCO filed an answer in opposition to ElectriCities' motion.

DISCUSSION

ElectriCities correctly points out that in granting its motion for summary judgment, the Commission intended to require VEPCO to submit revised rates in addition to a revised capital structure. ElectriCities' motion for summary judgment, contained in its petition to intervene, requested that the Commission order that VEPCO be "required to resubmit rates with . . . common equity not inflated by the addition of Accumulated Job Development Deferred Investment Tax Credit."

Because our August 30 order in this docket may not have been sufficiently clear, we shall permit VEPCO an additional thirty days to submit revised rates to reflect the revised capitalization tendered on October 3, 1978. We shall, in addition, require VEPCO to refund all amounts collected in excess of the revised rates with interest at 9 percent per annum after September 30, 1978.

The Commission orders: (A) ElectriCities' motion for enforcement of the August 30, 1978 order is hereby granted.

(B) VEPCO is hereby directed to file revised rates and cost support based on the revised capitalization for Period II within 30 days of the issuance of this order.

(C) VEPCO is hereby directed to refund all amounts collected in excess of the revised rates with interest at 9 percent per annum after September 30, 1978.

(D) VEPCO is hereby directed to file a compliance report within 15 days after refunds have been made. This report shall show monthly billing determinants and revenues under prior, present, and revised rates. The report shall also show the monthly rate increase, the monthly revenue refund, and the monthly interest computations together with a summary of such information for the total refund period. A copy of such report shall be furnished to the appropriate regulatory bodies within whose jurisdiction the resale customers distribute and sell electric energy at retail.

(E) ElectriCities' motion to dismiss is hereby denied.

(F) 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. 78-31703 Filed 11-8-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00080, FRL 1004-5]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

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

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9 a.m. to 5 p.m. each day on Thursday and Friday, November 30 and December 1, 1978. The meeting will be held in the Massanet Room (third floor), Sheraton-Houston Hotel, 777 Polk Street, Houston, Tex., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topic: Subpart G—Product Performance (draft) of the Guidelines for Registering Pesticides in the United States.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Time will be allotted for brief comments by the public each day; interested persons should contact Dr. Fowler for special instructions regarding oral statements. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory Panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Advisory Panel for the purpose of conducting preliminary reviews of draft proposed rulemaking. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*) and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Dated November 3, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-31607 Filed 11-8-78; 8:45 a.m.]

[6560-01-M]

[OPP-50390; FRL 1004-3]

ICI AMERICAS, INC. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10182-EUP-12. ICI Americas, Inc., Wilmington, Del. 19897. This experimental use permit allows the use of 0.15 pound of the rodenticide 3-[3-(4' - bromo[1,1' - biphenyl]4yl) - 1,2,3,4-tetrahydro-1-naphthalenyl]4-hydroxy-2H-1-benzopyran-2-one in orchards to evaluate control of Microtus (orchard mice). A total of 250 acres is involved; the program is authorized only in the States of California, Colorado, Illinois, Indiana, Maine, Maryland, Michigan, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from September 21, 1978 to September 21, 1979. (PM-16, Room: E-229, Telephone: 202-755-9315)

No. 432-EUP-36. Penick Corp., Orange, N.J. 07050. This experimental use permit allows the use of 6 pounds of the insecticide permethrin in 135 indoor domestic dwellings to evaluate control of German cockroaches. The program is authorized only in the States of Indiana, New York, and North Carolina. The experimental use permit is effective from September 26, 1978 to September 26, 1979. (PM-17, Room: E-229, Telephone: 202-426-9425)

No. 1624-EUP-21. U.S. Borax Research Corp., Anaheim, Calif. 92801. This experimental use permit allows the use of 728 pounds of the combined herbicides dinitramine and prodiamine on soybeans to evaluate control of annual grasses and broadleaf weeds. A total of 1,680 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, and Nebraska. The experimental use permit is effective from October 2, 1978 to October 2, 1980. Temporary tolerances for residues of the active ingredient prodiamine in or on soybeans, soybean forage and hay have been established. Permanent tolerances for residues of the active ingredient dinitramine in or on soybeans and soybean forage have been established (40 CFR 180.327). (PM-23, Room: E-351, Telephone: 202-755-1397)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Statutory Authority: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: November 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-31605 Filed 11-8-78; 8:45 am]

[6560-01-M]

PESTICIDE PROGRAMS

[PP 6G1660/T171; FBL 1004-4]

Renewal of Temporary Tolerances; Prodiamine

On June 22, 1977, the Environmental Protection Agency (EPA) announced (42 FR 31644) the renewal of temporary tolerances for residues of the herbicide prodiamine (2,4-dinitro-N^3,N^3-dipropyl-6-(trifluoromethyl)-1,3-benzenediamine) in or on the raw agricultural commodities soybeans, soybean hay, soybean forage, cottonseed, and cotton forage at 0.1 part per million (ppm).

These tolerances were established (40 FR 59775) in response to a pesticide petition (PP 6G1660) submitted by U.S. Borax Corp., 412 Crescent Way, Anaheim, Calif. 92801. This renewal expired April 21, 1978.

U.S. Borax Corp. requested a 30-month renewal of certain of these temporary tolerances to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. U.S. Borax Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire October 2, 1980. Residues not in excess of 0.1 ppm remaining in or on soybeans and soybean forage and hay after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Product Manager (PM) 23, Registration Division (TS-767), Room E-301, Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-1397.

Statutory Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act 121 U.S.C. 346(j)1.

Dated: November 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-31606 Filed 11-8-78; 8:45 am]

[6560-01-M]

[OPP-00081; FRL 1004-6]

STATE FIFRA ISSUES RESEARCH AND EVALUATION GROUP (SFIREG)

Open Meeting

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

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG) on Thursday and Friday, December 14 and 15, 1978, from 8:30 a.m. to 4:30 p.m. each day. The meeting will be held in Room 3906-3908 Waterside Mall, 401 M Street SW., Washington, D.C. 20460, and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. P. H. Gray, Jr., Operations Division (TS-770), Office of Pesticide Programs, Room E-507, EPA, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-7014.

SUPPLEMENTARY INFORMATION: This is the first meeting of the full group. The draft agenda thus far includes the following topics:

1. Action items from the April 1978 meeting of the State-Federal FIFRA Implementation Advisory Committee (SFFIAC);

2. Regional reports;

3. Working committee reports;

4. Status of EPA efforts to implement the 1978 amendments to the FIFRA;

5. Policy issues suggested by SFIREG members; and

6. Other subjects which may arise.

Dated: November 3, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-31608 Filed 11-8-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 78-357 and 78-358]

THOMAS M. NAMNOUM

Designating Applications for Consolidated Hearing on Stated Issues; Order To Show Cause and Order Designating Application for Hearing

Adopted: October 30, 1978.

Released: November 7, 1978.

In the matter of revocation of license of Thomas M. Namnoum, 55 Spruce Street, Newington, Conn. 06111: licensee of Station KWM-3059 in the Citizens Band Radio Service (SS Docket No. 78-357), and application of Thomas M. Namnoum, 55 Spruce Street, Newington, Conn. 06111 for novice class amateur operator and amateur radio station licenses (SS Docket No. 78-358).

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned Citizens Band Radio Service license of Thomas M. Namnoum. Also under consideration is the application for an amateur radio station license and novice class operator license filed by Thomas M. Namnoum.

1. Information before the Commission indicates that on July 26, 1977, Namnoum's station, KWM-3059, transmitted radio communications on the frequency 27.910 MHz, which frequency was not authorized for use in the Citizens Band Radio Service by § 95.455(a) of the Commission's rules.[1] The frequency 27.910 MHz is allocated for U.S. Government use.

2. The information before the Commission further indicates that the radio transmissions of July 26, 1977, from Namnoum's station were not identified by a call sign issued by the Commission as required by § 95.471(c) of the Commission's rules. Instead, the transmissions were identified by the designation "5 with no call the 168." The Commission's information further indicates that Namnoum was an official of the Connecticut Sideband Association, 5 Whiskey Group, Inc.; and that Namnoum's "Whiskey number" was "5W168". Thus it appears that Namnoum has participated in "W" or "Whiskey" clubs, whose members operated radio transmitting equipment on frequencies not authorized by their license and used equipment not type-accepted for use by CB stations. Furthermore, members of "W" or "Whiskey" clubs apparently employed 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 identity and station location from the Commission.

3. The information before the Commission further indicates that during the July 26, 1977, radio transmissions, the operator of Namnoum's radio station communicated with or attempted to communicate with another station over a distance of more than 150 miles, in wilful violation of § 95.501(b) of the Commission's rules, and engaged in radio transmissions for a period of time in excess of 5 minutes, without a 1-minute silent period, in wilful violation of § 95.469(b) of the Commission's rules.

4. The operating violations described above were the subject of an Official Notice of Violation, which was mailed to the licensee on August 23, 1977.

5. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that the Commission may revoke a station license for wilful or repeated violation of the Commission's rules. Furthermore, the apparent conduct described above raises serious questions not only as to Namnoum's qualifications to remain a Citizens Band Radio Service licensee but also as to his qualifications to become an Amateur Radio Service licensee.

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 Commission's rules, that Namnoumd *show cause,* why the license for radio station KWM-3059 in the Citizens Band Radio Service *should not be revoked,* and appear and give evidence at a hearing[2] to be held before an Administrative Law Judge at a time and place to be specified by a subsequent order, upon the following issues:

(1) To determine whether Namnoum's station was operated in wilful violation of §§ 95.455(a), 95.469(b), and/or 95.501(b) of the Commission's rules.

(2) To determine whether the operator of Namnoum's station wilfully violated § 95.471(c) of the Commission's rules and/or used a "W" or "Whiskey" club designation for identification.

(3) To determine whether Thomas M. Namnoum participated in "W" or "Whiskey" clubs and, if so, the nature of the club and the extent of his participation therein.

(4) To determine whether, in light of the evidence adduced pursuant to issues (1), (2), and (3), Thomas M. Namnoum possesses the requisite qualifications to remain a Commission licensee.

7. *It is further ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's rules, Namnoum's application for novice class amateur operator and amateur radio station licenses *is designated for hearing* upon issues (1) through (4) specified in paragraph 6, above, at a time and place to be specified by a subsequent order, as well as the following issue:

(5) Whether, in light of the evidence adduced pursuant to issues (1), through (4) a grant of Namnoum's application would serve the public interest, convenience and necessity.

8. *It is further ordered,* That in order to obtain a hearing on the application, Namnoum, 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 paragraphs 6 and 7.[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,* pursuant to § 1.227 of the Commission's rules, that the proceedings regarding the Citizens Band license revocation and the amateur application are consolidated for hearing.

10. *It is further ordered,* That the burden of proceeding with the introduction of evidence *shall be* on the Bureau; that the burden of proof for revocation of the Citizens Band license *shall be* on the Bureau; and that the burden of proof for grant of the amateur application *shall be* on the applicant.

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, and to Harold C. Harrison, Esq., 118-21 Queens Boulevard, Forest Hills, N.Y. 11375, counsel for Thomas M. Namnoum.

Chief, Safety and Special Radio Services Bureau,

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc. 78-31693 Filed 11-8-78; 8:45 am]

[1] Effective August 1, 1978, the rules governing Citizens Band radio revised and renumbered. The rules cited in this order are those in effect at the time of the conduct in question.

[2] The form attached to this order should be detached and used in connection with the procedure set forth in the enclosed instructions 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 § 1.221 of the Commission's rules is waived.

[6712-01-C]

Enclosure 1

REPLY TO ORDER TO SHOW CAUSE WHY CITIZENS BAND RADIO STATION LICENSE KWM-3059 SHOULD NOT BE REVOKED — SS DOCKET NO. 78-357

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent 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.*

REPLY TO ORDER DESIGNATING APPLICATION FOR HEARING — SS DOCKET NO. 78-358

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear on the date affixed for 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

_____
Thomas M. Namnoum
Respondent

* 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.

Enclosure 2

Explanation of Procedures

1. 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.

2. 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 do not request a hearing, the application will be dismissed with prejudice.

[6712-01-M]

[SS Docket No. 78-359, 78-360, 78-361, and 78-362]

WARREN K. BROWN

Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 30, 1978.

Released: November 7, 1978.

In the matters of revocation of license of Warren K. Brown, 210 East Broadway, Mishawaka, Indiana, 46544: licensee of station KJV-4689 in the Citizens Band Radio Service (SS Docket No. 78-359), revocation of license of Warren K. Brown, 210 East Broadway, Mishawaka, Indiana, 46544: licensee of station WD9GBM in the Amateur Radio Service (SS Docket No. 78-360), suspension of license of Warren K. Brown, 210 East Broadway, Mishawaka, Indiana, 46544: amateur novice class operator licensee (SS Docket No. 78-361) and application of Warren K. Brown, 210 East Broadway, Mishawaka, Indiana, 46544: for technician class amateur operator license (SS Docket No. 78-362).

The Chief, Safety and Special Radio Services Bureau, has under consideration the license of Warren K. Brown for Citizens Band radio station KJV-4689, as well as Brown's license for Amateur radio station WD9GBM and his Novice Class Amateur Operator license. Also under consideration is an application for a Technician Class operator license filed by Brown.

1. Information before the Commission indicates that on January 20, 1978, Brown operated radio transmitting equipment on the frequency 27.415 MHz. That frequency is assigned to the Industrial Radio Services. That frequency is not authorized by § 95.455(a) of the Commission's Rules for use in the Citizens Band Radio Service, nor by § 97.61(a) of the Rules for use in the Amateur Radio Service.[1] [2]

2. The information before the Commission indicates that the radio transmissions of January 20, 1978, consisted of voice communications, that is, radio telephony. § 97.7(e) of the Commission's Amateur Rules permits only non-voice communications, that is, radio telegraphy, by a Novice Class operator.

3. During the communications in question, the transmitting station was not identified by a Commission-assigned call sign. Instead, Brown appears to have responded to the identifying terms, "Warren" and "ST5". Both §§ 95.471(c) and 97.87(a) of the Commission's Citizens Band and Amateur Rules require stations in their respective services to be identified by the station's call sign at the beginning and end of each transmission or series of transmission, but at least at intervals not to exceed ten minutes.

4. The information before the Commission further indicates that the radio communications of January 20, 1978, were transmitted with a power in excess of 12 watts, peak envelope power. § 95.613(b) of the Commission's Rules prohibits the use of a transmitter with power output in excess of 12 watts peak envelope power.

5. An inspection of Brown's station by Commission personnel on January 22, 1978, revealed that Brown apparently did not maintain as part of his station records a current copy of Subpart D of Part 95 of the Commission's Rules, as required by § 95.505 of the Commission's Rules.

6. Official Notices of Violation were mailed on February 13, 1978, concerning the above described conduct.

7. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for willful or repeated violation of Commission rules.

8. Accordingly, it is ordered, pursuant to section 312 (a)(4) and (c) of the Communications Act of 1934, as amended, that Brown show cause why the licenses for the captioned radio stations should not be revoked; and that, unless he waives his right to a hearing, Brown shall appear and give evidence at a hearing,[3] 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 Brown's station was operated in willful or repeated violation of Sections 95.455(a) and/or 95.613(b) of the Commission's Rules;

(b) Whether Brown's station was operated in willful or repeated violation of Sections 97.7(e) and/or 97.61(a) of the Commission's Rules;

(c) Whether Brown's station was operated in willful or repeated violation of Sections 95.471(c) or 97.87(a) of the Commission's Rules and/or used a club designator number for identification;

(d) Whether Brown's station was maintained in willful or repeated violation of Section 95.505 of the Commission's Rules;

(e) Whether, in light of the evidence adduced pursuant to Issues (a), (b), (c), and (d), Warren K. Brown possesses the requisite qualifications to remain a Commission licensee.

9. Section 303(m)(1)(A) of the Communications Act of 1934, as amended, gives the Commission authority to suspend the operator license of any licensee who has violated any provision of the Communications Act or the Commission's Rules. Therefore, it is ordered, under authority contained in section 303(m)(1)(A) of the Communications Act and section 0.331 of the Commission's Rules, that the Novice Class Amateur operator license of Warren K. Brown is suspended for the remainder of the license term.

10. It is further ordered, That, pursuant to § 1.85 of the Commission's Rules, in order to obtain a hearing on the suspension matter, Brown shall, within 30 days [4] after receipt of this suspension order, make a request for a hearing, whereupon the suspension will be held in abeyance until the conclusion of proceedings to determine whether this Suspension Order should be affirmed, modified or revoked; and that if Brown elects not to make such a request, he shall mail his Amateur Radio Operator license to the Commission in Washington, D.C., before the expiration of thirty days.

11. It is further ordered, pursuant to section 309(e) of the Communications Act and §§ 0.331 and 1.973(b) of the Commission's Rules, that Brown's application for an Amateur Technician Class operator license is designated for hearing to be held before an Administrative Law Judge at a time and place to be specified by subsequent Order upon the preceding Issues (a) through (e) as well as the following issue: "(f) Whether in light of the resolution of Issues (a) through (e), above, the public interest, convenience and necessity would be served by a grant of Brown's application for an Amateur Technician Class operator's license."

12. It is further ordered, That, in order to obtain a hearing on the application, Brown, personally or by attorney, shall within 30 days [5] 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. Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice.

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[1] Certain operating violations were either of the CB or the Amateur Radio Service rules, not both. Evidence adduced at the hearing under the specified issues will allow a determination of which violations, if any, occurred.

[2] Certain sections of Part 95 of the Commission's Rules have been revised, renumbered or deleted. The Sections referred to herein are those in effect at the time of operation.

[3] The form attached to this Order should be detached and used in connection with the procedure set forth in the enclosed instructions and mailed to Federal Communications Commission, Washington, D.C. 20554, in the enclosed addressed envelope, within 30 days.

[4] The 15-day time period specified by § 1.85 of the Rules is waived.

[5] The 20-day time period specified by § 1.221 of the Rules is waived.

13. It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of the Amateur station license (SS Docket No. 78-360), revocation of the CB station license (SS Docket No. 78-359), and the suspension of the operator license (SS Docket No. 78-361), is on the Bureau pursuant to section 312(d) of the Communications Act; and the burden of introduction of evidence and the burden of proof for the grant of the application (SS Docket No. 78-362), is on the respondent, pursuant to section 309(e) of the Act.

14. It is further ordered, pursuant to the provisions of § 1.227 of the Commission's Rules, that the proceeding on the above-stated issues regarding the Revocation, Suspension and Application are consolidated for hearing.

15. 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.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory, and Enforcement Division.

[6712-01-C]

REPLY TO ORDER TO SHOW CAUSE WHY CITIZENS BAND RADIO STATION LICENSE KJV-1689 SHOULD NOT BE REVOKED SS DOCKET NO. 78-359

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent 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.*

REPLY TO ORDER TO SHOW CAUSE WHY AMATEUR RADIO STATION LICENSE WD9IHM SHOULD NOT BE REVOKED SS DOCKET NO. 78-360

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent 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.*

REPLY TO ORDER SUSPENDING AMATEUR NOVICE CLASS OPERATOR LICENSE SS DOCKET NO. 78-361

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear at a hearing on the suspension order.

☐ 2. Respondent does not desire a hearing on the suspension order, and encloses his Amateur Radio Operator license to be held by the Commission for the duration of the suspension.

Date: _____ 1978

_____
Warren K. Brown
Respondent

* 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.

REPLY TO ORDER DESIGNATING APPLICATION FOR HEARING SS DOCKET NO. 78-362

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear on the date affixed for 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: _____ 197 8

_____
Warren K. Brown
Respondent

ENCLOSURE 2—EXPLANATION OF PROCEDURES

1. *Revocation.* § 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 waving 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.

2. *Suspension.* If you want a hearing on the suspension you have 30 days from the Issue date in which to request it in writing. § 1.85 of the Rules provides that if you have a hearing, the suspension will be held in abeyance until the conclusion of the proceedings. If you do not want a hearing, the suspension will go into effect in 30 days, and during that 30 days you must send your operator license to the Commission to hold during the suspension.

3. *Application.* In order to have a hearing on your application, you have 30 days from the Issue date of this Order to request it. § 1.221(c) of the Rules provides that if you do not request a hearing, the application will be dismissed with prejudice.

[FR Doc. 78-31737 Filed 11-8-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

APPLICANTS

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Lake Products, Inc., 125 Columbia Court, Jonathan Industrial Park, Chaska, Minnesota 55318. Officers: Bernard Streimikes, President, Dale Streimikes, Vice President, Paul Storms, Treasurer/Accountant, James Turnbull, Director.

Universal Ocean Freight Services (Hyon Tae Choe, d.b.a.), 1220 Broadway, New York, N.Y. 10001.

Consolidated Freight Forwarders Inc., 6945 West 4th Avenue, Hialeah, Fla. 33014. Officers: Alberto P. Armada, President, Norma Manresa, Secretary.

Erich H. Trendel, 53 Maple Street, Roslyn Heights, N.Y. 11577.

Affiliated Forwarding Services, Inc., 10 Parsonage Road, Edison, N.J. 08817. Officers: B. E. Czachowski, Chairman, C. J. Matthews, Jr., President, M. W. Yonge, Vice President/Assistant Secretary, F. M. Brothers, Vice President.

John J. Tarnowski, 610 Warsaw Street, Hitchcock, Tenn. 77563.

Janet Martha Bristow, d.b.a. Universal Forwarding Overseas, 1117 Algonquin Road, Des Plaines, Ill. 60018.

John Jaisli, 505 South 13th Street, New Hyde Park, N.Y. 11040.

Southwest Express, Inc., 3806 Jetero Blvd., Ernst, No. 9, Houston, Tex. 77205. Officers: Walter J. Blattel, President, Donald R. Thresher, Secretary.

Bruce Transfer Corp., 144-25 155th Street, Jamaica, N.Y. 11434. Officers: Sol Simon, President, Joel Rhoades, Vice President, Harold McBride, Vice President.

Gonzalo Martinez, 4637 North Elspeth Way, Covina, Calif. 91722.

Maritime Transportation Resources, Inc., Ponce De Leon 221, Hato Rey, Puerto Rico 00919. Officers: Antonio Duen, President, Miguel Coll Villaronga, Vice President/Treasurer, Ferdinand Rodriquez, Vice President/Secretary.

Pro Shipping (Victor S. Bee, d.b.a.), c/o Protimex Corporation, 10100 Santa Monica Blvd., Suite 845, Los Angeles, Calif. 90067.

Ibis Alvarez, 180 East 8th Street, Hialeah, Fla. 33010.

Preferred Air Freight, Inc., Newark International Airport, Newark, N.J. 07114. Officers: Frank D. Slaughter, President, Michael Lansky, Vice President, Anthony J. Monticello, Secretary, Frank V. Monticello, Treasurer.

Inter-Traders Cargo Agency, 7257 N.W. 12th Street, Miami, Fla. 33126. Officers: Placido Garcia-Rios, President, Jose Antero Gonzalez, Secretary/Treasurer.

Miami Valley Transportation Consultants (John P. Sweeney, d.b.a.), 1300 East Third Street. Dayton, Ohio 45403.

Swiss-American Forwarders (Alex A. Bastidas, d.b.a.), 8744 S.W. 154 Circle Place, Miami, Fla. 33193.

Harter International Services (Herman L. Coronado Harter, d.b.a.), 1314 Texas Avenue, Room 1219, Houston, Tex. 77002.

By the Federal Maritime Commission.

Dated: November 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-31727 Filed 11-8-78; 8:45 a.m.]

[6325-01-M]

CIVIL SERVICE COMMISSION

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 202 of October 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee would be held on Nov. 2, 9, and Nov. 30, 1978. Notice is hereby given that the meeting scheduled for Nov. 9, 1978, has been cancelled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

NOVEMBER 7, 1978.

[FR Doc. 78-31827 Filed 11-8-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on October 10, 1978, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $4 billion to $5 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal Agency securities, effective immediately for the period ending with the close of business October 17, 1978.

NOTE.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, November 2, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-31662 Filed 11-8-78; 8:45 am]

[6210-01-M]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Foreign Currency Operations

On November 1, 1978, paragraph 2 of the authorization for foreign currency operations was amended to raise the amounts for the swap arrangements specified there from $4 billion to $6 billion for the German Federal Bank, from $2 billion to $5 billion for the Bank of Japan, and from $1.4 billion to $4 billion for the Swiss National Bank.

NOTE.—For paragraph 2 of the Authorization see 42 FR 1071.

By order of the Federal Open Market Committee, November 2, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-31661 Filed 11-8-78; 8:45 am]

[6210-01-M]

PIONEER BANCORPORATION, INC.

Formation of Bank Holding Company

Pioneer Bancorporation Inc., Maplewood, Mo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1) to become a bank holding company by acquiring 84 percent or more of the voting shares of Pioneer Bank & Trust Co., Maplewood, Mo. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

Pioneer Bancorporation Inc., Maplewood, Mo., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage in the activity of acting as agent for the sale of credit life insurance and credit health and accident and credit property insurance that is directly related to extensions of credit by Pioneer Bank & Trust Co. Notice of the application was published on August 27, 1978, in the *St. Louis Post-Dispatch*, a newspaper circulated in St. Louis, Mo. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 22, 1978.

Board of Governors of the Federal Reserve System, November 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-31663 Filed 11-8-78; 8:45 a.m.]

[6210-01-M]

RUSHFORD BANCORPORATION, INC.

Formation of Bank Holding Company

Rushford Bancorporation, Inc., Rushford, Minn., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 92 per cent of the voting shares of First National Bank of Rushford, Rushford, Minn. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 29, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-31664 Filed 11-8-78; 8:45 am]

[6820-22-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

OCTOBER 26, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, November 27, 1978, from 9 a.m. to 3 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets SW., Auburn, Wash. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed conversion and modernization of the Justice William O. Douglas Federal Building, Third and Chestnut, Yakima, Wash. The meeting will be open to the public.

LOUIS A. BRAUN,
Acting Regional Administrator.

[FR Doc. 78-31784 Filed 11-8-78 8:45 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on December 4-5, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

The agenda will consist of a presentation by Dr. Robert Lampman on the Council's Study of Asset Testing; a report will be made on the implementation of the new provisions for older workers under the Comprehensive Employment Training Act (CETA); attention will be devoted to the Council's annual report to the President; recommendations to the Council on the disposition of the Frail Elderly report will be offered by the Special Aging Populations Committee; finally, a review will be made of legislative proposals affecting the elderly for the 96th Congress and the implications of these proposals for Council action.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0441. FCA meetings are open for public observation.

Dated: November 3, 1978.

NELSON H. CRUIKSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 78-31649 Filed 11-8-78; 8:45 am]

[4110-12-M]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Cancellation of Meeting

The meeting of the President's Committee on Mental Retardation scheduled for November 17-18, 1978, at the Boston-Sheraton Hotel, Prudential Center, Boston, Mass., is hereby cancelled.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB No. 3, 7th and D Streets, SW., Washington, D.C. 20201, telephone: 202-245-7634.

Dated: November 2, 1978.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc. 78-31650 Filed 11-8-78; 8:45 am]

[4110-85-M]

Office of the Secretary

PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Meeting

The President's Council on Physical Fitness and Sports will hold its quarterly meeting on November 14-15, 1978. The meetings will be held from 1:30 to 5 p.m. Tuesday, November 14, in Room 263, Old Executive Office Building, and from 9 to 11:40 a.m. Wednesday, November 15, in Room 208, Old Executive Office Building.

In order to conserve energy costs which would be involved in a separate meeting, the November 14-15 meeting has been called at a time when the Chairman and members are to be in Washington, D.C. on other matters, thus, necessitating a shorter period of notice than regularly required.

The purpose of the meeting is to apprise the new Council Chairman and members of the 9-point national program of physical fitness and sports; to report on on-going Council programs; and to plan future directions.

A list of Council members and the Executive Order dated September 25, 1970. establishing their responsibilities, may be obtained from:

C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201, telephone 202-755-7947.

The meeting will be open to the public.

Dated: November 7, 1978.

C. CARSON CONRAD,
Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 78-31833 Filed 11-8-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ABSENTEE WYANDOTTE ALLOTMENTS

Designation of Administrative Jurisdiction; Correction

NOVEMBER 1, 1978.

In FR Doc. 78-17688 appearing on page 27904 in the issue for Tuesday, June 27, 1978, the following correction should be made: In the second column on page 27904, the Agency listed as having administrative jurisdiction over Allotment 168 now reading "Western Nevada Agency" should have read "Eastern Nevada Agency".

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-31629 Filed 11-8-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

IDAHO

Wilderness Inventory

Notice is hereby given that the Bureau of Land Management is conducting wilderness inventories on certain public lands in Idaho. The inventories, which will follow the guidelines established by the Bureau, are the first step in the wilderness review process on public lands.

These inventories are being conducted in the following project areas in advance of the statewide inventory in order to meet time commitments previously established for the projects:

Northern Tier Pipeline—Coeur d'Alene District.
Tendoy, Idaho, to Peterson Flat, Montana, Transmission Line—Salmon District.
Borah, Idaho, to Midpoint, Idaho, Transmission Line—Shoshone District.
Donkey Hills State Land Exchange—Salmon District.
Riddle State Land Exchange—Boise District.
Sun Valley Grazing Environmental Statement—Shoshone District.
Agricultural Environmental Statement—Boise District.
Grassland Kipuka Wilderness Instant Study Area—Idaho Falls District.
China Cup Butte Wilderness Instant Study Area—Idaho Falls District.
Birds of Prey Wilderness Instant Study Area—Boise District.

Upon completion of field analyses, the Bureau will issue draft wilderness inventory maps and narratives. Public review and comment periods will be held, including public meetings. Times and places will be announced in a subsequent notice.

For further information contact:

Dean Bibles, District Manager,
Boise District Office, BLM,
230 Collins Road,
Boise, Idaho 83702.

O'Dell Frandsen, District Manager,
Idaho Falls District Office, BLM,
940 Lincoln Road,
Idaho Falls, Idaho 83401.

Harry Finlayson, Dstrict Manager,
Salmon District Office, BLM,
P.O. Box 430,
Salmon, Idaho 83467.

Charles J. Haszier, District Manager,
Shoshone District Office, BLM,
P.O. Box 2B,
Shoshone, Idaho 83352.

Martin J. Zimmer, District Manager,
Coeur d'Alene District Office,
1808 N. Third Street,
Coeur d'Alene, Idaho 83814.

Dated: October 31, 1978.

WILLIAM L. MATHEWS,
Idaho State Director, Bureau of Land Management.

[FR Doc. 78-31630 Filed 11-8-78; 8:45 am]

[4310-05-M]

Office of Surface Mining Reclamation and Enforcement

McKINLEY MINE

Availability of Coal Mining and Reclamation Plan For Public Review

Pursuant to § 211.5 of Title 30, CFR, notice is hereby given that the office of surface mining has received the following supplemental surface mining and reclamation plan for the reopening and expansion of the southern portion of the McKinley Mine.

The subject plan involves the extraction of both Federal private coal from the following lands, south of Highway 264:

LOCATION OF LANDS TO BE AFFECTED

Applicant	Mine property name	State	County	Township, range and section
Pittsburg and Midway Coal Mining Co.	McKinley Mine South	New Mexico	McKinley	T.16N., R.20W: Sec. 7,8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 26, 27, and 28. T.16N, R.21W.: 11. Sec. 12, 13, 14, and 24.

OSM Reference Number: NM-0001.

The mining/reclamation plan under which the company is currently operating, was approved during December 1975, and addressed the expansion of both the northern and southern mining areas, with the mining operation in the northern portion described in detail. As indicated in the approved plan, a supplemental plan would be submitted for review upon development of detailed planning and marketing information. Of the abovementioned lands, sections 9, 10 (southern portion), 11, 15, and 23 to T. 16 N., R. 20 W. were not addressed in the 1975 plan as containing strippable coal.

The environmental impact statement prepared for the Cholla Project (USDA, Forest Service lead) analyzed the expansion of the McKinley Mine to 5 million tons of coal per year. Of this total, 4 million tons would be extracted from lands in the northern area and 1 million from the southern portion.

The supplemental plan is available for public review in the Library, room 270, Office of Surface Mining, Region V, Post Office Building, 1823 Stout Street, Denver, Colo.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the plan is adequate and may request additional information during the course of its reviews. Any additional information so obtained will also be available for public review. Prior to a final decision on this supplemental plan, the Office of Surface Mining will issue a notice of pending decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

Dated: November 1, 1978.

WALTER N. HEINE, P.E.,
Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 78-31743 Filed 11-8-78; 8:45 am]

[4310-84-M]

[NM 35180]

Bureau of Land Management

NEW MEXICO

Application

NOVEMBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act 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. 29 N., R. 8 W.,
Sec. 35, NW¼NW¼.

This pipeline will convey natural gas across 0.089 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-31627 Filed 11-8-78; 8:45 am]

[4310-84-M]

[NM 35080]

NEW MEXICO

Application

OCTOBER 31, 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 and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 33, S½SE¼.

This pipeline will covey natural gas across 0.059 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promply send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-31673 Filed 11-8-78; 8:45 am]

[4310-84-M]

NEVADA

Realty Action—Sale

The following described lands have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value shown:

Parcel number	Legal description, T. 21 S., R. 60 E.	Acreage	Value
	Section 11		
1	Lot 11, E½NW¼ NE¼NW¼.	5.0	$250,000
2	Lot 125, NE¼SE¼ NW¼NW¼.	2.5	60,000
3	Lot 126, SE¼SE¼ NW¼NW¼.	2.5	60,000
4	Lot 135, NE¼SW¼ SW¼NW¼.	2.5	60,000
5	Lot 136, SE¼SW¼ SW¼NW¼.	2.5	60,000
6	Lot 137, NW¼SW¼ SE¼NW¼.	2.5	62,500
7	Lot 138, SW¼SW¼ SE¼NW¼.	2.5	62,500
8	Lot 145, NE¼SW¼ SE¼SW¼.	2.5	62,500
9	Lot 146, SE¼SW¼ SE¼SW¼.	2.5	60,000
	Section 12		
10	Lot 89, NW¼SE¼ NE¼NW¼.	2.5	55,000
11	Lot 90, SW¼SE¼ NE¼NW¼.	2.5	60,000
12	Lot 93, NE¼NE¼ SE¼SW¼.	2.5	60,000
13	Lot 94, SE¼NE¼ SE¼SW¼.	2.5	55,000
14	Lot 95, NE¼NW¼ SW¼SW¼.	2.5	60,000
15	Lot 96, SE¼NW¼ SW¼SW¼.	2.5	52,500
	Section 13		
16	E½NE¼ NE¼SW¼.	5.0	125,000
17	W½SW¼ NE¼SE¼.	5.0	125,000
18	N½NE¼ NW¼SW¼.	5.0	125,000
19	NE¼NW¼ SE¼SW¼.	2.5	60,000
	Section 25		
20	W½SW¼ NE¼NE¼.	5.0	78,000
21	E½SW¼ NW¼NE¼; SE¼NW¼ NE¼.	15.0	218,000
22	E½NE¼ SW¼NE¼.	5.0	73,000
23	NW¼SW¼ NE¼.	10.0	155,000
24	E½SW¼ SW¼NE¼.	5.0	50,000

Parcel number	Legal description, T. 21 S., R. 60 E.	Acreage	Value
25	W½SW¼ SW¼NE¼.	5.0	60,000
26	SW¼SE¼ NE¼.	10.0	105,000
27	S½NE¼ SE¼NE¼; N½NE¼ SE¼SE¼ NE¼; N½ S½NE¼SE¼ SE¼NE¼.	6.875	93,000
28	E½NE¼ NE¼SE¼.	5.0	85,000
29	W½NW¼ NE¼SE¼.	5.0	68,000
30	E½SE¼ NE¼SE¼.	5.0	80,000
31	W½SE¼ NE¼SE¼.	5.0	68,000
32	E½NE¼ NW¼SE¼.	5.0	60,000
33	W½NE¼ NW¼SE¼.	5.0	60,000
34	E½NW¼ NW¼SE¼.	5.0	50,000
35	W½NW¼ NW¼SE¼.	5.0	50,000
36	E½NE¼ SW¼SE¼.	5.0	53,000
37	W½NE¼ SW¼SE¼.	5.0	55,000
38	E½NW¼ SW¼SE¼.	5.0	55,000
39	W½NW¼ SW¼SE¼.	5.0	55,000
40	E½SW¼ SW¼SE¼.	5.0	70,000
41	W½SE¼ SW¼SE¼.	5.0	70,000
42	E½SE¼ SW¼SE¼.	5.0	68,000
43	W½NE¼ SE¼SE¼.	5.0	55,000
44	E½NW¼ SE¼SE¼.	5.0	55,000
45	W½NW¼ SE¼SE¼.	5.0	55,000

The sale will be held on December 13, 1978, at the Las Vegas Convention Center, 3150 Paradise Road, Las Vegas, Nev. Registration of bidders will begin at 7 a.m. and the sale will start at 9 a.m. beginning with parcel 1 and continue in order until parcel 45 is sold or until 5 p.m. If necessary, the sale will continue at 8 a.m. the next day, December 14, 1978, until all the parcels are offered for sale.

The lands are being offered for sale in order to facilitate land use planning in the area, enhance land use compatibility with adjoining private lands and to streamline administrative procedures in all phases of suburban and industrial development of this section of the city of Las Vegas. The lands have potential for suburban and industrial development. The sale is consistent with the Bureau's planning for the lands involved and has been discussed with the Clark County Regional Planning Commission and the Clark County Planning and Zoning Commission. The public interest would be served by offering these lands for sale.

The terms and conditions applicable to the sale are:

1. Clark County Flood Control Division requires a plot and grading plan to be submitted with all building permit applications in order to mitigate flood hazards. The sale of these lands will be subject to this requirement and all other applicable Clark County regulations.

2. A reservation for road rights-of-way will be incorporated into each patent in conjunction with the Clark County road network.

3. The sale of these lands will be subject to all existing rights.

4. No preference right will be given to adjoining private land owners.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of the public discussions, is available for review at the Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nev.

No bid will be accepted for less than the appraised price and bids for a parcel must include all the lands in the parcel. Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State or the United States.

Bids must be made by the principal or his agent, either by sealed bids mailed or delivered to the Las Vegas District Office or by oral bids made at the sale. Bids delivered or sent by mail will be considered only if received at the Bureau of Land Management, Las Vegas District Office, P.O. Box 5400, 4765 West Vegas Drive, Las Vegas, Nev. 89102, prior to 4 p.m., Friday, December 8, 1978. These bids must be in sealed envelopes accompanied by a certified check, money order, or cashier's check, made payable to the Bureau of Land Management for the full amount of each bid. The envelopes must be marked in the lower left-hand corner as follows: "Bid Parcel No. ——. Sale to be held December 13, 1978."

The highest sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. In the case of identical sealed bids of the same amount for the same parcel, the one with the earliest time stamped on it either by the U.S. Postal Service, or, if hand delivered, by the Bureau of Land Management Office, will be determined the high sealed bid. The highest bid price, either by sealed or oral bid, will establish the sale price. The highest bidder will be required to pay the full bid price immediately at the sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

For a period of 30 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (LLM 320), Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

Dated: November 2, 1978.

E. I. ROWLAND,
State Director.

[FR Doc. 78-31632 Filed 11-8-78; 8:45 am]

[4310-84-M]

[Colorado 27176-e]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

NOVEMBER 2, 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., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4¼" o.d. natural gas pipeline for the Rocky Mountain Natural Gas Gathering System approximately 0.365 miles long across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 9 N., R. 93 W.
Sec. 5: Lots 1 & 2, SW¼NE¼

The proposed gathering system will enable the applicant to expand its gathering ability and thereby meet the demand of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-31631 Filed 11-8-78; 8:45 am]

[4310-84-M]

WESTERN LEG OF ALASKA NATURAL GAS TRANSMISSION SYSTEM

Wilderness Inventory

NOVEMBER 2, 1978.

The California State Director has been delegated as the lead Authorized Officer/Deputy Project Manager for the Bureau of Land Management to conduct an inventory of wilderness values associated with the Western Leg Segment of the Alaska Natural Gas Transportation System through California, Oregon, Washington, and Idaho.

When this inventory has been completed, public comments will then be solicited by the individual State Director of the Bureau of Land Management from California, Oregon, and Idaho, through the FEDERAL REGISTER and the appropriate news medias.

For further information, contact the following Bureau of Land Management State Directors. The State Director of Oregon will respond to comments for the State of Washington.

California.—2800 Cottage Way, Sacramento, Calif. 95825.
Idaho.—Post Office Box 042, Boise, Idaho 83724.
Oregon.—Post Office Box 2965, Portland, Oreg. 97208.

ED HASTEY,
State Director.

[FR Doc. 78-31671 Filed 11-8-78; 8:45 am]

[4310-84-M]

[W-65469]

WYOMING

Application

NOVEMBER 2, 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 Panhandle Eastern Pipe Line Co. of Brighton, Colo., filed an application for a righ-of-way to construct a 4-inch and 10-inch pipeline gathering system and booster station site for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 111 W.,
Secs. 8, 9, 10, 14, 15, 16, 17, 18, 20, 21, 28, 29, 32, and 33.

The proposed pipeline gathering system will transport natural gas from the Davis-Stormshelter Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11 wells, the Davis-Farson Cutoff No. 1 well and the Davis-Judith Federal No. 1 well to a point of connection into the proposed booster station site located in the SE¼NE¼ of section 33, all located within T. 23 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-31633 Filed 11-8-78; 8:45 am]

[4310-84-M]

[Wyoming 65101]

WYOMING

Application

NOVEMBER 2, 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. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 111 W.,
Sec. 19, lot 4;
Sec. 30, lots 1, 2, SE¼NW¼.
T. 27 N., R. 112 W.,
Sec. 23, SW¼NE¼, NW¼NW¼, S½NW¼, N½SE¼, and SE¼SE¼;
Sec. 24, S½SW¼;
Sec. 25, N½NE¼ and NE¼NW¼.

The pipeline will transport natural gas produced from the Federal No. 10-30 well located in the SE¼SW¼ of section 30, T. 27 N., R. 111 W., to a point of connection with Northwest Pipeline Corp.'s existing Big Piney Gathering System in the NW¼NW¼ of sec. 23, T. 27 N., R. 112 W., in Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-31634 Filed 11-8-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[TA-201-37]

BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

Report to the President

NOVEMBER 3, 1978.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation relating to bolts, nuts, and large screws of iron or steel.

The investigation to which this report relates Investigation No. TA-201-37) was undertaken to determine whether—

lag screws or bolts, bolts (except mine-roof bolts) and bolts and their nuts imported in the same shipment, nuts, and screws having shanks or threads over 0.24 inch in diameter, all the foregoing of iron or steel, provided for in items 646.49, 646.54, 646.56, 646.63, and 646.79 of the Tariff Schedules of the United States (TSUS),

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation under the authority of section 201(b)(1) of the Trade Act on August 3, 1978, following receipt on June 9, 1978, of a resolution of the Committee on Ways and Means of the House of Representatives and after determining that there was "good cause" within the meaning of section 201(e) of the Trade Act to investigate the same subject matter as a previous investigation within 1 year of a report to the President on the results of such previous investigation. The report on the previous investigation was transmitted to the President on December 12, 1977.[1]

The Commission held a public hearing in connection with the investigation on September 11 and 12, 1978, in Euclid, Ohio. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard at the hearing.

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[1] See Bolts, Nuts, and Large Screws of Iron or Steel: Report to the President on Investigation No. TA-201 27 * * *, USITC Publication 847, December 1977.

The Commission published a notice advising of receipt of the Ways and Means Committee resolution and giving interested persons an opportunity to comment on the "good cause" question in the FEDERAL REGISTER of June 28, 1978 (43 FR 28057). Interested persons were given until July 19, 1978, to comment. Notice of the institution of the investigation and of the scheduling of a public hearing was duly given by publishing notice thereof in the FEDERAL REGISTER of August 15, 1978 (43 FR 36145). Notice of the change in time and place of public hearing from September 6, 1978, to September 11, 1978, was published in the FEDERAL REGISTER of August 24, 1978 (43 FR 37772).

The information in this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[2]

There were no significant imports of bolts, nuts, and large screws from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from such countries. Certain recommended relief measures would involve the imposition of rates of duty on imports from countries whose imports are currently subject to rates of duty in column 1 which are higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by the President, it would be necessary for him to conform column 2 by proclaiming rates therefor that are the same as those proclaimed for column 1 in order to avoid being in violation of our international obligations.[3]

DETERMINATION, FINDINGS, AND RECOMMENDATION OF THE COMMISSION

Determination

On the basis of the investigation, the Commission determines (Vice Chairman Alberger dissenting, Chairman Parker and Commissioner Stern[4] not participating) that—

lag screws or bolts, bolts (except mine-roof bolts) and bolts and their nuts imported in the same shipment, nuts, and screws having shanks or threads over 0.24 inch in diameter, all the foregoing of iron or steel, provided for in items 646.49, 646.54, 646.56, and 646.63 of the Tariff Schedules of the United States (TSUS),

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury,[5] or the threat thereof,[6] to the domestic industry producing articles like or directly competitive with the imported articles. The Commission makes no determination with respect to imports of the subject articles from Canada admitted free of duty as original equipment for motor vehicles under item 646.79 of the TSUS.[7]

Findings and recommendation

The Commission finds and recommends (Vice Chairman Alberger dissenting,[8] Chairman Parker and Commissioner Stern not participating) that to prevent [9] or remedy [10] such injury it is necessary to impose rates of duty (a) in lieu of the present rates of duty with respect to lag screws or bolts and screws having shanks or threads over 09.24 inch in diameter, of iron or steel, provided for in items 646.49 and 646.63 of the TSUS, and (b) in addition to the present rates with respect to bolts (except mine-roof bolts) and bolts and their nuts imported in the same shipment, and nuts, of iron or steel, provided for in items 646.54 and 646.56 of the TSUS, as follows—

First year: 20 percent ad val.
First year: 20 percent ad val.
Third year: 15 percent ad val.
4th year: [11] 10 percent ad val.
Fifth year: [11] 10 percent ad val.

By order of the Commission.

Issued: November 7, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-31740 Filed 11-8-78; 8:45 am]

[2] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[3] See art. I, General Agreement on Tariffs and Trade (*Basic Instruments and Selected Documents*, vol. IV, March 1969).

[4] Commissioner Stern assumed her duties as a Commissioner on Oct. 16, 1978, and was not a Commissioner at the time of the public hearing or during most of the investigative period.

[5] Commissioner Bedell finds serious injury with respect to imports of such articles.

[6] Commissioner Moore finds threat of serious injury with respect to imports of such articles.

[7] Vice Chairman Alberger's negative determination was with respect to all the imported articles under investigation, including these Canadian articles.

[8] Vice Chairman Alberger recommends no remedy.

[9] Commissioner Moore, having found a threat of serious injury, finds and recommends relief necessary to *prevent* such threatened injury.

[10] Commissioner Bedell, having found serious injury, finds and recommends relief necessary to *remedy* such injury.

[11] In view of the fact that the rate of duty set forth in column 1 of the TSUS on lag screws or bolts provided for in item 646.49 of the TSUS is 12.5 percent ad valorem, import relief with respect to such articles provided in accord with this proposal would terminate at the end of the third year.

[7020-02-M]

[AA1921-187]

MOTORCYCLES FROM JAPAN

Determination of No Injury

NOVEMBER 3, 1978.

On the basis of its investigation, the U.S. International Trade Commission (Commission) has unanimously determined (Commissioner Stern not participating)[1] that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of motorcycles from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On August 3, 1978, the Commission received advice from the Department of the Treasury (Treasury) that motorcycles from Japan are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Treasury excluded from its LTFV determination motorcycles produced by Suzuki Motor Co., Ltd. On August 11, 1978, the Commission instituted investigation No. AA1921-187 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. On October 18, 1978, the Commission was advised by Treasury that its determination of sales at LTFV was being amended to discontinue the investigation with respect to motorcycles produced and sold by Yamaha Motor Co., Ltd., and to report certain changes in the margins by which sales by Honda Motor Co., Ltd., and Kawasaki Heavy Industries, Ltd., are at less than fair value. Suzuki Motor Co., Ltd., remained excluded from the investigation.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the FEDERAL REGISTER of August 17, 1978 (43 FR 36519). On September 28 and 29, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] Commissioner Stern assumed her duties as a Commissioner on Oct. 16, 1978, and was not a Commissioner at the time of the public hearing or during most of the investigative period.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS BILL ALBERGER, GEORGE M. MOORE, AND CATHERINE BEDELL

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established, *and* the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of the information obtained in the investigation, we determine that an industry in the United States is not being is is not likely to be injured, and is not being prevented from being established, by reason of the importation of motorcycles from Japan which the Department of the Treasury has determined are being, or are likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Motorcycles are two-wheeled motorized vehicles powered by internal combustion engines having piston displacements greater than 90 cubic centimeters (cc). Motorcycles are classified by use as on-highway, dual-purpose, and off-highway types and by engine size as lightweight (91cc to 250cc), middleweight (251cc to 700cc), and heavyweight (over 700cc). In this investigation we consider the relevant domestic industry to consist of the facilities in the United States used in the production of motorcycles. Harley-Davidson Motor Co., Inc., a subsidiary of AMF, Inc. (the complainant in this case), and Kawasaki Motors Corp., U.S.A., a wholly owned subsidiary of Kawasaki Heavy Industries, Ltd., Japan, produce motorcycles in the United States.

LTFV SALES FROM JAPAN

The Department of the Treasury's investigation of U.S. imports of motorcycles from Japan covered the 8-month period extending from November 1, 1976, through June 30, 1977. This investigation covered four Japanese companies—Honda Motor Co., Ltd.; Yamaha Motor Co., Ltd.; Kawasaki Heavy Industries, Ltd.; and Suzuki Motor Co., Ltd.—which together accounted for approximately 98 percent of the Japanese motorcycles sold to dealers or independent distributors in the United States during the period under consideration. On the basis of an amended determination of sales at LTFV, which was received by the Commission on October 18, 1978, Treasury found that 18.2 percent of the sales compared were at margin and that the weighted average margin on all sales compared was 2.08 percent. Weighted average margins by company were as follows: 2.6 percent for Honda; 0.82 percent for Yamaha, 6.9 percent for Kawasaki, and 0.15 percent for Suzuki. Treasury determined that the margin applicable to Yamaha's sales was minimal in relation to the total volume of its exports to the United States, and after receiving assurances from Yamaha of no future sales at LTFV, Treasury discontinued its investigation with respect to that firm. Treasury had previously determined (on Aug. 3, 1978) that Suzuki's margin was de minimis and excluded that firm from its determination of sales at LTFV.

U.S. MARKET CONDITIONS, 1972-77

U.S. consumption of motorcycles increased from 873,000 units in 1972 to 1.1 million units in 1973 or by more than 24 percent, apparently in reaction to the oil embargo and growing consumer concern over energy problems. Japanese producers responded to this increased demand and its anticipated continuation by expanding their exports to the United States by more than 50 percent between 1973 and 1974. However, U.S. motorcycle demand fell sharply, by more than 40 percent from 1973 to 1975, as energy concerns lessened. It also became evident that U.S. consumers were more interested in purchasing motorcycles as recreational products than as an alternate means of transportation; this recreational market was also adversely affected by the economic recession of 1974-75. As the U.S. economy improved in 1976, consumption increased about 20 percent and remained at this level through 1977. The result of the misreading of motorcycle demand in 1974 and 1975 was the accumulation of large inventories by importers and to a lesser degree by U.S. producers in 1975 and 1976. As new-model-year motorcycles were imported prices of some of the carry over inventory of prior year models were reduced to the point where they were found by the Secretary of the Treasury to have been sold at less than fair value in 1976 and 1977. As of March 31, 1978, inventories of prior-year-model (1975 and 1976) motorcycles had been virtually eliminated from both importers and U.S. producers stocks.

NO INJURY BY REASON OF LTFV SALES

Since the operations of the two U.S. producers of motorcycles differ significantly with respect to the types and sizes of motorcycles produced and the amount of fabrication performed in the United States, we have examined their performances separately.

Kawasaki, which entered the U.S. market as a producer in 1975, reported increased production, increased capacity utilization, increased shipments, and increased employment in 1976 and 1977. After absorbing significant losses associated with startup costs, it reported a profit in 1977 and again in January-June 1978. In view of these factors and its own claim of no injury at the Commission's public hearing,[2] it is clear that Kawasaki is not being injured by LTFV imports.

Although Harley-Davidson has produced a number of different motorcycle types and sizes, it is known primarily as a heavyweight motorcycle producer. In 1973, Harley-Davidson established an assembly line in its U.S. production facility for the assembly of lightweight on-highway and dual-purpose motorcycles. These models were also being produced at that time in Harley-Davidson's plant in Italy. The company's production of lightweight motorcycles began at a time when the overall U.S. demand for motorcycles was declining. From 1973 to 1975, overall demand for motorcycles declined by 40 percent and demand for lightweight models, especially the dual-purpose type, experienced an even sharper decline. Japanese producers, who had developed the U.S. market for lightweight motorcycles in the 1960's continued to supply the great bulk of the U.S. market for these motorcycles throughout the period for which the Commission obtained data, 1972-77 and January-June 1978.

Harley-Davidson's lightweight production commenced in November 1973, peaked in 1974, and then declined in 1975. U.S. production of lightweight models was discontinued by October 1976. Thus, Harley-Davidson was not actively engaged in the production of lightweight motorcycles during the period (November 1976-June 1977) in which Treasury determined LTFV sales occurred.

The Commission received oral and written testimony that Harley-Davidson's lightweight models were not competitive in terms of quality and performance with Japanese models and that consumer acceptance of Harley-Davidson's lightweight models was poor since they did not conform to the image or quality buyers had come to expect on the basis of the company's reputation as a manufacturer of

[2] See transcript of the hearing, p. 269.

heavyweight motorcycles.[3] In addition, some of Harley-Davidson's dealers were unwilling to stock the company's lightweight models. These factors indicate that the lightweight motorcycle operations were not injured by reason of LTFV imports.

An analysis of Harley-Davidson's heavyweight motorcycle operations reveals that the firm has had continued success in its sales of heavyweights, the segment of the U.S. market in which it has traditionally held a dominant position. Harley-Davidson's production of heavyweight motorcycles increased by over 20 percent from 1973 to 1977 and capacity utilization increased about 25 percent in the same period. Inventories of prior-year models were minimal. Information was received during the Commission's investigation indicating that Harley-Davidson even found it necessary to backorder some heavyweight motorcycles. Employment was stable and prices continually increased, even during the period in which Treasury found sales at LTFV. Profit and loss data supplied to the Commission by Harley-Davidson show that its overall motorcycle operations were profitable in each of the years 1972–76 and profits increased in 1977. Clearly, Harley-Davidson has not been injured by LTFV imports in its heavyweight motorcycle operations.

NO LIKELIHOOD OF INJURY BY REASON OF LTFV SALES

The facts in the instant case also reveal there is no likelihood of future injury to the domestic industry from LTFV sales. The inordinately high inventories of imported prior-year model motorcycles which led to the LTFV pricing have been reduced to a normal level and thereby reducing the pressure on importers to make sales at LTFV. Furthermore, Kawasaki, which at one time imported all its motorcycles from Japan, has established a U.S. production facility whose output has eliminated its need to import certain types and sizes of motorcycles and Honda has announced that it will open a U.S. production facility in the summer of 1979 which will likewise decrease its dependence on imports. Kawasaki Heavy Industries and Honda are the only Japanese firms with respect to which Treasury has made an LTFV determination. As a share of the U.S. motorcycle market, the combined imports of these two producers declined by about 25 percent from 1975 to January–June 1978.

It is also evident that demand for heavyweight motorcycles of the type produced by Harley-Davidson is increasing. Heavyweight motorcycles, as a share of total U.S. motorcycle consumption increased from about 10 percent in 1972 to about 30 percent in January–June 1978. Demand for certain Harley-Davidson models was sufficiently strong in 1978 that the company found it necessary on several occasions to provide its dealers with lists of overcommitted orders, i.e., orders that were not produced in the month requested and which the dealer could cancel or hold for future scheduling when production slots became available.

NO PREVENTION OF ESTABLISHMENT OF AN INDUSTRY

There are currently two domestic producers of motorcycles which manufacture a variety of types and sizes in their U.S. facilities. Harley-Davidson, which currently produces only heavyweight sizes, has been manufacturing motorcycles in the United States since 1903. This firm made substantial quantities of motorcycles in the United States during each of the years for which the Commission obtained data—1972–77—and in January–June 1978. In addition, this firm reported a profit on its motorcycle operations in each of these years and again in January–June 1978. Kawasaki, which commenced U.S. motorcycle production in 1975, produces both middleweight and heavyweight sizes. This firm also produced substantial quantities of motorcycles in its U.S. plant in 1975, 1976, 1977, and January–June 1978. Notwithstanding the significant startup costs in 1975 and 1976 which accompanied the commencement of production in the United States by Kawasaki, that company reported a profit in 1977 and in January–June 1978 thereby establishing itself as a viable producer. In addition, a representative of American Honda Motor Co., Inc., testified at the Commission's hearing that it would commence production of motorcycles in the United States in the summer of 1979.[4] It is clear that there is an established and a growing industry producing motorcycles in the United States.

CONCLUSION

We therefore conclude on the basis of the information obtained in the investigation that an industry in the United States is not being and is not likely to be injured and is not being prevented from being established by reason of the importation of motorcycles from Japan which are being or are likely to be, sold at LTFV.

Issued: November 3, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-31741 Filed 11-8-78; 8:45 am]

[3] See transcript of the hearing, pp. 322-357 and 396-407; post hearing briefs from Honda, Kawasaki, and Yamaha; and Commission report, pp. A-32-34.

[4] See transcript of hearing, p. 367.

[7020-02-M]

[Investigation No. 337-TA-59]

PUMP TOP INSULATED CONTAINERS

Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 25, 1978, and supplemented on October 6, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Aladdin Industries, Inc., Nashville, Tenn. 37210, alleging that unfair methods of competition and unfair acts exist in the importation of certain pump top insulated containers into the United States, or in their sale, by reason of:

A. The alleged coverage of such pump top insulated containers by the claims of U.S. Letters Patent 4,113,147;

B. The passing off of such pump top insulated containers as though they were complainant's product; and

C. The failure to indicate the country of origin on such pump top insulated containers.

The supplemented complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a temporary order of exclusion from entry into the United States of the imports in question. Complainant further requests that, after a full investigation a permanent exclusion of said imports be ordered, and a cease and desist order be issued.

Having considered the supplemented complaint, the U.S. International Trade Commission, on October 24, 1978,

Ordered, (1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the supplemented complaint, there is, or there is reason to believe there is, a violation of subsection (a) of this section in the importation into the United States and the sale within the United States of pump top insulated containers or components thereof by reason of:

(a) The alleged coverage of such pump top insulated containers by claims of the U.S. Letters Patent 4,113,147;

(b) The passing off of such pump top insulated containers as though they were complainant's product; and

(c) The failure to indicate the country of origin on such pump top insulated containers,

Wherein, the effect or tendency of these alleged unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is: Aladdin Industries, Inc., 703 Murfreesboro Road, Nashville, Tenn. 37210.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the supplemented complaint and this notice are to be served: W. P. Hemmenway Co., 1405 Northwest 14th Street, Portland, Oreg. 97209; Rainbow National, Inc., 3104 West Lake Street, Minneapolis, Minn. 55416.

(c) Donald R. Dinan, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

(3) That, for the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the U.S. International Trade Commission's *Rules of practice and Procedure*, as amended (19 CFR 210.21). Pursuant to 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the U.S. International Trade Commission if recieved no later than 20 days after the date of service of the supplemented complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown

Failure of a respondent to file a timely response to each allegation in the supplemented complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the supplemented complaint and this notice, and will authorize the presiding officer and the U.S. International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the supplemented complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The supplemented complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the U.S. International Trade Commission, 6 World Trade Center, New York, N.Y. 10048.

Issued: November 6, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-31742 Filed 11-8-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Antitrust Division

PROPOSED FINAL JUDGMENT IN "UNITED STATES v. OWENSBORO RIVER SAND & GRAVEL CO., INC. ET AL," and COMPETITIVE IMPACT STATEMENT THEREON

Notice is hereby given pursant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment and a Competitve Impact Statement as set forth below has been filed with the United States District Court for the Western District of Kentucky, Civil No. 77-0110-0-(G), *United States* v. *Owensboro River Sand & Gravel Co., Inc. et al.* The Complaint in this case alleges that two corporations, Owensboro River Sand & Gravel Co., Inc., and Transit-Mix Concrete Co., conspired to fix, raise, stabilize, and maintain the prices of ready-mix concrete in the Owensboro, Ky., area. The proposed Judgment enjoins the defendants from engaging in the alleged activities.

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 John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, telephone 216-522-4070.

Dated: November 2, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

United States of America, Plaintiff, vs. *Owensboro River Sand & Gravel Co., Inc., and Transit-Mix Concrete Co., Defendants.*
Civil Action No. 77-0110-0(G).
Filed: November 2, 1978.

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 and entered 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 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, 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.

For the Plaintiff: United States of America. John H. Shenefield, *Assistant Attorney General,* William E. Swope, Charles F. B. McAleer, John A. Weedon, *Attorneys, Department of Justice.* Albert Jones, *U.S. Attorney.* Donald S. Scherzer, William A. LeFaiver, Robert M. Dixon, *Attorneys, Department of Justice Antitrust Division.*

Attorneys for the Defendant Owensboro River Sand & Gravel Co., Inc.: Burke, Haber & Berick, Myron N. Krotinger, 1500 Central National Bank Building, Cleveland, Ohio 44114; dated: July 31, 1978. Wilson, Wilson, & Plain, William L. Wilson, Sr., 414 Masonic Building, Owensboro, Ky. 42301; dated: July 31, 1978.

Attorney for the Defendant Transit-Mix Concrete Co.: Stites, McElwain & Fowler, T. Kennedy Helm III, 3400 First National Tower, Louisville, Ky. 40202; dated: July 31, 1978.

IN THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

United States of America, Plaintiff vs. *Owensboro River Sand & Gravel Co., Inc.;* and *Transit-Mix Concrete Co.,* Defendants.
Civil Action No. 77-0110-0(G).
Filed: November 2, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on July 22, 1977, and defendants, having appeared and responded to the Complaint, and the plaintiff and defendants by their respective attorneys having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein:

Now, Therefore, before any testimony or evidence has been taken herein and upon said consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties thereto. The Complaint states claims against the defendants upon which relief may be granted under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "person" means any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "ready mix concrete" means a mixture of cement and other materials, such as sand, stone, water and, at times, additives, which is used in the construction and improvement of various types of roadways, structures and appurtenances.

III

The provisions of this Final Judgment applicable to each of the defendants shall also apply to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any person to determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of ready mix concrete or any other product to any third person in the Commonwealth of Kentucky.

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) communicating to any person prices at which, or terms or conditions upon which, ready mix concrete or any other product is then being sold or offered for sale by said defendant;

(B) communicating to any person information concerning:

(1) future prices at which, or terms or conditions upon which, ready mix concrete or any other product will be sold or offered for sale by said defendant;

(2) consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell ready mix concrete or any other product;

(C) requesting from any person any information which said defendant could not communicate without violating subparagraphs (A) and (B) of this Section V.

VI

Nothing in Section V of this Final Judgment shall prohibit any defendant from:

(A) formulating or submitting with any person a bona fide joint bid or quotation, when the submission of such joint bid or quotation has been requested by or is known to the purchaser;

(B) communicating information to any person in the course of, and related to, negotiation, or entering into, or carrying out a bona fide purchase or sale purchase transaction with such other person;

(C) advertising to the public or trade generally present or future prices at which, or terms or conditions upon which ready mix concrete or any other product is then being, or will be sold or offered for sale.

VII

Each defendant is ordered and directed for a period of five (5) years from the date of entry of this Final Judgment to affix to every written bid or quotations submitted by said defendant for ready mix concrete or any other product or any combination therof a written certification, in substantially the form set forth in Appendix A attached hereto, signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of this Final Judgment.

VIII

Each defendant is ordered and directed to:

(A) within thirty (30) days after the date of entry of this Final Judgment, furnish a copy thereof to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of ready mix concrete or any other product in the Commonwealth of Kentucky;

(B) furnish a copy of this Final Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of ready mix concrete or any other product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) attach to each copy of this Final Judgment furnished pursuant to subsections (A) and (B) of this Section VIII a statement, in substantially the form set forth in Appendix B attached hereto, advising each person of his obligations and of such defendant's obligations under this final Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of this Final Judgment; and

(D) to file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of this section VIII.

IX

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time and time:

(A) duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any of the matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers, employees, directors, partners or agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by means provided in this Section IX 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 United States, 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 a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is 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 the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, or for the enforcement of compliance therewith, and punishment of violations thereof.

XI

Entry of this Final Judgment is in the public interest.

U.S. District Judge

Entered:

APPENDIX A

The undersigned hereby certifies that to his best knowledge and belief the attached bid has not been prepared in collusion with any other seller of ready mix concrete, and that the prices and other terms and conditions thereof have not been communicated by or on behalf of the bidder to any other seller of ready mix concrete prior to any official opening of said bid.

Dated: _____

Signature of Offical Having Authority to Determine the Price or Prices Bid or Quoted

APPENDIX B

NOTICE

Re: *U.S. v. Owensboro River Sand & Gravel Co., Inc.*

Attached hereto is a copy of a Final Judgment entered ————, 1979 in the captioned case. We are required to provide this to you, and you should read it carefully. The provisions of the Final Judgment con-

tained in Paragraphs IV, V and VII apply to you, and violation of these provisions by you may subject you and the Company to fines and/or imprisonment.

U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

United States of America, Plaintiff, v. *Owensboro River Sand & Gravel Co., Inc.*; and *Transit-Mix Concrete Co.*, Defendants.
Civil No. 77-0110-0-(G).
Filed: November 2, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. sections 16(b)-(h), the United States filed this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On July 22, 1977, the United States filed a civil antitrust Compliant alleging that two corporations conspired to fix prices in violation of Section 1 of the Sherman Act (15 U.S.C. section 1).

The Complaint alleged that beginning at least as early as March 1973, and continuing thereafter up to and including the date of the filing of the Complaint, the defendants had engaged in a combination and conspiracy to fix, raise, stabilize, and maintain the prices of ready-mix concrete in the Owensboro area.

The Complaint sought a judgment by the Court declaring that defendants had engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act and an Order by the Court to enjoin and restrain the defendants from such activities in the future.

The corporations named in the Complaint were Owensboro River Sand & Gravel Co., Inc.; and Transit-Mix Concrete Co.

Both of these defendants to this action have previously pleaded *nolo contendere* to criminal felony charges with respect to this alleged conspiracy. A fine of $100,000 was levied against Owensboro River Sand & Gravel Co., Inc. and a fine of $10,000 was levied against Transit-Mix Concrete Co.

II. DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

The defendants are engaged in the production and sale of ready-mix concrete in the Owensboro area to governmental agencies, general contractors, home builders, owners of homes and buildings, and others on the basis of written or oral price quotations rendered to said customers. These customers use ready-mix concrete in the construction, repair, alteration, and improvement of highways and governmental, industrial, institutional, commercial and residential foundations and structures.

Defendants are two of the four largest ready-mix concrete companies in the Owensboro area.

The Complaint alleges that the defendants engaged in a combination and conspiracy beginning at least as early as March 1973, that consisted of a continuing agreement, understanding, and concert of action among themselves and co-conspirators, to fix, raise, stabilize, and maintain the prices of ready-mix concrete in the Owensboro area.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

(a) prices of ready-mix concrete in the Ownesboro area were fixed, raised, stabilized, and maintained at artificial and noncompetitive levels;

(b) competition in the sale of ready-mix concrete in the Owensboro area was restrained; and

(c) customers in the Owensboro area were deprived of the benefits of free and open competition in the market for ready-mix concrete.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, section IV provides that the defendants are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any person to determine, fix, raise, stabilize or maintain prices or other terms or conditions for the sale of ready-mix concrete or any other product to any third person in the Commonwealth of Kentucky.

Section V further enjoins each defendant from directly or indirectly:

(A) communicating to any person prices at which, or terms or conditions upon which, ready-mix concrete or any other product is then being sold or offered for sale by said defendant;

(B) communicating to any person information concerning:

(1) future prices at which, or terms or conditions upon which, ready-mix concrete or any other product will be sold or offered for sale by said defendant;

(2) consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which said defendant sells or offers to sell ready-mix concrete or any other product;

(C) requesting from any person any information which said defendant could not communicate without violating subparagraphs (A) and (B) of this section V.

The injunctions in sections IV and V run perpetually.

For a period of five (5) years from the date of entry of the Judgment, each defendant is required to affix to every written bid or quotation submitted by said defendant for ready-mix concrete or any other product or any combination thereof a written certification signed by an officer or employee of such defendant having authority to determine the price or prices bid or quoted and responsible for the preparation of bids or quotations, that said bid or quotation was not the result, directly or indirectly, of any discussion, communication, agreement, understanding, plan or program, whether formal or informal, between such defendant and any other person, which is prohibited by the provisions of this Final Judgment.

Section VIII of the proposed Judgment orders and directs each defendant to:

(A) Furnish a copy of the Judgment, within thirty (30) days after the date of entry of the Judgment, to each of its officers and directors, and also to any employee having pricing authority or responsibility in connection with the sale of ready-mix concrete or any other product in the Commonwealth of Kentucky;

(B) Furnish a copy of the Judgment to each new officer, director, and also to any employee having pricing authority or responsibility in connection with the sale of ready-mix concrete or any other product in the Commonwealth of Kentucky within thirty (30) days after employment;

(C) Attach to each copy of the Judgment furnished pursuant to subsections (A) and (B) of this section VIII a statement, in substantially the form set forth in Appendix B attached hereto, advising each person of his obligations and of such defendant's obligations under the Judgment, and of the penalties which may be imposed upon him and/or upon such defendant for violation of the Judgment; and

(D) To file with the Court and serve upon the plaintiff within 60 days after the date of entry of the Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (C) of section VIII.

There are several limited exceptions to the prohibitions against exchange of information set forth in section V of the Judgment. These execptions, found in section VI of the Judgment, relate to possible bona fide joint bids or quotations, bona fide purchases and sales, and advertisements.

The proposed Final Judgment is applicable to each of the defendants and to the officers, directors, agents, and employees of each defendant, as well as to the subsidiaries and successors to any defendant corporation.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

After entry of the proposed Final Judgment, any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they may have had if the Judgment had not been entered. The Judgment may not be used, however, as *prima facie* evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. section 16(a).

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to John A. Weedon, Chief, Cleveland Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216-522-4070), within the 60-day period provided by the Act. These comments, and the Department's 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, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the Complaint.

In reaching an agreement on the proposed Final Judgment, five matters were the principal subject of negotiation. These matters were the questions of whether:

1. the scope of section IV of the Judgment should be statewide or local;

2. the injunctive provisions of section IV of the Judgment should include activities which were not specifically alleged in the Complaint;

3. the injunctive provisions of sections IV and V of the Judgment should apply for five years or in perpetuity;

4. the injunctive provisions of sections IV and V of the Judgment should apply only to each defendant's dealings with other defendants, or should apply to each defendant's dealings with all "persons" as defined in section II of the Judgment; and

5. the certification which defendants must attach, for a period of five years, to every bid or quotation they submit, as required by section VII of the Judgment, should be treated as a sworn statement made under oath, and be subject to the provisions of Title 18 U.S.C. section 1001 relating to the making of false statements, and to the provisions of Title 31 U.S.C. sections 231-233, relating to the making of false claims.

The first matter, concerning the geographic scope of the Judgment, arose because the defendants had proposed limiting the Judgment to only those sales occurring in the Owensboro, Kentucky area. The government insisted, however, that the coverage of the section include all sales occurring in the Commonwealth of Kentucky. In as much as both companies make almost all of their sales within the Commonwealth of Kentucky, the government considers that the geographic coverage is sufficient.

The second matter, relating to the types of activities enjoined by section IV of the Judgment, was raised because the govenment had proposed that the defendants be enjoined from engaging in not only price fixing but also other activities such as the allocation of customers and markets. The government agreed that the proscriptions provided for in section IV would be limited to those activities alleged in the Complaint because the evidence in this case did not require enjoining other activities.

The third matter, involving the length of time for which the defendants would be enjoined by the provisions of sections IV and V, arose because the defendants proposed limiting the applicability of these sections to five years. The government refused to agree to this time limitation. The government's position is reflected in the Judgment.

The fourth matter related to whether the injunctive provisions of sections IV and V of the Judgment should apply to each defendant's dealing only with the other defendants or to each defendant's dealing with any person. Because of the frequent interaction between sellers of ready-mix concrete and suppliers of its component parts, some of which also sell ready-mix concrete, the government insisted that the applicability of sections IV and V include dealings with all persons.

The fifth matter, relating to the certification required by section VII of the Judgment, arose because the government had sought to have included in the certification form set out in Apendix A of the Judgment, a statement of the applicability of Title 18 U.S.C. section 1001 and Title 31 U.S.C. sections 231-233. The defendants refused to accept the government's proposed language. The government agreed to delete this proposed language because, if the defendants violate the provisions of the Judgment, they will still be subject to substantial criminal penalties.

VII. DETERMINATIVE MATERIALS AND DOCUMENTS

No other material or document of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. section 16) was considered in formulating this proposed Judgment. Consequently, none is submitted pursuant to that section.

John A. Weedon, David F. Hils, *Attorneys, Department of Justice.*
Donald S. Scherzer, William A. LeFaiver, Robert M. Dixon, *Attorneys, Department of Justice, Antitrust Division,* 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone 216-522-4082.

[FR Doc. 78-31635 Filed 11-8-78; 8:45 am]

[4410-09-M]

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1978 Revised Aggregate Production Quota Thebaine for Conversion

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On September 29, 1978, a notice of the proposed revised aggregate production quota for 1978 for Thebaine for Conversion was published in the FEDERAL REGISTER (43 FR 44911). All interested parties were invited to comment on or object to the proposed aggregate production quota on or before October 30, 1978. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the revised aggregate production quota for the controlled substance listed below, expressed in grams of anhydrous base, be established as follows:

Basic class and final 1978 aggregate production quota

Thebaine for conversion, 2,217,000.

This order is effective upon publication.

Dated: November 3, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-31736 Filed 11-8-78 8:45 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

INTERIM INTERNAL STAFF DIRECTIVE

Publicity of and Comments on Expansion Into Areas Previously Unserved by LSC-Funded Programs

AGENCY: Legal Services Corporation.

ACTION: Internal staff directives.

SUMMARY: The Board of Directors of the Legal Services Corporation has approved, on an interim basis, internal staff directives to guide Corporation personnel in deciding how to allocate funds for expansion into new areas. The Corporation is publishing these staff directives for the information of the public, although publication is not required, and invites comments from interested persons. Some Directors are of the opinion that, all other factors being equal, the Corporation should give preference in allocating expansion funds to existing organizations within the proposed area to be served. The Corporation also invites comments on this issue.

EFFECTIVE DATES: October 19, 1978.

ADDRESS: Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, 202-376-5113.

INTERIM INTERNAL STAFF DIRECTIVE CONCERNING PUBLICITY OF AND COMMENTS ON EXPANSION INTO AREAS PREVIOUSLY UNSERVED BY LSC-FUNDED PROGRAMS

The Legal Services Corporation is responsible for supporting high quality legal assistance to the poor in civil matters. When the Corporation has funds to support assistance in an area previously unserved by an LSC-funded program, the regional staff of the Corporation shall attempt to develop and recommend for funding arrangements for such assistance that will give the best assurance of the highest quality and the greatest efficiency. It should be recognized, however, that the Corporation is continuing to examine, through the delivery systems study and in other ways, the most effective means of delivering high-quality services in various situations.

This directive is designed to aid the Corporation in obtaining the information needed to reach sound decisions concerning the allocation of expansion funds. The procedures should be followed as a general rule, though it may be appropriate to modify them to meet the circumstances of particular situations.

(1) As soon as practicable, the regional staff should announce the availability of funds to provide legal services for the poor in areas unserved by a Corporation recipient. The announcement should state that the Corporation will consider the views of and proposals from all interested groups, and should be sent to:

a. the State bar association;

b. the State advisory council established under the Legal Services Corporation Act of 1974, as amended;

c. all local bar associations in the unserved area;

d. all existing legal services programs in the unserved area—whether they receive funds or are operated as pro bono programs;

e. the National Clients Council; and

f. all law schools approved by the American Bar Association in the unserved areas.

In addition, the announcement should be sent to other appropriate groups within the unserved area that might be interested and that can be readily identified by regional staff. The announcement should also be published in a newspaper or newspapers of general circulation within the unserved areas. Regional staff should allow at least 30 days after sending and publishing announcements for the submission of proposals for the provision of legal service in an area.

(2) Upon thorough consideration of the proposals received, and other relevant factors, the Office of Field Services should designate those unserved areas in each State for which funds will be made available to provide service in the current fiscal year. The regional office staff should hold a public meeting or meetings in those areas. Meetings generally should be held in locations that are reasonably accessible to the maximum number of interested parties, and, to the extent feasible, interested persons should not have to travel more than approximately 100 miles to attend. Regional staff should attempt to notify interested parties of the date and place of meetings and should publish announcements of meetings in a newspaper or newspapers of general circulation within the area to be served. If the circumstances of a particular situation make it impractical to hold a public meeting in the area to be served, particular care should be taken to insure that all who may have an interest in the matter have an opportunity to express their views in other ways to regional staff.

(3) At least 30 days aprior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project for the provision of legal services in an area not previously served by a recipient of LSC funds, the Corporation shall announce publicly such grant, contract, or project, and shall notify the Governor, the State bar association, and the principal local bar association (if there be any) and any existing legal services programs in the service area where legal assistance will thereby be initiated. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(4) When arrangements for expansion into a new area are completed and approved by the Corporation, the Board of Directors of the program selected to serve that area must be constituted in accordance with section 1007(c) of the Legal Services Corporation Act of 1974, as amended, and membership on the Board and any program advisory councils must be structured to reflect the communities to be served.

INTERIM INTERNAL STAFF DIRECTIVE CONCERNING EXPANSION OF SERVICE TO AREAS PREVIOUSLY UNSERVED BY LSC-FUNDED PROGRAMS

In its 1979 budget request, the Corporation sought funds to implement its short-term plan to provide resources for civil legal services to eligible poor persons without minimum access at a level equivalent to 2 attorneys per 10,000 poor persons.

Although the Congress did not approve an appropriation of the full amount requested, we have made available a significant amount of increased funding for expanding access through existing programs and for establishing new programs in areas unserved by Corporation recipients. This directive deals with the allocation of funds for expansion in those areas.

These expansion funds will be divided among the regions and States in proportion to the number of eligible poor who currently live outside the service boundaries of programs funded by the Legal Services Corporation.

Since these funds will be spent as a further step toward the short-term goal of resources sufficient to support the equivalent of 2 lawyers per 10,000 poor persons, the Corporation has concluded that grants should be made to administrative units that will most efficiently provide the highest quality of service. Regional offices should consider applications to provide service through all types of delivery methods and should seek the best possible means to provide a full range of civil legal assistance for the poor in these areas that do not have minimum access to legal services. Economies of scale in the administration of legal services programs, including cooperative arrangements among programs, should be considered along with other factors affecting efficiency and quality.

On this basis, in the allocation of expansion funds, priority should be given to those States and areas within States where the largest number of poor persons reside in areas without access to legal services programs.

Within any given State, priority should be given to funding through administrative units that will provide the highest quality of service to the largest number of eligible clients (including those in rural areas) in the most efficient manner, consistent with local participation and accountability.

Funds available to a program from sources other than the Corporation will be considered by the Corporation in defining the area to be served. It is not the Corporation's present intention to limit total funds (LSC and non-LSC funds) to the minimum access level of the equivalent of 2 attorneys per 10,000 poor, in view of the instability of most non-LSC funding sources. If the total of non-LSC funds plus the proposed LSC grant would allow the program to operate at a level in excess of the equivalent of 4 attorneys per 10,000 poor, however, the amount of LSC funding may be adjusted accordingly.

If in grant year 1978, funds were provided for service in a county at less than the minimum access level, priority will be given in grant year 1979 to

increasing the funds for service in that county to the minimum access level.

STEPHEN S. WALTERS,
Deputy, General Counsel,
Legal Services Corporation.

[FR Doc. 78-31638 Filed 11-8-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

EXPANSION ARTS PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held November 28, 1978, from 8:45 a.m. to 4 p.m., November 29, 1978, from 9 a.m. to 5:30 p.m., and on November 30, 1978, from 9 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on November 28, 1978, from 8:45 a.m. to 1 p.m., and on November 29, from 2 p.m. to 3 p.m. The topic of discussion will be policy.

The remaining sessions of this meeting on November 28, 1978, from 1 p.m. to 4 p.m., November 29, 1978, from 9 a.m. to 2 p.m. and from 3 p.m. to 5:30 p.m., and on November 30, 1978, from 9 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-31674 Filed 11-8-78; 8:45 am]

[7537-01-M]

MEDIA ARTS (IN RESIDENCE/WORKSHOP) ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts (In Residence/Workshop) Advisory Panel to the National Council on the Arts will be held on December 4, 1978, from 9 a.m. to 5 p.m., and December 5, 1978, from 9 a.m. to 5 p.m., in Room 1422 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

NOVEMBER 2, 1978.

[FR Doc. 78-31738 Filed 11-8-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE WILLIAM H. ZIMMER NUCLEAR POWER STATION

Meeting Date

The November 16-17, 1978 meeting of the ARCS Subcommittee on the William H. Zimmer Nuclear Power Station has been rescheduled to be held on November 17 only, at the Holiday Inn, 8050 Highway 42, Florence, KY 41094, starting at 8:30 a.m. until the conclusion of business. All other items regarding this meeting remain the same as published on October 20 and November 1, 1978 (43 FR 49081 and 50975, respectively).

Dated: November 2, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-31555 Filed 11-8-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-450 and 50-451]

DELMARVA POWER & LIGHT CO. (SUMMIT POWER STATION, UNITS 1 AND 2)

Reconstitution of Board

The above proceeding has been in an inactive status for an extended period of time and there is presently a vacancy with respect to the position of Chairman of the Atomic Safety and Licensing Board for this proceeding.

Accordingly, John F. Wolf, Esq., whose address is 3409 Shepherd Street, Chevy Chase, Md. 20015, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md. this 2nd day of November 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-31642 Filed 11-8-78; 8:45 am]

[7590-01-M]

[Docket No. 70-2623]

DUKE POWER CO.

Hearing on Amendment to Materials License SNM-1773 for Oconee Nuclear Station Spent Fuel Transportation and Storage at McGuire Nuclear Station

NOVEMBER 2, 1978.

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", Part 70, "Special Nuclear Material", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (the Board) to consider the application of Duke Power Co. (the Applicant) for an amendment to Special Nuclear Material License No. SNM-1773 issued pursuant to 10 CFR Part 70 to authorize the receipt and storage

of Oconee Nuclear Station spent fuel at the McGuire Nuclear Station.

The hearing, which will be scheduled to begin in the vicinity of the site of the William B. McGuire Nuclear Station, will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Emmeth A. Luebke and Dr. Cadet H. Hand, Jr., Members, and Robert M. Lazo, Esq., Chairman.

On July 28, 1978, the Nuclear Regulatory Commission published a notice that it is considering an application filed March 9, 1978, by Duke Power Co. for amendment to Special Nuclear Material License No. SNM-1773. In its application for amendment to its license, Applicant seeks authorization for receipt, possession, inspection, and storage of irradiated fuel from the Applicant's Oconee Nuclear Facility in Oconee County, S.C., at the Applicant's McGuire facility located in Mecklenburg County, N.C., including transport of the irradiated fuel by truck between the two sites. The notice was given general public distribution including the news media and was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32905).

The notice provided that any member of the public whose interest may by affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the proposed amendment to SNM-1773 should be issued.

Pursuant to the notice, a number of petitions for leave to intervene have been filed. Thereafter, a prehearing conference in this proceeding was held by this Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene (Intervention Board) in Charlotte, N.C., on October 24, 1978. All parties and petitioners were represented and participated in the conference during which the Intervention Board heard oral argument regarding the petitions for leave to intervene and the contentions which petitioners seek to have litigated in this proceeding. The Intervention Board's rulings are set forth in our "Order Following Prehearing Conference" issued on November 2, 1978.

The Order of the Intervention Board granted the petitions filed by Carolina Environmental Study Group (CESG), Safe Energy Alliance (SEA), and Carolina Action in Charlotte (Carolina Action). In addition, the State of South Carolina was admitted to participate as an interested State pursuant to the provisions of 10 CFR § 2.715(c). Rulings on the petitions for leave to intervene filed by Natural Resources Defense Council, Inc., and by the Davidson College chapter of North Carolina Public Interest Research Group, were deferred pending receipt of further pleadings regarding those petitions.

A prehearing conference or conferences will be held by the Hearing Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by the Board.

For further details with respect to the matters under consideration, see the application for amendment dated March 9, 1978, and other documents and correspondence related thereto which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local Public Document Rooms at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, N.C. 28202, and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's rules of practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before December 11, 1978. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 of the Commission's rules of practice, may be filed by the parties to this proceeding on or before November 29, 1978.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR § 2.708 of the Commission's rules of practice, an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

For the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

Dated at Bethesda, Md., this 2d day of November 1978.

ROBERT M. LAZO,
Chairman.

[FR Doc. 78-31646 Filed 11-8-78; 8:45 am]

[7590-01-M]

[Docket No. 50-250]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-31, issued to Florida Power & Light Co., for operation of the Turkey Point Nuclear Generating Unit No. 3 located in Dade County, Fla. The amendment is effective as of the date of issuance.

The amendment to the operating license will extend the allowed continued operation of Turkey Point Unit No. 3 from 8 equivalent months of operation (EFPM) beyond February 1, 1978, as authorized by Amendment No. 36 to Facility Operating License No. DPR-31 issued on June 2, 1978, to 12 equivalent months of operation, at which time the steam generators shall be inspected.

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, negative declaration

or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 26, 1978 supplemented October 2, 1978, (2) Amendment No. 39 to License No. DPR-31, 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 Environmental and Urban Affairs Library, Florida International University, Miami, Fla. 33199. 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 16th day of October, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-31645 Filed 11-8-78; 8:45 am]

[7590-01-M]

[Docket No. 50-106]

OREGON STATE UNIVERSITY

Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of orders authorizing Oregon State University (the licensee) to dismantle the AGN-201 Reactor (the facility), a research reactor located on the licensee's campus in Corvallis, Oreg., and to dispose of the component parts in accordance with the licensee's application dated September 13, 1978, and to terminate the facility license. The AGN-201 Reactor is covered by Facility License No. R-51.

Prior to issuance of any orders, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By November 24, 1978, the licensee may file a request for a hearing with respect to issuance of the orders on the subject facility operating license and any person whose interest may be affected by this proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated September 13, 1978, and any further submittals which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 31st day of October 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch 4, Division of Operating Reactors.

[FR Doc. 78-31554 Filed 11-8-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

PRIVACY ACT OF 1974

New System of Records

AGENCY: U.S. Nuclear Regulatory Commssion (NRC)

ACTION: Notification of proposed new system of records.

SUMMARY: The NRC is proposing to establish a new system of records, subject to the Privacy Act. The purpose of the system is to enable the agency to maintain inventory controls over personal property, e.g., any property, except real property, which is owned by, or leased to, the NRC or acquired by the NRC in any manner, and which is under the custody of individual employees, consultants, or contractors. These include major items of equipment (e.g., office furnishings, automobiles, etc.), as well as items of sensitive personal property (e.g., items of equipment desirable for personal use which are easily lost or stolen (such as portable calculators and cassette recorders).

COMMENT DATE: Comments are due on or before December 11, 1978.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, At-

tention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Ms. Betty L. Wagman, Privacy Act Officer, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone 301-492-8133.

SUPPLEMENTARY INFORMATION: The new system is identified as Property and Supply System (PASS). It will consist of information concerning items of property, other than real property, which are owned by, acquired by, or leased to the NRC; and information about the individuals having custody of those items.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 1, 1978. The prefatory statement containing General Routine Uses applicable to all of the NRC's systems of records was published at 42 FR 49082 (September 26, 1977).

All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed routine uses specified in this notice of systems of records should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by December 11, 1978. Copies of comments received will be available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Md., this 31st day of October 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

NRC-24

System name:

Property and Supply System (PASS).

System Location:

Property Management Section, Property and Supply Branch, Division of Facilities and Operations Support, NRC, 4922 Fairmont Avenue, Bethesda, Md.

Duplicate systems:

None.

Categories of individuals covered by the system:

NRC employees, consultants, and contractors who have custody of items of personal property, including major items of equipment (e.g. office furnishings, automobiles, etc.) and items of sensitive property (e.g., cameras, portable calculators, and cassette recorders).

Categories of records in the system:

These records contain information about the equipment (type, make, model, serial number, etc.); and information about the custodians of the equipment (name, office, and office location).

Authority for maintenance of the system:

(a) The Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483 (b) and (c).
(b) 31 U.S.C. 66a(a)(3) (1970).
(c) 40 U.S.C. 487(a) (1970).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records may be used:
(a) To provide information to maintain inventory of equipment;
(b) To provide information for clearances of employees who separate from the NRC;
(c) For any of the routine uses specified in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on NRC forms and magnetic tape systems, with history and audit files.

Retrievability:

Records are accessed by name, office, or office location.

Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access. Doors are alarmed during nonworking hours.

Retention and disposal:

Records are maintained for 3 years after an individual's responsibility for the assigned equipment terminates. The records are then destroyed or deleted from the data bank.

System manager and address:

Chief, Property and Supply Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Notification procedure:

Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Record access procedures:

Same as notification procedure.

Contesting record procedures:

Same as notification procedure.

Record source categories:

Information in this system of records comes from NRC forms signed by the individuals having custody of the items, or from reports and memoranda received by the Division of Facilities and Operations Support.

[FR Doc. 78-31750 Filed 11-8-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-556 & STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ET AL. (BLACK FOX UNITS 1 AND 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members:

Richard S. Salzman, Chairman,
Dr. W. Reed Johnson,
Jerome E. Sharfman.

Dated: November 3, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-31644 Filed 11-8-78; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 2.5.1, Basic Geologic and Seismic Information, Section No. 2.5.3, Surface Faulting, Section 2.5.4, Stability of Subsurface materials and Foundation, and Section 2.5.5, Stability of Slopes of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. the purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely avail-

able, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section Nos. 2.5.1, 2.5.3, 2.5.4 and 2.5.5 is $4.00 each. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 16th day of October, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-31643 Filed 11-8-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-45]

RESPONSES TO SAFETY RECOMMENDATIONS

Receipt

The National Transportation Safety Board has recently received letters, summarized below, in response to safety recommendations issued following Board investigation of certain accidents which occured within the past several years.

Aviation

A-72-51 and A-72-55.—The Federal Aviation Administration on October 27 advised the Safety Board concerning amendments to 14 CFR Part 135 in implementation of recommendations issued as a result of investigation into the air taxi accident of Chicago & Southern Airlines, Inc., on October 21, 1971, near Peoria, Ill.

Concerning A-72-51, which recommended that FAA incorporate into the Commuter and V/STOL Air Carrier Handbook (8430.1A) explicit requirements for background investigation of applicants for ATCO certificates and check pilot authorization, FAA now reports that § 135.13 has been amended, effective December 1, 1978, to give the Administrator the authority to deny a certificate on the basis of previous revocation records of the applicant or certain employed key personnel.

With reference to A-72-55, which recommended revision of Part 135 to provide adequate flight and duty time limitations, FAA provides the following extract from the supplementary information published October 10 at 43 FR 46744 for amended Part 135:

Flight and Duty Time Limitations (Proposed Subpart F). An entire subpart dealing with flight crewmember flight and duty time limitations has been deferred for further consideration while the rulemaking proposed in Notice 78-3 is completed. That notice proposed changes in flight and duty time limitations governing Parts 121 and 123 operators. Since many of the concepts presented in Notice 78-3 are similar to those proposed in Notice 77-17, information received in response to Notice 78-3 will be helpful to the FAA in completing the Part 135 flight and duty time limitations rulemaking action. In view of the deferral, the present regulation is retained.

A-74-30 through A-74-34.—FAA's letter of October 12 responds to the Safety Board's letter of August 25 requesting that FAA continue to give high priority to visibility measurements in the approach zone. The Board's request was prompted by FAA's previous response, dated February 21, 1978, indicating that funds from the Slant Visual Range evaluation program had been transferred to the Wind Shear program and that FAA had "no plans to reinstate the Slant Visual Range program unless significant advancements and requirements became evident."

The four subject recommendations were intended to alleviate recurrent problems which accident investigations disclosed were due to "imprecise and nonrepresentative airport meteorological observations and attendant inadequacies in operational meteorological minimums."

The Safety Board's letter of August 25 summarizes an exchange of correspondence with FAA since issuance of the recommendations on April 19, 1974. FAA's response of May 21, 1974, stated: "Evaluation programs are underway which may lead to the development of new systems and techniques for providing slant-range visibility in final approach areas on IFR runways." On September 24, 1974, the Safety Board expressed concern with the FAA response and advised that the Board looked upon these critical, persistent safety problems with a great sense of urgency. The Board advised further that slant visual-range was still in the developmental stage and that interim measures were required, reasserting the conviction that expedited efforts should be made to implement a program designed to provide representative meteorological observations pertinent to the approach areas of instrument runways.

On October 24, 1974, the FAA Administrator stated: "I am pleased to inform you that a Slant Visual Range Measurement System has been developed and is being tested now at NAFEC." The letter also described possible operational evaluation, dependent upon NAFEC results, at Boston and Los Angeles in early FY 76, and concluded: "I assure you that we will continue to expend every effort to provide representative meteorological observations in the approach areas of instrument runways."

The Board on August 25 indicated agreement with a need for better wind shear measurements in the vicinity of airports, but said that accurate wind information is only one of the operational meteorological requirements pertinent to final approaches. The Board stated that the urgent needs expressed in 1974 for accurate visibility measurements in the approach zone have not been met and continued accidents during the past four years involving restricted visibility in the approach zone only serve to reemphasize that need and make it imperative that FAA continue to give priority treatment to the resolution of this probem.

FAA's October 12 letter explains that the slant-range visibility hardware was to have cost approximately $700,000 to install and test, and because of the prospects of limited improvement in approach zone visibility measurements offered by available slant-range technology and an urgent requirement for an extensive wind shear program, the slant-range program funds were applied to the wind shear program. FAA, having determined that productive new developments in slant-range test hardware technology are not available at this time, states: "However, we will continue to monitor all known activity in this area and should viable slant-range systems appear feasible, we will reinstate the program."

A-75-28.—Supplementing its September 8, 1975, response to this recommendation, FAA on October 20 informed the Safety Board that an advance notice of proposed rulemaking, Notice No. 76-9, was issued on April 5, 1976. In view of the decrease in incidents involving inflight overboard leakage of fluids subject to freezing and the comments received, the notice was withdrawn on August 8, 1978. FAA

believes that the underlying objectives of the notice have been accomplished and that rulemaking is not necessary at this time. However, FAA states, if a particular aircraft design is susceptible to in-flight overboard leakage of fluids subject to freezing, and should an unsafe condition exist, FAA will take appropriate regulatory action.

Recommendation A-75-28 resulted from the investigation of an incident on April 30, 1974, involving a National Airlines Boeing 727 which was cruising at 33,000 feet near El Paso, Tex., when the No. 3 engine separated from the fuselage and fell to earth. Investigation showed that a leaking toilet service drain may have contributed to the cause of the incident. The recommendation asked the FAA to issue an airworthiness directive to require that all external ground service fluid drains on Boeing 727 series airplanes be modified to incorporate a more positive method of sealing to prevent overboard leakage in flight of fluid subject to freezing in the flight environment.

A-75-70.—Supplementing its August 18, 1977, response to this recommendation, FAA on October 20 informed the Safety Board that action has now been completed. Change 14, Chapter 10, Handbook 8260.9, Flight Procedures and Airspace, was issued on January 9. The recommendation, which asked FAA to change the wording of the restriction on the National Ocean Survey instrument approach charts for locations where night approaches are not authorized so that the restriction is clearly understood, resulted from investigation of the crash on February 21, 1975, of a Beechcraft BE-55 during the hours of darkness while on an instrument approach to the Lawrenceburgh (Tenn.) Municipal Airport. According to a witness, the pilot flew the aircraft over the airport twice while attempting to land it in ground fog; the ceiling and visibility were near zero at the airport.

A-78-24 and A-78-26.—Letter of October 20 from FAA responds to the Safety Board's August 23 request for reconsideration of FAA's position with respect to two of four recommendations which resulted from investigation of a helicopter accident at Coldfoot, Alaska, on March 11, 1977.

The Safety Board on August 23 expressed its encouragement over FAA's acceptance of recommendations A-78-23 and 25, noted in FAA's June 27 letter (43 FR 32476, July 27, 1978). However, the Board continues to believe that the changes recommended in A-78-24 and 26 are justified in the interest of safety.

Recommendation A-78-24 asked FAA to amend 14 CFR 133.23(c)(6) to require the pilot to demonstrate his ability to actuate the quick-release switch in normal and simulated emergency operations. The Safety Board noted in reference to FAA's June 27 response that 14 CFR 133.41 is an airworthiness requirement intended to assure demonstration of the aircraft's ability to be maneuvered with and to release external loads. The Board said that this section is not intended to assure that the pilot of every aircraft has the ability to reach and actuate the cargo release control. The intent of the Board's recommendation is to require, by amending 14 CFR 133.23(c)(6), that all pilots demonstrate their abilities; currently, only the operator or the chief pilot is required by 14 CFR 133.23 and 133.41 to demonstrate such abilities, the Board said. In response on October 20, FAA said that as stated in its June 27 letter, regulatory action is not justified. However, FAA plans to issue by March 1979 an operations bulletin directing FAA inspectors assigned to helicopter external-load operators to assure that these items are covered by simulation, cockpit check, or through discussion.

Recommendation A-78-26 called for the deletion of 14 CFR 133.23(d), which allows the Administrator to waive a pilot's test of skill. The Board on August 23 said that this recommendation also was intended to require all pilots who would be flying rotorcraft sling-load operations to demonstrate their skills, without exception. The current requirements of 14 CFR 133.23 apply only to the operator or his chief pilot. Thus, the recommendation to delete the Administrator's prerogative to waive a pilot's test of skill was solely in the interest of safety; it will assure that each pilot flying any helicopter will be fully proficient in the peculiarities of external-load operations of that aircraft before he actually operates it. FAA in response notes that 14 CFR 133.23(d) provides that the Administrator may waive the tests required by §§ 133.23 (b) and (c) only as they apply to the chief pilot. Pilots other than the chief pilot are not eligible for waiver of the tests, FAA said. Section 133.31(d) requires the pilots to demonstrate the knowledge and skill requirements of § 133.23 to the chief pilot or the Administrator.

Highway

H-76-15.—Letter of October 26 from the Federal Highway Administration is accompanied by a copy of a Technical Advisory (T 5140.5), issued on October 12, which provides guidance in the application of skid resistant treatments for timber bridge decks. The formal response to recommendation H-76-15, which involved evaluating timber roadway surfaces for skid resistance, was sent to the Board last February 28. The response indicated that information would be gathered on successful skid resistant treatments of timber surfaces. The recommendation resulted from investigaion into the collapse of the Yadkin River Bridge near Siloam, N.C., on February 23, 1975, after an automobile struck a vital structural member of the bridge.

H-78-48 through H-78-50.—Letter of October 16 from the National Highway Traffic Safety Administration is in response to recommendations issued last June 23 following investigation of five accidents in which commercial vehicle drivers have not been able to maintain speed control on downgrades. The recommendations asked NHTSA to develop Federal Motor Vehicle Safety Standards that would: State a performance requirement for all newly manufactured commercial vehicles to have equipment that would insure brakes being in proper adjustment at all times (H-78-48); require that all motor vehicles equipped with 2-speed rear axles be placarded to warn the driver of the hazards of attempting to shift the 2-speed axle while negotiating downgrades (H-78-49); and require that the maximum in-gear attainable road speed in each position of the vehicle's gear train be added to the FMVSS-102 required shift pattern/progression placard on all newly manufactured commercial vehicles (H-78-50).

In response to H-78-48, NHTSA reports that based upon the information supplied by the Safety Board and others, a program on self-adjusting brakes for commercial vehicles is being developed for possible inclusion in NHTSA's Five Year Plan for motor vehicle safety and fuel economy rulemaking. This program would include research to determine potential safety benefits and costs associated with a requirement for self-adjusting brakes. Also, work would be performed to examine the in-use effectiveness and reliability of available hardware needed to satisfy any future requirement. An exact timetable of such action is not now available, NHTSA stated.

Based on recommendation H-78-49 and information from the California Highway Patrol, NHTSA reported, a review of available accident data will be conducted to determine the potential safety benefit of actions to reduce accidents involving the improper shifting of two-speed rear axles. If the potential benefits warrant action, this program will be added to the Five Year Plan.

Concerning H-78-50, NHTSA said that a review of existing data will be initiated to determine the seriousness of the safety problem. Also, an analysis will be performed of the effectiveness of requiring information on the maximum attainable speed in each gear position to be added to the placard required by Federal Motor Vehicle Safety Standard No. 102. Based on the

results of this work, the future inclusion of this activity in the Five Year Plan will be decided, NHTSA stated.

Marine

M-77-16.—U.S. Coast Guard's letter of October 18 is in response to the Safety Board's August 30 request for reconsideration of this recommendation—one of 16 issued to Coast Guard following investigation of the sinking of the charter fishing boat *Pearl C* in the Columbia River near Astoria, Oreg., September 13, 1976. The recommendation asked that operators of inspected charter boats keep a record of service and repairs in a suitable form for Coast Guard examination. Coast Guard's response of last June 28 did not concur with this recommendation (43 FR 32477, July 27, 1978).

The Safety Board's August 30 letter expressed conviction that vessel safety depends greatly on the reliability of its machinery and equipment, that this reliability is a direct function of proper maintenance and servicing, and that the records as discussed in M-77-16 would raise the consciousness of the operators of these vessels to the importance of proper vessel care. Also, the keeping of a service and repair notebook by the operator would do much to increase the reliability of the machinery and equipment and, therefore, the general safety of inspected charter boats.

Coast Guard's October 18 response indicates that after reconsideration Cost Guard "still believes that implementation of this recommendation will not provide any improvement in small passenger vessel safety or machinery reliability." Further, Coast Guard states, "Vessel operators who repeatedly need Coast Guard assistance and who fail to properly service and maintain their vessels and equipment would be the first to make false, self-serving entries in a required logbook.

Coast Guard notes that its annual small passenger vessel inspection program, which has been operating successfully for 20 years, ensures that "at the time of inspection, all vessel machinery, systems, hull structure and equipment (navigation, firefighting, and lifesaving) comply with regulations and are in a condition that will provide for safe operation for at least the succeeding year on the authorized route." Attached to the response letter is a copy of recent casualty statistics which reflect a growing fleet of small passenger vessels accompanied by a substantial decrease in the number of incidents. Cost Guard states that these statistics show the probability of machinery failures to be very slight, adding that the vast majority of safe, conscientious operators of inspected small passenger vessels would, under the provisions of M-77-16, suffer the imposition of an unwarranted record-keeping requirement.

M-78-69.—Letter of October 19 from the Maritime Administration (MAR AD), U.S. Department of Commerce, responds to a recommendation issued following investigation of the breakup of the coastal tankship M/V *Chester A. Poling* during a severe winter storm off Cape Ann, Mass., January 10, 1977. One person, who fell into the ocean while attempting to enter the Coast Guard helicopter's rescue basket, is missing and presumed dead.

MARAD agrees with the recommendation to develop a survival and rescue training course for merchant seamen and is presently working with the Coast Guard in the development of training material covering the subject. MARAD says that as a result of the IMCO International Conference on Taining and Certification of Seafarers, 1978, several IMCO regulations will have significant impact on training requirements for licensed and unlicensed personnel on U.S.-flag merchant vessels. For example, Regulations VI/1 of the Conference requires an approved course in survival techniques, including "Methods of helicopter rescue" and "Effects of hypothermia and its prevention, use of protective covers and protective garments." The results of the IMCO Conference are currently being studied by a joint Coast Guard/MARAD committee and appropriate actions will be taken in the development of training material for use by the industry.

Railroad

R-78-19 through R-78-22.—Letter of September 28 from the Federal Railroad Administration is in response to the recommendations issued last April 24 following a 3-day en banc hearing, held by the Safety Board earlier that month, on railroad derailments and the carriage of hazardous materials. 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. Testimony was heard from 48 witnesses from the railroad industry, tank car builders and operators, shippers, other Federal agencies, and the public.

The recommendations asked that the U.S. Department of Transportation require that shelf couplers and approved headshields be installed on all DOT 112A/114A jumbo tank cars by December 25, 1978, and that thermal insulation be installed as soon as possible, but in no event later than the original deadline of January 1, 1982, contained in the Materials Transportation Bureau's Docket HM-144. DOT was also asked to assist the responsible Federal regulatory agencies to develop economic regulations that provide a strong economic incentive to install tank car safeguards quickly and a strong economic disincentive for delay.

FRA reports that as a result of several safety inquiries conducted in coordination with the Materials Transportation Bureau, accelerated rules were developed. These rules deal with hazardous materials shipments, packaging, and tank car specifications. The final version of the new regulations was published in the FEDERAL REGISTER on July 12, 1978. FRA provides a brief summary of the amended rules as follows:

1. Existing specifications 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 (known as the "J" retrofit), are to be retrofitted over a 3-year period ending 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 dealine: December 31, 1981.)

FRA notes that the recommended timetable for application of shelf couplers (R-78-19) and FRA's requirement is essentially the same—all DOT specification 112 and 114 tank cars will be retrofitted with special shelf couplers by December 31, 1978. FRA's retrofit timetable for application of approved head shields differs from that recommended in R-78-20. FRA believes that an additional one year is needed to apply head shields to those cars undergoing conversion to the "S" and "T" specifications. Any further reduction of this schedule could result in tank cars being out-of-service and severe disruptions and shortages of propane and anydrous ammonia to small consumers, particularly farm families, FRA stated.

With reference to R-78-21, FRA says that under the revised schedule, all thermal insulation will be applied to the "T" and "J" cars by December 31, 1980, a year ahead of the original schedule.

Regarding the recommendation that FRA assist in developing economic incentives for quick compliance with the retrofit program (R-78-22), FRA says it does not see how such an incentive

program could be undertaken, "particularly since the revised retrofit schedule is 'tight.'" Rather than seek methods of economic incentive, FRA aims to assure compliance through strict reporting, followup inspections (as necessary) and the use of "enforcement" if needed including compliance order proceedings under 49 CFR Part 209. To assist FRA in monitoring the efforts to tank car owners in complying with the retrofit program and its deadlines, Amendment No. 179-24 was published September 7, 1978 (43 FR 39793). This regulation requires disclosure of tank car owner's retrofit plans and quarterly reporting of actual conversion efforts. These reports will be "public information," FRA stated.

R-78-28 through R-78-31.—Letter of September 20 from the Association of American Railroads responds to additional recommendations resulting from the April Safety Board hearing on railroad derailments and carriage of hazardous materials. These recommendations, issued to AAR on June 29 (43 FR 30149, July 13, 1978), called for restructuring 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); adoption of all safety and 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); implementing 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); and development and documentation of a system to notify FRA of critical car components that exhibit critical failures annually and recommend regulatory action as required (R-78-31).

In response to R-78-28, AAR says it knows of no conflict of interest between shippers and the railroad industry in safety decisions and believes that the trade associations represented on the Tank Car Committee (Manufacturing Chemists, National LP Gas, Compressed Gas, American Petroleum Institute, Chlorine Institute and Railway Progress, and seven railroads) have a common interest in safe transportation of hazardous materials by rail. AAR says that the final decisions on tank car design and other areas relating to safe transportation of hazardous materials by rail rest with the Department of Transportation.

With reference to R-78-29, AAR states that it "is, and always has been, willing to review and adopt any safety analysis methods that have demonstrated, by acceptable methods, that they will strengthen the safety approval procedures within AAR committees."

AAR, commenting on R-78-30, says it has no requirements for approval of facilities and locations for the installation of shelf couplers. Tank Car Committee approval is required for facilities which install head shields, and the Committee continues to give high priority to certification of this type of facility. There is no facility currently awaiting Tank Car Committee approval to install head shields on DOT 112-114 tank cars, AAR said.

In answer to R-78-31, AAR states, that, through the Annual Report of the Mechanical Division Committees, it has developed a system to notify all interested parties of components that exhibit unacceptable failure levels. Since 1970, AAR states, the Mechanical Division has supplemented this annual report notification with a system of "Early Warning" letters notifying interested parties of hazardous conditions on a particular group of railroad equipment. The purpose of the Early Warning letters ranges from a recommendation that special attention should be afforded a particular component during routine inspections to recommendation that the particular group of equipment be removed from service immediately pending corrective action.

NOTE.—The above notice reports on recommendation response letters recently received by the Safety Board. Copies of these letters are available without charge. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

NOVEMBER 6, 1978.

[FR Doc. 78-31677 Filed 11-8-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

JOINT FUNDING EVALUATION

AGENCY: Office of Management and Budget.

ACTION: Notice of OMB evaluation of the effectiveness of the Joint Funding Simplification Act of 1974 (Pub. L. 93-510) and OMB Circular No. A-111 which provides guidance and procedures for implementing the Act. Joint funding is an attempt to coordinate the delivery of Federal assistance from more than one Federal program through use of a single application, single letter of credit, single audit, and other mechanisms for administrative simplification.

SUMMARY: The Joint Funding Simplification Act expires February 5, 1980. The Act calls for a comprehensive report to Congress prior to its expiration on actions taken and recommendations for continuation, modification, or termination of the Act. The report must also contain a detailed evaluation of the funding of the Act, including information on benefits and costs to the participants of jointly funding projects.

DATES: Interested parties are invited to submit comments by January 10, 1979, on any aspect of joint funding. We are especially interested in views on the key legislative, administrative, and management problems that impede the joint funding process. We would like suggestions for additional steps Federal agencies can take to facilitate funding programs requiring more than one funding channel, and administrative and legislative recommendations to strengthen, modify, or terminate joint funding.

ADDRESS: Submit written comments to William R. Feezle, Acting Deputy Associate Director, Intergovernmental Affairs Division, Office of Management and Budget, Room 5235, NEOB, Washington, D.C. 20503, telephone: 202-395-3980.

WAYNE G. GRANQUIST,
Associate Director for Management and Regulatory Policy, Office of Management and Budget.

[FR Doc. 78-31908 Filed 11-8-78; 10:34 am]

[7905-01-M]

RAILROAD RETIREMENT BOARD

PROCLAMATION REGARDING RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board has determined, and hereby proclaims, that the balance to the credit of the railroad unemployment insurance account as of the close of business September 30, 1978, was $62,394,921.60. Based on this balance and pursuant to the table in section 8(a) of the Railroad Unemployment Insurance Act, the contribution rate to finance the railroad unemployment insurance program for calendar year 1979 shall be 7.0 percent.

In witness whereof the members of the Railroad Retirement board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Ill., this 30th day of October, 1978.

WILLIAM P. ADAMS,
Chairman.
C. J. CHAMBERLAIN,
Member.
EARL OLIVER,
Member.

Dated: November 2, 1978.

By the Railroad Retirement Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 78-31636 Filed 11-8-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10462, 812-4302]

CLAREMONT CAPITAL CORP. AND ALLEN H. PARKINSON

Filing of Application for Order Exempting Proposed Transaction

NOVEMBER 1, 1978.

In the matter of Claremont Capital Corp., Suite 258, 810 Third Avenue, Seattle, Wash., 98104, and Allen H. Parkinson, 4020 Birch Street, Suite 201, Newport Beach, Calif., 92660, 812-4302.

Notice is hereby given that Claremont Capital Corp. ("Claremont"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, nondiversified management investment company, and Allen H. Parkinson ("Parkinson") (hereinafter collectively, "Applicants") filed an application on May 2, 1978, and an amendment thereto on September 18, 1978, pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale by Claremont to Parkinson of 237,500 shares of Infoton Inc. ("Infoton") common stock currently held by Claremont. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that from the inception of Claremont's operations in 1968 until the annual meeting of the shareholders of Claremont on October 22, 1976, Claremont's investment objective and policy was to achieve maximum long-term growth through speculative equity investment in companies expected to derive maximum benefit from the development and use of advanced technologies.

Applicants further represent that at the annual meeting of Claremont's shareholders on October 22, 1976, the shareholders of Claremont approved a change in Claremont's investment objective and policy so as to reduce emphasis on investments in nonpublic companies, or companies issuing securities which have only limited markets.

Consistent with Claremont's then existing investment policy, Applicants state that pursuant to a Purchase Agreement entered into as of December 18, 1972, Claremont purchased a $500,000 principal amount 9 percent Convertible Senior Note ("Note") of Optical Scanning Corp. ("Optical") which was due December 18, 1975, and a warrant expiring December 18, 1975, to purchase 15,000 shares of the common stock of Optical. According to the application, Optical subsequently defaulted on the Note and, on March 18, 1976, filed a voluntary petition of bankruptcy ("Petition") under Chapter XI of the Bankrutcy Act. Applicants further state that the Plan of Arrangement ("Plan") dated June 30, 1977, which was filed by Optical in connection with the aforesaid Petition, was approved by the Bankruptcy Judge for the United States District Court, for the Eastern District of Pennsylvania on August 30, 1977. The Plan provided, among other things, for Optical to change its name to Infoton, Inc., and for Claremont to receive, in satisfaction of the Note, 237,500 unregistered shares of Infoton common stock ("Shares") and certain cash payments. Applicants represent that the order issued by the Bankruptcy Judge authorizing such cash payments and delivery to Claremont of the Shares of Infoton common stock was entered on February 21, 1978, and Claremont received the first cash payment and the Shares shortly thereafter.

Applicants further represent that Parkinson, through his attorney, initially contacted representatives of Claremont on or about December 19, 1977, with an offer to purchase the Shares of Infoton common stock to be acquired by Claremont for a total price of $85,000 (or about $0.36 per share), and that negotiations for the purchase of such Shares continued until late January, 1978. Applicants state that during the course of the negotiations from December to late January, 1978, for the purchase of the aforesaid Shares, Claremont insisted that the purchase price approximate the estimated book value of such Shares (about $0.63 per share) as of December 31, 1977. According to the application, the negotiations for the purchase of the Shares were broken off in late January, and reopened on February 28, 1978, at Parkinson's request.

Parkinson offered to pay a total price of $150,000 for the Shares (or about $0.632 per share) and a verbal agreement in principle on this purchase price was reached by Applicants on March 3, 1978. Applicants also state that, on April 19, 1978, they formalized their previous verbal agreement by entering into a written Agreement of Purchase and Sale ("Agreement") dating back to March 3, 1978, pursuant to which Claremont would sell the Shares to Parkinson for an aggregate purchase price of $150,000, or approximately $0.632 per share. The Agreement further provides that the closing of the sale of the Shares is conditioned upon the issuance of an order by the Commission granting the relief requested herein.

Applicants state that Claremont presently owns 237,500 shares, or approximately 6.75 percent, of the total number of shares of Infoton common stock presently outstanding and that, accordingly, Infoton is an affiliated person of Claremont within the meaning of 2(a)(3) of the Act. Applicants further state the Parkinson is an affiliated person of Infoton within the meaning of section 2(a)(3) of the Act by virtue of Parkinson's status as Chairman of the Board of Directors and Chief Executive Officer of Infoton, and Parkinson's ownership of approximately 43 percent of Infoton outstanding common stock. Therefore, the proposed sale by Claremont to Parkinson of the 237,500 shares of Infoton common stock currently held by Claremont might be deemed to constitute the sale of a security by a registered investment company to an affiliated person of an affiliated person of such registered investment company. Accordingly, Applicants request an order exempting the proposed transaction from the provisions of section 17(a) of the Act.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or to purchase from such registered company any security or other property, subject to certain exceptions not relevant here. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

In support of the relief requested, Applicants represent that the negotiatins were truly arm's length in that, to Claremont's knowledge, there are no other agreements relating to securities

of Infoton nor any other business relationships between Claremont or any of the officers or directors of Claremont and Parkinson, other than Claremont's ownership of the shares, which ownership resulted from a distribution pursuant to the Plan. Applicants further represent that Parkinson is neither an officer, employee or director of Claremont not any of Claremont's investment advisers, and Parkinson neither exercises influence over nor controls Claremont's investment decisions with respect to its portfolio securities.

In addition, Applicants assert their belief that the purchase price of $0.632 for the Shares, as specified in the Agreement, is fair and reasonable, when considered in light of the actual book value of and prevailing market value for, shares of Infoton common stock. According to the application, the purchase price for the Shares was based in large part upon the then estimated book value of $0.63 per share for Infoton common stock on December 31, 1977, a date close to the beginning of the negotiations between Claremont and Parkinson. Applicants further state that, in fact, the book value on Infoton common stock as of that date was later found to be $0.62 per share. On March 31, 1978, a date close to the termination of the aforesaid negotiations, the book value of Infoton common stock was in fact, $0.7158 cents per share, and such figure was known to Claremont at the time it executed the Agreement. On June 30, 1978, the book value of Infoton common stock was $0.79 per share.

With respect to the prevailing market value of the Shares, Applicants represent that throughout the period that negotiations between Claremont and Parkinson were conducted, the bid price for Infoton common stock generally was either $0.75 or $0.875 per share, although the bid price of such common stock did reach $1.00 per share during the week of February 13, 1978, a period in which negotiations had been broken off. Bid and asked prices quoted for publicly traded Infoton Common Stock were $1.50 and $1.70 per share, respectively, on April 14, 1978, which was the last quotation from the National Quotation Bureau, Inc., available before the Agreement was signed. Accordingly, Applicants point out that $0.632 per share, the price to be received by Claremont for the Shares, represents a discount of 15.7 percent from the bid price of $0.75 per share, 27.8 percent from the bid price of $0.875 per share and 36.8 percent from the bid price of $1.00 per share without giving effect in each case to brokerage commissions or dealer markdowns which would be payable in the connection with a sale of securities in the open market. The sale price of $0.632 per share represents a discount of approximately 58 percent from the April 14, 1978, bid price of $1.50, described above.

Since the signing of the Agreement by Applicants, the bid and ask prices for publicly traded shares of Infoton Common Stock have increased, rising to a high of 4¼ and 4⅝ respectively on September 6, 1978. On October 11, 1978, the bid and asked prices for the above stock were 3¾ and 4⅝ respectively. The Applicants represent that the price and terms of the proposed sale of shares were the subject of arms lenth negotiations which were completed in March 1978; that in entering into a fixed price contract, each of the Applicants exercised independent business judgement; and that each of tha Applicants recognized that such a fixed price provision would effectively eliminate the market risk for one of the parties prior to closing; and that although there presently is a substantial difference between the current market price of unrestricted shares of Infoton Common Stock and the contract price for the Shares, the book value for Infoton Common Stock, upon which the contract price negotiations were in part based, has not increased significantly since the Agreement was executed on April 19, 1978.

The directors of Claremont state that, although they are of the view that the proposed sale of shares was reasonable with respect to Claremont both at the time the sale was negotiated and at the time the Agreement was executed, in light of the increases that have occurred in the market value of publicly traded Infoton shares, Claremont would not today accept a contract price of $0.632 per share but for the Agreement. Applicants state however, their belief that each of them is contractually bound to perform under the Agreement, subject to issuance of an order by the Commission under section 17(b) of the Act, and that Claremont is not free to negotiate a higher contract price with Parkinson.

Applicants further assert their belief that the above described discounts are reasonable in light of the restricted nature of the Shares, and by disposing of the Shares immediately in a single transaction Claremont will alleviate substantial market risks. With respect to the restricted nature of the Shares, Applicants state that Claremont has been advised by its counsel that as the recipient of unregistered securities in a proceeding under Chapter XI of the Bankruptcy Act Claremont may be deemed to be an underwriter, and thus may be required to comply with the provisions of Rule 148, adopted by the Commission under the Securities Act of 1933 ("1933 Act") in reselling the Shares in the open market. Applicants further state that assuming all other conditions of Rule 148 were satisfied, it would take Claremont over three years to dispose of the Shares in the open market under the volume limitations contained in paragraph (b)(1) of Rule 148. Moreover, Applicants assert their belief that it is questionable whether Claremont will be able to dispose of the Shares even within the volume limitations contained in Rule 148(b)(1), since the market for shares of Infoton common stock is thin and disposition of as much as 1 percent of such common stock outstanding and to be issued under the Plan during any 6 month period might disrupt or depress the market. In this connection, Applicants state that shares of Infoton common stock are not quoted on NASDAQ, and thus information concerning the volume of trades in such common stock is unavailable. However, since the filing of the application, NASDAQ bid, ask and volume quotations have become available.

Applicants also state that the proposed sale of the Shares by Claremont to Parkinson is consistent with Clairmont's current investment policy. According to the application, the Note issued by Optical was acquired by Claremont at a time when Claremont's investment policy was to invest in speculative equity securities. Applicants further state, however, that the shareholders of Claremont have since approved a change in Claremont's investment policy to reduce emphasis on companies with limited markets and that, accordingly, the proposed sale of the Shares will afford Claremont an opportunity to dispose of restricted securities and to reinvest the proceeds of such sale in marketable securities.

Applicants finally submit that the proposed sale of the Shares is consistent with the general purposes of the Act in that the Act may not have been intended to cover a situation where an operating company is an affiliated person of an investment company merely because a relatively small amount of such operating company's securities are being held by such investment company.

Notice is further given that any interested person may, not later than November 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such

service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, and order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing of 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.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

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[8010-01-M]

[Rel. No. 646, 803-11]

FOSTER MANAGEMENT CO.

Filing of Application for Order for Exemption

NOVEMBER 1, 1978.

In the matter of Foster Management Co., One Battery Park Plaza, New York, N.Y. 10004 (803-11).

Notice is hereby given that Foster Management Co. ("Fomanco"), a Connecticut corporation registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the "Act"), filed an application on January 30, 1978, and an amendment thereto on October 25, 1978, pursuant to section 206A of the Act, for an order (1) exempting Fomanco's advisory fee arrangements with a foreign corporation advised by Fomanco and three separate venture capital entities managed by Fomanco from the prohibitions of section 205(1) of the Act, and (2) exempting Fomanco from the recordkeeping requirements of rule 204-2 (b) and (c) promulgated under the Act, to the extent described herein. 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.

Fomanco asserts that it was organized in 1972 to engage in the venture capital business and to provide management services to entities engaged in the business of making venture capital investments. The outstanding capital stock of Fomanco is privately held by the officers and directors of Fomanco, each of whom is actively involved in Fomanco's business. According to the application, the officers of Fomanco and their respective stock ownerships are as follows: John H. Foster ("Mr. Foster"), president and director, 55 percent; Frank J. Hawley, Jr. ("Mr. Hawley"), vice president, secretary and director, 20 percent; and Peter T. Pochna ("Mr. Pochna"), vice president treasurer and director, 25 percent.

Fomanco states that it advises or manages four separate companies engaged in the business of making venture capital investments: Elysee Capital Development Corp., S.A., a Luxembourg corporation ("Elysee"); Foster and Company, a Connecticut limited partnership; J. H. Foster and Company, a Delaware corporation ("J. H. Foster"); and Business Development Capital Co., a Connecticut limited partnership ("BDC"; together with Elysee, Foster and Company and J. H. Foster, the "Entities").

Fomanco asserts that it renders investment advice to Elysee, a venture capital firm sponsored by, and closely associated with, Credit Commercial de France, a major European banking institution headquartered in Paris, France. By agreement with Elysee, Fomanco is required to locate and submit prospective venture capital investments in the United States to Elysee's board of directors, which makes the investment decision. If Elysee elects to invest, Fomanco monitors the investment and assists in its development through the rendering of entrepreneurial services, although any decision to sell an investment is made by Elysee, not Fomanco. Fomanco submits that in return for these services, Fomanco receives an annual retainer of $30,000, from which Fomanco must bear all its expenses associated with Elysee's operation, and a 15 percent participation in Elysee's net investment gain (loss) (as defined below) from investments recommended by Fomanco.

Foster and Company, formed in 1972 has 13 limited partners whose capital contributions aggregate $1,050,000. Foster and Company, of which Fomanco and Mr. Foster are general partners, is fully invested in noncontrol venture capital situations. Fomanco asserts that it is responsible for all investment decisions as well as day-to-day management of the partnership.

J. H. Foster, formed in 1973, is a federally licensed small business investment company engaged in the business of making noncontrol investments in venture capital situations. Fourteen stockholders, including Foster and Company, have invested an aggregate of $2,591,800 and own all of J. H. Foster's issued and outstanding class A common stock. Fomanco states that Foster and Company owns approximately 28.9 percent of the class A common stock. According to the application, (1) all of the outstanding class B common stock of J. H. Foster is owned by Fomanco, and, (2) Fomanco paid a nominal consideration of $.01 per share, or $864.71 in the aggregate, for its shares of class B common stock. J. H. Foster's equity capital has been leveraged with $2 million of debentures guaranteed by the Small Business Administration.

By agreement with J. H. Foster, Fomanco is responsible for day-to-day management of J. H. Foster and for making investment recommendations to, and implementing the investment decisions of, the J. H. Foster board of directors which, Fomanco asserts, has ultimate investment authority. As discussed below, Fomanco is compensated for such services through its ownership of class B stock.

BDC, formed in 1976, has 28 limited partners, including Foster and Company, whose capital contributions total $7,650,000. Unlike Foster and Company and J. H. Foster, which are engaged in the traditional venture capital business of making minority investments (less than 20 percent) in portfolio companies, BDC will, according to the application, almost invariably acquire at least 80 percent of the equity securities of its portfolio companies. According to the application, Fomanco is a general partner of BDC and is responsible for all investment decisions as well as the day-to-day management of the partnership.

Fomanco asserts that its advisory fee arrangements with Foster and Company, J. H. Foster and BDC are essentially similar, providing for (1) annual compensation to cover expenses incurred by Fomanco in discharging its management duties ("Annual Compensation Fee"), and (2) an incentive fee equal to a percentage of each company's net investment gain (loss), payment of such fee being contingent upon all investors' receiving distributions equal to their capital contributions ("Incentive Fee"). Fomanco states that net investment gain of a company is determined in accordance with generally accepted accounting principals and consists of the remainder of (i) the sum of realized and unrealized investment gain less (ii) the sum of realized and unrealized investment loss. Such gain or loss is determined, Fomanco submits, by subtracting the fair market value of each investment in the company's portfolio at the beginning of the accounting period from the fair market value of such investment at the end of the accounting period.

With regard to the Annual Compensation Fee, Fomanco submits the following information. Pursuant to the management contract between J. H. Foster and Fomanco, J. H. Foster paid Fomanco $225,000 in 1977 and has agreed to pay Fomanco $250,000 for 1978. Pursuant to the BDC agreement of limited partnership, BDC pays Fo-

manco annual compensation equal to 3 percent of the aggregate of the limited partners' capital accounts, determined exclusive of unrealized gain but inclusive of unrealized loss. With BDC's capital contributions aggregating $7.65 million, Fomanco's annual compensation is currently $214,500. Fomanco asserts that because more than 90 percent of Foster and Company's investment portfolio consists of its investment in J. H. Foster and BDC, Foster and Company does not contribute to Fomanco's salary and overhead expenses. Expenses which are annually reimbursed by Foster and Company to Fomanco consist principally of legal and accounting expenses directly allocable to Foster and Company. Historically, these expenses have averaged $3,000 per annum.

As a consequence of the Annual Compensation Fee payments from J. H. Foster and BDC, Fomanco will receive approximately $464,500 in annual compensation from which it will be required to bear all its expenses. According to the application, approximately two-thirds of this amount will be consumed in salary expense for Fomanco's principals and employees. The remaining one-third has been budgeted for general overhead expenses of which the major categories are rent, travel and entertainment, communications, and legal and accounting expenses.

With regard to the Incentive Fee, Fomanco submits the following information. The Foster and Company agreement of limited partnership provides that the net investment gain (loss) of Foster and Company, other than net investment gain (loss) attributable to Foster and Company's investments in J. H. Foster and BDC, is allocated 15 percent to Mr. Foster, as general partner, 10 percent to Fomanco, as general partner, and 75 percent to the limited partners of Foster and Company, pro rata according to their respective capital accounts. Foster and Company's net investment gain (loss) from its investments in J. H. Foster and BDC is allocated 100 percent to the limited partners. According to the application, neither Mr. Foster nor Fomanco is entitled to receive a distribution from Foster and Company until the limited partners have received distributions equal to their capital contributions to Foster and Company. As a consequence of the fact that Foster and Company is largely invested in J. H. Foster and BDC, the Incentive Fee arrangements described above operate with respect to one investment representing less than 10 percent of Foster and Company's portfolio. That investment is currently valued at $100,000.

The certificate of incorporation of J. H. Foster provides that next investment gain (loss) is allocated 75 percent to the class A common stock and 25 percent to the class B common stock. Fomanco asserts that no dividends may be declared or paid on the class B common stock until the holders of the class A common stock have received dividends equal to their capital contributions to J. H. Foster. Upon liquidation, the holders of the class A common stock are entitled to receive preferential distributions equal to their capital contributions (less any dividends theretofore received), before Fomanco, as the holder of the class B common stock, is entitled to receive a distribution equal to its capital contribution (less dividends received), and any remaining assets are distributed 75 percent to the class A common stock and 25 percent to the class B common stock.

The BDC agreement of limited partnership provides that BDC's net investment gain (loss), is credited or charged 75 percent to the capital accounts of the limited partners and 25 percent to the capital account of Fomanco. According to the application, Fomanco is not entitled to receive a distribution from BDC in respect of its capital account until the limited partners have received distributions equal to their capital contributions to BDC.

Fomanco states that the Incentive Fee is allocated to it annually. The allocation results in a credit (or charge) to Fomanco's capital account in the case of Foster and Company and BDC and to the retained earnings account of J. H. Foster. In the cases of Foster and Company and BDC, distributions to the limited partners will result in an offsetting charge to the limited partners' capital accounts and after the limited partners have recovered their capital contributions further distributions to the limited partners and Fomanco will be made pro rata according to the remaining balances in their capital accounts. In the case of J. H. Foster, distributions on the class A common stock will be charged against retained earnings allocable to the class A common stock. Fomanco asserts that neither Foster and Company nor J. H. Foster has made regular distributions to its investors. According to the application, BDC anticipates that it will make annual distributions to its investors of approximately 5 percent of their capital contributions.

Other than the fee arrangements described above, Fomanco asserts that it receives no remuneration from any of the Entities or the investors therein. However, Fomanco does reserve the right to charge the Entities' portfolio companies for management consulting services or investment banking services separately contracted for by such portfolio companies at rates prevailing in the marketplace. Fomanco claims that such remuneration is subject, in the case of J. H. Foster's portfolio companies, to the prior approval of the Small Business Administration and is received as income to J. H. Foster and not Fomanco. In the case of BDC, such remuneration cannot exceed $65,000 annually for any single portfolio company and $175,000 annually for all portfolio companies.

The contributions to Foster and Company, J. H. Foster and BDC to date aggregate $10,200,000 after eliminating Foster and Company's investment of $750,000 in J. H. Foster and $350,000 in BDC. Of this amount, $450,000, or approximately 4.4 percent, has been invested by Fomanco's three principals. Fomanco submits that Mr. Foster has invested $150,000, Mr. Hawley has invested $50,000, and Mr. Pochna has invested $250,000. Fomanco asserts that the investments of each of those three principals of Fomanco represents a material portion of his individual net worth and that, as a group, those principals have invested in each of those three companies. Fomanco submits that, prior to the dissolution of BDC, Foster and Company and J. H. Foster, none of those principals shall withdraw any part of his investment in those companies absent a material adverse change in his circumstances, except through such principal's pro rata participation in distributions to all of the investors in such company. The other two principals of Fomanco will determine what constitutes a "material adverse change in circumstances." In the event of such an adverse change and withdrawal of part of a principal's investment, Fomanco states that it will promptly inform the Commission of such facts and circumstances, and agrees the Commission shall have the opportunity to reconsider the exemption requested hereby.

Fomanco's management agreement with J. H. Foster is subject to annual renewal. Fomanco submits that in the event of termination or non-renewal of Formanco's management agreement, J. H. Foster shall have the option to purchase all, but not less than all, of the outstanding Class B common stock of J. H. Foster owned by Fomanco for its fair market value determined on the date upon which the option is exercised. If the termination or non-renewal is due to change in ownership of a substantial amount of the Class A common stock of J. H. Foster, Fomanco states that it shall have the option to require J. H. Foster to purchase all, but not less than all, of the Class B common stock of J. H. Foster owned by Fomanco for its fair market value determined on the date upon which the option is exercised. In either case, the fair market value of the Class B common stock will be de-

termined initially by the Audit Committee of the Board of Directors of J. H. Foster. If Fomanco disagrees with the determination of the Audit Committee, fair market value will be determined by a panel of three independent appraisers, one to be selected by each of J. H. Foster and Fomanco and the third to be chosen by the two so selected, in appraisal proceedings conducted in accordance with the rules of the American Arbitration Association.

Fomanco states that its capital investment in each of Foster and Company, J. H. Foster and BDC is minimal, Fomanco having paid a nomimal amount for its general partnership interests in Foster and Company and BDC and for its shares of Class B common stock in J. H. Foster. Fomanco states that it is neither a limited partner of Foster and Company or BDC nor a holder of Class A common stock of J. H. Foster.

Fomanco asserts that the interests in Foster and Company, J. H. Foster and BDC have been privately placed with 42 individuals, institutions and family groups. According to Fomanco, each of those investors (excluding Fomanco's principals and members of their families) has a net worth in excess of $1 million and in no event does any investor's investment exceed 10 percent of his or its net worth. Fomanco claims that the investors have close ties to the financial community and substantial prior investment experience.

Fomanco has agreed, as a condition to the order it seeks, that any future sales of limited partnership interests in Foster and Company or BDC, or of shares of Class A common stock of JHF, will be sold only to sophisticated investors in reliance upon the provisions of Section 4(2) of the Securities Act of 1933. Fomanco states that, at the present time, it has no intention of adding additional investors to Foster and Company, J. H. Foster or BDC.

Investors in Foster and Company and BDC have no right to dispose of their limited partnership interests without the consent of Fomanco until ten years after the inception of the partnership, at which time, Fomanco submits, such partners have an annual option to retire from the partnership. Investors in JHF may transfer their shares of Class A common stock provided the proposed transfer is in compliance with the Securities Act of 1933.

Fomanco prepares annual reports with respect to each of the three venture capital entities managed by Fomanco, including financial statements certified by Price Waterhouse & Co., which are mailed to the respective investors. Fomanco asserts that it does not prepare or transmit, to any of the investors in the three Entities managed by Fomanco, reports of an advisory nature containing recommendations with respect to investments.

According to the application, (1) Fomanco does not advise or manage any clients other than the Entities, and (2) any future clients Fomanco advises or manages will be primarily engaged in the business of making venture capital investments.

Fomanco claims that it is not affiliated with any securities broker or dealer and does not function as either a broker or a dealer with respect to investments, or dispositions of investments, by the Entities.

Section 205(1) of the Act, in pertinent part, prohibits a registered investment adviser from entering into or performing any investment advisory contract which provides for compensation to the investment adviser based on a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client. Accordingly, Fomanco requests an order exempting its fee arrangements with the Entities from the provisions of section 205(1) of the Act.

Rule 204-2 (b) and (c) promulgated under the Act requdire a registered investment adviser having custody or possession of a client's securities and rendering investment supervisory or management services to a client, respectively, to maintain designated books and records with respect to such client. Fomanco asserts that it maintains the designated books and records for each of Foster and Company and BDC, rather than for the limited partners thereof. Accordingly, Fomanco requests an order exempting Fomanco from the provisions of Rule 204-2 (b) and (c) promulgated under the Act to the extent that such provisions would otherwise require Fomanco to maintain the designated books and records with respect to each such limited partner.

Fomanco contends that the legislative policies underlying section 205(1) of the Act are to protect the unsophisticated investor-advisee from overreaching and excessive risk taking by investment advisers, and are not applicable to venture capital situations generally or to Fomanco in particular.

Fomanco advances a number of arguments in support of its position that the fee arrangements for which an exemption from section 205(1) of the Act is sought will not encourage Fomanco to take undue risks with the funds which have been invested in the Entities, as follows. First, each of the Entities was formed for the express purpose of making venture capital investments, a high-risk, high reward activity. The risks of venture capital investing are inherent in the activity; they are not, according to Fomanco, appreciably affected by the management fee arrangements. The investors in each of the Entities are, Fomanco asserts, seasoned venture capitalists who have deliberately sought the risks of venture capital investing because of the unusual opportunity for substantial capital gains. Second, Fomanco's principal source of net income will be its Incentive Fees. Fomanco's success is dependent upon the successfull deployment of the Entities' funds. Undue speculation by Fomanco would substantially increase the risk of Fomanco's receiving no performance fees for its efforts. Third, the illiquidity and long-term nature of venture capital investments preclude the use of speculative securities market strategies regardless of the fee arrangement.

As a fourth argument, Fomanco contends that the likelihood of speculative abuse is not increased by its fee arrangements with Foster and Company, J. H. Foster and BDC because Fomanco is not entitled to draw against its incentive compensation as earned. The fee arrangements with those companies require a return of capital to the investors prior to any distributions of incentive compensation to Fomanco. Fifth, Fomanco argues that its fee arrangements will not promote undue risk taking because Fomanco's principals have committed substantial portions of their indivdual net worths to the entities managed by Fomanco.

Finally, and, according to Fomanco, most importantly, all venture capital investment managers must establish and maintain a credible performance record or they will be unable to attract clients from the relatively small and sophisticated group of potential venture capital investors. Fomanco, regardless of its fee arrangements, could not afford the consequences of a poor performance record occasioned by imprudent speculation with funds entrusted to its stewardship.

Fomanco asserts that an exemption for its fee arrangements is appropriate because the investors in the Entities are sophisticated persons of substantial means who have actively sought a high-risk investment. It further asserts that the Commission should grant the exemption it seeks because the venture capital investment management function is markedly different from that of other investment advisers. Fomanco states that the evaluation and selection of a venture capital investment is only the first step in the process of managing a client's account. According to the application, (1) Fomanco closely monitors the performance of the Entities' portfolio companies through frequent meetings with various members of the portfolio companies' management teams; (2) Fomanco's principals usually serve on the Boards of Directors of those portfolio companies; (3) Fomanco partici-

pates with management in portfolio company corporate planning and becomes directly involved in budgeting, financing, acquisition programs, marketing strategy, expansion and relocation programs and management recruitment and replacement. In the case of BDC, which purchases controlling positions in companies, Fomanco asserts that its principals frequently become officers of the portfolio companies. Fomanco states that these functions are entrepreneurial in nature and have nothing to do with the giving of investment advice.

Fomanco argues that in order to entice competent venture capital managers to assume an active role in their portfolio companies and to take the risk that their substantial endeavors over a protracted period of time may be for naught, the potential compensation must be uniquely substantial. The limited performance based fee exception to section 205(1) of the Act, which permits, generally, investment advisory fees which increase and decrease proportionately with investment performance (as measured against an appropriate index), is not available to Fomanco since, Fomanco asserts, there is no generally recognized index against which such performance can be measured. Therefore, Fomanco claims that the only alternative fee arrangement permitted by section 205(1) of the Act is the standard fee consisting of a fixed percentage of assets annually.

According to Fomanco, however, the normal fixed percentage fee for investment advisers in not adequate compensation for venture capital management. Venture capital pools must be relatively small, particularly when compared to mutual funds. Otherwise, size constrains operations. Fomanco asserts that in order to generate sufficient fees to compensate the management company, a prohibitively high percentage fee would be required, such as 10 percent or more of invested capital annually. Because the portfolio companies would be unable to make annual distributions sufficient to defray such a high fee, Fomanco argues, a significant portion of the investors' capital contributions would be required to be segregated in an interest bearing account to be drawn on to pay the management fee and would not be committed to the client's investment objectives. The rate of return which would be required on the reduced pool in order to restore the investor's capital and reward the investor for the risks of venture capital investing would, Fomanco claims, be unrealistic and unattainable. Thus, Fomanco believes that its fee arrangements are the most satisfactory means of compensation available. Without the incentive of a performance fee based upon capital appreciation, many venture capital management companies would, according to Fomanco, cease operations and an important segment of the capital markets would be adversely affected.

With regard to Rule 204 (b) and (c), Fomanco reconciles annually the capital accounts of the individual limited partners, and, as a condition to the order it requests, Fomanco agrees to continue to maintain records of the capital accounts of the individual limited partners. Fomanco contends that it is impractical and unduly burdensome to require it to prepare and maintain individual books and records for each limited partner on an ongoing basis.

Section 206A of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of the Act, or any rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 24, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule)-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.

By the Commission

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31652 Filed 11-8-78; 8:45 am]

[8010-01-M]

[File No. 500-1]

INTERNATIONAL SYSTEMS & CONTROL CORP.

Suspension of Trading

NOVEMBER 2, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of International Systems & Controls Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9 a.m. (EST) on November 2, 1978 through November 11, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31653 Filed 11-8-78; 8:45 am]

[8010-01-M]

[Release No. 15291, File No. SR-NASD-78-3]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Extending Comment Period

NOVEMBER 2, 1978.

In the matter of National Association of Securities Dealers, Inc., 1735 K Street NW., Washington, D.C. 20006, File No. SR-NASD-78-3.

On August 2, 1978, the Commission published Securities Exchange Act Release No. 15020 [1] giving notice pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 of a proposed rule change (File No. SR-NASD-78-3) by the National Association of Securities Dealers, Inc. (the "NASD") to amend certain of the NASD's Rules of Fair Practice relating to underwriting practices.

In the case of *Papilsky* v. *Berndt*,[2] it was held that, in the absence of a contrary ruling from the Commission or the NASD, recapture of underwriting fees is "available and legal" under Article III, section 24 of the NASD Rules of Fair Practice. Thereafter, the NASD submitted the proposed rule change published in Securities Exchange Act Release No. 15020. The

[1] 43 FR 35446 (August 9, 1978).

[2] [1976-1977 Transfer Binder] Fed. Sec. L. Rep. (CCH) § 95,627 (S.D.N.Y. 1976).

proposed rule change would amend section 24 to prohibit certain payments of selling concessions, discounts or other allowances in connection with fixed price offerings. The proposed rule change would also introduce a definition of the term "fixed price offerings" and prohibit certain swap transactions and sales to related persons by NASD members in the course of such offerings.

The Commission has received a number of written and oral requests to extend the period within which interested persons are invited to submit comments on the filing. In view of the complexity and potentially far-reaching impact of the proposed rule change, the Commission has determined to extend the comment period until December 15, 1978.

Interested persons should submit six copies of their written views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. SR-NASD-78-3. All submissions will be made available to public inspection in the Commission's Public reference section, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31654 Filed 11-8-78; 8:45 am]

[8010-01-M]

[Release No. 20760, 70-6220]

NORTHEAST UTILITIES SERVICE CO.

Proposed Sale and Leaseback of Computer Equipment

NOVEMBER 1, 1978.

In the matter of Northeast Utilities Service Co., Selden Street, Berlin, Conn. 06037 (70-6220).

Notice is hereby given that Northeast Utilities Service Co. ("NUSCO"), a service company subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12(d) of the Act as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NUSCO, in connection with its obligation to provide central dispatching and other services for the New England Power Pool ("NEPOOL"), proposes to lease up to approximately $1,450,000 worth of data processing equipment which together with the related software will comprise the basis for a new automated dispatching system to be installed at the New England Power Exchange ("NEPEX"), the central dispatching exchange for NEPOOL. NEPEX is located at the headquarters of Western Massachusetts Electric Co., an associate company of NUSCO, in West Springfield, Massachusetts. NUSCO's obligation to provide the services (including dispatching services) required for the operation and maintenance of NEPEX and other miscellaneous services for NEPOOL are described in the Service Agreement between Northeast Utilities Service Co. and the Participants Under the New England Power Pool Agreement dated as of October 1, 1972 ("Service Agreement"). NUSCO has been providing such services since 1970.

The new NEPEX system will replace an existing computerized dispatching system having more limited capabilities. NUSCO expects that the equipment will be delivered by the manufacturers to NEPEX in November, 1978 and, after a short testing period, will become available for use in the development of software for the system later that month. Software development is expected to be completed and the new dispatching system put into service in the Fall of 1979. The software for the system is not included in the proposed lease. That portion of the system which will be leased pursuant to the proposed transaction is hereafter referred to as the "System."

Under the proposed transaction, which is being arranged by New England Merchants Leasing Corp., NUSCO will enter into an Agreement and Lease ("Lease Agreement") with Mellon National Leasing Co. ("Lessor"). Pursuant to the Lease Agreement and prior to putting any part of the System into service, NUSCO will either arrange for the Lessor to acquire such part from the vendor or will itself purchase such part and resell it to the Lessor. In the latter case, NUSCO will be reimbursed, in cash, for all of its estimated investment with respect to the System prior to the Lessor's taking of title. The Lessor will hold title to the System and when the System is delivered to and accepted by the Lessor, the Lessor will simultaneously lease back the System to NUSCO pursuant to the Lease Agreement. The term of the lease will commence in November 1978 and will extend for seven years, with NUSCO having a right to purchase the System on a fair market value basis at the expiration of the lease term. If NUSCO does not purchase the System at the end of the lease term, the System will be returned to the Lessor. It is expected that NUSCO will assign the benefits of the Service Agreement to the Lessor insofar as the provisions of the Service Agreement permit NUSCO to be reimbursed by the participants in NEPOOL for the rental costs for the System. The lease will be a "net lease" in that NUSCO will assume all costs of operating and maintaining the System, including the payment of taxes and insurance.

The average annual rental, which will be payable by NUSCO in eighty-four equal monthly amounts, will be approximately 16.3 percent of the Lessor's cost for the System. In terms of annual interest costs, the average simple interest rate thereof to NUSCO embodied in the rentals will be approximately 6.1 percent per annum. These rental payments are premised upon the availability of certain tax benefits to the Lessor. In the event that any of the premises proves to be incorrect or unavailable, the lease rentals will be adjusted upwards so that the hypothetical after-tax yield on which the lease rentals are based will be maintained. As long as NUSCO is not in default under the lease, it shall be entitled to the exclusive possession, use and quiet enjoyment of the System during the term of the lease.

NUSCO, in connection with the above-described transaction, herewith requests Commission approval to sell and lease back up to approximately $1,450,000 of data processing equipment comprising the System. The dollar amount reflects that, in addition to the cost of the various components of leased equipment, the Lessor's cost may include additional amounts for transportation and other costs which amounts have not yet been finally determined.

The proposed transaction will allow NUSCO to obtain under favorable terms up to approximately $1,450,000 of equipment necessary to fulfill its obligation for providing dispatching services for NEPOOL. NUSCO states that the net lease approach is the most reasonable and least expensive method now available to it for the acquisition of the equipment. It is further stated that if NUSCO were to purchase the System using its conventional financing methods i.e. through borrowings from its parent, Northeast Utilities, at the prevailing prime interest rate plus one-quarter percent, the annual cost to the Applicant would be significantly higher than the approximately 6.1 percent for the rental charge.

The reduction in costs to NUSCO will, in turn, benefit the NEPOOL participants which are obligated under the Service Agreement to reimburse NUSCO's rental costs.

A statement of the fees, commissions and expenses to be incurred by NUSCO in connection with the pro-

posed transaction will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desired to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31655 Filed 11-8-78; 8:45 am]

[8010-01-M]

[Rel. No. 80, File No. SIPC-78-3]

SECURITIES INVESTOR PROTECTION CORP.

Order Extending Time Period Within Which Commission Is Required To Act on Proposed Rule Changes

NOVEMBER 2, 1978.

In the matter of Securities Investor Protection Corp., 900 17th Street NW., Washington, D.C. 20006, File No. SIPC-78-3.

The Securities Investor Protection Corp. (SIPC) submitted on June 23, 1978, pursuant to section 3(e)(2) of the Securities Investor Protection Act of 1970, as amended, proposed rule changes to provide for closeouts and completions of the open contractual commitments of an insolvent broker or dealer. Notice of the filing was given by publication of a Commission release (Securities Investor Protection Act Release No. 72 (July 10, 1978)) and by notice in the FEDERAL REGISTER (43 FR 20954 (July 18, 1978)), and interested persons were invited to comment.

The Commission has considered the proposed rule changes. Proposed Rule 306 provides that SIPC may authorize the closeout or completion of open contractual commitments if it appears to SIPC that failure to do so may have a substantial detrimental impact upon the financial condition of one or more brokers or dealers. The Commission believes that proposed Rule 306 should be amended to provide for Commission review of SIPC determinations under that rule and to provide that any subsequent closeout or completion shall be mandatory. SIPC has been requested to amend its filing accordingly

In order to provide time for SIPC to amend its filing and for public notice and comment thereon, the Commission finds it appropriate to extend the time within which it must approve or initiate proceedings to disapprove the proposed rule changes, as amended.

Accordingly, the Commission, pursuant to section 3(e)(2)(B) of the Securities Investor Protection Act of 1970, as amended, hereby extends to January 2, 1979, the time within which the Commission must take action on the above-referenced proposed rule changes.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31656 Filed 11-8-78; 8:45 am]

[8010-01-M]

[Release No. 34-15262; File No. SR-CBOE-1978-28]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

CBOE has elected to treat as a rule change its Educational Circular No. 23 dealing with certain practices generally referred to as "front-running of blocks". The Educational Circular presents a discussion and examples to illustrate that if a member trades in options on the basis of non-public information concerning block transactions in underlying securities, or vice versa, the member has engaged in conduct that is inconsistent with just and equitable principles of trade in violation of CBOE Rule 4.1.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of Educational Circular No. 23 is to provide guidance to members concerning the application of CBOE rule 4.1 to the practice known as "front-running of blocks", in order to assure that participants in CBOE's options market and persons trading in underlying securities have reasonable equality of access to relevant information concerning block transactions in the other market, and to remove any incentive for delaying public dissemination of information concerning block transactions that are required to be reported over the respective options and stock price reporting systems. Educational circular No. 23 states that it is inconsistent with just and equitable principles of trade, and thus in violation of rule 4.1, for a member or person associated with a member to capitalize in its securities trading on nonpublic knowledge of the agreed upon terms of a block transaction.

The application of rule 4.1 to front-running, as explained in Educational Circular No. 23, has as its basis under the Act the provisions of section 6(b)(5) requiring that exchange rules be designed "to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade . . . and in general to protect investors and the public interest." It is also based upon section 11A(a)(1)(C)(iii) stating that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability of information with respect to transactions in securities.

Comments were received on proposed rule 4.18 (which is being withdrawn concurrently with this filing) dealing with the same subject matter as Educational Circular No. 23, as stated in File No. SR-CBOE-1976-8. Additional oral comments from certain members with respect to Educational Circular No. 23 were solicited and received by CBOE. These comments were generally in support of Educational Circular No. 23, although several members urged caution in the application of rule 4.1 in the area of market information to avoid interfering with legitimate hedging and arbitrage transactions and to avoid placing unwarranted presumptions of wrongdoing upon members. These concerns

have been taken into consideration in Educational Circular No. 23.

The Exchange does not believe that Educational Circular No. 23 imposes any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 within 30 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

OCTOBER 10, 1978.

EDUCATIONAL CIRCULAR NO. 23

FRONT-RUNNING OF BLOCKS

This educational circular is for the purpose of informing the membership of the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". As a block transaction in an underlying security may have an impact on the market for that security or the options covering that security (or vice versa), the Exchange has long been concerned over allegations that some members have engaged in the practice of trading in options or in underlying securities when they are in possession of material nonpublic information concerning block transactions in these securities. In keeping with its responsibility to assure the fairness of its market, the Exchange believes that it should be made clear that this kind of activity on the part of market professionals will not be permitted to take place.

Reflecting this view, in April 1976, the Exchange proposed the adoption of a new Rule 4.18 that, as amended, would have prevented members from executing proprietary orders in options when they are in possession of nonpublic information concerning block transactions in underlying securities. The rule similarly would have applied to orders for an underlying security when in possession of nonpublic information concerning block transactions in options covering that security.

The Exchange originally proposed a new rule to deal with this problem instead of proceeding under existing Rule 4.1 (which prohibits conduct inconsistent with just and equitable principles of trade), because the Exchange believed (and still believes) that in attempting to define unlawful front-running activities, it should proceed cautiously and be as precise as possible in describing conduct that is prohibited. Accordingly, in drafting Rule 4.18, the Exchange attempted to create a rule that would cover the kind of front-running that had been alleged while not interfering with entirely legitimate transactions.

In response to the filing of proposed Rule 4.18, the Commission sent a letter to the Exchange on November 8, 1977, in which the Commission expressed its view that front-running of blocks should appropriately be addressed under Rule 4.1 as conduct inconsistent with just and equitable principles of trade. The Commission stated that the broad standard of Rule 4.1 would permit the flexibility that is needed to distinguish, on a case-by-case basis, between legitimate trading activity and front-running. On the other hand, the Commission indicated that it would not object to the Exchange's prohibiting certain kinds of defined front-running so long as it was made clear that any such definition of prohibited conduct was not exclusive and that instances of front-running not included within the definition would still be covered by the broad prohibitions of Rule 4.1. The Commission deferred acting on proposed Rule 4.18 so as to provide the Exchange with an opportunity to consider its comments as expressed in the letter.

The Exchange agrees with the views of the Commission that front-running of blocks is conduct inconsistent with just and equitable principles of trade and is violative of Rule 4.1. Accordingly, the Exchange has withdrawn proposed Rule 4.18, and has adopted a policy of bringing enforcement proceedings under Rule 4.1 in cases of front-running. As a matter of regulatory philosophy, however, the Exchange continues to believe that it should try to the maximum extent possible to provide clear and unambiguous standards to help define the conduct of its members in this area. For this purpose, the Exchange has prepared this educational circular containing a discussion and examples of conduct involving the front-running of blocks that it considers to be in violation of Rule 4.1.[1] Although this circular concentrates on proprietary trading of members, front-running violations may also occur in certain agency situations, such as where a member passes on non-public information concerning block transactions to a customer who then trades on the basis of the information.

The Exchange considers it to be conduct inconsistent with just and equitable principles of trade in violation of Rule 4.1 for a member or person associated with a member for an account in which such member or person has an interest, or for an account with respect to which such member or person exercises investment discretion, to cause to be executed:

(1) An order to buy or sell an option when such member or person causing such order to be executed has knowledge of a block transaction in the underlying security, or

(2) An order to buy or sell an underlying security when such member or person causing such order to be executed has knowledge of a block transaction in an option covering that security,

prior to the time information concerning the block transaction has been made publicly available. Front-running may be based upon knowledge of less than all of the terms of the transaction, so long as there is knowledge that all of the material terms of the transaction have been or will imminently be agreed upon. Notwithstanding the foregoing, if a member firm receives at or about the same time a customer's order of block size relating to both an option and the underlying security, the member may position the other side of one or both components of the order, subject to applicable exchange rules governing crosses. However, the member firm would not be able to cover any resulting proprietary position by entering an offsetting order until information concerning all block transactions involved has been made publicly available.

The application of this circular is limited to transactions that are required to be reported on the last sale reporting systems administered by CTA or OPRA, and information as to a block transaction shall be considered to be publicly available when it has been disseminated via the tape or high speed communication line of one of those systems. Public outcry on the

[1] This circular is not intended to limit the application of Rule 4.1 to front-running or to other kinds of possible misuse of nonpublic market information.

Exchange Floor shall not be deemed to make such information publicly available except in unusual circumstances with the advance approval of two Floor Officials.

A transaction involving 10,000 shares or more of an underlying security or options covering such number of shares shall be conclusively deemed to be a block transaction, although transactions of less than 10,000 shares may also be block transactions in appropriate cases. A block transaction that has been agreed upon does not lose its identity as such by arranging partial execution of the transaction in portions which themselves are not of block size. In this situation, the requirement that information concerning the transaction be made publicly available will not be satisfied until the entire block transaction has been completed and publicly reported.

The application of Rule 4.1 to front-running may be illustrated by the following examples. Front-running that is prohibited by Rule 4.1 is not limited to these examples, nor is it necessary for a transaction to involve 10,000 shares in order to constitute front-running.

Example No. 1. Member A has agreed to a transaction involving the sale for its own account or for the account of a customer of 10,000 shares of XYZ common stock, a security listed on the New York Stock Exchange, at a price of 18½. Regardless of whether this price is within or without the bid or offer quoted for XYZ, Member A may not buy or sell any XYZ options for its own account until the sale of the 10,000 shares of XYZ has been reported over CTA Network A. Once the sale has been reported, Member A is free to trade XYZ options.

Example No. 2. Member A has agreed to a transaction involving the purchase of 100 XYZ July 20 options for a premium of 1⅛ for its own account or for the account of a customer. Until this block option transaction has been reported over the OPRA high speed network, Member A may not buy or sell any shares of XYZ common stock for its own account.

[FR Doc. 78-31616 Filed 11-8-78; 8:45 a.m.]

[8010-01-M]

[Rel. No. 10465; 811-1901]

WASHINGTON NATIONAL FUND, INC.

Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company.

NOVEMBER 1, 1978.

In the matter of Washington National Fund, Inc., Westminster at Parker, Elizabeth, N.J. 07207, 811-1901.

Notice is hereby given that Washington National Fund, Inc. ("Applicant"), a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on October 5, 1978, pursuant to section 8(f) of the Act, 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 July 9, 1969, and that it commenced offering shares to the public shortly after its registration under the Securities Act of 1933 was declared effective on September 8, 1969. Applicant asserts that on May 24, 1978, its board of directors approved a plan to merge Applicant into Fundamental Investors, Inc. ("Fund"), a registered investment company organized under the laws of Delaware. Applicant further asserts that after the merger was approved by a majority of the outstanding shareholders of Applicant in accordance with Delaware law, on July 21, 1978, Applicant and Fund merged. Upon effectiveness of such merger, title to all of Applicant's assets was vested in Fund. Applicant asserts that it presently has no shareholders and no assets. According to the application, Applicant has ceased all business activities, is not a party to any litigation or administrative proceedings, and has ceased to exist as a separate entity under Delaware law.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by main upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31657 Filed 11-8-78 8:45 am]

[4810-40-M]

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Regulations

As required by paragraph 11 of the draft Treasury Directive implementing Executive Order 12044 "Improving Government Regulations" published in the FEDERAL REGISTER of May 24, 1978 (43 FR 22319), the Bureau of the Public Debt announces that it has no significant or nonsignificant new regulations under development or existing regulations under review.

FOR FURTHER INFORMATION CONTACT:

Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, Room 309, Washington Building, Washington, D.C. 20226, telephone 202-376-0243.

Dated: October 4, 1978.

By direction of the Secretary of the Treasury.

H. J. HINTGEN,
Commissioner of the Public Debt.

[FR Doc. 78-31668 Filed 11-8-78; 8:45 am]

[4810-22-M]

Customs Service

[520936]

AMERICAN MANUFACTURER'S PETITION

Extension of Time for Comments Concerning Petition To Reclassify Certain Lasted Leather Footwear Uppers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a recent American manufacturer's petition to the Customs Service to reclassify lasted leather footwear uppers. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before December 6, 1978.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8181.

SUPPLEMENTARY INFORMATION: On September 5, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 39465) a notice of receipt of an American manufacturer's petition, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516). On the basis that leather footwear uppers are lasted (have an insole and midsole and have been formed to fit the foot), petitioner has requested the reclassification of lasted leather footwear uppers under the provisions for leather footwear in items 700.05 through 700.45, Tariff Schedules of the United States (TSUS). This merchandise is currently classifiable under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS.

COMMENTS

Comments concerning the American manufacturer's petition were to have been received on or before November 6, 1978. However, the Customs Service has been requested to extend the period of time for submission of comments in order to allow additional time for the preparation of a response to the American manufacturer's petition. As a result, the period of time for submission of comments is extended to December 6, 1978.

Dated: November 2, 1978.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

[FR Doc. 78-31739 Filed 11-8-78 8:45 am]

[4830-01-M]

Internal Revenue Service

PUBLIC INSPECTION OF WRITTEN DETERMINATIONS

Intention To Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of intention to disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions. This document does not meet the criteria for significant regulations set forth in paragraph eight of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 2319).

DATES: Persons wanting to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by November 24, 1978.

Requests for additional deletions must be submitted by December 14, 1978. A petition in the U.S. Tax Court must be filed by January 23, 1979. Except for the disputed portion of any document that is the subject of an action brought in the U.S. Tax Court, the written determinations described in this notice will be made open to public inspection on March 5, 1979.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the Assistant Commissioner, Technical: 202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection certain general written determinations issued after July 4, 1967 (except those issued in response to requests submitted after October 31, 1976) that originated in the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations), and certain reference written determinations issued by that office after December 31, 1953 (except those issued in response to requests submitted after October 31, 1976). The Service is also planning to make open to public inspection certain of those general and reference written determinations that were issued after July 4, 1967, and December 31, 1953, respectively, dealing with issues now under the jurisdiction of the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) but that were issued prior to the establishment of that office. Prior to the establishment of the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations), issues now under the jurisdiction of that office were issued by the Actuarial, Exempt Organizations, and Pension Trust Branches, Miscellaneous and Special Provisions Tax Division, Office of the Assistant Commissioner (Technical), or in predecessor branches.

A reference written determination is one the Commissioner has determined to have significant reference value. A general written determination is one the Commissioner has not determined to have significant reference value.

Issues falling within the jurisdiction of the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) are those involving:

1. Employee plans (including the qualifications of pension, annuity, profit sharing, stock bonus, and bond purchase plans and individual retirement accounts) and related trusts.

2. With respect to employee plans, the tax treatment of employees and their beneficiaries, and deductions for employer contributions.

3. Organizations exempt from income tax under section 501 of the Code, private foundations, organizations described in section 170(b)(1)(A) (except certain governmental units), and certain nonexempt trusts described in section 4947.

4. The application of section 527(f) of the Code.

5. With respect to exempt organizations and private foundations: feeder organizations, liability for tax on unrelated business taxable income, and excise taxes imposed by Chapter 42 on private foundations and certain related parties.

6. Actuarial questions involved in the tax treatment of pension, profit sharing, stock bonus, annuity, and other benefit and compensation plans and contracts.

7. Actuarial questions involved in the tax treatment of annuity, life insurance, and accident and health plans and contracts; valuation of life estates, remainder interests, contingent assurances, services of payments, and reversionary interests; deductions for amounts paid or accrued on indebtedness under insurance contracts; and taxation of life insurance companies.

8. Procedural and administrative questions relating to any of the above matters.

DOCUMENTS NOT COVERED

All written determinations that fall within the scope of section 6110 of the Code issued during the prescribed time periods discussed in this notice and originating in the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) or in predecessor organizations are intended to be within the scope of this notice. However, the provisions of section 6110 shall not apply to matters for which the determination of whether public inspection should occur is made pursuant to section 6104. Documents within the purview of section 6104 are not covered by this notice; such documents include:

1. Any document issued by the Service in which the qualification or exempt status of an organization, plan, or account described in section 6104(a)(1) of the Code is granted, denied or revoked, or the portion of any document in which Technical advice with respect thereto is given to a district director.

2. Any document issued by the Service with respect to the qualification or status of master, prototype, and pattern employee plans;

3. Any document, or portion thereof, issued by the Service in which is discussed the effect on the qualification or exempt status of an organization, plan, or account described in section 6104(a)(1) of the proposed transaction by such organization, plan, or account;

4. Any documents issued by the Service in which is discussed the qualifications or status of an organization described in section 509(a) or 4942(j)(3) of the Code. However, any written determination issued by the Service to nonexempt charitable trusts described in section 4947(a)(1) would be subject to disclosure under this notice.

DELETIONS

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with proposed deletions indicated. Such requests should be submitted by November 24, 1978. Such requests must indicate the specific name of the party to which the written determinations pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by December 14, 1978, and must include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have to right to file a petition in the U.S. Tax Court. This petition must be filed by January 23, 1979.

ADDITIONAL DISCLOSURE

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

BACKGROUND FILE DOCUMENTS

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received.

Any notice regarding background file documents or requests for additional disclosure and any other correspondence relating to public inspection of written determinations, will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C. on March 5, 1979. However, the disputed portion of any document that is the subject of an action brought in the U.S. Tax Court shall not be made available until after a court determination regarding such portion is made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-31624 Filed 11-8-78; 8:45 am]

[4810-40-M]

Office of the Secretary

[Supplement to Department Circular (Public Debt Series) No. 27-78]

TREASURY BONDS

Interest Rate on 2003-2008 Bonds

NOVEMBER 6, 1978.

The Secretary of the Treasury announced on November 3, 1978, that the interest rate on the bonds described in Department Circular (Public Debt Series) No. 27-78, dated October 26, 1978, will be 8¾ percent. Interest on the bonds will be payable at the rate of 8¾ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

NOTE.—Supplementary Statement: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance withd the Departmental procedures applicable to such regulations.

[FR Doc. 78-31718 Filed 11-8-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedures and Hearing Rules, Station Committee on Educational Allowances that on December 4, 1978, at 1 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether

Veterans Administration benefits to all eligible persons enrolled in State Technical Institute at Knoxville, 3435 Division Street, Knoxville, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: November 2, 1978.

R. S. BIELAK,
Director.

[FR Doc. 78-31637 Filed 11-8-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 6, 1978.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 24, 1978.

FSA No. 43620, ABC Container Line, N.V., No. 1, intermodal rates on general commodities in containers, from rail carriers terminals on the United States Pacific Coast to ports in the United Kingdom, Ireland, Scandinavia and Continental Europe, to be published in its Tariff I.C.C. No. 1. Grounds for relief—water competition.

FSA No. 43621, Southwestern Freight Bureau, Agent's No. B-787, annual volume rates on chemicals, between East St. Louis, IL, and St. Louis, MO, on the one hand, and, on the other, specified points in LA and TX, in supp. 11 to its Tariff 12-L, ICC 5334, to become effective December 1, 1978. Grounds for relief—market competition.

FSA No. 43622, Pacific Southcoast Freight Bureau, Agent's No. 274, property moving on class and commodity rates, between points in ID and NE, on the one hand, and, on the other, points in the United States and Canada. Grounds for relief—abandonment of segment of Union Pacific Railroad Co.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-31713 Filed 11-8-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

NOVEMBER 1, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 20, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

MC 106644 (Sub-E45, E46, E47, E48, and E56) (correction), filed February 10, 1975, published in the FEDERAL REGISTER issue of June 28, 1978, and republished, as corrected, this issue. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road, N.W., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. The purpose of this correction is to reflect the correct name of applicant.

MC 107515 (Sub-E655), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Rd. NE, Atlanta, GA 30326 (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Presidio, Brewster, Terrell, Val Verde, Kinney, Maverick, Webb, Zapata, Starr, Nueces, Hidalgo, Cameron, Willacy, Bexar, and San Patricio Counties, TX, to ME, NH, and VT, and points in OH and points in MI (Lower Peninsula) on or east of a line beginning at the MI-OH State line, and extending along U.S. Hwy 27 to junction I Hwy 75, then along I Hwy 75 to Macinaw City, MI. Restriction: Said operations are restricted against the transportation of canned foodstuffs and flavoring syrup from Dallas, Fort Worth and Paris, TX, and points in their commercial zones as defined by the Commission. (2) *Foodstuffs* (except (a) meats, meat products, and meat by-products as defined by the Commission, and (b) commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in TX on or south of U.S. Hwy 90 (except the counties in (1) above to points in the territory described in (1) above. Restriction: Said operations are restricted against the transportation of (1) frozen fruits, berries and vegetables, (2) canned foodstuffs originating at Paris, TX, and its commercial zones as defined by the Commission. (3) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Webb, Zapata, Starr, Hidalgo, Cameron, Willacy, Nueces, San Patricio Counties, TX, to points in ME, NH, and VT, and points in IN on or east of a line beginning at the KY-IN State line, and extending along I Hwy 65 to junction I Hwy 465, then east along I Hwy 465 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the MI-IN State line, and points in the Lower Peninsula of MI on or east of U.S. Hwy 31. (4) *Foodstuffs* (except (a) meats, meat products, and meat by-products as defined by the Commission, and (b) commodities in bulk), in vehicles equipped with mechanical refrigeration from points in TX on or south of a line beginning at Freeport, TX, and extending along TX Hwy 288 to junction TX Hwy 35, then along TX Hwy 35 to junction TX Hwy 113, then along TX Hwy 113 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction TX Hwy 44, then along TX Hwy 44 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the TX-Mexico border at or near Laredo, TX, to points in (3) above (except from points in El Paso, Hudspeth, Culbertson, Jeff Davis, Presidio, Brewster, Terrell, Val Verde, Kinney, Maverick, Webb, Zapata, Starr, Nueces, Titus, Hidalgo, Cameron, Willacy, Bexar, Dallas, Tarrant, San Patricio, and Smith Counties, TX. Restriction: Said operations are restricted against the transportation of (1) frozen fruits, berries and vegetables, (2) canned foodstuffs originating at Paris, TX, and its commercial zone as defined by the Commission. (5) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from El Paso, Hudspeth, Culbertson, Jeff Davis, Presidio, Brewster, Terrell, Val Verde, Kinney, Maverick, Webb, Zapata, Starr, Nueces, Hidalgo, Cameron, Willacy, Bexar and San Patricio, to points in ME, NH and VT, and points in OH on or east of a line beginning at the OH-KY State line, and extending along U.S. Hwy 23 to junction I Hwy 71, then along I Hwy 71 to Cleveland, OH. (6) *Foodstuffs* (except (a) meats, meat products

and meat by-products as defined by the Commission, and (b) commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in TX beginning at the TX-LA State line, and extending along TX Hwy 63 to junction TX Hwy 7, then along TX Hwy 7 to junction TX Hwy 6, then along TX Hwy 6 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction TX Hwy 329, then along TX Hwy 329 to junction TX Hwy 18, then along TX Hwy 18 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction TX Hwy 54, then along TX Hwy 54 to junction TX Hwy 180, then along TX Hwy 180 to the TX-NM State line (except those counties in (4) above), to points in OH described in (5) above. (7) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Dallas and Tarrant Counties, TX, to points in ME, NH, and VT. Restriction: Said operations are restricted against the transportation of canned foodstuffs and flavoring syrup from Dallas, Fort Worth and Paris, TX, and points in their commercial zones as defined by the Commission. Restriction: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. (Gateway eliminated: Doraville (Atlanta) GA.)

MC 107515 (Sub-E 666), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats, and dairy products* as described in the appendix to the report in *Modification of Permits—Packing House Products,* 48 M.C.C. 628 (except in bulk) and in vehicles equipped with mechanical refrigeration, (I) from points in that part of AL on or south of a line beginning at the AL-GA State line, and extending along U.S. Hwy 84 to junction I Hwy 65, then along I Hwy 65 to junction I Hwy 10, then along I Hwy 10 to the MS-AL State line, to points in that part of GA on or north of I Hwy 20. (II) from points in that part of AL on, west or north of a line beginning at the MS-AL State line, and extending along U.S. Hwy 80 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the AL-GA State line, to points in that part of GA on or north of a line beginning at the AL-GA State line, and extending along U.S. Hwy 78 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction GA Hwy 16, then along GA Hwy 16 to junction GA Hwy 24, then along GA Hwy 24 to junction GA Hwy 21, then along GA Hwy 21 to the Atlantic Ocean at Savannah, GA. (III) from points in that part of AL on or north of a line beginning at the MS-AL State line, and extending along U.S. Hwy 82 to junction I Hwy 20, then along I Hwy 20 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the AL-GA State line, to points in that part of GA on, north or east of a line beginning at the AL-GA State line, and extending along U.S. Hwy 78 to junction I Hwy 75, then along I Hwy 75 to the GA-FL State line. (IV) from points in that part of AL on or north of a line beginning at the AL-MS State line, and extending along U.S. Hwy 72 to junction I Hwy 65, then along I Hwy 65 to junction U.S. Hwy 278, then along U.S. Hwy 278 to the AL-GA State line, to points in that part of GA on or south of I Hwy 85. Restriction: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the act. (Gateway eliminated: Doraville (Atlanta) GA.)

MC 107515 (Sub-E668), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road N.E., Atlanta, GA 30326. *Fresh and cured meats, frozen foods, dairy products and fresh fruits and vegetables,* from Charleston, SC, to points in TX, AR, OK, MO, IL, KS, NE, IN, those points in AL on, north or west of a line beginning at the AL-FL State line, and extending along AL Hwy 137 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction AL Hwy 51, then along AL Hwy 51 to junction AL Hwy 30, then along AL Hwy 30 to Eufaula, AL, those points in GA on, north or west of a line beginning at the AL-GA State line near Georgetown, GA, and extending along GA Hwy 27 to junction GA Hwy 41, then along GA Hwy 41 to junction GA Hwy 85, then along GA Hwy 85 to junction I Hwy 75, then along I Hwy 75 to junction I Hwy 285 near Forest Park, GA, then along I Hwy 285 to junction GA Hwy 400, then along GA Hwy 400 to junction U.S. Hwy 19, then along U.S. Hwy 19 to the GA-TN State line, and points in Fulton, DeKalb, Clayton and Gwinnett Counties, GA, those points in TN, on, north or west of a line beginning at the GA-TN State line, and extending along TN Hwy 68 to junction U.S. Hwy 411, then along U.S. Hwy 411 to junction TN Hwy 95, then along TN Hwy 95 to junction TN Hwy 61, then along TN Hwy 61 to junction I Hwy 75, then along I Hwy 75 to the KY-TN State line, and those points in OH on or west of a line beginning at Lake Erie and extending along OH Hwy 4 to junction OH Hwy 203, then along OH Hwy 203 to junction OH Hwy 257, then along OH Hwy 257 to junction OH Hwy 745, then along OH Hwy 745 to junction I Hwy 270 near Dublin, OH, then south along I Hwy 270 to junction U.S. Hwy 62, then along U.S. Hwy 62 to the OH-KY State line.

Restriction: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. (Gateway eliminated: Doraville (Atlanta), GA.)

MC 107515 (Sub-E699), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road N.E., Atlanta, GA 30326. (I) *Meats, meat products, and meat by-products* (except in bulk), as described in Part A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Covington, KY, to points in that part of AL on or south of a line beginning at the AL-GA State line, and extending along I Hwy 20, to junction U.S. Alt Hwy 231, then along U.S. Alt Hwy 231 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the AL-MS State line; that part of MS on or south of a line beginning at the AL-MS State line, and extending along I Hwy 20 to junction I Hwy 59, then along I Hwy 59 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the MS-LA State line; that part of LA on or south of a line beginning at the MS-LA State line, and extending along U.S. Hwy 84 to junction LA Hwy 28, then along LA Hwy 28 to junction LA Hwy 8, then along LA Hwy 8 to the LA-TX State line; and that part of TX on or south of a line beginning at the LA-TX State line, and extending along I Hwy 10 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the U.S.-Mexico International Border at Presidio, TX.

(II) Vegetable oil shortening, oleomargarine and salads (except in bulk), from Indianapolis, IN, to points in that part of MS on or south of U.S. Hwy 90; and, that part of LA on east or south of a line beginning at the MS-LA State line, and extending

along U.S. Hwy 90 to junction LA Hwy 24, then along LA Hwy 24 to junction LA Hwy 1, then along LA Hwy 1 to the Gulf of Mexico at Grand Isle, LA. Restriction: The authority in I and II above is restricted to the transportation in vehicles equipped with mechanical refrigeration.

The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necesssary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. (Gateway eliminated: Doraville (Atlanta) GA.)

MC 107515 (Sub-E670), filed December 20, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road N.E., Atlanta, GA 30326. *Frozen foods, fresh and cured meats and such commodities* as are classifed as Dairy Products in the appendix to the report in *Modification of Permits—Packing House Products*, 46 M.C.C. 23, and fresh fruits and vegetables (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from points in SC, to points in TX, OK, AR, KS, MO, NE, IA, MN, WI, IL; points in KY on or west of a line beginning at the IN-KY State line, and extending along KY Hwy 69 to junction KY Hwy 54, then along KY Hwy 54 to junction KY Hwy 259, then along KY Hwy 259 to junction U.S. Hwy 31W, then along U.S. Hwy 31W to junction KY Hwy 90, then along KY Hwy 90 to junction U.S. Hwy 31E, then along U.S. Hwy 31E to the KY-TN State line; points in IN on or west of a line beginning at the IN-MI State line, and extending along IN Hwy 15 to junction IN Hwy 18, then along IN Hwy 18 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction IN Hwy 26, then along IN Hwy 26 to junction IN Hwy 75, then along IN Hwy 75 to junction IN Hwy 39, then along IN Hwy 39 to junction IN Hwy 37, then along IN Hwy 37 to the IN-KY State line; and points in MI on or west of a line beginning at the MI-IN State line, and extending along U.S. Hwy 131 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction I Hwy 75, then along I Hwy 75 to the International Boundary line at or near Sault Ste. Marie, (2) from Anderson and Fountain Inn, SC to Indianapolis, IN, (3) from Anderson, SC, to Louisville, KY, (4) from points in SC on or south of a line beginning at the SC-GA State line, and extending along SC Hwy 72 to junction U.S. Hwy 25, then along U.S. Hwy 25 to junction U.S. Hwy 178, then along U.S. Hwy 178 to junction U.S. Hwy 378, then along U.S. Hwy 378 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the Atlantic Ocean at or near Myrtle Beach to points in IN on or west of U.S. Hwy 31 and Elkhart, IN; points in KY on or west of a line beginning at the KY-TN State line, and extending along U.S. Hwy 127 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the IN-KY State line, (5) from points in SC on, south or east of a line beginning at the SC-GA State line, and extending along I Hwy 20 to junction U.S. Hwy 378, then along U.S. Hwy 378 to junction U.S. Hwy 521, then along U.S. Hwy 521 to Winyah Bay at or near Georgetown, SC, to points in KY on or west of a line beginning at the KY-TN State line, and extending along U.S. Hwy 127 to junction KY Hwy 49, then along KY Hwy 49 to junction U.S. Hwy 31E, then along U.S. Hwy 31E to the IN-KY State line; points in IN on or west of a line beginning at the KY-IN State line, and extending along IN Hwy 29 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction IN Hwy 101, then along IN Hwy 101 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction U.S. Hwy 224, then along U.S. Hwy 224 to the OH-IN State line; points in MI on or west of a line beginning at the MI-OH State line, and extending along U.S. Hwy 127 to junction MI Hwy 20, then along MI Hwy 20 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction MI Hwy 247, then along MI Hwy 247 to Saginaw Bay, (6) from points in SC on or south of a line beginning at the GA-SC State line, and extending along SC Hwy 72 to junction U.S. Hwy 178, then along U.S. Hwy 178 to junction I Hwy 26, then along I Hwy 26 to Mt. Pleasant, SC, to points in MI, IN, and points in OH or or west of a line beginning at Lake Erie and extending along OH Hwy 4 to junction OH Hwy 203, then along OH Hwy 203 to junction OH Hwy 257, then along OH Hwy 257 to junction OH Hwy 745, then along OH Hwy 745 to junction I Hwy 270, then along I Hwy 270 to junction U.S. Hwy 62, then along U.S. Hwy 62 to the OH-KY State line; points in KY on or west of I Hwy 75. Restriction: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carriers's operations shall conform to the provisions of section 210 of the Act. (Gateway eliminated: Doraville (Atlanta) GA.)

MC 117574 (Sub-E163), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). Commodities, the transportation of which because of size or weight, require the use of special equipment (except boats), and related materials, supplies and parts of such commodities when their transportation is incidental thereto, and self-propelled articles each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, restricted to self-propelled articles transported on trailers: (1) Between points in DE and points in MD on and east of U.S. Hwy 522, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, WI and points in KY on and west of Interstate Hwy 65. (Gateways eliminated: points within 50 miles of Columbus, OH (Norwalk and Gallipolis, Ohio) and Gettysburg, PA. (2) Between points in NJ, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO and WI. (Gateways eliminated: points within 80 miles of Columbus, OH (Norwalk and Gallipolis) and Harrisburg, and Millersburg, PA. (3) Between points in NC on and east of a line beginning at Wilmington, along U.S. Hwy 117 then north along U.S. Hwy 117 to junction U.S. Hwy 301, then north along U.S. Hwy 301 to the NC-VA State line, on the one hand, and, on the other, points in IA, MI, MN, WI and points in the following described states: IL, points on and north of a line beginning at the IL-MO State line along U.S. Hwy 36, then along U.S. Hwy 36 to junction IL Hwy 54, then northeast along IL Hwy 54 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to the IL-IN State line; IN, points on and north of U.S. Hwy 24; MO, points on and north of U.S. Hwy 24. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (4) Between points in VA in and east of Amelia, Brunswick, Culpeper, Frederick, Goochland, Louisa, Nottoway, Orange, Powhatan, Rappahannock, and Warren Counties, on the one hand, and, on the other, points in IA, MI, MN, WI, and points in the following described states: IL points on and north of U.S. Hwy 40; IN points on and north of a line beginning at the IN-IL State line along U.S. Hwy 40 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the OH-IN State line; MO points on and north of U.S. Hwy 66. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (5) Between points in the VA counties of Augusta, Bath, Highland and Rockbridge, on the one hand, and, on the other, points in MN on and north of a line beginning at the SD-MN State line along U.S. Hwy 14, then east along U.S. Hwy 14 to junction MN Hwy 23, then northeast along MN Hwy 23 to junction Interstate Hwy 35, then along Interstate Hwy 35 to junction MN Hwy 73, then north along MN Hwy 73 to junction U.S. Hwy 53, then north along U.S. Hwy 53 to U.S.-Canada International border. (Gate-

ways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (6) Between points in the VA counties of Bedford and Franklin, on the one hand, and, on the other, points in the following described states: IA points on and north of a line beginning at the IA-NE State line along U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction IA Hwy 175, then east along IA Hwy 175 to junction U.S. Hwy 169, then north along U.S. Hwy 169 to junction IA Hwy 3, then east along IA Hwy 3 to junction U.S. Hwy 69, then north along U.S. Hwy 69 to junction IA Hwy 105, then east along IA Hwy 105 to junction U.S. Hwy 218, then north along U.S. Hwy 218 to the IA-MN State line; MI points on and north of MI Hwy 72; MN points on and northwest of a line beginning at the MN-IA State line along U.S. Hwy 218, then north along U.S. Hwy 218 to junction MN Hwy 30, then east along MN Hwy 30 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to junction MN Hwy 60, then east along MN Hwy 60 to the MN-WI State line; WI points on and northwest of a line beginning at the WI-MN State line along WI Hwy 25, then north along WI Hwy 25 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to junction U.S. Hwy 51, then north along U.S. Hwy 51 to junction WI Hwy 64, then east along WI Hwy 64 to Marinette, WI. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (7) Between points in the VA counties of Appomattox, Campbell and Pittsylvania, on the one hand, and, on the other, points in the following described states: IA points on and north of a line beginning at the IA-NE State line along U.S. Hwy 30, then easterly along U.S. Hwy 30 to junction U.S. Hwy 71, then northerly along U.S. Hwy 71 to junction IA Hwy 175, then easterly along IA Hwy 175 to junction U.S. Hwy 169, then northerly along U.S. Hwy 169 to junction IA Hwy 3, then along IA Hwy 3 to junction U.S. Hwy 69, then northerly along U.S. Hwy 69 to junction IA Hwy 105, then easterly along IA Hwy 105 to junction U.S. Hwy 218, then northerly along U.S. Hwy 218 to the IA-MN State line; points in MI on and north of MI Hwy 72; points in MN on and northwest of a line beginning at the MN-IA State line extending along U.S. Hwy 218 to junction MN Hwy 30, then easterly along MN Hwy 30 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction MN Hwy 60, then easterly along MN Hwy 60 to the MN-WI State line; points in WI on and northwest of a line beginning at the WI-MN State line extending along WI Hwy 25 to junction U.S. Hwy 10, then easterly along U.S. Hwy 10 to junction U.S. Hwy 51, then northerly along U.S. Hwy 51 to junction WI Hwy 64, then along WI Hwy 64 to Marinette, WI. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (8) Between Albemarle, Amherst, Buckingham, Cumberland, Fluvanna, Green, Madison and Nelson Counties, VA, on the one hand, and, on the other, points in MN; points in IA on and northwest of a line beginning at the IA-MO State line extending along IA Hwy 5 to junction IA Hwy 137, then northerly along IA Hwy 137 to junction IA Hwy 92, then easterly along IA Hwy 92 to junction IA Hwy 149, then northeast along IA Hwy 149 to junction IA Hwy 151, then northeast along U.S. Hwy 151 to the WI-IA State line; points in MI on and north of MI Hwy 46; points in MO on and north of a line beginning at the KS-MO State line extending along MO Hwy 6 to junction MO Hwy 5, then nrotherly along MO Hwy 5 to the IA-MO State line; points in WI on and northwest of a line beginning at the WI-IA State line extending along U.S. Hwy 151 to junction WI Hwy 26, then northerly along WI Hwy 26 to junction U.S. Hwy 41, then northerly along U.S. Hwy 41 to Green Bay, WI. (Gateway eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (9) Between points in Charlotte, Halifax, Lunenburg, Mecklenburg and Prince Edwards Counties, VA, on the one hand, and, on the other, points in IA, MI, MN, WI, points in IL on and north of a line beginning at the MO-IL State line extending along U.S. Hwy 36 to junction IL Hwy 54, then northeast along IL Hwy 54 to junction U.S. Hwy 24, then easterly along U.S. Hwy 24 to the IL-IN State line; points in IN on and norht of a line beginning at the IL-IN State line extending along U.S. Hwy 24 to junction IN Hwy 19, then northerly along IN Hwy 19 to junction U.S. Hwy 20, then easterly long U.S. Hwy 24 to the OH-IN State line; and points in MO on and north of U.S. Hwy 24. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (10) Between points in Carroll, Floyd, Henry and Patrick Counties, VA, on the one hand, and, on the other, points in MN on and north of a line beginning at the MN-ND State line extending along U.S. Hwy 2 to junction MN Hwy 72, then northerly along MN Hwy 72 to the United States-Canadian International Boundary line. (Gateways eliminated: points within 80 miles of Columbus, OH and Gettysburg, PA.) (11) Between points in RI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO and WI. (Gateways eliminated: points within 80 miles of Columbus, OH (Norwalk and Gallipolis), and Lancaster, PA.)

MC 117574 (Sub-E164), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr., (same as above). *Agricultural implements, agricultural machinery, and agricultural equipment,* which are self-propelled, each weighng 15,000 pounds or more, and *agricultural implements, and agricultural machinery and agricultural equipment parts,* when moving in mixed loads with agricultural implements, agricultural machinery, and agricultural equipment, restricted against the transportation of such commodities which because of size or weight require the use of special equipment, (1) from points in IL north and east of a line beginning at the IL-IN State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 51, then along U.S. Hwy 51 to the IL-WI State line; points in IN on and north of a line beginning at the IN-OH State line on IN Hwy 18, then along IN Hwy 18 to junction U.S. Hwy 35, then along U.S. Hwy 35 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the IL-IN State line; points in MI on and west of a line beginning at the MI-OH State line on U.S. Hwy 23, then along U.S. Hwy 23 to junction MI Hwy 81, then a long MI Hwy 81 to junction MI Hwy 15, then along MI Hwy 15 to junction MI Hwy 247, then along MI Hwy 247 to the shore of Lake Huron; points in MN, on and north of a line beginning at the MN-WI State line on U.S. Hwy 14, then along U.S. Hwy 14 to the Minnesota River, then along the Minnesota River to U.S. Hwy 212, then along U.S. Hwy 212 to the MN-SD State line, and points in WI on and north of a line beginning at the IL-WI State line on U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 14 to the MN-WI State line, to points in FL, GA, NC, SC, and those in the following described states: points in AL on and east of a line beginning at the AL-TN State line on I Hwy 65, then along I Hwy 65 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction AL Hwy 5, then along AL Hwy 5 to junction U.S. Hwy 43, then along U.S. Hwy 43 to junction U.S. Hwy 90, then along U.S. Hwy 90 to the AL-MS State line; points in KY on and east of U.S. Hwy 127; points in TN on and east of U.S. Hwy 231, and points in VA on and south of a line beginning at the WV-VA State line on U.S. Hwy 460, then along U.S. Hwy 460 to the Chesapeake Bay and the Atlantic Ocean. (Gateway eliminated: Coldwater, OH.) (2) from points in IA an from points in IL on and north of U.S. Hwy 24, except points north and east of a line beginning at the IL-IN State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 51, then along U.S. Hwy 51 to the IL-WI State line, points

in IN bounded by a line beginning at the IL-IN State line at IN Hwy 18, then along IN Hwy 18 to junction U.S. Hwy 35, then along U.S. Hwy 35 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the IL-IN State line, then along the IL-IN State line to the point of origin, points in MI east of a line beginning at the MI-OH State line on U.S. Hwy 23, then along U.S. Hwy 23 to junction MI Hwy 81, then along MI Hwy 81 to junction MI Hwy 15, then along MI Hwy 15 to junction MI Hwy 247, then along MI Hwy 247 to the shore of Lake Huron, points in MN south of a line beginning at the MN-WI State line on U.S. Hwy 14, then along U.S. Hwy 14 to the Minnesota River, then along the Minnesota River, to U.S. Hwy 212, then along U.S. Hwy 212 to the MN-SD State line, and points in WI south of a line beginning at the IL-WI State line on U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 14, then along U.S. Hwy 14 to the MN-WI State line, to points in FL on and east of a line beginning at the FL-GA State line on U.S. Hwy 221, then along U.S. Hwy 221 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction FL Hwy 361, then along FL Hwy 361 to the Gulf of Mexico, points in GA on and east of U.S. Hwy 129; points in KY on and east of I Hwy 75; points in NC on and west of a line beginning at the NC-VA State line on I Hwy 95, then along I Hwy 95 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the Atlantic Ocean, points in SC, points in TN on and east of I Hwy 75, and points in VA on and south of a line beginning at the VA-WV State line on U.S. Hwy 460, then along U.S. Hwy 460 to junction U.S. Hwy 220, then along U.S. Hwy 220 to the NC-VA State line. (Gateway eliminated: Coldwater, OH.)

MC 123407 (Sub-E620), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between Seattle, WA, on the one hand, and, on the other, points in Crook, Campbell, Natrona, Converse, Niobrara, Albany, Laramie, Weston, Goshen and Platte Counties, WY. (Gateway eliminated: Belle Fourche, SD.)

MC 123407 (Sub-E621), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between San Francisco, CA, on the one hand, and, on the other, points in Albany, Laramie, Platte, Goshen, Niobrara, Converse, Weston, Campbell, and Crook Counties, WY. (Gateway eliminated: Bushnell, NE.)

MC 123407 (Sub-E620), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber and forest products, pressure treated poles, pressure treated post and pressure treated lumber* (except wood chips, commodities in bulk and commoditites requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in ID, NV, UT, WY, and points in Routt, Jackson, and Moffat Counties, CO, to points in OH. (Gateway eliminated: Rapid City, SD.)

MC 123407 (Sub-E623), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Mineral wool, mineral wool products, insulation materials and insulation, air duct* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Kansas City, KS, to points in WA, OR, ID, CA, NV, UT, and WY. Restriction: This authority is restricted to the transportation of shipments originating at the facilities of CSG Group of the Certain-Teed Products Corp. at Kansas City, KS. (Gateway eliminated: North Sioux City, SD.)

MC 123407 (Sub-E624), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in AZ, NM, and KS to points in TN on and east of Interstate Hwy 24. (Gateway eliminated: Facilities of Certain-Teed Products Corp. at East St. Louis, IL.)

MC 124154 (Sub-E13), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Ave., Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials* (except fertilizer and fertilizer materials), in containers, between points in LA (except the facilities of Gulf Oil Corp. at Donaldsonville), on the one hand, and, on the other, points in NC, SC, and VA. Restriction: This authority will expire May 8, 1980. (Gateway eliminated: The facilities of Helena Chemical Co. at Dothan, Selma, and Tanner, AL.)

MC 124154 (Sub-E14), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Ave., Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials* (except fertilizer and fertilizer materials), in containers, between points in MS, on the one hand, and, on the other, points in NC, SC, and VA. (Gateway eliminated: The facilities of Helena Chemical Co. at Dothan, Selma, and Tanner, AL.) Restriction: This authority expires May 8, 1980.

MC 124154 (Sub-E15), filed June 5, 1978. Applicant: WINGATE TRUCKING CO., INC., 1004 21st Ave., Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials,* in containers, between points in TX, on the one hand, and, on the other, points in NC, SC, and VA. Restriction: This authority expires May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co. at Dothan, Tanner and Selma, AL.)

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-31712 Filed 11-8-78; 8:45 a.m.]

[1505-01-M]

[Notice No. 185]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR. Doc. 78-28785 appearing at page 47063 in the issue for Thursday, October 12, 1978, in the first column of page 47066, "MC 13581 (Sub-35TA)" should have read "MC 135861 (Sub-35TA)".

[1505-01-M]

[Notice No. 187]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-29042 appearing at page 47344 in the issue for Friday, October 13, 1978, in the third column of page 47345, in the 17th line under MC 102567 (Sub-211TA), the abbreviation "MI" should have read "MO".

[1505-01-M]

[Notice No. 188]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-29043 appearing at page 47350 in the issue for Friday, October 13, 1978, in the first column of page 47356, "MC 143775 (Sub-16TA)" should have read "MC 143775 (Sub-15TA)".

[7035-01-M]

[Ex Parte No. 241, Rule 19; Exemption No. 143, Amdt. No. 6]

MANDATORY CAR SERVICE RULES

Exemption

To: All railroads.

Upon further consideration of Exemption No. 143 issued January 26, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire January 31, 1979.

This amendment shall become effective October 31, 1978.

Issued at Washington, D.C., October 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-31707 Filed 11-8-78; 8:45 am]

[7035-01-M]

[Ex Parte No. 241, Rule 19; Exemption No. 149, Amdt. No. 3]

MANDATORY CAR SERVICE RULES

Exemption

To: All railroads.

Upon further consideration of Exemption No. 149 issued April 28, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 149 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire February 15, 1979.

This amendment shall become effective October 31, 1978.

Issued at Washington, D.C., October 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-31708 Filed 11-8-78; 8:45 am]

[7035-01-M]

Office of Proceedings

[Notice No. 200]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 25, 1978.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 30844 (Sub-622TA), filed September 1, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes, 2125 Commercial Street, Waterloo, IA 50702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Pittsburgh, PA, to points in IL, IN, and MI, for 180 days. Supporting shipper: Heinz U.S.A., division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 53841 (Sub-13TA), filed August 30, 1978. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, attorney-at-law, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, vehicle body sealers, and deadener compounds (except commodities in bulk), and (2) *regular advertising materials*, empty cartons and containers when moving in mixed shipments with the commodities in (1) above from the facilities of Quaker State Refining Co. at (1) Farmers Valley, Emlenton, North Warren, and New Kensington, PA, to points in IL, IN, MI, MD, and MO; and (2) Congo, WV, to points in IL, IN, PA, MI, NY, NJ, MD, and MO, for 180 days. Supporting shipper: Quaker State Refining Co., 255 Elm Street, Oil City, PA 16301. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 78947 (Sub-18TA), filed September 1, 1978. Applicant: ELLIOTT BROS. TRUCK LINES, INC., 801 Hwy 21, Dysart, IA 52224. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of metal tool and utility boxes, tool chests, medical cabinets, benches and shelves (except commodities in bulk), between the facilities of Waterloo Industries, Inc., at Waterloo, IA; Sedalia, MO; Pocahontas and Walnut Ridge, AR, and the facilities of Lumidor Manufacturing, Inc., at Los Angeles, CA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. Applicant has also filed an

underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Waterloo Industries, Inc., P.O. Box 209, Waterloo, IA 50704. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 97461 (Sub-5TA), filed August 28, 1978. Applicant: H. A. DAY, d.b.a. H. A. DAY TRUCK LINE, 801 East Reno, Oklahoma City, OK. 73104, Representative: T. Earl Curb, 2628 SW. 69th Street, Oklahoma City, OK. 73159. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* with the usual ICC exceptions, between Oklahoma City, OK, and Asher, Konowa, Stratford and Ada, OK, via routes as follows: From Oklahoma City via U.S. Hwy 270 to its junction with State Hwy 3 approximately (4) miles west of McLoud; and from Oklahoma City, via State Hwy 3 to same junction with U.S. Hwy 270, serving the off-routes point of Tinker Air Force Base; then east via both U.S. Hwy 270 and State Hwy 3 to Shawnee and Tecumseh, OK, then south via both U.S. Hwy 177 and State Hwy 3-west to Asher, serving the off-route points of Maud, OK, (via State Hwy 59) and Wanette, OK, (via State Hwy 39); then east from Asher via State Hwy 39 to Konowa, OK, then south from Asher via U.S. Hwy 177 to Stratford; and then south and southeast from Asher via State Hwy Nos. 3-west and 13 to Ada, serving all intermediate points on all proposed routes. With authority to tack at Asher, Konowa, Stratford, and Ada named on existing authority MC 97461 (Sub-3) for transportation to and from and between all points on said interstate authority via. Between Asher and Ada, OK, via State Hwy 18 (now U.S. Hwy 177) to Stratford; then via State Hwy 19 to Ada, serving all intermediate points; and between Asher and Ada via State Hwy 13 as an alternate route. Between Stratford and Roff, OK, via State Hwy 18 (now U.S. Hwy 177) to intersection with State Hwy 29; then via State Hwy 29 to Roff, serving all intermediate points. Between Roff and Ada, OK, via State Hwy 12 (now State Hwy 1), serving all intermediate point. Between Konowa and Ada via State Hwys 3-east and 99. Between Konowa and Allen, via State Hwys 3-east and 99 to intersection with unnumbered county highway approximately (6) six miles south of South Canadian River Bridge; then over such unnumbered county highway to Allen; serving the intermediate point of Francis. Between Ada and Allen via State Hwy 12 (now State Hwy 1, for 180 days. Supporting shipper(s): There are approximately (7) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 NW. Third, Oklahoma City, OK. 73102.

MC 103051 (Sub-452 TA), filed September 5, 1978. Applicant: FLEET TRANSPORT CO., INC., P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and residual fuels* (in bulk, in tank vehicles), from Memphis, TN, to AR, MS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delta Refining Co., 543 West Mallory, Memphis, TN. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 105566 (Sub-181TA), filed August 30, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* in mixed shipments with glassware, chinaware, earthenware and pottery, from Lancaster, OH to points in AZ, CA, ID, NV, NM, OR, UT, WA and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Anchor Hocking Corp., 100 North Broad Street, Lancaster, OH 43130. Send protests to: P.E. Binder, District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 108341 (Sub-113TA), filed August 30, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Jack F. Counts, P.O. Box 8409, Charlotte, NC 28208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors and tractors, each weighing 15,000 pounds or more) from Portsmouth, VA to points in VA, TN, NC, SC, and GA. Restriction: Restricted to (1) traffic having a prior movement by water and (2) traffic destined to dealers of International Harvester Co. or facilities used by International Harvester Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Harvester Co., 401 North Michigan Avenue, Chicago, IL 60611. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 109584 (Sub-179TA), filed September 1, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec Street, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible tallow (feed fats)*, in bulk, in tank vehicles, from Phoenix, AR, to Deming, NM, for 180 days. No tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phoenix Tallow Co., 2602 South 15th Avenue, Phoenix, AR 85007. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 111485 (Sub-22TA), filed September 5, 1978. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between the facilities of Hickman-Fulton County Riverport at or near Hickman, KY, on the one hand, and, on the other, points in the United States, for 180 days. Applicant intends to interline with other carriers at said facilities of Hickman-Fulton County Riverport. Supporting shipper: Hickman-Fulton County Riverport, Riverport Office, P.O. Box 6, Hickman, KY 42050. Send protests to: Floyd Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 112822 (Sub-464TA), filed August 29, 1978. Applicant: BRAY LINES, INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill, 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* (except commodities in bulk, in

tank vehicles), and *related advertising materials,* and (2) *empty returns,* (1) From Jefferson County, CO, to WA; and (2) from WA to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Adolph Coors Co., Golden, CO 80401. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 112963 (Sub-80TA), filed September 5, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tanning oils* (in bulk, in tank vehicles), and (2) *commodities* used in the manufacture of tanning oils, in bulk, in tank vehicles, (1) from the facilities of Henkel Division of General Mills Chemicals at Saugus, MA, to points in the United States (except MA, NH, and RI), and (2) from points in the United States (except MA, NH and RI), to the plantsite of Henkel Division of General Mills Chemical at Saugus, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Henkel, Inc., Division of General Mills Chemicals, 222 Central Street, Saugus, MA 01906. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 115311 (Sub-316TA), filed August 30, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in packages from Texaco facilities in Jefferson County, TX to points in AL, FL, GA, IN, IL, KY, MI, MS, NC, OH, SC, TN, and Bayonne, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 118142 (Sub-184TA), filed September 5, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boxed frozen meats,* from the facilities of Landmark Beef Processors, Inc., at Los Angeles, CA; to Birmingham, AL; Jacksonville, FL; Tampa, FL; Watertown, MA; Landover, MD, Bayonne, NJ; Camden, NJ; Fort Sill, OK; Charleston, SC; Fort Jackson, SC; Nashville, TN; and Williamsburg, VA, restricted to the transportation of shipments originating at the facilities of Landmark Beef Processors, Inc., and destined to the indicated destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Landmark Beef Processors, Inc., 3163 East Vernon, Los Angeles, CA 90058. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KA 67202.

MC 123233 (Sub-84TA), filed September 5, 1978. Applicant: PROVOST CARTAGE INC., 7887 rue Grenache, Ville d'Anjou, PQ, Canada. Representative: Gilbert Beriault (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Silica sand* (in bulk, in tank vehicles), from the port of entry on the international boundary line between the United States and Canada located at Champlain, NY, to Plattsburgh, NY, for 190 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Supporting shipper(s): Usinage de Selica Champlain Ltee, 527 Hodge Street, Ville St. Laurent, PQ, Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 123778 (Sub-40TA), filed August 30, 1978. Applicant: JALT CORP., d.b.a. United Newspaper Delivery Service, P.O. Box 398, Woodbridge, NJ 07095. Representative: Morton E. Kell, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Magazines,* from carrier's terminal in Edison, NJ to points in CT, NJ, points in that part of NY on and east of NY Hwy 14, points in that part of MD and PA on and east of U.S. Hwy 14, and Wilmington, DE and Washington, DC, under a continuing contract or contracts with R. R. Donnelly, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. R. Donnelly, Inc., 2223 Martin Luther King Drive, Chicago, IL 60616. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 123993 (Sub-41TA), filed September 5, 1978. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Poultry and animal feed and mineral or vitamin mixtures for poultry and animal feeding* (except in bulk), from Mountaire Feeds, Inc., at North Little Rock, AR, to points in AR, LA, TX, and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mountaire Feeds, Inc., P.O. Box 5391, North Little Rock, AR 72119. Send protests to: Connie A. Guillory, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 124212 (Sub-101TA), filed September 1, 1978. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from the facilities of The Flintkote Co., Kosmos Cement Division, at or near Kosmosdale, KY, to points in IL, IN, OH, TN, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Flintkote Co., Kosmos Cement Division, 10101 Linn Station Road, Louisville, KY 40223. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 128270 (Sub-30TA), filed August 23, 1978. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, Suite 3520, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Treated and untreated cross and switch ties, lumber, piling, posts,* (1) from points in MI, MO, KY, and TN; and to Terre Haute, IN, and (2) from Terre Haute, IN, to points in IL, WI, MI, MO, IA, and OH, for 180 days. Supporting shipper(s): Western Tar Products Corp., 2525 Prairieton Road, P.O. Box 270, Terre Haute, IN 47808. Send protests to: Lois Stahl Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 134286 (Sub-74TA), filed August 28, 1978. Applicant: ILLINI EXPRESS, INC., Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, 350 Capitol Life Center, 1700 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *Pharmaceutical materials, supplies, and products,* (3) *chemicals;* (4) *alcoholic beverages;* (5) *tobacco products;* (6) *pet foods;* (7) *such commodities* as are dealt in by distribution or consolidation warehouses for the commodities described in (1), (2), (3), (4), (5), and (6), when moving in the same vehicle at the same time as the commodities described in (1) through (6); (8) exempt commodities when moving with regulated commodities; in vehicles equipped with mechanical refrigeration, between the facilities of Beatrice Foods Co., and Beatrice Cold Storage Co. at or near Denver, CO, on the one hand, and, on the other, points in WA, OR, CA, UT, ID, and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Daniel G. Murphy, Beatrice Foods Co. and Beatrice Cold Storage Warehouse, 1901 Winkoop Street, Denver, CO. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134477 (Sub-271TA), filed September 1, 1978. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing Co., Inc., at LeMars, IA, to points in AL, GA, KY, NC, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dubuque Packing Co., Inc., Box 340, LeMars, IA. 51031. 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 136258 (Sub-6TA), filed September 5, 1978. Applicant: HARDING TRUCKING, INC., P.O. Box 65, Whiting, IA 51063. Representative: D. Douglas Titus, Titus, Holman, & Myers, Suite 510 Benson Building, Sioux City, IA 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pieces therefrom*, in dump vehicles, from Omaha, NE, to the facilities of Mid-America Tanning Co., Inc., at or near Sergeant Bluff, IA, under a continuing contract, or contracts, with Mid-America Tanning Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Guy H. Moberg, President, Mid-America Tanning Co., Inc., P.O. Box 668, Sergeant Bluff, IA 51064. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 136315 (Sub-36TA), filed September 5, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring*, (1) from the facilities of Bruce Hardwood Floors at or near Center, TX, to points in AL, AR, GA, LA, MS, and TN; and (2) from the facilities of Bruce Hardwood Floors at or near Jackson and Nashville, TN, to Center, TX, for 180 days. Supporting shipper(s): Bruce Hardwood Floors, 4255 L. B. J. Freeway, Dallas, TX 75234. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, 145 East Amite Building, Room 212, Jackson, MS 39201.

MC 136738 (Sub-2TA), filed August 30, 1978. Applicant: DEAKAL CARTING CORP., 39 Central Avenue, Farmingdale, NY. Representative: Donald W. Smith, Esquire, Suite 945-9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Record jackets, paper and paper products*, used in the manufacture of record jackets, (1) from Farmingdale, NY to Oak Ridge, Memphis, and Nashville, TN; (2) from Oak Ridge, TN, to Indianapolis, IN, and (3) from Canton, NC, to Farmingdale, NY, under a continuing contract or contracts with Shoreco International, Inc., for 180 days. Supporting shipper(s): Shoreco International, Inc., Shoreco Packing, Inc., Shorewood Litho, Inc., 55 Engineers Lane, Farmingdale, NY 11735. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 138126 (Sub-30TA), filed August 30, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, MD 21632. Representative: Chester A. Zyblut, Esquire, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities owned and/or utilized by J. H. Filbert, Inc., located in Fulton, Clayton, De Kalb, Cobb, and Douglass Counties, GA, to points in the DC, KY, MD, NC, SC, TN, VA, and WV, for 150 days. Supporting shipper(s): Michael R. Hall, Traffic Supervisor, J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 138875 (Sub-103TA), filed September 1, 1978. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen dinners* (except in bulk), from the facilities of Foodways National, Inc., located at or near Hartford and Wethersfield, CT, to points in AR, AZ, CA, CO, IA, ID, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NV, NY, NM, OH, OK, OR, PA, SD, TX, UT, WA, WI, and WY, for 180 days. Supporting shipper(s): Foodways National, Inc., 1000 Silas Dean Highway, Wethersfield, CT 06109. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 139336 (Sub-17TA), filed August 30, 1978. Applicant: TRANSTATES, INC., 3216 East Westminister, Santa Ana, CA 92703. Representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum rods*, from points in Flat<head County, MT to points in Jefferson City, MO, for 180 days. Supporting shipper(s): Westinghouse Electric Corp., 290 Leger Road, No. Huntingdon, 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 140033 (Sub-68TA), filed September 1, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Winkle & Wells, Suite 1125 Exchange Park, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, not frozen, from Marietta, OK, to New Rochelle, NY; Louisville, KY; Los Angeles, CA; Phoenix, AZ; Corona, CA; San Diego, CA; La Habra, CA; Biddleford, ME; Seattle, WA, and Woburn, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Little Brownie Bakers, P.O. Box 249, Marietta, OK 73448. Send protests to: Opal M. Jones Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 141138 (Sub-12TA), filed September 1, 1978. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, IL 62221. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, from the facilities of International Multifoods Corp., at East St. Louis, IL, to points in AR, IA, IL, IN, KS, KY, MI, MN, MO, NE, OH, TN, and WI, for 180 days. Supporting shipper(s): Joseph Hirt Procurement Manager, International Multifoods Corp., 1200 Multifoods Building, Minneapolis, MN 55402. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL.

MC 141197 (Sub-29TA), filed August 30, 1978. Applicant: FLEMING-BABOCK, INC., 4106 Mattox Road, Riverside, MO 64150. Representative: Tom B. Kretsinger, Esq., Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer compounds* such as ammonium nitrate, urea, potash, various blends of phosphates or mixtures, from Kansas City, MO and Kansas City, KS to points in MO, KS, OK, NE, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-West Terminal Warehouse Co., 1226 North Topping Avenue, GPO Box 11, Kansas City, MO 64141. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 141362 (Sub-11TA), filed September 1, 1978. Applicant: SOUTHWEST BULK TRANSPORT, 1046 C. Commerce Street, San Marcos, CA 92069. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed supplements, dry*, from points in Orange County, CA, to points in Cochise County, AZ; and (2) *Feed supplements, dry*, (in bulk, or in bags), when moving in mixed loads with feed supplements, dry, in bulk, from points in Orange County, CA, to points in Pima County, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Supreme Feed Supplements, Inc., P.O. Box 400, Cypress, CA 90630. (2) Loper Systems, 6040 Riverside Drive, Chino, CA 91710. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141594 (Sub-2TA), filed August 21, 1978. Applicant: TRANSPORTATION SERVICE, INC., 1285 Glendale Road, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *PVC (Poly Vinyl Chloride) pipe, and materials, equipment and supplies* used in the manufacture of PVC pipe: (1) *PVC pipe*, from the facilities of Epco II at Washoe County, NV, to points in ID, UT, OR, WA and points in CA, in and north of Monterey, Kings, Tulare and Inyo Counties, CA; and (2) *Materials, equipment and supplies used in the manufacture of PVC pipe*, from points in CA, to the facilities of Epco II at Washoe County, NV; (3) *PVC pipe, and materials, equipment and supplies* used in the manufacture of PVC pipe, between the facilities of Epco I at Santa Ana, CA, and Epco II at Washoe County, NV, restricted to traffic originating at or destined to the facilities of Epco II at Washoe County, NV, under a continuing contract, or contracts, with Epco II, Inc., for 180 days. Supporting shipper(s): There are approximately (6) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: W. J. Huetig District Supervisor, Interstate Commerce Commission, 203 Federal Building., 705 North Plaza, Street, Carson City, NV 89701.

MC 141740 (Sub-8TA), filed September 1, 1978. Applicant: STOOPS XPRESS, INC., 2239 Malibu Court, Anderson, IN 46012. Representative: Jeffry Stoops, 2239 Malibu Court, Anderson, IN 46012. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical components and electric furnances, air conditioners and heat pumps*, from Dallas and Masquite, TX, to Miami, Orlando, St. Petersburg, Tampa, FL and Atlanta, GA, restricted to traffic originating at and destined to the named origins and destinations and to service under a continuing contract, or contracts, with Square D. Co., for 180 days. Supporting shipper(s): Square D. Co., Box 488, Florence, KY 41042. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 112, Fort Wayne, IN 46802.

MC 141773 (Sub-7TA), filed September 1, 1978. Applicant: THERMO TRANSPORT, INC., 156 East Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chilled juice*, from the facilities of Maplehurst Farms, Inc., at Indianapolis, IN, to Alpena, Bay City, Birmingham, Detroit, Flint, Grand Rapids, Lansing, Livonia, Muskegon, Plymouth, Saginaw and Warren, MI; Akron, Austintown, Bedford Heights, Bellefontaine, Cincinnati, Cleveland, Columbus, Dayton, Defiance, Findley, Lima, Maple Height, West Carrollton, Xenia, and Youngstown, OH; Altoona, Belle Vernon, DuBois, Johnstown, New Stanton, Pittsburg and Sharon, PA, under a continuing contract, or contracts, with Maplehurst Farms, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Maplehurst Farms, Inc., 3745 Farnsworth Street, Indianapolis, IN 46241. Send protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Building, & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 141804 (Sub-134TA), filed September 5, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91786. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91786. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel welding rods and wire, metal alloys, castings, powder, welding rods or wire, electric welders or parts and welding com-*

pound, from City of Industry, and Santa Fe Springs, CA, to points in the States of AZ, CO, KS, NE, NM, OK, SD, TA, UT and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stoody Company, 16425 Gale Avenue, Industry, CA 91745. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142508 (Sub-27TA), filed September 5, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, in containers and related advertising materials*, from Jefferson County, CO, to points in IA, MO, and WA; and (2) *Empty used malt containers, materials, and supplies used by brewers*, from points in IA, MO, and WA, to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lou Bonner Director of Transportation, Adolph Coors Company, Golden, CO. Send protest to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142559 (Sub-48TA), filed August 30, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and plumbing supplies and such commodities* as are used in the manufacture and distribution of plumbing fixturers and plumbing supplies (except commodities in bulk), between Knoxville, TN, on the one hand, and, on the other, points in and east of the states of MN, IA, KS, OK and TX, for 180 days. Supporting shipper(s): Briggs Manufacturing Co., 5040 National Drive, Knoxville, TN 37914. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143555 (Sub-4TA), filed September 1, 1978. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, NC 27893. Representative: Robert B. Walker, 915 Pennsylvania Building, 425-13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients*, between points in MD, VA, WV, OH, IN, IL, IA, MI, MO, KY, NC, AR, OK, TX, LA, MS, AL, GA, FL and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carolina-By-Products, Inc., P.O. Drawer 20687, Greensboro, NC 27420. Send protests to: Archie W. Andrews District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 143702 (Sub-4TA), filed September 1, 1978. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper forms, printed NOI, boxed, and paper pads, boxed*, between the facilities of Deluxe Check Printers, Inc., located in Lenexa, KS, Chicago and Des Plains, IL, and West Caldwell, NJ, and between the facilities of Deluxe Check Printers, Inc., located in West Caldwell, NJ; Greensboro, NC; Atlanta, GA, and Jacksonville and Miami, FL, under a continuing contract, or contracts, with Deluxe Check Printers, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Deluxe Check Printers, Inc., St. Paul, Minn. Send protests to: Vernon V. Coble District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 144032 (Sub-5TA), filed August 23, 1978. Applicant: R & S TRUCKING, INC., Rural Route 1, Box 123, Garretson, SD 57030. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, 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, in tank vehicles), from the facilities of H. Shenson, Inc., in Omaha, NE, to points in the United States (except AK and HI); (2) *Materials, equipment and supplies* (except commodities in bulk, in tank vehicles) *used in the manufacture, production and distribution* of the commodities in (1) above, from points in the United States (except AK and HI), to the facilities of H. Shenson, Inc., in Omaha, NE, restricted to the transportation of traffic to be performed under a continuing contract, or contracts, with H. Shenson, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. Shenson, Inc., 2701 Y Street, Omaha, NE 68107. Send protests to: James L. Hammond, District Supervisor, Interstate Commerce Commission, 455 Federal Building, Pierre, SD 57501.

MC 144909 (Sub-1TA), filed September 1, 1978. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Kahn & Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unaccompanied luggage*, having an immediately prior or subsequent movement by air, between Logan International Airport, Boston, MA, on the one hand, and, on the other, points in ME, MA, NH, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) United Air Lines, East Boston, MA 02128. (2) Delta Air Lines, Inc., East Boston, MA 02128. (3) TWA, Inc., East Boston, MA 02128. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 10 Causeway Street, Boston, MA 02114.

MC 145011 (Sub-1TA), filed June 29, 1978, and published in the FEDERAL REGISTER issue of October 20, 1978, and republished as corrected this issue. Applicant: R. F. WESTBURY, 1617 Willis Road, Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet and drug preparations, medicines, prescriptions, and ingredients thereof; chemicals, animal, fish and poultry feed, animal, fish and poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper and paper articles, pet products, pharmaceutical products, pesticides, plastic or rubber articles, shampoo, soap, and toys*, and (2) *materials, supplies and equipment* used in the manufacture, sale or distribution of articles in (1) above (except in bulk, tank vehicles), between Richmond, VA, and points in the commercial zone thereof, and Cherry Hill, NJ, on the one hand, and, on the other, Dallas, TX; Des Plaines, IL; and Los Angeles, CA, and points in the commercial zone thereof, under a continuing contract or contracts, with A. H. Robins Co.; Elkins-

Sinn, Inc.; Miller-Morton, Co.; Chap Stick Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. H. Robins Co.; Elkins-Sinn, Inc.; Miller-Morton Co.; Chap Stick Co., Alfred W. Kenney, Director of Transportation, 700 Darbytown Road, Richmond, VA 23231. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to include the territorial scope as previously omitted.

MC 145149 (Sub-2TA), filed September 1, 1978. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, 110L Kansas Credit Union Building, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and nitrogen fertilizer solutions*, from the facilities of Farmland Industries, Inc., near Dodge City, KS, to points in CO, NE, OK, NM, and TX, and also *anhydrous ammonia*, from OK and NM, from the Mapco Pipeline Terminal near Conway, KS, to NE and MO, also from the facilities of Farmland Industries, Inc., near Enid, OK, to points in KS, TX, CO, MO, and AR, and also from the facilities of Farmland Industries, Inc., near Barnesville, MN, to points in ND, SD, WI, and MT, also from the facilities of Farmland Industries, Inc., near Benson, MN, to points in ND, SD, WI, and MT, and also from the facilities of Farmland Industries, Inc., near Hoag, NE, to points in IA, KS, and MO, and also from the Mapco Pipeline near Clay Center, KS, to MO and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Industries, Inc., 3315 North Oak, Kansas City, MO 64116. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 145166 (Sub-1TA), filed September 5, 1978. Applicant: THE HILLTOP VAN & STORAGE CO., 5178 Fisher Road, Columbus, OH 43228. Representative: Stephen H. Loeb, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except commodities in bulk), from the facilities of Continental Freezers of Illinois at Chicago, IL, to points in OH, restricted to the transportation of shipments originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper: Continental Freezers of Illinois, 4220 South Kildare Boulevard, Chicago, IL 60632. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building, and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

NOTE.—Dual operations may be involved.

MC 145251 (Sub-1TA), filed August 30, 1978. Applicant: HOWELL ENTERPRISES, INC., U.S. Hwy 5, Box 696, Haleyville, AL 35565. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated lumber, poles, boards and logs, plywood, particleboard, and forest products*, between points in the United States lying in and east of ND, SD, NE, KS, OK, and TX on the one hand, and, on the other, facilities of Fullco Lumber Co., located in Winston, Lawrence, Franklin, Marian, Fayette, and Walker Countie, AL. Restriction: Restricted to transportation services performed under a continuing contract or contacts with Fullco Lumber Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Supporting shipper: Fullco Lumber Co., Inc., Haleyville, AL 35565. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145278 (Sub-1TA), filed September 1, 1978. Applicant: TOM B. MARTINEX TRUCKING CO., INC., 6041 Huron Street, Denver, CO 80221, d.b.a. MARTINEZ CONTRACTORS SUPPLY. Representative: Richard H. Hill, 1421 Court Place, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common brick, concrete block, cinder block, clay tile, and clay pipe* on flatbed trailers equipped with specialized mechanical loading and unloading equipment, and *concrete pipe* on flatbed trailers, from Greeley, CO, and Denver, Boulder, Arapahoe, Jefferson, and Adams Counties, CO, to all points in NE on and west of U.S. Hwy 81 and all points in WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Cowan Concrete Products, Inc., P.O. Box 1647, Greeley, CO 80631, (2) Wyoming Clay Products, Inc., P.O. Box 2501, Cheyenne, WY 82001. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145312 (Sub-1TA), filed September 1, 1978. Applicant: SUNBELT SYSTEMS TRANSPORT, INC., 1256 La Quinta Drive, Orlando, FL 32809. Representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* manufactured, sold or dealt in by Datapoint Corp., and (2) *materials, equipment and supplies* used or useful in the manufacture and distribution of data processing and related equipment, (1) between San Antonio and Waco, TX, on the one hand, and, on the other, points in the United States (except AL and HI); and (2) from points in the United States (except AL and HI), to San Antonio and Waco, TX. Restriction: All transportation is restricted against commodities in bulk, in tank vehicles), under a continuing contract, or contracts, with Datapoint Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Datapoint Corp., 9725 Datapoint Drive, San Antonio, TX 78284. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145328TA, filed September 1, 1978. Applicant: RICHARD M. STEWART, Rural Route No. 1, West Chester, IA. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods, frozen foods, and produce*, which is exempt from economic regulation under section 203(b)(6) of the Act, when in mixed loads with canned goods and/or frozen foods, from points in AZ, CA, CO, ID, OR, UT, and WA, to points in IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Haweye Wholesale Co., Inc., P.O. Box 1820, Iowa City, IA 52240. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145332 TA, filed September 1, 1978. Applicant: CLEVELAND FREIGHT LINES, INC., 17877 St. Clair Avenue Cleveland, OH 44110. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber yarn and materials, equipment and supplies* used in the manufacture thereof, (except commodities in bulk), between Painesville,

OH, on the one hand, and, on the other, points in AL, GA, KY, NJ, NY, NC, PA, SC, TN, and VA, under a continuing contract, or contracts, with IRC Fibers Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: IRC Fibers Co., Wayne, NJ 07470. Send protests to: Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145333 TA, filed September 1, 1978. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl, loose-leaf binder mechanisms, and chipboard*, from Lynn and New Bedford, MA, Burlington, NJ, to Edgerton, MN, under a continuing contract, or contracts, with Fey Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fey Industries, Inc., 200 Fourth Avenue West, Edgerton, MN 56128. Send protests to: Ronald A. Morken District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 145337 TA, filed September 5, 1978. Applicant: P. M. E., LTD., Box 181, Group 261, R. R. 2, Winnipeg, MB, Canada. 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: *Canned goods and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with canned goods, from Eugene and Salem, OR, and points in CA, to the ports of entry on the international boundary between the United States and Canada located in ND and MN, for furtherance to points in MB and SK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Western Commodities, Ltd., Box 3042, Vancouver, BC, Canada. (2) Stafford Foods, Ltd., 2100 Notre Dame Street, Winnipeg, MB, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building, and U.S. Post Office, 657 2d Avenue North, Fargo, ND 58102.

PASSENGER CARRIER

MC 145286 (Sub-1TA), filed August 3, 1978. Applicant: BANNER ELK BUS CO., Route 1, Licklog Road, Newland, NC 29657. Representative: Dallas Horney, Route 1, Licklog Road, Newland, NC 29657. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Hampton, TN, Roan Mountain, TN, and Banner Elk, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Banner Elk Glove Mfg., Co., P.O. Box 84, Roan Mountain, TN 37687. Send protests to: Terrell Price District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

By the Commission.

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

[FR Doc. 78-31589 Filed 11-8-78; 8:45 am]

[7035-01-M]

[Notice No. 201]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Important Notice

OCTOBER 25, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in 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 comtemplated 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 2110 (Sub-8TA), filed September 11, 1978. Applicant: BOWLUS TRUCKING CO., INC., 200 County Road 143, Fremont, OH 43420. Representative: Richard H. Brandon of Sanborn, Brandon & Duvall, Attorney at Law, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive brakes, brake parts and assemblies* therefor, and (2) *parts and supplies* used in the manufacture, sale and distribution of such brakes, parts, and assemblies (except commodities in bulk) between the facilities of Kelsey-Hayes Co., auto/truck group, and the facilities of the suppliers, and customers of said shipper at Albion, Jackson, Romulus, and St. Joseph, MI, on the one hand, and, on the other, Dayton, Columbus, Fremont, Ironton, Kingsway, Mt. Vernon, and Tiffin, OH, under a continuing contract or contracts with Kelsey-Hayes Co., Auto/Truck Group. For 180 days. Supporting shipper: Kelsey-Hayes Co., Auto/Truck Group, Romulus, MI 48174. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations-ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 8457 (Sub-7TA), filed September 11, 1978. Applicant: MILWAUKIE TRANSFER & FUEL CO., 15462 Railroad Avenue, Clackamas, OR 97015. Representative: Lawrence V. Smart, 419 NW., 23d Avenue, Portland, OR 97010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed concrete and items* between Tacoma, WA and Portland, OR, for 180 days. Supporting shipper: Grany's Crane & Rigging, Inc., 3445 Northwest Front Avenue, Portland, OR. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 10311 (Sub-49TA), filed September 13, 1978. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, 34200 Mound Road, Sterling Heights, MI 48077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Automobile parts; plastic, glass, plastic and/or glass combined with metal from Ashtabula, OH to Buffalo, NY. Restriction: Restricted to the transportation of shipments moving across the United States-Cananda Boundary Line at Buffalo, NY, and destined to plantsite of American Motors (Canada) Ltd. at Brampton, ON, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Motors (Canada) Ltd., Kennedy Road, Brampton, ON, Canada, W. C. Long, Traffic Manager. Send protests to: T. S. Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 27817 (Sub-146TA), filed September 11, 1978. Applicant: H. C. GABLER, INC., R.D. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* from the facilities of Heinz U.S.A. Division of H. J. Heinz Co. at Pittsburgh, PA to points in NC and VA, restricted to traffic originating at the named facilities and destined to the named States, for 180 days. Supporting shipper: Heinz U.S.A. Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, 278 Federal Building, 228 Walnut Street, P.O. Box 869, Harrisburg, PA 17108.

MC 29886 (Sub-355TA), filed September 13, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Albert P. Barber, 4314 39th Avenue, Kenosha, WI 53142. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile and brick* from Canton, OH to IL, IN, IA, CO, KS, NE, MN, MO MD, MI, NJ, NY, VA, DE, CT, MA, RI, NH, VT, ME, WI, KY, WV and PA, for 180 days. Supporting shipper: Stark Ceramics, Inc., P.O. Box 8880, Canton, OH 44711. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 35706 (Sub-15TA), filed August 30, 1978. Applicant: ATSL, INC., 10 Oregon Avenue, Building A, Philadelphia, PA 19148. Representative: Steven M. Tannenbaum, 135 N. 4th Street, Philadelphia, PA 19106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel wear and store supplies*, except in bulk, from the facilities of Petrie Stores Corp., at Secaucus, NJ, to the facilities of or utilized by Petrie Stores Corp. at or near Cleveland, OH, Detroit, MI, Chicago, IL and Dallas, TX and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Petrie Stores Corp., 70 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadephia, PA 19106.

MC 44605 (Sub-49TA), filed September 13, 1978. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Representative: Henry A. Dahn, 2500 West California Avenue, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, soda ash, and those requiring special equipment). Serving Alchem, WY, as an off-route point in connection with applicant's otherwise authorized regular route operations. Applicant intends to tack the authority here applied for to other authority held by it in MC 44605 Sub-34. Applicant intends to interline with other carriers at Salt Lake City, UT; Las Vegas, NV; Phoenix, AZ; Los Angeles and Oakland, CA; and Rock Springs, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Church & Dwight Co., Inc., P.O. Box 369, Piscataway, NJ 08854 (John A. Coneys, Manager of Traffic Projects). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 51146 (Sub-636TA), filed September 11, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commerical Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* utilized in the manufacture of cheese, cheese products, sausage and bakery products from the facilities of Armbee Corporation Importers at San Francisco, CA to Swiss Colony, Inc. at Madison, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Swiss Colony, Inc., 1112 70th Avenue, Monroe, WI 53566 (Werner Weissensluh). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 E. Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-641TA), filed September 13, 1978. Applicant: Schneider Transport, Inc., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Polyethylene articles* from Jackson, TN to points in AL, CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, WI AND DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: International Paper Co., 220 E. 42nd St., New York, NY 10017 (John T. Passantino). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 E. Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 95540 (Sub-1039TA), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by retail sewing centers from Trumann, AR to Shrewsbury, MA, Richmond, VA, Los Angeles and San Francisco, CA, North Bergen, NJ Tampa, FL, Charlotte, NC and Philadelphia, PA, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Singer Co., 313 Underhill Boulevard, Syosset, NY 11791. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Bop Monterey Building, Suite 101, 8410 NW 53rd Terrace, Miami, FL 33166.

MC 105375 (Sub-77TA), filed September 13, 1978. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, MN 55055. Representative: Joseph A. Eschenbacher, Jr., 1680 Fourth Avenue, Newport, MN 55055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in

bulk, from the facilities of Land O' Lakes Agricultural Services Division located at or near Mason City, IA to points in MN, WI, ND, SD and NE, for 180 days. Supporting shipper: Land O' Lakes Agricultural Services Division, 2327 8th Ave. South, Fort Dodge, IA 50501. Send protests to: Delores A. Poe Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105566 (Sub-182TA), filed September 11, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, resin, impregnated, not laminated*, in vehicles equipped with mechanical refrigeration, from Sunset Whitney Ranch, CA, to Cincinnati, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Formica Corp., 101 55 Reading Rd., Cincinnati, OH 45241. Send protests to: District Supervisor P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 105566 (Sub-183TA), filed September 13, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing*, from Maryville, Knoxville and Memphis, TN and Baldwyn, MS to Henderson, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Levi Strauss & Co., 7950 U.S. Hwy 25, Florence, KY 41042. Send protests to: Acting District Supervisor P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 109141 (Sub-25TA), filed September 13, 1978. Applicant: CARL J. AUSTAD & SON, INC., P.O. Box 389, Hettinger, ND 58639. Representative: T. L. Secrest, Box 430, Hettinger, ND 58639. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Liquified petroleum gas* from the facilities of Warren Petroleum Co. at Little Knife Field near Killdeer, ND, to points in MT and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Oil Co., 200 East Randolph Dr., Chicago, IL 60601. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo ND 58102.

MC 111310 (Sub-35TA), filed September 14, 1978. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising equipment, premiums, materials and supplies* when shipped therewith, from New Ulm, MN, to Mason City, IA; Kansas City, Mo. St. Louis, MO; Milwaukee, WI; Chicago, IL; and Waukegan, IL; (2) *used empty malt beverage containers* from the above-named points to New Ulm, MN. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Authority sought for 180 days. Supporting shipper: August Schell Brewing Co., Schells Park, New Ulm, MN 56073. Send protests to: (District Supervisor), Mr. Ronald A. Morken, Interstate Commerce Commission, 212 East Washington Avenue, Room 317.

MC 114334 (Sub-37TA), filed September 11, 1978. Applicant: BUILDERS TRANSPORTATION CO., 3710 Tulane Road, Memphis, TN 38116. Representative: Mr. Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bridge girders* from the plantsite of Pidgeon Thomas Iron works, Memphis, TN to a bridge construction site located at Cochrane, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pidgeon Thomas Iron Co. 107 E. H. Crump Boulevard, P.O. Box 20, Memphis, TN 38101. Send protests to: Mr. Floyd A. Johnston, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 114457 (Sub-432TA), filed September 13, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clock movements, paints, stains and varnishes, printed matter, and fibreboard backs* from Chicago, IL to Traverse City, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burwood Products Co., 807 Airport Access Road, Traverse City, MI 49684. 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 115311 (Sub-305TA), filed September 14, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, from Perry, FL to Destrehan, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Dolomite Lime Co., P.O. Box 1018 Moultrie, GA 31768. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, Ga 30309.

MC 115904 (Sub-128TA), filed September 13, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections, and materials, supplies and accessories*, used in the manufacture, sale, distribution, and installation thereof, from Bakersfield, Santa Anna, and Sun Valley, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R & G Sloane Manufacturing Co., Inc., 7606 North Clybourn Avenue, Sun Valley, CA 91352. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 123156 (Sub-6TA), filed September 13, 1978. Applicant: RAND'S TRANSPORT, INC., 11 North Hammond's Ferry Road, Linthicum, MD 21090. Representative: Walter T. Evans, Esq., 7401 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from points in DE, MD, NJ, PA, and VA to points in the commercial zones of Luke, MD, and Spring Grove, PA, under a continuing contract or

contracts with Phelps Brothers Land Clearing, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charles F. Phelps, Jr., Operations Manager, Phelps Brothers Land Clearing, Inc., P.O. Box 66, Odenton, MD 21113. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 124078 (Sub-862TA), filed September 14, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Newport and Millville, NJ to Plainfield, CT for 180 days. Supporting shipper: American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903, J. P. Nelligan. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 124078 (Sub-869TA), filed September 13, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, 611 South 28th Street, Milwaukee, WI 53215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, from Monongah, WV to points in MD for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reiss Viking Corp., P.O. Box 407, Fairmont, WV 26554, Robert Kisner. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124711 (Sub-65TA), filed September 13, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper, P.O. Box 1050, El Dorado, KS 67042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions and ingredients* thereof, in bulk, from facilities of Poole Chemical Company near Holcomb, KS to points in CO, NE, NM, OK & TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Poole Chemical Co., P.O. Box 169, Holcomb, KS 67851. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 126539 (Sub-41TA), filed September 14, 1978. Applicant: KATUIN BROS. INC., P.O. Box 311, Fort Madison, IA 52627. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities, of Land O' Lakes Agricultural Services Division, at or near Mason City, IA to points in MN, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Land O' Lakes Agricultural Services Division 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 129480 (Sub-34TA), filed September 13, 1978. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550-71 Avenue SE., Station A, P.O. Box 5245, Calgary, AB, Canada T2H OS6. Representative: Richard S. Mandelson, Attorney at Law, 1600 Lincoln Center, 1600 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags, from the ports of entry on the International Boundary line between the U.S. and Canada located in ID, MT, WA, ND, and MN to points in AZ, CA, CO, ID, KS, MN, MT, NE, NM, ND, OK, SD, TX, UT, WY, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman G. Patterson, Traffic Manager., Cascade Imperial Mills, Ltd., Ste 401-4046 Canda Way, Burnaby, BC, Canada V5G 4H7. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission 2602 First Avenue N., Billings, MT 59101.

MC 129563 (Sub-3TA), filed September 13, 1978. Applicant: ONONDGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey, 345 Spencer Street, Syracuse, NY 13204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, OH to Elmira Heights, NY, under a continuing contract or contracts with Seneca Beverage Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Seneca Beverage Corp., 3496 Oakwood Avenue Elmira Heights, NY 14903. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

MC 133119 (Sub-138TA), filed September 13, 1978. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, Peterson, Bowman, Larsen & Swanson, 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: *Frozen foods*, from the facilities of Fox Deluxe Pizza Co., at or near Joplin, MO, and the facilities of The Pillsbury Co., at or near Joplin and Carthage, MO, to points in the States of SD, NE, MN, IA, UT, CO, KS, OK, TX, AR, LA, TN, KY, IL, IN, and MI, for 180 days. (Applicant has also filed an underlying ETA seeking up to 90 days operating authority.) Supporting shipper: Totino's Frozen Foods Division, The Pillsbury Co., 7350 Commerce Lane, Fridley, MN 55432. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, 110 North 14th Street, Suite 620, Omaha, NE 68102.

MC 134387 (Sub-55TA), filed September 13, 1978. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Ca 90280. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends* from Phoenix, AR to Salt Lake City, UT, for 180 days. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 200 North Los Angeles Street, Los Angeles, CA 90012.

MC 136228 (Sub-34TA), filed September 13, 1978. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, OR 97862. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables* between Milton-Freewater, OR, and Walla Walla, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M F Frozen Foods Inc., 235 East Broadway, Milton-Freewater, OR

97862. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 139577 (Sub-28TA), filed: September 11, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food* (except in bulk, in tank vehicles) from Ft. Dodge, IA to Rochelle, IL. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Authority sought for 180 days. Supporting shipper: Carnation Co., 5045 Wilshire Boulevard, Los Angeles, CA 90036. Send protests to: District Supervisor, Mr. Ronald A. Morken, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 140273 (Sub-10TA), filed September 13, 1978. Applicant: BUESING BROS., TRUCKING, INC., North 520 Tamarack Avenue, Long Lake, MN 55356. 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: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O' Lakes Agricultural Services Division at or near Mason City, IA to points in the states of MN, WI, ND, SD and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lake O' Lakes Agricultural Services Division, 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140612 (Sub-56TA), filed September 11, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour, P.O. Box 2207, Cedar Rapids, 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non alcoholic beverages, empty bottles and containers and supplies* used in the distribution and production of the above, between Moline, IL, on the one hand and on the other, points in IA, IL, WI, MN, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midwest Pop Quad Cities, Inc., 5215 22nd Avenue, Moline, IL 61265. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140709 (Sub-7TA), filed September 13, 1978. Applicant: FANKHAUSER BROTHERS, INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of the Mapco Pipeline Terminal near Mocane, OK, to points in KS and TX. For 180 days. Supporting shipper: Olin Corp., P.O. Box 991, Little Rock, AR 72203. C&S Trading & Brokerage, 78A Parsons Plaza, Parsons, KS 67357. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 141197 (Sub-30TA), filed September 13, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials* in bulk in dump truck, from Atlas, MO to AR, IA, IL, KS, OK, NE and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., 100 North Main Building, Memphis, TN 38103. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 142508 (Sub-29TA), filed September 13, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic film*, and (2) *cured preserved meats*, in mechanically refrigerated trailers, from the facilities of Land O' Frost, Inc. at Lansing, IL to Searcy, AR and North Little Rock, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Daniel Perry, Traffic Manager, Land O' Frost, Inc., 16850 Chicago Avenue, Lansing, IL 60438. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142559 (Sub-54TA), filed September 13, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Temporary Authority for 180 days sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive fuel and lubricant additives and conditioners; fuel line anti-freeze, and automotive glass cleaner and anti-freeze* (except in bulk, in tank vehicles) (1) from Akron, OH to points in DE, IL, IN, KY, MI, NJ, MY, PA, VA, WV, WI, and DC; (2) from Worcester, MA, to points in DE, KY, MD, MI, NJ, NY, OH, PA, VA, WV, and DC; and (3) from Paulsboro and Pennsauken, NJ to points in MD, NY, OH, PA, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cristy Chemical Corp., 405 Grove Street, Worcester, MA 01605. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 142757 (Sub-3TA), filed September 14, 1978. Applicant: WAYNE H. ROBERTSON, d.b.a. Robertson Tank Service, P.O. Box 100, Elkhart, KS 67950. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of the Mapco Pipeline Terminal near Mocane, OK to points in KS and TX, for 180 days. Supporting shipper: C&S Trading and Brokerage, d.b.a. CSTB, Inc., 78A Parsons Plaza, Parsons, KS 67357. Olin Corp., P.O. Box 991, Little Rock, AR 72203. Send protest to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, Wichita, KS 67202.

MC 143236 (Sub-19TA), filed September 13, 1978. Applicant; WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, South Kearny, NJ 07032. Representative: Jay Schiffres, 1001 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Cellulose insulation* between the facilities of Mono-Therm Northeast, Inc., located at or near East Brunswick, NJ on the one hand, and, on the other, to points in NY, PA, CT, RI, NH, VT, ME, MA, OH, DE, MD, NC, SC, GA, FL, LA, VA, WV, KY, TN, AL and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mono-Therm Northeast, Inc., 40 Em Carters Lane, East Brunswick, NJ 08816. Send pro-

tests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618 Newark, NJ 07102.

MC 143387 (Sub-2TA), filed September 11, 1978. Applicant: ASSOCIATED COURIERS, INC., 342 Fee Fee Road, Maryland Heights, MO 63043. Representative: Warren W. Wallen, Esq., Sullivan & Associates, Ltd., 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive pharmaceuticals, radioactive isotopes and medical testing kits*, between Maryland Heights, MO, on the one hand, and on the other points in CO, MT and WY, under a continuing contract or contracts with Mallinckrodt Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mallinckrodt Inc., Box 10172 Lambert Field, St. Louis, MO 63045. Send protests to: Acting District Supervisor P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room, 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 144207 (Sub-3TA), filed September 13, 1978. Applicant: SOUTHWEST TRANSPORT, INC., Hwy 8 East, P.O. Box 806, Mena, AR 71953. Representative: Troy R. Douglas, 15 Court Street, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and building materials* as defined in Appendix VI of the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 (1) between points in AR, OK and TX (2) between points in AR, OK and TX on the one hand and, on the other, points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Horn Lumber Co., Inc., Box 175, Norman, AR 71960. Lumber Mill Properties, d.b.a. Killian Lumber Co., P.O. Box 98, Norman, AR 71960. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144207 (Sub-4TA), filed September 13, 1978. Applicant: SOUTHWEST TRANSPORT, INC., Hwy 8 East, P.O. Box 806, Mena, AR 71953. Representative: Troy R. Douglas, 15 Court Street, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from Hatfield, AR to points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Smith Pallet Co., Inc., P.O. Box 207, Hatfield, AR 71945. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144330 (Sub-39TA), filed September 11, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from Fayetteville, AR, to points in KS and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ozark Forest Products, P.O. Box 1054, Fayetteville, AR 72701, (Mark Thiessen, Sales, Service & Shipping). Send protests to: District Supervisor, L. D. Helfer, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 144513 (Sub-4TA), filed September 11, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shop and construction equipment and supplies, coatings, hand tools, metal products, and rubber products and materials*, between the facilities of Surplus Materials Co. at or near Akron, OH, on the one hand, and, on the other, points in the United State (except AK, HI and OH). Restriction: Restricted against the transportation of commodities in bulk, and commodities which by reason of size or weight require the use of special equipment, for 180 days. Supporting shipper: Surplus Materials Co., Division of C & H Wholesale Jobbers, Inc., 1466 South Main Street, Akron, OH 44301. Send protests to: Mr. James Johnson, District Supervisor, Interstate Commerce Commission, 181 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 144709 (Sub-1TA), filed September 13, 1978. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. 180-day Temporary Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Activated Carbon*, in dump trailers, from Neville Island, PA and Catlettsburg, KY to points in CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, MI, IN, IL, KY, TN, NC and DC, and (2) *Spent carbon*, in dump trailers, from points in CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, MI, IN, IL, KY, TN, NC and DC under a continuing contract or contracts with Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 145150 (Sub-2TA), filed September 13, 1978. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. No. 2, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of the Mapco Pipeline Terminal near Mocane, OK to points in KS and TX, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C&S Trading and Brokerage, d.b.a. CSTB, Inc., 78A Parsons Plaza, Parsons, KS 67357. Send protest to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 145272 (Sub-1TA), filed September 13, 1978. Applicant: LAWRENCE REIDLINGER, an individual, Box 109, Conception Junction, MO 64434. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sand*, between Stanberry and Burlington Junction, MO, on the one hand and on the other, Page Taylor, Ringgold and Decatur Counties, IA; and (2) *Crushed rock*, from Page and Taylor Counties, IA, to Nodaway and Atchison Counties, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: B.B.'s Sand Co., Inc., Albany, MO 64402. Gendler Stone Products Co., Inc., 1075 Polk Boulevard, Des Moines, IA 50311.

MC 145306 (Sub-1TA), filed September 11, 1978. Applicant: WEST TRUCKING LINE, INC., West Chester, IA 52359. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock confinement systems* and (2) *material, equipment and supplies* used in the manufacture, dis-

tribution and construction of livestock confinement systems (except commodities in bulk), from the facilities of Confinement Specialists, Inc., at or near Kalona, IA, to points in KS, MO, NE, SD, ND, MN, WI, IL, IN and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Confinement Specialists, Inc., P.O. Box 458, Kalona, IA 52247. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145365TA, filed September 13, 1978. Applicant: NICK PAVLOVICH AND JUDITH KAY ARNDS, a partnership, P.O. Box 373, Mammoth Lakes, CA 93546. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products* in Refrigerated Equipment, except commodities in bulk, in tank vehicles from Washoe County, NV to Inyo and Mono Counties, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sierra Meat & Provision Co., 1700 East Second Street (P.O. Box 2456), Reno, NV 89505. Send protests to: District Supervisor, W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

MC 145370TA, filed September 13, 1978. Applicant: PHARR BROTHERS, INC., P.O. Box 69, Blanchard Hwy, Blanchard, LA 71009. Representative: Mr. John Schwab, P.O. Box 3036 (617 North Boulevard), Baton Rouge, LA 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction machinery and equipment and mining machinery and equipment*, with all attachments and related accessories from, to, and between all points within the States of LA, AR, TX, MS, and OK, for 180 days. Supporting shipper: Mr. Jack Davis, 2204 North Grand, Enid, OK, Joe Moody Machinery Co., 11019 Denton Drive, Dallas, TX, Hyster Co., 1841 Barton Drive, P.O. Box 7465, Shreveport, LA, Cap-Con International, Inc., P.O. Box 7392, Shreveport, LA 71107. Send protest to: Connie A. Guillory, Interstate Commerce Commission, Bureau of Operations, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 145392TA, filed September 13, 1978. Applicant: RAJOR, INC., 100 Beta Drive, P.O. Box 756, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe fittings, connectors, and valves*, from Sun Valley, CA and Cleveland, OH, to points in and east of MN, IA, MO, AR, and LA, and from Cleveland, OH to Bakersfield, Santa Ana, and Sun Valley, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days. Supporting shipper: R & G Sloane Manufacturing Co., Inc., 7606 North Clybourn, Sun Valley, CA 91352. Send protests to: Mr. Joe J. Tate, District Supervisor, Interstate Commerce Commission, Suite A422, Federal Building, U.S. Court House, 801 Broadway, Nashville, TN 37203.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-31590 Filed 11-8-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 43]

DECISION-NOTICE

October 27, 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 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 a applicant if not 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 an 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.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy; and that each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 175.

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 conditions which may be noted in the publication and 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 Number 1, Members Carleton, Joyce and Jones.

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

MC 200 (Sub-313F), filed September 29, 1978. Applicant: RISS INTERNATIONAL CORP., a Delaware corporation, 903 Grand Avenue, Kansas City, KS 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *rolled pressed felt*, Millbury, MA, to Jackson, MI. (Hearing site: Kansas City, MO, or Boston, MA.)

MC 200 (Sub-314F), filed October 2, 1978. Applicant: RISS INTERNATIONAL CORP., a Delaware corporation, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). 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 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing Co., at Denison, IA, to points in CO, CT, IL, IN, KS, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, OK, PA, RI, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 720 (Sub-58F), filed September 6, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs, and materials, equipment, and supplies* used in the manufacture or distribution of foodstuffs (except hides and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Madison or Milwaukee, WI.)

MC 23618 (Sub-38F), filed October 6, 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. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel pipe, pipe fittings, flanges, and attachments and accessories for steel pipe*, and (2) *steel plate*, from Houston, TX, to points in AL, FL, GA, MS, NC, and SC. (Hearing site: Houston, TX, or Atlanta, GA.)

MC 29079 (Sub-96F), filed October 2, 1978. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union Street, Kokomo, IN 46901. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sand and sand with additives*, (except commodities in bulk, in tank vehicles), from the facilities of Acme Resin Company, at or near Oregon, IL, to points in CT, IN (except Kokomo and points within 50 miles thereof), IA, KY (except Louisville), MA, MO, NH, NJ, RI, VA, WV (except points in Brooke, Hancock, Marshall, and Ohio Counties), WI, those in the lower peninsula of MI, those in NY on and east of U.S. Hwy 62, and those in PA on and east of U.S. Hwy 219. (Hearing site: Washington, DC.)

MC 35320 (Sub-159F), filed September 29, 1978. Applicant: T.I.M.E.-DC, INC., a Delaware corporation, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, 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 Black Fox Nuclear Plant, at or near Inola, OK, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa or Oklahoma City, OK.)

MC 35807 (Sub-86F), filed September 1, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., a Delaware corporation, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coin and currency*, between Charlotte, NC and Culpeper, VA, under a continuing contract with the Federal Reserve Bank of Richmond, Charlotte, NC Branch. (Hearing site: Charlotte, NC, or Richmond, Va.)

MC 40915 (Sub-50F), filed September 15, 1978. Applicant: BOAT TRANSIT, INC., a Michigian corporation, P.O. Box 1403, Newport Beach, CA 92663. Representative: David R. Parker, 1600 Broadway, Suite 2310, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled motor vehicles*, in truckaway service, and (2) *accessories and parts* for the commodities in (1) above, from the facilities of Chinook International, Inc., at Fontana, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 47171 (Sub-115F), filed August 24, 1978. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, SC 29608. Representative: Harris G. Andrews. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from Athens, Cornelia, Gainesville, and Royston, GA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. (Hearing site: Washington, DC.)

MC 50307 (Sub-98F), filed September 5, 1978. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, NY 10001. Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfiled, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, between New York, NY, and St. Clairsville, OH. (Hearing site: New York, NY.)

MC 52460 (Sub-222F), filed September 22, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper articles* (except commodities in bulk), from the facilities of International Paper Co., at or near Pittsburgh, KS, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies*, used in the manufacture or distribution of paper and paper articles (except commodities in bulk), in the reverse direction. (Hearing site: Kansas City, MO.)

MC 59150 (Sub-136F), filed August 28, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32227. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Madison, GA, to points in AL, NC, SC, TN, and VA. (Hearing site: Atanta, GA.)

MC 61396 (Sub-354F), filed August 14, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE. Representative: John E. Smith, II (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Des Moines, IA, to points in NE. (Hearing site: Omaha, NE.)

NOTE.—The person or persons who 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 72069 (Sub-16F), filed October 3, 1978. Applicant: BLUE HEN LINES, INC., Box 565, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned goods,* from points in Sussex County, DE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA. (Hearing site: Washington, DC.)

MC 77061 (Sub-14F), filed August 28, 1978. Applicant: SHERMAN BROS., INC., 29534 Airport Road, Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods,* between points in Douglas County, Or, restricted to the transportation of shipments having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pickup and deliver service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: Portland or Eugene, OR.)

MC 78228 (Sub-92F), filed October 2, 1978. Applicant: J MILLER EXPRESS, INC., a Ohio corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ferrous alloys,* from the facilities of R. C. Metals, Inc., at or near Etna, PA, to points in AL, CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MN, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WI, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 78400 (Sub-65F), filed September 25, 1978. Applicant: BEAUFORT TRANSFER CO., a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Cellulose fiber insulation,* from Fulton, MO, to points in AR, KS, KY, IL, IN, IA, MN, MT, NE, OK, SD, TN, TX, and WI; and (2) *materials,* used in the manufacture of cellulose fiber insulation, in the reverse direction. (Hearing site: St. Louis or Jefferson City, MO.)

MC 93840 (Sub-40F), filed August 28, 1978. Applicant: GLESS BROS., INC., P.O. Box 216, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients,* in bulk, from the facilities of Land O'Lakes, Agricultural Services Division, at or near Mason City, IA, to points in MN, WI, ND, SD, and NE. (Hearing site: Des Moines, IA or St. Paul, MN.)

MC 94201 (Sub-163F), filed August 22, 1978. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Goodyear Tire & Rubber Co., at or near Lawton, OK, on the one hand, and, on the other, Wilmington, DE, Louisville, KY, Baltimore, MD, New York, NY, Philadelphia, PA, Richmond and Norfolk, VA, Camden, Crossett, El Dorado, Jonesboro, Little Rock, Texarkana, and West Memphis, AR, Kansas City and Topeka, KS, Baton Rouge, Golden Meadow, Grand Isle, Lake Charles, Lockport, Monroe, New Orleans, Ruston, and Shreveport, LA, Columbus, Greenwood, Hattiesburg, Jackson, Laurel, Meridian, Moss Point, Pascagoula, Vicksburg, and Greenville, MS, Carthage, Kansas City, and Springfield, MO, Baytown, Beaumont, Dallas, Fort Worth, Garland, Gladewater, Greenville, Houston, Longview, Orange, Plano, Port Arthur, Texas City, and Texarkana, TX, and points in AL, CT, FL, GA, IL, IN, MA, NJ, NC, OH, RI, SC, TN, and DC. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of MC 94201 Sub 150. (Hearing site: Washington, DC.)

MC 95540 (Sub-1042F), filed October 2, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from the facilities of Rich Products Corp., at or near Appleton, WI, to the facilities of Rich Products Corp., at or near Murfreesboro, TN, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination facilities. (Hearing site: New York, NY, or Washington, DC.)

MC 95540 (Sub-1043F), filed October 2, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry cellulose acetate,* from Celco, VA, to Newark, NJ. (Hearing site: New York, NY, or Washington, DC.)

MC 96813 (Sub-3F), Filed August 28, 1978. Applicant: FISK TRUCKING & TRANSFER, INC., 716 San Fernando Road, Los Angeles, CA 90065. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Marble and tile,* from Los Angeles, CA, to points in AZ, CO, NE, NV, OR, UT, and WA. (Hearing site: Los Angeles, CA.)

MC 97275 (Sub-33F), filed September 1, 1978. Applicant: ESTES EXPRESS LINES, a corporation, 1405 Gordon Avenue, Richmond, VA 23224. Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, transporting *general commodities* (except articles 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 South of the Border, SC, and the SC-GA State line, over Interstate 95, (2) between Florence and North Augusta, SC, over Interstate 20, (3) between Charleston, SC, and junction Interstate 26 and Interstate 85, over Interstate 26, (4) between Charlotte, NC, and the SC-GA State line, over Interstate 85, (5) between Charlotte, NC, and Columbia, SC, over Interstate 77, (6) between Gastonia, NC, and the SC-GA State line: From Gastonia over U.S. Hwy 321 to junction U.S. Hwys 17 and Alternate U.S. Hwy 17, then over U.S. Hwys 17 and Alternate U.S. Hwy 17 to the SC-GA State line, and return over the same route, (7) between Pocotaligo, SC, and the NC-SC State line, over U.S. Hwy 17, (8) between Myrtle Beach, SC, and junction SC Hwy 5 and Interstate 85, near Blacksburg, SC: From Myrtle Beach over U.S. Hwy 501 to junction SC Hwy 576, then over SC Hwy 576 to junction U.S. Hwys 76 and 301, then over U.S. Hwys 76 and 301 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction SC Hwy 151, then over SC Hwy 151 to junction SC Hwy 903, then over SC Hwy 903 to junction U.S. Hwy 521, then over U.S. Hwy 521 to junction SC Hwy 5, then over SC Hwy 5 to junction Interstate 85, and return over the same route, (9) be-

tween Dillon, SC, and junction SC Hwy 9 and U.S. Hwy 17, over SC Hwy 9, (10) between Mullins, SC, and junction SC Hwy 41 and U.S. Hwy 17, over SC Hwy 41, (11) between Georgetown, SC, and Pineville, NC, over U.S. Hwy 521, (12) between Conway and McCormick, SC, over U.S. Hwy 378, (13) between Columbia and Gardens Corner, SC, over U.S. Hwy 21, (14) between Greenville and North Augusta, SC, over U.S. Hwy 25, (15) between Calhoun Falls and Rock Hill, SC, over SC Hwy 72, (16) between Clearwater, SC, and junction U.S. Hwy 78 and Interstate 26: From Clearwater over U.S. Hwy 1 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction Interstate 26, and return over the same route, (17) between Gaffney and Westminster, SC: From Gaffney over SC Hwy 11 to junction SC Hwy 183, then over SC Hwy 183 to Westminster, and return over the same route, (18) between Gaffney, SC, and junction SC Hwy 121 and U.S. Hwy 25, at or near Trenton, SC: From Gaffney over SC Hwy 18 to junction U.S. Hwy 176, then over U.S. Hwy 176 to junction SC Hwy 121, then over SC Hwy 121 to junction U.S. Hwy 25, at or near Trenton, SC, and return over the same route, (19) between Charleston and Florence, SC, over U.S. Hwy 52, (20) between Columbia and Rock Hill, SC, over U.S. Hwy 21, (21) between Westminster, SC, and junction Interstate 385 and Interstate 85, at or near Greenville, SC: From Westminster, SC, over U.S. Hwy 123 to junction Interstate 385, then over Interstate 385 to junction Interstate 85, at or near Greenville, SC, and return over the same route, (22) between Anderson and Laurens, SC, over U.S. Hwy 76, (23) between Charlotte, NC, and Laurens, SC: From Charlotte over NC-SC Hwy 49 to junction U.S. Hwy 221, then over U.S. Hwy 221 to Laurens, and return over the same route, (24) between Greenville, SC, and junction U.S. Hwy 276 and Interstate 26, over U.S. Hwy 276, (25) between Allendale and McBee, SC: From Allendale over U.S. Hwy 301 to junction U.S. Hwy 601, then over U.S. Hwy 601 to junction U.S. Hwy 1, then over U.S. Hwy 1 to McBee, and return over the same route, (26) Liberty and McCormick, SC: From Liberty over U.S. Hwy 178 to junction SC Hwy 28, then over SC Hwy 28 to McCormick, and return over the same route, (27) between Westminster and Yemassee, SC: From Westminster over SC Hwy 24 to junction SC Hwy 81, then over SC Hwy 81 to junction SC Hwy 28, then over SC Hwy 28 to junction SC Hwy 125, then over SC Hwy 125 to junction U.S. Hwy 278, then over U.S. Hwy 278 to junction SC Hwy 68, then over SC Hwy 68 to Yemassee, and return over the same route, (28) between Conway, SC, and junction SC Hwy 90 and U.S. Hwy 17: From Conway over U.S. Hwy 501 to junction SC Hwy 90, then over SC Hwy 90 to junction U.S. Hwy 17, and return over the same route, (29) between Kershaw and Lake City, SC: From Kershaw over SC Hwy 341 to junction SC Hwy 403, then over SC Hwy 403 to Lake City, and return over the same route, (30) between Honea Path, SC, and junction U.S. Hwy 301 and Interstate 95, at or near Santee, SC: From Honea Path over U.S. Hwy 178 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction Interstate 95, at or near Santee, SC, and return over the same route, (31) between Pageland, SC, and junction U.S. Hwy 176 and Interstate 85, at or near Spartanburg, SC: From Pageland over SC Hwy 9 to junction U.S. Hwy 176, then over U.S. Hwy 176 to junction Interstate 85, and return over the same route, (32) between Georgetown and Hardeeville, SC: From Georgetown over Alternate U.S. Hwy 17 to junction U.S. Hwy 17, then over U.S. Hwy 17 to Hardeeville, and return over the same route, (33) between Aiken and Columbia, SC, over U.S. Hwy 1, serving in (1) through (33) above, all intermediate points and all points in SC as off-route points, and (34) between Little River, SC, and Wilmington, SC, over U.S. Hwy 17, serving no intermediate points, as an alternate route for operating convenience only.

NOTE.—Applicant states that it seeks to convert its irregular-route authority in MC 97275 and Subs, to regular-route authority.

Conditions: (1) The regular-route authority granted here shall not be severable, by sale or otherwise, from applicant's retained pertinent irregular-route authority; (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding service between any two points authorized to be served here pursuant to regular-route authority. (Hearing site: Washington, DC, or Richmond, VA.)

MC 98399 (Sub-7F), filed September 11, 1978. Applicant: SHULL TRUCK LINE CO., INC., P.O. Box A, Savannah, TN 38372. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, 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 Memphis and Waynesboro, TN, (1) over U.S. Hwy 64, serving all intermediate points in McNairy, Hardin, and Wayne Counties, and serving all other points in McNairy, Hardin, and Wayne Counties as off-route points, and (2) from Memphis over TN Hwy 57 to junction TN Hwy 128, then over TN Hwy 128 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Waynesboro, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, service at Memphis, TN, is restricted to those points in the Memphis commercial zone lying wholly within TN, and restricted against transportation of traffic originating at, destined to, or interlined at Nashville, TN, and points in its commercial zone. (Hearing site: Counce, TN.)

MC 102478 (Sub-7F), filed October 2, 1978. Applicant: BRIGHT BELT MOTOR LINES, INC., P.O. Box 237, Grifton, NC 28530. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing, roofing materials, and industrial asphalt* (except commodities in bulk), from the facilities of Trumbull Asphalt Co. and Owens-Corning Fiberglass Corp., at Morehead City, NC, to points in VA. (Hearing site: Raleigh, NC.)

MC 104896 (Sub-53F), filed August 16, 1978. Applicant: WOMELDORF, INC., East Penn Avenue, P.O. Box G, Knox, PA 16232. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are dealt in or used by grocery and food business houses* (except frozen foods and commodities in bulk), from the facilities of Dauphin Distribution Services, Inc., at Camp Hill, Hampden Township, and Silver Spring Township, PA, to points in PA and NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 105045 (Sub-86F), filed September 18, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Natchez Steel, Inc., at Natchez, MS, Rosharon, TX, and New Orleans, LA, to points in MS, LA, TX, OK, AR, NM, FL, GA, AL, NC, SC, and MO. (Hearing site: New Orleans, LA.)

MC 106398 (Sub-843F), filed October 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *buildings*, complete, knocked-down, and in sections, from the facilities of Kirby Building Systems, at Spanish Fork, UT, to

points in the United States (except AK and HI). (Hearing site: Houston, TX.)

NOTE.—In view of the findings in MC 106398 (Sub-741), of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106389 (Sub-844F), filed October 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked-down, and in sections, from the facilities of Kirby Building Systems, at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX).

NOTE: In view of the findings in MC 106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106603 (Sub-18F), filed August 25, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from White Cloud, MI, to points in OH, PA, NY, WV, MD, DE, VA, and the port of entry on the International Boundary line between the United States and Canada at Sault Ste. Marie, MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107496 (Sub-1156F), filed August 16, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Robinson, IL, to points in Lake and Porter Counties, IN. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107678 (Sub-68F), filed October 2, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, forest products, and wood products*, from points in CA to points in AR, AZ, CA, CO, IA, ID, IL, IN, KS, LA, MI, MO, MT, NM, NV, OH, OK, OR, TX, UT, WA, WI, and WY. (Hearing site: San Francisco, CA, or Houston, TX.)

MC 108119 (Sub-97F), filed October 2, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of their size or weight require special handling or the use of special equipment, (2) *rock crushing equipment and construction equipment*, and (3) *parts and materials* for the commodities in (1) and (2) above, between points in Linn County, IA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cedar Rapids, IA.)

MC 109449 (Sub-19F), filed October 5, 1978. Applicant: KUJAK BROS. TRANSFER, INC., Junction Avenue, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk; (1) between points in IA, on the one hand, and, on the other, points in IL, MN, ND, SD, and WI; and (2) from Mason City, IA, to points in NE. (Hearing site: St. Paul, MN.)

MC 109818 (Sub-32F), filed October 2, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *foodstuffs*, when moving in mixed loads with commodities in (1) above, from the facilities of Oscar Mayer & Co., Inc., at Davenport, IA, and Beardstown, IL, to Madison and Jefferson, WI, points in OH, and those in the Lower Peninsula of MI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 110098 (Sub-171F), filed September 29, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Kansas City, MO, to points in AR, ID, IA, LA, MI, MN, MO, NE, NM, OK, OR, TX, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Kansas City, MO.)

MC 110525 (Sub-1262F), filed September 15, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AR, CT, IN, KY, LA, MD, MA, MI, MN, MS, MT, NJ, NM, NY, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: New York, NY.)

MC 110683 (Sub-130F), filed August 31, 1978. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Charlottesville, VA, and Richmond, VA, (1) over Interstate Hwy 64 and (2) over U.S. Hwy 250, serving points within 20 miles of Richmond as off-route points and serving Charlottesville for purposes of joinder only. (Hearing site: Washington, DC.)

MC 111611 (Sub-35F), filed August 18, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, PA 17044. Representative: William Davis Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Speaker systems and audio component parts*, from the facilities of Fisher Corp., at or near Milroy, PA, to the facilities of Fisher Corp., at or near Chatsworth

and Kearny Mesa, CA; and (2) *Audio components and audio component parts* from the facilities of Fisher Corp., at or near Kearny Mesa and Chatworth, CA, to the facilities of Fisher Corp., at or near Milroy, PA, and South Plainsfield, NJ. (Hearing sites: San Francisco or San Diego, CA.)

MC 112750 (Sub-347F), filed September 14, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coin, currency, and negotiable securities), (1) between Louisville, KY, on the one hand, and, on the other, points in IN, those in OH on and south of Interstate Hwy 70, and those in TN on and east of TN Hwy 13, (2) between points in MO, (3) between points in AR, (4) between points in IL, (5) between Memphis, TN, on the one hand, and, on the other, those points in TN on and west of TN Hwy 13, and points in Greene, Craighead, Mississippi, Poinsett, Crittenden, St. Francis, and Phillips Counties, AR, (6) between those points in OH on and north of Interstate Hwy 70, and (7) between St. Louis, MO, on the one hand, and, on the other, those points in IL on and south of U.S. Hwy 36, restricted in (2), (3), (4), (5), (6), and (7) to the transportation of traffic having a prior or subsequent movement by air, under a continuing contract with Federal Intermediate Credit Bank, of Louisville, KY. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 114211 (Sub-368F), filed August 24, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast stone veneer*, from points in Napa and Solano Counties, CA, to points in the United States (except AK and HI.) (Hearing site: San Francisco, CA.)

MC 114211 (Sub-370F), filed August 24, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail home improvement stores, home furnishing stores, and lumber stores (except commodities in bulk), between points in CO, DE, IL, IN, IA, KS, KY, MD, MI, MN, MO NE, NJ, NY, OH, PA, TN, VA, WV and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-458F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot*, (1) from Cleveland, OH, to Chicago and Danville, IL, Minneapolis, MN, and St. Louis, MO, and (2) from Toledo, OH, to Danville, Decatur, East Moline, East Peoria, Kewanee, Milan, and Rockford, IL, and Keokuk, IA. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-459F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel lathing, ribbing, area grating, sidewalk grating*, and *expanded aluminum*, from the facilities of Niles Expanded Metals, at or near Niles, OH, and Pulaski, PA, to points in IN, NE, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-460F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, (except in bulk), from points in IA (except Maquoketa) and NE (except Dakota City), to Wilmington, DE, Chicago and Rockford, IL, Williamsport, MD, Detroit, Grand Haven, and Port Huron, MI, Newark, NJ, Gloversville and New York, NY, Luray, VA, Durbin, WV, Fond du Lac and Milwaukee, WI, and points in PA. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-461F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Battery boxes, battery covers, and battery vents, and parts* thereof, from Indianapolis, IN, to Kansas City and St. Joseph, MO, and Salina and Kansas City, KS. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-462F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings and forgings*, from Warsaw, IN, to Spencer, IA. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-463F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinyl, asphalt felt, adhesives*, and *tools and accessories* used in the installation of tile and asphalt felt, (except commodities in bulk, in tank vehicles), (a) from the facilities of GAF Corp., at or near Whitehall, PA, to the facilities of McKee Enterprises at Cedar Rapids, IA, and Omaha, NE, and the facilities of Central Distributors, at or near Des Moines, IA, and (b) from the facilities of GAF Corp., at or near Vails Gate, NY, to points in IA, MO, and NE, and (2) *cork* (except in bulk, in tank vehicles), from the facilities of Dodge Cork Co., at or near Lancaster, PA, to the facilities of Central Distributors, at or near Des Moines, IA, restricted in (1) (a) and (b) and (2) above to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. Condition: The certificate to be issued here shall be limited 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 expira-

tion), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-463F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Clinton, IA, to Martins Ferry and Napoleon, OH. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-467F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by department stores (except foodstuffs), from the facilities of Montgomery Ward & Co., at or near Chicago, IL, to Omaha and Lincoln, NE, and Kansas City, MO, restricted to the transportation of traffic originating at the named facilities. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-468F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, chemicals, and toilet preparations* (except commodities in bulk, in tank vehicles), from Brooklyn, NY, Groton, CT, and Parsippany, NJ, to Burlington, Cedar Rapids, Des Moines, and Sioux City, IA, Lincoln and Omaha, NE, and Minneapolis and St. Paul, MN. Condition: The certificate to be issued here shall be limited 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114301 (Sub-97F), filed August 24, 1978. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from Peabody, MA, to Roaring Springs and Reading, PA. (Hearing site: Washington, DC.)

MC 114457 (Sub-431F), filed August 28, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturers of glass and glass products* (except commodities in bulk), between points in CA, FL, IL, IN, MD, MN, NJ, OH, PA, TX, and WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or St. Paul, MN.)

MC 114725 (Sub-91F), filed September 14, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from Casper, WY, to points in NE. (Hearing site: Omaha, NE.)

MC 115162 (Sub-424F), filed August 7, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particleboard, composition board, poles, piling, pallets, timbers, and crossties*, from points in AR, LA, MS, OK, TN, and TX, to those points in the United States in and east of WI, IA, NE, KS, OK, and TX. (Hearing site: New Orleans, LA or Washington, DC.)

MC 115570 (Sub-17F), filed September 25, 1978. Applicant: WALTER A. JUNGE, INC., 3818 Southwest 84th Street, Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100 Norton, Building, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, and printed matter*, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, under a continuing contract with Gazette Press, Inc., of Berkeley, CA. (Hearing site: Seattle, WA.)

MC 115651 (Sub-46F), filed August 24, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from the facilities of Energy Cooperative, Inc., at or near East Chicago, IN, to points in IL. (Hearing site: Chicago, IL.)

MC 115826 (Sub-338F), filed August 14, 1978. Applicant: W. J. DIGBY, INC., a Nevada corporation, 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, (2) *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products, and (3) *materials, equipment, and supplies*, used in the manufacture and distribution of the commodities named in (1) and (2) above, from the facilities of Continental Bondware, at or near Chicago and Shelbyville, IL, to points in CO, IA, KS, MO, NE, and OK. (Hearing site: Denver, CO.)

MC 116077 (Sub-397F), filed September 5, 1978. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 77001. Representative: Pat H. Robertson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AL, AR, CA, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WV, WI, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Houston or Dallas, TX.)

MC 116763 (Sub-436F), filed August 31, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn*, from points in NC, IL, and OH, to points in WI. (Hearing site: Chicago, IL.)

MC 117068 (Sub-102F), filed September 29, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel tanks and parts and accessories*, for iron or steel tanks, from the facilities of A. O. Smith Corp., at

Dekalb, IL, to points in the United States (except AK and HI); (Hearing site: Chicago, IL.)

MC 117940 (Sub-283F), filed June 28, 1978, previously published in the FEDERAL REGISTER issue of August 24, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman (same address as applicant). 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 which require special equipment, and foodstuffs), from Seattle and Longview, WA, and Portland, OR, to points in IL, MN, and WI, restricted to the transportation of traffic, (a) originating at the named origins or having an immediately prior movement by water, and (b) destined to the indicated destinations. Condition: The certificate to be issued herein shall be limited in point of time to a period expiring 3 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 regulations. (Hearing site: Seattle, WA.)

NOTE.—This republication shows MN as a destination, in lieu of IN as previously published.

MC 118142 (Sub-183F), filed August 17, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed meat*, from the facilities of Urban N. Patman Meat Co., Inc., at or near Los Angeles, CA, to FLorence, KY. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 118560 (Sub-8F), filed September 25, 1978. Applicant: GENERAL TRUCKING CO., INC., 1100 School Street, P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gravel and silica sand*, in bulk, from the facilities of Southern Stone, Co., Inc., in Elmore County, AL, to points in Maury County, TN, restricted to the transportation of traffic originating in the named origin facilities and destined to the indicated destinations. (Hearing site: Nashville, TN or Birmingham, AL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118989 (Sub-205F), filed October 2, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers and container ends*, from the facilities of Rockford Can Co., at Rockford, IL, to points in MI, MN, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, and (2) *canned and bottled carbonated beverages*, from the facilities of Blue Grass Coca-Cola Bottling Co., Inc., at or near Lexington, KY, to points in IL, IN, MI, MO, NC, OH, TN, and WV. (Hearing site: Chicago, IL.)

MC 119789 (Sub-520F), filed September 29, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, particle board, gypsum wallboard, posts, poles, piling, charcoal briquettes, and insulation board*, from points in AR and OK, to points in TX, and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction. (Hearing Site: Dallas, TX.)

MC 120427 (Sub-21F), filed September 5, 1978. Applicant: WILLIAMS TRANSFER, INC., 2128 East Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain storage, grain drying, and grain handling equipment*, (2) *materials and equipment* used in the manufacture of the commodities in (1) above, from the facilities of Blackhawk Systems, Inc., at or near Chicago and Assumption, IL, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL or Omaha, NE.)

MC 123407 (Sub-486F), filed September 1, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H.E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of United States Steel Corp., at McDonald, Cleveland, and Lorain, OH, to points in MN, ND, OK, SD, TX, and WI. (Hearing Site: Washington, D.C.)

MC 123407 (Sub-487F), filed September 1, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H.E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from points in Pulaski County, AR, to points in FL, LA, MO, OK, and TX. (Hearing Site: Little Rock, AR.)

MC 124069 (Sub-16F), filed October 6, 1978. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fly ash*, from points in NY, OH, and PA, to points in CT, DE, FL, GA, ME, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VA, and WV; and (2) *ready-mix dry bonding compounds, ready-mix patching compounds, and sand*, from Marcellus, NY, to points in PA. (Hearing site: Buffalo, NY.)

MC 124078 (Sub-885F), filed September 29, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground slag*, in bulk, from Neville Island, PA, to points in IL, IN, KY, OH, TN, VA, and WV. (Hearing site: Pittsburgh, PA.)

MC 124078 (Sub-886F), filed October 6, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *clay and clay slurry*, in bulk, in tank vehicles, from points in Warren County, GA, to points in AL, FL, ME, MI, NY, NC, OH, PA, SC, and WI. (Hearing site: Washington, DC.)

MC 124160 (Sub-24F), filed September 29, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fly ash*, in bulk, from points in WY, to points in CO, ID, NV, and UT. (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 126198 (Sub-18F), filed September 27, 1978. Applicant: MICHAUD TRUCKING, INC., 133 Birch Street, Kinsford, MI 49801. Representative: William J. Bolognesi, 116 East Brown Street, P.O. Box 705, Iron Mountain, MI 49801. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, from the facilities of Pabst Brewing Co., at Peoria, IL, to Aurora, WI, and points in the Upper Peninsula of MI. (Hearing site: Milwaukee, WI.)

MC 127267 (Sub-2F), filed September 5, 1978. Applicant: AMERICAN PACIFIC EXPRESS, INC., 33395 Railroad Avenue, Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture, new office fixtures, and new store fixtures*, uncrated, between points in CA, OR, and WA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 127900 (Sub-4F), filed September 19, 1978. Applicant: GROOME TRANSPORTATION, INC., Byrd International Airport, P.O. Box A-23, Richmond, VA 23231. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between John F. Kennedy International Airport, at New York, NY, Philadelphia International Airport, at Philadelphia, PA, Baltimore-Washington International Airport, at Glen Burnie, MD, Washington National Airport, at Arlington, VA, and Dulles International Airport, at Chantilly, VA, on the one hand, and, on the other, Richmond, Norfolk, Suffolk, Williamsburg, Petersburg, Fredericksburg, Colonial Heights, Hopewell, and Farmville, VA, and points in Isle of Wight, Southampton, Sussex, Surry, Dinwiddie, Prince George, Amelia, Chesterfield, Powhatan, Goochland, Hanover, King William, Henrico, Charles City, James City, York, New Kent, Northampton, Gloucester, King George, Spotsylvania, Stafford, Caroline, Prince Edward, Cumberland, Westmoreland, Richmond, King and Queen, Essex, Northumberland, Lancaster, Middlesex, and Matthews Counties, VA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Richmond, VA, or Washington, DC.)

MC 128021 (Sub-34F), filed August 21, 1978. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tobacco and tobacco products*, from Owensboro, KY, to points in the United States (except AK and HI); and (2) *equipment materials, and supplies* used in the manufacture and distribution of tobacco and tobacco products (except commodities in bulk, in tank vehicles), in the reverse direction, under a continuing contract in (1) and (2) above with the Pinkerton Tobacco Co., of Owensboro, KY. (Hearing site: Louisville, KY, or Washington, DC.)

MC 128527 (Sub-124F), filed August 28, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Axles and axle assemblies, and* (2) *materials* used in the manufacture of axle assemblies, between points in CA, GA, IN, MI, OK, OR, and WI, on the one hand, and, on the other, points in the United States (except AK, HI, and from McMinnville, OR, to points in Ada, Canyon, and Payette Counties, ID). (Hearing site: Boise, ID.)

MC 128940 (Sub-37F), filed September 27, 1978. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 722, Adelphi, MD 20783. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic fiber and synthetic fiber yarn*, and (2) *materials and equipment* used in the manufacture of the commodities named in (1) above, between Odenton, MD, on the one hand, and, on the other, points in AL, DE, FL, GA, IN, IA, KS, LA, MI, NJ, NY, NC, OH, PA, SC, TN, WV, and WI, under a continuing contract with Ametek, Inc., Special Filaments Division, of New York, NY. (Hearing site: Washington, DC.)

MC 129537 (Sub-24F), filed September 1, 1978. Applicant: REEVES TRANSPORTATION CO., a Florida corporation, Route 5, Dew's Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 North Morgan Street, Tampa, FL 33602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor covering, and carpet padding*, and (2) *materials, supplies, and equipment* used in the installation and manufacture of the commodities named in (1) above, between points in Floyd, Bartow, Chattooga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa, and Troup Counties, GA, on the one hand, and, on the other, points in AL. (Hearing site: Birmingham, AL.)

MC 133671 (Sub-6F), filed August 23, 1978. Applicant: MILLER BROS. CO., INC., P.O. Box EA, Hyrum, UT 84319. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of Appendix 1 to 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 E. A. Miller & Sons Packing Co., Inc., at or near Hyrum, UT, to points in IA, IL, MN, NE, ND, SD, and WI, under a continuing contract with E. A. Miller & Sons Packing Co., Inc., of Hyrum, UT. (Hearing site: Salt Lake City, UT, or Washington, DC.)

MC 134286 (Sub-73F), filed August 21, 1978. Applicant: ILLINI EXPRESS, INC., a Nebraska corporation, P.O. Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, 350 Capital Life Center, 1066 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Freezer Queen Foods, Inc., at or near Buffalo, NY, to Pittsburgh, PA, and points in CO, IA, IL, IN, MI, MO, NE, OH, and OK. (Hearing site: Buffalo, NY, or Sioux City, IA.)

NOTE.—The person or persons who 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-33F), filed September 27, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 First Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sugar* (except in bulk), from Brooklyn, NY, to points in IL, IN, MI, and OH. (Hearing site: New York, NY, or Minneapolis, MN.)

MC 134388 (Sub-19F), filed October 6, 1978. Applicant: HOME RUN, INC., Three East Washington Street, Jamestown, OH 45335. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle,

over irregular routes, transporting *buildings and parts for buildings, and materials, equipment and supplies* used in the manufacture and assembly of buildings (except commodities in bulk), between the facilities of Ryland Group, Inc., at Houston and Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Ryland Group, Inc., of Houston, TX. (Hearing site: Dallas, TX, or Columbus, OH.)

MC 134761 (Sub-1F), filed August 21, 1978. Applicant: GRASSICK TRANSPORT, LTD., No. 325-777 Broughton Street, Victoria, BC, Canada V9A 3K9. Representative: Harry K. Sprague, 15 South Grady Way, Suite 321, Renton, WA 98055. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *red cedar shakes, red cedar shingles, and red cedar ridges,* between points of entry on the International Boundary line between the United States and Canada on and west of U.S. Hwy 97 in WA, on the one hand, and, on the other, points in WA, OR, and CA, restricted to traffic originating at or destined to the Province of British Columbia, 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: Seattle, WA.)

NOTE.—The restriction and condition 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 Canadian officials 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 135945 (Sub-5F), filed September 14, 1978. Applicant: BOB HILDEBRANDT, Prescott, WI 54021. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *dry animal and poultry feed,* from the facilities of Cargill, Inc., Nutrena Feed Division, at New Richland, MN, to points in WI and those in the Upper Peninsula of MI. (Hearing site: St. Paul, MN.)

MC 136501 (Sub-4F), filed August 24, 1978. Applicant: CARDOSI CONTRACT REFRIGERATED EXPRESS, INC., 5885 Jet Way Drive, Arlington, TN 38002. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *foodstuffs,* in containers, from Humboldt, TN, to points in the United States (including AK, but excluding HI), under a continuing contract with Pure Packed Foods, Inc., of Arlington, TN. (Hearing site: Memphis, TN.)

MC 136818 (Sub-40F), filed September 21, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except articles of unusual value and classes A and B explosives), between Los Angeles, CA, and points in AZ, restricted to the transportation of traffic having an immediately prior or subsequent movement by water; and (2) *used containers, used trailers, and used trailer chassis,* between Los Angeles, CA, and points in AZ. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 136996 (Sub-5F), filed July 20, 1978. Applicant: IDEAL TRANSPORTATION CO., a corporation, 1623 West Main Street, Zanesville, OH 43701. Representative: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *aluminum, aluminum products, aluminum scrap, and aluminum dross,* 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), between Roxboro, NC, on the one hand, and, on the other, points in AL, GA, IL, IN, KY, MD, MI, OH, OK, PA, SC, TX, and VA. (Hearing site: Columbus, OH, or Atlanta, GA.)

MC 138313 (Sub-42F), filed August 29, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street NW., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement* (except in bulk) from ports of entry on the International Boundary line between the United States and Canada at points in MT, ID, and ND, to points in UT, ND, SD, WY, MT, and ID, restricted to the transportation of traffic in foreign commerce. (Hearing site: Washington, DC.)

MC 138328 (Sub-73F), filed October 3, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients,* from points in CO to points in AZ, CA, ID, NV, OR, and WA. (Hearing site: Salt Lake City, UT.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 139108 (Sub-5F), filed October 3, 1978. Applicant: METRO SALES CORP., 1921 W. 1st Street, P.O. Box 1861, Sanford, FL 32771. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Tires and tubes,* (1) from Clarksdale and Tupelo, MS, Texarkana, AR, Memphis, TN, and the facilities of the Mansfield Tire and Rubber Co., at or near Shelby and Findlay, OH, to points in Brevard, Flagler, Marion, Orange, Osceola, Putnam, Seminole, and Volusia Counties, FL, under continuing contracts with John Dickey, Inc., of Sanford, FL, and (2) from Clarksdale and Tupelo, MS, Texarkana, AR, Memphis, TN, and the facilities of the Mansfield Tire and Rubber Co., at or near Shelby and Findlay, OH, to points in Levy, Citrus, Sumter, Hernando, Pasco, Polk, Pinellas, Hillsborough, Manatee, Hardee, Highlands, Okeechobee, Indian River, Saint Lucie, Martin, Glades, Charlotte, Lee, Hendry, De Soto, and Sarasota Counties, FL, under continuing contracts with J. L. Ezell, d.b.a. Seacoast Tire Co., of Tampa, FL. (Hearing site: Sanford or Orlando, FL.)

MC 140619 (Sub-4F), filed October 10, 1978. Applicant: AMAC TRUCKING INC., 5050 First Avenue South, Seattle, WA 98134. Representative: C. Michael McCanta (same address as applicant). To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores and mail order houses, and *equipment, materials, and supplies* used in the conduct of such business, between points in ID, MT, OR, and WA, under a continuing contract with Sears, Roebuck & Co., of Chicago, IL. Condition: Prior or coincidental cancellation at carrier's written request of its authority in MC 140619, issued April 29, 1977. (Hearing site: Seattle, WA.)

MC 142508 (Sub-36F), filed October 3, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and toilet preparations*, in vehicles equipped with mechanical refrigeration, from Philadelphia, PA, to Sparks and Reno, NV. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 142559 (Sub-58F), filed October 4, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs, and materials and supplies* used in the manufacture and distribution of preserved foodstuffs, (except commodities in bulk), between Canajoharie, NY, on the one hand, and, on the other, points in IL, IN, KY, OH, NC, SC, WI, and those in PA on the west of U.S. Hwy 219. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143059 (Sub-26F), filed October 2, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Ft. Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric light poles and electric wire poles*, and (2) *parts, accessories, and supplies*, used in the installation and operations of the commodities in (1) above, (1) from the facilities of K W Industries, at Houston, TX, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Houston, TX, or Washington, DC.)

MC 143059 (Sub-27F), filed October 4, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Co., at Jewett, TX, to points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OH, OK, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Dallas, TX, or Washington, DC.)

MC 143901 (Sub-2F), filed August 24, 1978. Applicant: THOROUGHBRED TRUCKING, INC., 402 308th Street, NE., Stanwood, WA 98292. Representative: Ronald P. Erickson, 2120 Pacific Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Such commodities* as are dealt in by food and grocer business houses, from Sunnyvale, CA, to points in OR and WA, under a continuing contract with Shedd Food's Products, of Sunnyvale, CA. (Hearing site: Seattle, WA.)

MC 144101 (Sub-4F), filed August 24, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, 5001 S. Hulen, Suite 106, Fort Worth, TX 76132. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *bakery goods, prepared dough*, and *icing paste*, between the facilities of The Pillsbury Co., at Denison, TX, and the facilities of The Pillsbury Co., at Los Angeles, CA, under a continuing contract with The Pillsbury Co., of Minneapolis, MN. (Hearing site: Dallas or Fort Worth, TX.)

MC 144291 (Sub-1F), filed August 24, 1978. Applicant: Robert C. Hickman, d.b.a. Hickman Moving & Storage, P.O. Box 502, Elba, AL 36323. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Dale, Barbour, Coffee, Geneva, Henry, Houston, Pike, and Covington Counties, AL, restricted to the transportation of shipments having a prior or subsequent movement, in containers beyond the 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 shipments. (Hearing site: Birmingham, AL.)

MC 144370 (Sub-5F), filed September 25, 1978. Applicant: DON NASS TRUCKING, INC., 210 Front Street, Clinton, WI 53525. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Oconomowoc Canning Co., at or near Poynette and Waunakee, WI, to those points in IL on and north of a line described as beginning at the IL-IA State line, then east along Interstate Hwy 80 to junction U.S. Hwy 51, then south along U.S. Hwy 51 to junction Interstate Hwy 74, then east along Interstate Hwy 74 to junction Interstate Hwy 57, then south along Interstate Hwy 57 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the IL-IN State line (except points in the Chicago, IL, commercial zone. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 144622 (Sub-11F), filed August 16, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile*, (1) from Lewisport and Cloverport, KY, to points in AL, AR, CO, GA, IL, IN, IA, KS, LA, MI, MN, MS, MO, FL, NE, OH, OK, TN, TX, and WI, and (2) from Jackson, TN, to points in AL, AR, CO, FL, GA, IA, IN, IL, KS, LA, MI, MN, MO, MS, NE, OH, OK, TX, and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144735 (Sub-1F), filed September 11, 1978. Applicant: WALKER AND SMITH RIGGING, INC., Route 4 Box 145-1, Charleston, WV 25312. Representative: Norman Walker (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* the transportation of which because of size and weight requires the use of special equipment and rigging, from the facilities of (a) Easton Corp., at Batavia, NY, (b) Furnival Machinery, Division Domatsu American Corp., at Hatfield, PA, (c) Komatsu American Corp., at Packer Division, at Philadelphia, PA, and (d) Euclid Corp., at Cleveland, OH, to points in WV, those in Gallia, Lawrence, Meigs, and Washington Counties, OH, those points in KY on and east of Interstate 75, and those in VA on and west of Interstate 77, under a continuing contract with Mountaineer Euclid Corp., of South Charleston, WV. (Hearing site: Charleston, WV.)

MC 144772 (Sub-2F), filed August 16, 1978. Applicant: PINE PRAIRIE TRUCKING, INC., P.O. Box 305, Hamburg, AR 71646. Representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, AR 72201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, from Marks, MS, to Hope, Newell, and Nashville, AR, under a continuing contract with Gold Kist Soy, of Marks, MS. (Hearing Site: Little Rock, AR.)

MC 144827 (Sub-4F), filed September 5, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor ve-

hicle, over irregular routes, transporting: (1) *parts and accessories* for elevators, (except commodities in bulk, and those which because of size or weight require the use of special equipment), from the facilities of Dover Corp. Elevator Division, at or near Cincinnati, OH, to points in the United States (except AK, HI, and OH); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, and those which because of size or weight require the use of special equipment), in the reverse direction. (Hearing site: Memphis, TN.)

MC 144870 (Sub-1F), filed August 28, 1978. Applicant: MERRILL TRANSPORT, INC., P.O. Box 2288, Salisbury, NC 28144. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, from Detroit, MI, to points in Rowan County, NC, under a continuing contract with Merrill Wholesale Corp., of Salisbury, NC. (Hearing site: Salisbury, NC.)

MC 145019 (Sub-1F), filed October 4, 1978. Applicant: R. J. HEBERT TRUCKING, INC., 458 Pelham Road, Dracut, MA 01826. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drug, chain, discount and department stores, (except commodities in bulk, in tank vehicles), between the facilities of J. M. Fields, Inc., in MA, on the one hand, and, on the other, Salem, NH, under a continuing contract with J. M. Fields, Inc., of New York, NY. (Hearing site: Boston, MA, or Concord, NH.)

MC 145106 (Sub-2F), filed August 14, 1978. Applicant: EDINA CARTAGE CO., a corporation, 100 Taylor Avenue, Flat River, MO 63601. Representative: E. Stephen Heisley 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Coventry, RI, to those points in the United States in, east, and north of VA, KY, MO, IA, and MN, under continuing contract with National Bottle Co., of Bala Cynwyd, Pa. (Hearing site: Washington, DC.)

MC 145106 (Sub-3F), filed August 18, 1978. Applicant: EDINA CARTAGE CO., a corporation, 1000 Taylor Avenue, Flat River, MO 63601. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Glass containers*, from Parkersburg, WV, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, and VT, under continuing contracts with National Bottle Co., of Bala Cynwyd, PA. (Hearing site: Washington, DC.)

MC 145225 (Sub-2F), filed September 15, 1978. Applicant: GAULCO LTD., 1700 Church Avenue, Winnipeg, Manitoba, Canada R2X 2W9. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *materials and supplies* used in the installation of carpet, from the ports of entry on the International Boundary line between the United States and Canada, at points in ID, MI, MN, MT, ND, and WA, to points in CA, FL, GA, IL, IN, MD, MN, NY, ND, OR, PA, RI, SC, VA, and WA, under a continuing contract with Grip-Rite Carpet Accessories, Ltd., of Edmonton, AB, 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: Minneapolis, MN, or 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 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 Canadian officials 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 restriction was imposed, as being null and void and having no force or effect. Applicant states that traffic originates at Edmonton, AB, Canada.

MC 145271, filed August 24, 1978. Applicant: SCHULTZ CARRIERS, INC., 6038 Linden Lane, Dallas, TX 75230. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, Post Office Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Lime*, in bags, from points in Manitowoc County, WI, to points in TX, OK, LA, and AR. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 145418F, filed September 26, 1978. Applicant: BROCKHOFF FEED YARDS, INC., Fairview, KS 66425. Representative: Erle W. Francis, 719 Capitol Federal Building, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *dry fertilizer*, from Hoag, NE, to the facilities of Fairview Elevator, at Fairview, KS; and (2) *dry processed feed*, from the facilities of Purina, Inc., at Kansas City and St. Joseph, MO, and Omaha, NE, to the facilities of Fairview Elevator, at Fairview, KS. (Hearing site: Topeka, KS, or Kansas City, MO.)

NOTES.—(1) Applicant shall conduct separately its for-hire carriage and other business operations; (2) it shall maintain separate accounts and records for each operation; and (3) it shall not transport property as both a private and for-hire carrier in the same vehicle at the same time.

MC 145419F, filed September 26, 1978. Applicant: ALAN COSSAR, 21 South Shore Road, Salem, NH 03079. Representative: George A. McLaughlin, Jr., 44 School Street, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *fuel oil*, between points in Hillsboro, Merrimack, and Rockingham Counties, NH, and Essex, Middlesex, Suffolk, and Norfolk Counties, MA, under a continuing contract with Automatic Heating Service, Inc., of Methuen, MA. (Hearing site: Boston, MA.)

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[7035-01-M]

[Volume No. 122]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

NOVEMBER 1, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATIONS OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Speical Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

* Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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 109148(M1F) (Notice of filing petition to modify certificate), filed October 2, 1978. Petitioner: LAS VEGAS-TONOPAH-RENO STAGE LINE, INC., P.O. Box 42130, Las Vegas, NV 89104. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Petitoner holds a motor *common carrier* certificate in MC 109148, issued November 27, 1950, authorizing transportation over regular routes of: *Passengers and their baggage, and express, mail and newspapers in the same vehicle with passengers,* between Schurz, NV and Reno, NV: From Schurz over U.S. Hwy 95 via Fallon, NV to junction U.S. Hwy 40 and then over U.S. Hwy 40 to Reno, and return over the same route, serving all intermediate points. Restriction: Service shall not be provided between Reno and Fallon; and service at points on U.S. Hwys 95 and 40 between Fallon and Reno shall be limited to traffic moving in said carrier's vehicles to or from points south of Fallon. Petitioner seeks deletion of the restriction and updating of the route description to read: From Schurz over U.S. Hwy 95 to Fallon, NV; and then over Alt. U.S. Hwy 95 to junction Interstate Hwy 80; then over Interstate Hwy 80 to Reno, NV, and return over the same route, serving all intermediate points. The certificate, otherwise, would remain the same.

MC 113434 (Sub-45) (M1F) (Notice of the filing of petition to modify certificate), filed September 19, 1978. Petitioner: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. Petitioner holds a motor *common carrier* certificate in MC 113434 (Sub-45) issued October 18, 1972, authorizing transportation, over irregular routes, of *Frozen food,* from the facilities of Chef-Pierre, Inc., in Grand Traverse and Benzie Counties, MI, to points in IN, KY, and IL (except Chicago, IL, restricted to the transportation of traffic originating at the named facilities of Chef-Pierre, Inc., at Traverse City, MI, and destined to points in IN, KY and IL (except Chicago, IL). By the instant petition, petitioner seeks to modify the above authority by deleting the exception of Chicago, IL in both the territorial description and the restriction.

MC 125872 (M1F) (Notice of filing of petition to modify permit), filed October 4, 1978. Petitioner: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Petitioner holds a motor *contract carrier* permit in MC 125782 issued July 11, 1974 authorizing transportation, over irregular routes, of *Corn products, cheese nibbles, pizza puffs, bakery goods, bacon crackles, confectioneries, food seasonings, salad dressings, nuts, chip dips, taco shells, sauces, smoked meat, burritos, tortillas, potato products,* and *empty containers* (except frozen foods), between points in MT, ID, CO, UT, NV, CA, AZ, NM, TX, WY, OR, and WA, under a continuing contract(s) with Clover Club Foods Co., Kaysville, UT. By the instant petition, petitioner seeks to modify the above authority by modifying the commodity description to read: "Foodstuffs and materials, equipment and supplies used in the manufacture, processing and distribution of foodstuffs".

MC 130236 (M1F) (notice of filing of petition to modify license), filed October 2, 1978. Petitioner: EXEC-VAN SYSTEMS, INC., 51 Weaver Street, Greenwich, CT 06830. Representative: Edward L. Nehez, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds a broker's license in MC 130236, issued September 1, 1978, authorizing transportation over irregular routes, of *Household goods* as set forth in 49 CFR 1056.1(a)(1), between points in the United States, including AK and HI. Broker is authorized to engage in the above-specified operations as a broker at Boston, MA, Chicago, IL, Denver, CO, Los Angeles, San Francisco and San Jose, CA, New York, NY, Palm Beach, FL, Washington, DC, and Stamford, CT. By the instant petition, petitioner seeks to modify the above authority by substituting Deerfield, IL, in lieu of Chicago, IL, as a location at which operations may be conducted.

MC 134060 (Sub-1) (M1F) (Notice of filing of petition to modify certificate), filed September 29, 1978. Petitioner: DAVINDER FREIGHTWAYS, LTD., 435 Truck Road, British Columbia, Canada V9L 2P8. Representative: James T. Johnson, 1610 IBM Building, 1200 Fifth Avenue, Seattle, WA 98101. Petitioner holds a motor *common carrier* certificate in MC 134060 (sub-1), issued November 17, 1970, authorizing transportation, over irregular routes, of *Lumber* between ports of entry on the United States-Canada Boundary line, located in WA, on the one hand, and, on the other, points in those parts of WA and OR on and west of U.S. Hwy 97, restricted to the transportation of traffic originating at or destined to points on Vancouver Island, BC, Canada. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

MC 136408 (Sub-8) (M1F) and 22 (M2F) (Notice of filing of petition to modify permits), filed September 14, 1978. Petitioner: 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. Petitioner holds motor *contract carrier* permits in MC 136408 (Sub-8 and 22), issued June 9, 1977 and January 25, 1978, respectively. MC 136408 (Sub-8) authorizes transportation, over irregular routes, of *Chemicals* (except in bulk, in tank vehicles), from Wallingford, CT, Linden and Hawthorne, NJ, to points, in WI, MN, IA, NE, KS, and MO, under a continuing contract(s) with American Cyanamid Co., of Wayne, NJ, and Merck & Co., Inc., of Rahway, NJ. MC 136408 (Sub-22) authorizes transportation over irregular routes, of *Chemicals* (except in bulk, in tank vehicles), from Wallingford, CT, and Linden, NJ, to points in OH, MI, IN, and IL, under a continuing contract(s) with American Cyanamid Co., of Wayne, NJ, and Merck & Co., Inc., of Rahway, NJ. By the instant petition, petitioner seeks to modify the above authority by adding Bound Brook, NJ as origin points in each of the above permits.

MC 141721 (M1F) (Notice of filing of petition to modify a permit), filed October 2, 1978. Petitioner: DFC TRANSPORTATION CO., a corporation, 45 E. Main Street, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Petitioner holds a motor *contract carrier* permit in MC 141721 issued June 28, 1977, authorizing transportation, over irregular routes, of: (1) *Such commodities* as are dealt in by manufacturers and distributors of foods, food products, and animal feeds, and (2) *machinery, materials, equipment, supplies* and *ingredients* used by manufacturers and distributors of foods, food products, and animal feeds, between Franklin Park, Huntley, Chemung, Belvidere, Rockford, Pecatonica, Loves Park, Amboy, and Dixon, IL, Janesville, Chippewa Falls, and Green Bay, WI, Lafayette and Rochester, IN, Cleveland and Columbus, OH, Eaton Rapids and Evart, MI, Memphis, TN, Jackson, MS, Conway and Little Rock, AR, Louisville, KY, and Heuvelton and Chateaugay, NY, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The operations authorized herein are subject to the following conditions: Said authority is restricted to the transportation of shipments originating at or destined to the facilities of Dean

Foods, Co., Green Bay Foods Co., Dean Milk Co., Inc., Hoffman House Food Products, Dean Food Products Co., Inc, Liberty Dairy, McCadam Cheese Co., Inc., and Bowman Dairy Co. (1) Said operations are restricted against petroleum products, in bulk, originating at or destined to Memphis, TN, or Jackson, MS. (2)(a) Said operations are restricted against animal and vegetable oils, in bulk, originating at or destined to points in VA and NC. (b) Animal and vegetable oils, in bulk, originating at Chicago, IL (except as to points otherwise in the Chicago, IL commercial zone, as defined by the Commission), and destined to points in AL, AR, IN, IA, MI, MN, MS, MO, NE, NJ, NY, OH, OK, PA, and TN. Said operations are limited to service to be performed under a continuing contract(s) with: Dean Foods Co., Green Bay Foods Co., Hoffman House Food Products, Dean Foods Products Co., Dean Milk Co., Inc., Liberty Dairy, McCadam Cheese Co., Inc., Bowman Dairy Co.

By the instant petition, petitioner seeks to modify the above authority by substituting Westby, WI in lieu of Chippewa Falls, WI in the territorial description.

Republications of Grants of Operating Rights Authority Prior to Certification

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 51004 (Sub-9F) (republication), filed March 13, 1978, published in the Federal Register issue of May 4, 1978, and republished this issue. Applicant: PAUL H. LISKEY, R.F.D. 1, Kearneysville, WV 25430. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. A Decision of the Commission, Review Board Number 3, decided October 10, 1978, and served October 16, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Stone and stone products*, from points in Berkeley County, WV (except Martinsburg, WV), to points in MD, PA, VA, WV, and DC; and (2) *precast concrete modules*, (a) between Hagerstown and Frederick, MD, and Martinsburg, WV, and (b) from Martinsburg, WV, to points in MD, PA, VA, WV, 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 regulations. The purpose of this republication is to modify the commodity description and add VA as a destination point in part (1) above.

MC 105636 (Sub-39F), (republication), filed March 27, 1978, published in the Federal Register issue of May 11, 1978, and republished this issue. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, NJ 08360. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. A Decision of the Commission, Review Board No. 3, decided September 29, 1978, and served October 12, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Petroleum products*, in containers, from the facilities of Shell Oil Co., at or near Sewaren, NJ, to the facilities of Sun Oil Co., at or near Marcus Hook, PA; and the facilities of Royal Lubricants Co., Inc., at or near Hanover, NJ, to Riviera Beach, FL; restricted to the transportation of traffic having an immediately subsequent movement by water, that applicant is fit, willing, and able properly to perform such service, and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 143320 (Sub-2) (republication), filed January 13, 1978, published in the Federal Register issue of February 24, 1978, and republished this issue. Applicant: RICHARD P. MILLER, d.b.a. POTAWATOMIC TRAILS, 51585 Winding Waters Lane, Elkhart, IN 46514. Representative: Richard P. Miller (same address as applicant). A Decision of the Commission, Review Board No. 3, decided October 6, 1978, and served October 19, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Tools, and hardware*, between the facilities utilized by G. M. Distributors, Inc., or G. M. Industrial Corp., at or near Elkhart, IN, Woodland and Anaheim, CA, Denver, CO, Newton, KS, Boise, ID, Salem, OR, Ft. Worth, TX, Marshfield, WI, and Redwood Falls, MN, under a continuing contract or contracts with G. M. Distributors, Inc., and G. M. Industrial Corp., of Elkhart, IN, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and indicate Redwood Falls, MN in lieu of Albert Lea, MN as a destination point.

Motor Carrier, Broker, Water Carrier, and Freight Forwarder Operating Rights Applications

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with 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 con-

currently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly 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 107295 (Sub-873) (correction), filed January 15, 1978, previously noticed as MC 107295 (Sub-73) in the FEDERAL REGISTER issue of March 9, 1978. Applicant: PRE-FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood and composition board*, from Los Angeles and Long Beach, CA, to points in the United States (except AK and HI); and (2) *composition board*, (a) from Burns Harbor, IN, and Charleston, MA, to points in the United States (except AK and HI); and (b) from New Orleans, LA, to points in AL, AR, FL, GA, KS, MS, NE, OK, TN, and TX. (Hearing site: Boston, MA.)

NOTE.—The purpose of this republication is to indicate the correct docket number as MC 107295 (Sub-873F).

MC 138824 (Sub-16F), filed February 28, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South La Salle Street, Suite 1620, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, in containers, and *materials* and *supplies* used in the processing distribution of food products, between the facilities of Ocean Spray Cranberries, Inc., (1) in Kenosha County, WI, and (2) at North Chicago, IL, on the one hand, and, on the other, points in MI, under a continuing contract(s) with Ocean Spray Cranberries, Inc., of Hnaon, MA. (Hearing site: Chicago, IL.)

MC 145568F, filed October 23, 1978. Applicant: POLLARD TRANSPORTATION, INC., 582 West 3½ South, Vernal, UT 84078. Representative: Mark K. Boyle, 10 W. Broadway Building 400, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Equipment, materials*, and *supplies* used in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *materials, equipment*, and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in CO, ID, NV, UT, and WY. (Hearing site: November 28, 1978, at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) 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-13786F. Authority sought for purchase by BE-MAC TRANSPORT COMPANY, INC., 7400 North Broadway, St. Louis, MO 63147 of a portion of the operating rights of Motor Express, Inc. of Indiana, 730 South Keystone Avenue, Indianapolis, IN 46203. Applicants' attorneys: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603, and Myer Feldman, 1700 Pennsylvania Avenue NW., Washington, DC 20006. Operating rights sought to be transferred are as a *common carrier* over a regular route in MC 38813, Sub-16, as follows: *General commodities*, except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Chicago, IL and Milwaukee, WI, as follows: from Chicago over U.S. 41 to Milwaukee and return over the same route, serving no intermediate points. If the application is granted Transferee will take a restriction against providing service between Chicago, IL and points in its commercial zone, as defined by the Interstate Commerce Commission, on the one hand, and on the other, Milwaukee, WI and points in its commercial zone.

Note.—Transferee and Transferor are under common control of U.S. Truck Lines, Inc. of Delaware, 785 Union Commerce Building, Cleveland, OH 44115, as authorized in Docket No. MC-F-4807.

MC-F-13787F. Authority sought for control by OLD DOMINION-EXPEDITER, INC., 1791 West Chester Drive, High Point, NC 27261, of Expediter Systems, Inc., Seven Office Park Circle, Birmingham, AL 35223, and Deaton, Inc., 317 Avenue W, Birmingham AL 35201, and for acquisition by Old Dominion Freight Line, Inc., also of High Point, NC 27261, and E. E. Congdon and J. R. Congdon of control of Expediter Systems, Inc. and Deaton, Inc., through the acquisition. Applicant's attorneys: K. Edward Wolcott, Esquire, Watkins & Daniell, PC 1200 Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303; Kim D. Mann, Esquire, Turney & Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over both regular and irregular routes, from to, and between specified points and territories in the States of AL, AR, FL, GA, KY, LA, MS, MO, NC, OK, TN, TX, VA, and WV, as more specifically described in the Deaton, Inc. Certificate of Public Convenience and Necessity, MC 11207. Dominion-Expediter, Inc. holds no authority from this Commission. However it is a wholly owned subsidiary of Old Dominion Freight Line, Inc., a regulated motor common carrier who is authorized to operate primarily within the States of MD, VA, NC, SC, and GA. Application has not been filed for temporary authority under section 210a(b), of the act.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation

Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 48958 (Deviation No. 85), ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, TX 79189, filed October 24, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Vernon, TX, over U.S. Hwy 287 to junction U.S. Hwy 183, then over U.S. Hwy 183 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 277, 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 Vernon, TX, over U.S. Hwy 287 to Wichita Falls, TX, then over U.S. Hwy 277 to juction U.S. Hwy 70 near Randlett, OK, and return over the same route.

MC 95540 (Deviation No. 6), WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 W. Griffing Road., Lakeland, FL 33802, filed October 23, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Hwy 41 and Interstate Hwy 75 near Rossville, GA, over Interstate Hwy 75 to junction U.S. Hwy 64 near Cleveland, TN, then over U.S. Hwy 64 to junction U.S. Hwy 19 near Murphy, NC, then over U.S. Hwy 19 to junction U.S. Hwy 23 near Dillsboro, NC, then over U.S. Hwy 23 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 25 near Asheville, NC, (2) From junction U.S. Hwy 41 and Interstate Hwy 75 near Rossville, GA, over Interstate Hwy 75 to junction U.S. Hwy 64, near Cleveland, TN, then over U.S. Hwy 64 to junction U.S. Hwy 19 near Murphy, NC, then over U.S. Hwy 19 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 25 near Asheville, NC, (3) From junction U.S. Hwy 41 and Interstate Hwy 75 near Rossville, GA, over Interstate Hwy 75 to junction Interstate Hwy 40 near Oak Ridge, TN, then over Interstate Hwy 40 to junction U.S. Hwy 25 near Asheville, NC, (4) From junction U.S. Hwy 82 and GA Hwy 257 near Albany, GA over GA Hwy 257 to junction Alt. U.S. Hwy 129 near Hawkinsville, GA, then over Alt U.S. Hwy 129 to junction GA Hwy 26 near Cochran, GA, then over GA Hwy 26 to junction U.S. Hwy 80 near Haskins, GA, (5) From junction SC Hwy 19 and Interstate Hwy 20 near Eureka, SC over SC Hwy 19 to junction U.S. Hwy 78 near Aiken, SC, then over U.S. Hwy 78 to junction Interstate Hwy 26 near Ladson, SC, (6) From junction U.S. Hwy 401 and Interstate Hwy 95 near Fayetteville, NC, over U.S. Hwy 401 to junction U.S. Hwy 74 near Laurinburg, NC, (7) From junction U.S. Hwy 74 and U.S. Hwy 601 near Monroe, NC, over U.S. Hwy 601 to junction NC Hwy 151, then over NC Hwy 151 to junction U.S. Hwy 52 near Darlington, SC, then over U.S. Hwy 52 to junction Interstate Hwy 95 near Florence, SC, (8) From junction U.S. Hwy 220 and Interstate Hwy 85 near Greensboro, NC over U.S. Hwy 220 to junction U.S. Hwy 1 near Rockingham, NC, then over U.S. Hwy 1 to junction U.S. Hwy 52 near Cheraw, SC, then over U.S. Hwy 52 to junction Interstate Hwy 95 near Florence, SC, (9) From junction NC Hwy 49 and Interstate Hwy 85 near Charlotte, NC over NC Hwy 49 to junction U.S. Hwy 64 near Asheboro, NC, then over U.S. Hwy 64 to junction U.S. Hwy 258 near Tarboro, NC, then over U.S. Hwy 258 to junction U.S. Hwy 58 near Franklin, VA, (10) From junction Interstate Hwy 95 and VA Hwy 207 near Golansville, VA or VA Hwy 207 to junction U.S. Hwy 301 near Bowling Green, VA, then over U.S. Hwy 301 to junction U.S. Hwy 13 near Red Lion, DE and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1), (2), and (3) From junction U.S. Hwy 41 and Interstate Hwy 75 near Rossville, GA, over U.S. Hwy 41 to Atlanta, GA, then over Interstate Hwy 85 to Greenville, SC, then over U.S. Hwy 25 to Asheville, NC, (4) From junction U.S. Hwy 82 and GA Hwy 257 near Albany, GA over U.S. Hwy 82 to Dawson, GA, then over GA Hwy 55 to junction U.S. Hwy 280, then over U.S. Hwy 280 to junction U.S. Hwy Alt. 27 near Columbus, GA, then over U.S. Hwy Alt. 27 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction GA Hwy 26 near Haskins, GA, (5) From junction Interstate Hwy 20 and SC Hwy 19 over Interstate Hwy 20 to Columbia, SC, then over Interstate Hwy 26 to junction U.S. Hwy 78 near Ladson, SC, (6) From junction Interstate Hwy 95 and U.S. Hwy 401 near Fayetteville, NC, over Interstate Hwy 95 to junction U.S. Hwy 74, then over U.S. Hwy 74 to junction U.S. Hwy 401 near Laurinburg, NC, (7) From junction U.S. Hwy 74 and U.S. Hwy 601 over U.S. Hwy 74 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 52 near Florence, SC, (8) From junction Interstate Hwy 85 and U.S. Hwy 220 near Greensboro, NC over U.S. Hwy 85 to junction U.S. Hwy 21 near Charlotte, NC, then over U.S. Hwy 21 to junction U.S. Hwy 76 near Columbia, SC, then over U.S. Hwy 76 to junction Interstate Hwy 95 near Florence, SC, then over Interstate Hwy 95 to junction U.S. Hwy 52 near Florence, SC, (9) From junction Interstate Hwy 85 and NC Hwy 49 near Charlotte, NC over Interstate Hwy 85 to junction U.S. Hwy 58 near South Hill, VA, then over U.S. Hwy 58 to junction US. Hwy 258 near Franklin, VA, and (10) From junction Interstate Hwy 95 and VA Hwy 207 over Interstate Hwy 95 to junction U.S. Hwy 13 near Wilmington, DE, then over U.S. Hwy 13 to junction U.S. Hwy 301, and return over the same routes.

MC 112713 (Deviation No. 55), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207, filed October 24, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Mobile, AL, over U.S. Hwy 98 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Jackson, MS, 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 Mobile, AL over U.S. Hwy 43 to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Jackson, MS and return over the same route.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-31709 Filed 11-8-78; 8:45 am]

[7035-01-M]

[Second Revised Service Order No. 1332]

ST. LOUIS SOUTHWESTERN RAILWAY CO. AND SOUTHERN PACIFIC TRANSPORTATION CO.

OCTOBER 26, 1978.

Because of recent work stoppages on the St. Louis Southwestern Railway Co. (SSW) and on other connections of the Southern Pacific Transportation Co. (SP), and because of a major freight train derailment on the SSW in the vicinity of Gilmer, Tex., on October 20, 1978, the SP and the SSW are temporarily unable to forward all cars within 60-hours as required by

section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Second Revised Service Order No. 1332, the SSW and the SP are required to forward loaded cars or empty foreign or private cars from the points named below within 72-hours.

SSW—Pine Bluff, Ark. and Shreveport, La.

SP—Eugene, Oreg.; Roseville, Calif.; Los Angeles, Calif.; West Colton, Calif.; El Paso, Tex.; San Antonio, Tex.; Hearne, Tex.; Houston, Tex.; Beaumont, Tex.; and Lafayette, La.

Effective: October 26, 1978.

Expires: 11:59 p.m., October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-31706 Filed 11-8-78; 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)

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[6320-01-M]

1

[M-177, Nov. 6, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Air Medic to make a presentation regarding the problems experienced in the air transportation industry as related to persons who are handicapped and who have medical problems in connection with their transportation.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2273-78 Filed 11-7-78; 3:39 pm]

[6740-02-M]

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 51750, published November 6, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 8, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-3. ER76-149 and E-9537, Public Service Co. of Indiana, Inc.

KENNETH F. PLUMB,
Secretary.

[S-2270-78 Filed 11-7-78; 3:39 pm]

[6740-02-M]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 51750, published November 6, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 8, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

P-2. Project Nos. 2863 and 2877, City of <Holyoke, Mass.

CAG-10. CP77-216, et al., Distrigas of Massachusetts Corp.

KENNETH F. PLUMB,
Secretary.

[S-2269-78 Filed 11-7-78; 11:13 am]

[6720-01-M]

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 3 p.m., November 1, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED: Consideration of third-party payment mechanisms and proposed regulation. Announcement is being made at the earliest practicable time.

No. 194, November 1, 1978.

[S-2267-78 Filed 11-7-78; 11:13 am]

[6720-01-M]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., November 8, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677

MATTERS TO BE CONSIDERED:

Application to Acquire Home Savings Association, Odessa, Tex., by Transwestern United Corp., Midland, Tex.
Application for Authority to Acquire Topeka Savings Association, Topeka, Kans., by TSA Financial Corp., Kansas City, Mo.
Consideration of Advisory Council Travel Authorization.
Application for Merger, Maintenance of Branch Offices, Cancellation of Membership and Insurance and Transfer of Stock—Tri County Savings & Loan Association, Hudson, Wis., into First Federal Savings & Loan Association of Eau Claire, Wis.
Request for Commitment to Insure Accounts—Sierra Savings & Loan Association, Minden, Nev.
Voluntary Termination of Insurance of Accounts and Withdrawal from Bank Membership—Pioneer Savings & Loan Association, Whiteville, N. C.
Preliminary Application for Conversion into a Federal Mutual Association—Concord-Kannapolis Savings & Loan Association, Concord, N.C.
Branch Office Application—Biscayne Federal Savings & Loan Association, Miami, Fla.
Branch Office Application—First Federal Savings & Loan Association of Broward County, Fort Lauderdale, Fla.
Applications for Bank Membership and Insurance of Accounts—Equality Savings & Loan Association, San Diego, Calif.
Branch Office Application—Home Federal Savings & Loan Association of San Francisco, San Francisco, Calif.
Amendment to FHLBB Resolution Regarding West Coast Federal Savings & Loan Association, San Mateo, Calif.
Consideration of Uniform Guidelines for Enforcement of Regulation Z.
Consideration of Charter S Merger Regulations.

No. 195, November 1, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2268-78 Filed 11-7-78; 11:13 am]

[6820-35-M]

6

LEGAL SERVICES CORPORATION (Committee on Appropriations and Audit).

TIME AND DATE: 9:30 a.m., Wednesday, November 15, 1978.

PLACE: Seventh floor conference room, Legal Services Corporation, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the September 28, 1978, meeting.
2. Status of the annual audit for fiscal year 1978.
3. Review of fiscal year 1978 balances carried forward to fiscal year 1979.
4. Review of the preliminary consolidated operating budget for fiscal year 1979.
5. Review of the draft fiscal year 1980 budget request to the Congress.
6. Report on the Financial Management Improvement Program.
7. Other business.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: November 6, 1978.

THOMAS EHRLICH,
President.

[S-2276-78 Filed 11-7-78; 3:58 pm]

[6820-35-M]

7

LEGAL SERVICES CORPORATION (Committee on Provision of Legal Services).

TIME AND DATE: 3:30 p.m., Monday, November 13, 1978.

PLACE: International Hotel, 300 Canal Street, New Orleans, La.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of the meeting of June 13, 1978, and September 19, 1978.
2. Reports on: (a) The Delivery Systems Study, (b) the study required by section 1007 (h) of the Act, and (c) the Reginald Heber Smith Program.
3. Other business.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dellanor Young, Office of the President, telephone 201-376-5100.

Issued: November 6, 1978.

THOMAS EHRLICH,
President.

[S-2268-78 Filed 11-7-78; 11:13 am]

[7910-01-M]

8

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, November 14, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to public observation. Matter 4 is closed to public observation. Matters 5 and 6 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held November 7, 1978, and other Board meetings, if any.
2. Recommended clearances without assignment (OSC&E List 1926):
   A. Maytag Aircraft Corp., fiscal year ended August 31, 1976.
   B. Standex International Corp., Fiscal years ended June 30, 1975 and 1976.
   C. Purex Corp., fiscal years ended June 30, 1975 and 1976.
   D. Acromil Corp., fiscal year ended September 30, 1976.
   E. Photo-Sonics, Inc., fiscal year ended August 31, 1976.
3. Report on partial year filings.
4. Personnel matter.
5. Approval of agenda for meeting to be held November 28, 1978.
6. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: November 7, 1978.

GOODWIN CHASE,
Chairman.

[S-2271-78 Filed 11-7-78; 3:39 pm]

[7910-01-M]

9

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, November 14, 1978; 11 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: IBM Corp., fiscal years ended December 31, 1969, and December 31, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: November 7, 1978.

GOODWIN CHASE,
Chairman.

[S-2272-78 Filed 11-7-78; 3:39 pm]

[8010-01-M]

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, November 1, 1978, at 10 a.m.

CHANGES IN THE MEETING: Additional items to be considered.

The following items will be considered by the Commission at a closed meeting scheduled for Tuesday, November 6, 1978, at 10 a.m.:

Report of investigation.
Settlement of administrative proceeding of an enforcement nature.

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 so 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).

The following item will be considered by the Commission at the open meeting scheduled for Wednesday, November 8, 1978, at 10 a.m.:

Consideration of proposed bylaw changes submitted by the Securities Investor Protection Corp. ("SIPC") concerning: (a) indemnification of SIPC directors, officers and employees; (b) a requirement that SIPC members provide public notice of their membership through advertising or otherwise; and (c) an increase in the annual compensation of the Chairman of SIPC. For further information, please contact Robert J. Millstone at 202-755-8777.

Chairman Williams, Commissioners Evans, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

NOVEMBER 7, 1978.

[S-2274-78 Filed 11-7-78; 3:39 pm]

[8010-01-M]

11

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 November 13, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, November 15, 1978, at 10 a.m. Closed meetings will be held on Tuesday, November 14, 1978, at 10

a.m., and on Wednesday, November 15, 1978, immediately following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 14, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Freedom of Information Act appeals.
Institution of injunctive actions.
Litigation matters.
Regulatory matters bearing enforcement implications.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Subpoena enforcement action.

The subject matter of the open meeting scheduled for Wednesday, November 15, 1978, at 10 a.m., will be:

1. Consideration of the application of Charles D. Pulis asking permission for him to become associated with Greentree Securities Co., a registered broker-dealer, as a registered representative in a nonsupervisory, nonproprietary capacity. For further information, please contact Michael F. Perlis at 202-755-1498.

2. Consideration of whether to issue an order pursuant to section 9(c) of the Investment Company Act granting Hartford Variable Annuity Life Insurance Co. ("HVA") and Hartford Equity Sales Co., Inc. ("HESCO") an exemption from section 9(a) of the Act to permit HVA to act as sponsor-depositor of unit investment trusts organized, operated or sponsored by HVA and to permit HESCO to act as principal underwriter with respect to unit investment trusts and investment companies organized, operated or sponsored by HVA. For further information, please contact Gary N. Sundick at 202-755-1250.

3. Consideration of whether to take any action in response to the concerns raised by underwriters with respect to their liability under Section 11 of the Securities Act of 1933 for documents incorporated by reference into a registration statement on Form S-16. For further information, please contact John Granda at 202-755-1750.

4. Consideration of whether to propose for comment an amendment to regulation A, the small offering exemption promulgated pursuant to section 3(b) of the Securities Act of 1933, which would permit the use of a preliminary offering circular between the date of filing of a regulation A notification relating to a firm commitment underwritten public offering of securities and the date on which the offering is commenced. For further information, please contact Ruth D. Appleton at 202-755-1290.

5. Consideration of whether to affirm the action of the duty officer in authorizing two Commission employees, who have been subpoenaed, to be deposed and to produce documents. The subpoenas are from the United States District Court for the Southern District of Florida in the action of *Conner, et al.* v. *Bache & Co., et al.*, Nos. 75-483-CIV-JE. The Commission is not a party to this litigation. For further information, please contact Frederic Townsend at 202-376-3315.

6. Consideration of whether to adopt proposed amendments to regulation 14A and schedule 14A as well as related amendments to forms 8-K and 10-Q, which were designed to increase the information available to investors regarding (1) the structure, composition and functioning of issuers' boards of directors; (2) resignations of directors; (3) attendance at board and committee meetings; (4) the voting policies and procedures of certain institutions subject to the Commission's proxy rules which exercise voting rights with respect to equity securities held for their own accounts or the accounts of others and (5) the terms of settlement of proxy contests. In addition, the Commission will consider whether to adopt a rule which would enable shareholder proponents to review management statements in opposition to shareholder proposals prior to the mailing of issuers' proxy soliciting materials. For further information, please contact Barbara Leventhal, Richard Nesson, Jennifer Sullivan or Michael Stakias at 202-755-1750.

The subject matter of the closed meeting scheduled for Wednesday, November 15, 1978, immediately following the 10 a.m. open meeting, will be:

Opinion.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Gregg E. Radetsky at 202-755-1133.

NOVEMBER 7, 1978.

[S-2275-78 Filed 11-7-78; 3:39 pm]

Federal Register

THURSDAY, NOVEMBER 9, 1978
PART II



SECURITIES AND EXCHANGE COMMISSION

LOST AND STOLEN SECURITIES PROGRAM

Extension of the Pilot Period; Redesignation of Securities Information Center, Inc.; Redesignation of Certain Institutions

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15289]

LOST AND STOLEN SECURITIES PROGRAM

Extension of the Pilot Period; Redesignation of Securities Information Center, Inc; Reregistration of Certain Institutions

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the extension of the Lost and Stolen Securities Program's (the "Program") pilot period, the redesignation of Securities Information Center, Inc. ("SIC") as the Commission's designee to maintain and operate the data base of missing, lost, counterfeit or stolen securities, and the reregistration of certain institutions subject to Rule 17f-1 (17 CFR § 240.17f-1) with SIC.

SUMMARY: This action extends the Program's pilot period until June 30, 1979, redesignates SIC as the Commission's designee for a period of 2 years beginning January 1, 1979, and requires certain institutions subject to § 24017f-1 to register with SIC utilizing a revised registration form before December 15, 1978.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 202-376-8129.

SUPPLEMENTARY INFORMATION: The Commission today announced the extension of the Program's pilot period until June 30, 1979, the redesignation of SIC as the Commission's designee to maintain and operate the computerized data base of missing, lost, counterfeit or stolen securities for a period of two years beginning Janurary 1, 1979, and the reregistration of certain institutions subject to Rule 17f-1 (17 CFR § 240.17f-1) with SIC before December 15, 1978.[1] In addition, all institutions which reregister as direct inquirers and direct inquirers who fail to submit a new registration form indicating a change of status in accordance with instructions contained in the Appendix will be charged for SIC's services according to an estimated revised fee schedule beginning on January 1, 1979.

BACKGROUND

The problems relating to missing, lost, counterfeit, and stolen securities were outlined by the Commission in 1970 [2] and were subsequently the subject of a series of Congressional hearings.[3] Implementation of a system to receive reports and inquiries concerning missing, lost, counterfeit, and stolen securities was recommended by members of Congress, the industry, and law enforcement agencies. To accomplish this objective, the Securities Acts Amendments of 1975 added section 17(f)(1) into the Securities Exchange Act of 1934 (the "Act"). This section provides that certain financial institutions [4] shall make reports and inquiries with respect ot missing, lost, counterfeit or stolen securities in accordance with rules promulgated by the Commission. Section 17(f)(1) also provides that reports and inquiries shall be made to the "Commission or other person designated by the Commission" and that reasonable fees may be charged for the processing of such data.

On December 6, 1976, the Commission adopted § 240.17f-1, establishing reporting and inquiry requirements with respect to missing, lost, counterfeit, or stolen securities. [5] On August 5, 1977, the Commission published the final, amended version of § 240.17f-1, [6] and on January 2, 1978, the system for the processing of reports and inquiries became fully operational.

In order to monitor the effectiveness of the section and the system designed to carry out the Program,[7] the Commission determined that the Program should be instituted initially on a pilot basis, through December 31, 1978. Furthermore, the Commission determined that it would be appropriate to designate another person, as provided for by the statute, to receive and process reports and inquiries made pursuant to the section on behalf of the Commission.[8] Accordingly, the Commission solicited plans from persons interested in acting at the Commission's designee and, after analysis of the submissions, designated SIC to maintain and operate the data base of missing, lost, counterfeit or stolen securities on its behalf through the pilot period ending December 31, 1978.[9]

On July 31, 1978, the Commission issued a release soliciting public comments concerning the operation of the Program and redesignation of SIC as the Commission's designee.[10] Thereafter, in response to numerous requests for additional time in which to submit comments, the Commission extended the comment period from September 8, 1978, to October 15, 1978.[11]

EXTENSION OF THE PILOT PERIOD

The Commission has determined that, due to the short time in which to consider the comments received, a more permanent version of the Program cannot be in place by December 31, 1978, the end of the pilot period. In order to avoid expiration of the exemptive provisions which are provided only for the duration of the pilot period,[12] without having had sufficient opportunity to fully consider the comments received, the Commission has

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[1] Both the pilot period and SIC's original period of designation will expire on December 31, 1978.

[2] Study of Unsafe and Unsound Practices of Brokers and Dealers, Report and Recommendations of the Securities and Exchange Commission (pursuant to section 11(h) of the Securities Investor Protection Act of 1970), December, 1970.

[3] Organized Crime-Stolen Securities, Hearings Before the Permanent Subcommittee on Investigations, Senate Committee on Government Operations, 92d Cong., 1st sess. (1971); 93d Cong., 1st sess. (1973); 93d Cong. 2d sess. (1974).

[4] The institutions subject to section 17(f)1) are enumerated in the statute as follows:

Every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System, and bank whose deposits are insured by the Federal Deposit Insurance Corporation. . . .

[5] Securities Exchange Act Release No. 13053, 41 FR 54923 (Dec. 10, 1976). Certain technical amendments were made by the Commission in Securities Exchange Act Release No. 13280, 42 FR 11829 (Mar. 1, 1977), and further amendments regarding the role of transfer agents in the Program were proposed in Securities Exchange Act Release No. 13281, 42 FR 1184 (Mar. 1, 1977) and incorporated into the rule by Securities Exchange Act Release No. 13832, 42 FR 41022 (Aug. 12, 1977).

[6] Securities Exchange Act Release No. 13832, 42 FR 41022 (Aug. 12, 1977).

[7] The Lost and Stolen Securities "Program" encompasses both the computerized data bank maintained by SIC and the procedures established for receipt and processing of those reports and inquiries directed to it in accordance with the rule and the Lost and Stolen Securities Checklist maintained by the Federal Reserve Banks. The Lost and Stolen Securities "System" refers only to the SIC data base and procedures.

[8] Under § 240.17f-1, reports and inquiries are directed to the "appropriate instrumentality." In the case of U.S. Government and Agency securities, the appropriate instrumentality is any Federal Reserve Bank or Branch. The Commission is the appropriate instrumentality for all other securities, including corporate and municipal issues.

[9] Securities Exchange Act Release No. 1353, 42 FR 26495 (May 12, 1977). AutEx, Inc. was originally named as the designee. Subsequently, as a result of the acquisition of AutEx by ITEL Corp., SIC was created as a wholly-owned subsidiary of ITEL Corp.

[10] Securities Exchange Act Release No. 15015, 43 FR 34790 (Aug. 7, 1978).

[11] Securities Exchange Act Release No. 15159, 43 FR 43035 (Sept. 22, 1978).

[12] The Commission, in Securities Exchange Act Release NO. 13832 (Aug. 5, 1977), provided inquiry exemptions for registered transfer agents and for securities transactions for less than $10,000 face value and market value of bonds and stocks, respectively, and reporting and inquiry exemptions with respect to corporate and municipal issues not assigned CUSIP numbers.

concluded that the pilot period should be extended. The Commission, therefore, announces that the Program's pilot period which was to expire on December 31, 1978, is extended until June 30, 1979.

REDESIGNATION OF SIC

In anticipation of the end of the pilot period and the expiration of SIC's term of designation, the Commission solicited submissions from persons interested in serving as its designee to operate and maintain the data base of missing, lost, counterfeit or stolen securities in Securities Exchange Act Release No. 15015 (July 31, 1978).[13] In formulating their submissions, prospective designees were to consider carefully the "Criteria for a Lost and Stolen Securities Reporting and Inquiry System" set forth in an appendix to that release. There the Commission stated:

In making a designation, the Commission will consider the following factors, among others: the cost of implementing the system, the amount of time necessary to initiate the system, the costs of operation, the costs of compliance to reporting institutions, the compatability of the system with existing securities information systems, the ability of the system to respond to fluctuations in reporting and inquiry volume in an efficient manner, the experience of the designee in managing similar programs, and the method of allocating costs and billing subscribers.[14]

In addition, comments were solicited from interested persons concerning their experience in working with SIC, their suggestions for modifications of its system, and the appropriate number of years for which a designation should be made.

In response to the Commission's solicitation, plans were submitted by SIC and Compliance Data Center, Inc. ("CDC"). Furthermore, several public comments regarding SIC's general performance during the pilot program were received and analyzed by members of the Commission's staff.

The Commission has analyzed the plans of CDC and SIC in light of the "Criteria" and the public comments. After careful consideration, it has determined to redesignate SIC for a two year period commencing January 1, 1979. SIC's operational costs for the first year's operation of the Program were significantly less than CDC's projected operational costs for the same period of time. In addition, SIC's method of allocating costs among subscribers appears to be more appropriate and equitable than that proposed by CDC due to the fact that the SIC method spreads the costs over a larger segment of the participating institutions. Finally, since the SIC system is an ongoing system and is fully operative, redesignation will not necessitate any further implementation costs or interruption in service. In contrast, CDC's plan would require an assessment for implementation and a period of three months in order to become fully operational.[15]

It also appears that SIC has managed the system in a satisfactory manner during its term of designation. Since October 3, 1977, the effective date of the reporting provisions of § 240.17f-1, SIC has received a total of 273,734 reports representing $1.4 billion[16] in missing, lost, counterfeit or stolen securities and has processed 1,363,962 inquiries.[17] During the first nine months of the pilot year, a total of 194 inquiries resulted in matching reports ("hits"). The securities involved in these hits are valued at $8,385,102.[18] It is anticipated that the system's effectiveness will be enhanced by the incorporation of the National Crime Information Center's ("NCIC") computerized file of securities thefts into the SIC data base, which will be completed shortly. Finally, comments from industry sources concerning SIC's performance have been favorable.

After consideration of the two plans, the Commission has concluded that SIC's system is sufficiently responsive and lowest in cost. SIC has addressed the Commission's criteria for a system to implement the Lost and Stolen Securities Program during the pilot period and has developed, implemented, operated, and maintained a system flexible enough to react to future developments in the area. Therefore, subject to its undertaking to comply with the Principles of Designation contained below, SIC is redesignated to operate and maintain the data base of missing, lost, counterfeit or stolen securities for a 2-year period beginning January 1, 1979.[19]

The Commission has determined that designation for a 2-year term is appropriate. Such a period of designation is consistent with the Commission's goal of reducing and eventually immobilizing the actual movement of physical securities certificates and provides the Commission with maximum flexibility relating to the future size and scope of the Program as book entry and depository systems are increasingly utilized by the securities industry. In addition, the 2-year term may allow SIC to have more flexibility in its planning and in making appropriate operational and budgetary projections.

PRINCIPLES OF DESIGNATION

Securities Information Center, Inc., has been chosen as the Commission's designee subject to its undertaking to comply with the following "Principles of Designation."[20] These principles are the major responsibilities which SIC is expected to undertake.

1. The designee shall implement 17 CFR 240.17f-1, (Rule 17f-1) through its operation of the Lost and Stolen Securities Information System in accordance with the terms of its submission and at the rates specified below, for a 2-year period commencing January 1, 1979, and ending December 31, 1980.

2. The designee shall:

a. Receive reports and respond to inquiries for which the Commission is the appropriate instrumentality;

b. Maintain records of such reports and inquiries and furnish such records to institutions in accordance with its submission; and

c. Collect fees, as approved by the Commission, from reporting institutions to defray the costs of the system.

3. The designee shall maintain the capacity to:

a. Receive reports and inquiries by telephone, the mails, telex, and other means;

b. Generate hard copy confirmations to reporting institutions with respect to all reports and inquiries made by such institutions; and

c. Retrieve records of inquiry by name of the reporting institution as well as by the name of the particular security.

4. The designee warrants that all work shall be performed in a businesslike manner and in accordance with the highest standards.

5. The designee shall have the capacity to include in its data base all reports of missing, lost or stolen securities made prior to the effective date of § 240.17f-1 and shall include such reports as the Commission may direct.

6. The designee shall keep a current and true record, available for inspection by the Commission, with respect to each report, inquiry, confirmation, correction, or other information received pursuant to this designation, the time of and means by which such report, inquiry or other information was received, the time of response, the means by which a response was given, and the nature of the response. The designee shall make available for the

[13] See note 10, supra.
[14] Id.
[15] In addition to these added implementation costs, designation of CDC would necessitate the transfer of all data contained in the computer storage files of SIC and would lead to some initial confusion and disruption on the part of institutions subject to § 240.17f-1.
[16] As of Oct. 14, 1978.
[17] As of Oct. 1, 1978.
[18] As of Oct. 1, 1978.
[19] A full description of the SIC System is contained as an appendix to this release.
[20] If SIC is unwilling or unable to comply with the Principles of Designation, the Commission may designate another entity or take such other action as it may deem appropriate.

Commission's inspection all records and accounts of amounts billed to reporting institutions, the basis for the bills, amounts received from reporting institutions, and accounts on expenses incurred by the designee. Such records for any calendar year shall be kept for 3 years after the end of the calendar year. The designee shall make periodic reports to the Commission as the Commission deems appropriate and necessary.

7. All reports and inquiries received pursuant to § 240.17f-1 and all confirmations of such reports and inquiries, billing information, and any other records maintained pursuant to this designation, are the property of the Commission. The designee shall furnish to the Commission upon demand true, correct, complete, and current copies of any or all, or any part of, such records maintained pursuant to this designation.

8. The designee shall report to the Commission quarterly:

a. The number of reports received during the quarter, data as to the number relative to stolen securities and counterfeit securities, and data as to the types of securities reported;

b. The number of inquiries received during the quarter;

c. The number of "hits" experienced each quarter, the identity of the inquiring and reporting institutions, and the dollar value of the securities involved;

d. Cumulative data on the identity and location of institutions making reports and inquiries and experiencing "hits;"

e. The dollar value of securities reported as missing, lost, counterfeit, or stolen;

f. The number of reporting institutions which are direct subscribers;

g. The number of reporting institutions which are indirect subscribers;

h. Expenses incurred by the designee;

i. The amounts billed to reporting institutions; and

j. Any other information which the Commission may direct.

9. The Commission may direct that the designee shall carry out different or additional routine and necessary functions incidental to its role as the Commission's designee, as the Commission deems appropriate.

10. Such functions that may be specified as "exceptional" will be outlined in writing to the designee, and if the designee desires compensation for such functions, an estimate of the costs entailed will be submitted to the Commission staff for approval. Upon completion of the function, the designee will submit an accounting of actual costs, which will be the basis for charges to be billed to reporting institutions.

11. During the first year of the term of designation, the designee shall be entitled to charge 28 cents per report and inquiry processed, the aggregate total of which will be allocated to all direct subscribers in accordance with the pricing structure announced in Securities Exchange Act Release No. 15289. In addition, the designee shall be entitled to charge each direct subscriber a $20 fee for registration of each primary access station and $10 for registration of each secondary access station and a fee of $10 per annum for retention of files for indirect inquirers, as part of the operational costs of the Program during the first year of the term of designation. Fees for special services which have been approved by the Commission may also be charged to participating institutions at the direction of the Commission. The Commission may change the pricing structure at any time. The rates to be charged by the designee for the second calendar year of the term of designation shall be increased by a percentage equal to the percentage by which the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers, New York, N.Y.—Northeastern New Jersey—All items, Series A (1967—100), has increased since September 30, 1978. The percentage increase in such Index shall be determined using the last Index published prior to the beginning of such calendar year.

12. The designee shall agree to any other reasonable conditions as the Commission may direct.

Reregistration of Reporting Institutions

Attached as an appendix to this release is a description of the operations of Securities Information Center, Inc., and a registration form for the 1979 Program. The system will operate in substantially the same manner as in the first year of the Program's operation, with the only major modification being the initiation of procedures for notifying reporting institutions that an inquiry has matched a reported loss. Fees for the Program have been increased slightly, and are described in the attached Appendix.

The 1979 registration form must be submitted by all institutions who (1) have not previously registered in the Program, (2) have registered as direct inquirers, regardless of whether they desire to amend their prior registration, and (3) have registered as indirect inquirers and wish to amend their prior registration. The only class of institution that need not reregister are those that registered previously as indirect inquirers and do not desire to amend or update their prior registration. All reporting institutions will, however, continue to be subject to the provisions of the Program. All institutions may, at this time, change their election of inquiry participation status and such elections will be binding through June 30, 1979. *All registration forms must be submitted to the Securities Information Center, Inc., by December 15, 1978.*

Statutory Basis and Competitive Considerations

The Commission designates SIC to receive reports and inquiries required to be made to the Commission under § 240.17f-1, subject to the conditions contained herein, pursuant to the Securities Exchange Act of 1934, as amended, including sections 2, 10, 15, 17, and 23 thereof. The Commission finds that any burden upon competition imposed by this designation is necessary and appropriate in the public interest and for the protection of investors in order to continue the Lost and Stolen Securities Program established pursuant to section 17(f)(1) of the Act.

By the Commission.

Dated: November 1, 1978.

George A. Fitzsimmons,
Secretary.

Appendix

The Lost, Missing, Stolen, and Counterfeit Securities Information System—Description of the System

Introduction

Under 17 CFR 240.17f-1, certain financial institutions are required to make reports and inquiries related to missing, lost, stolen, and counterfeit securities. If the security involved is a U.S. Government or Agency security, such reports and inquiries must be made to a Federal Reserve Bank or Branch.[1] In the case of all other securities, reports and inquiries must be directed to the Secruities Information Center, Inc. ("SIC") which has been designated by the Commission to receive and process all such data until December 31, 1980.

SIC will continue to operate substantially in the same manner as it has since October 3, 1977. All institutions are urged to carefully read the material below and to refer, if necessary, to Securities Exchange Act Release No. 13832[2] in which the text of § 240.17f-1 and important explanatory information appears.

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[1] Instructions on how to make reports and inquiries with respect to U.S. Government or Agency securities are contained in Securities Exchange Act Release No. 13832 (42 FR 41022 (Aug. 12, 1977)). The procedures for reports of Government Agency securities have not been changed from those in operation during the pilot period.

[2] 42 FR 41022 (Aug. 12, 1978).

Reporting Institutions

The institutions subject to 17 CFR 240.17f-1 are defined as "reporting institutions" and include every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation. All such organizations are required to report to and make inquiries of the system.

1979 Registration Requirements

To make reports and inquiries of the data base maintained by SIC, *all reporting institutions must complete and file the 1979 registration form that accompanies this material, except institutions registered with SIC as indirect inquirers whose 1978 registration forms are presently current and correct.* An institution must file the 1979 registration form if (1) it is presently registered as a direct inquirer, regardless of whether the information submitted on the 1977 registration form continues to be current and correct, (2) it is presently not registered with SIC, or (3) it is presently registered with SIC as an indirect inquirer and desire to amend or update their 1977 registration form in any way.

Direct inquirers must submit the 1979 registration form in order that SIC may have on file a current agreement to pay the 1979 registration fees. Currently registered direct inquirers who fail to submit the 1979 registration form will be deemed to have agreed to the increased 1979 fees and charges and will be billed accordingly. In completing the 1979 registration form, currently registered direct and indirect inquirers should update and amend the information submitted previously and may, if they desire, amend their registration to indicate a change in their inquiry participation status. The election of inquiry participation status will be binding through June 30, 1979.

All registration forms should be filled out and returned to:

Securities Information Center, Inc., P.O. Box 421, Wellesley Hills, Mass. 02181.

THE DEADLINE FOR REGISTRATION IS DECEMBER 15, 1978

Reports

A report is a notice of (1) securities lost, stolen, missing, or counterfeit; (2) recovery of securities previously reported lost, stolen, or missing; or (3) a correction or update of a previous report other than recovery.

All reporting institutions are required to make reports enumerated in paragraph (b) of 17 CFR 240.17f-1 directly to the appropriate instrumentality, and should use Form X-17F-1A for such purposes. If the security involved is a U.S. Government or Agency security, the appropriate instrumentality is any Federal Reserve Bank or Branch. In the case of all other securities, the appropriate instrumentality is SIC. Reports must also be sent to a transfer agent for the issue and to the appropriate law enforcement agency if criminality is suspected.

In the case of reports concerning securities for which SIC is the appropriate instrumentality, all Form X-17F-1A's must be signed by an authorized individual whose signature is on file with SIC and should be mailed to SIC at P.O. Box 421, Wellesley Hills, Mass. 02181 within the time limits set forth in 17 CFR 240.17f-1. All reports will be entered into the computer data base within 1 day of receipt.

Preliminary reports may also be made by telephone or telex and institutions are encouraged to use this service. Preliminary reports should include the reporting institution's FINS number, [3] the CUSIP number and certificate numbers (including all prefixes and suffixes) of the securities, and indication of whether or not criminality is suspected. Preliminary reports must be followed promptly by a written report on Form X-17F-1A signed by an authorized individual and mailed to SIC at P.O. Box 421, Wellesley Hills, Mass. 02181.

The designee will .send a written report confirmation to the reporting institution on a weekly basis.

Inquiries

Under 17 CFR 240.17f-1, reporting institutions must inquire of the data base of reported security losses, thefts, and counterfeits to determine the validity of securities coming into their possession or control. In the case of inquiries with respect to securities for which SIC is the appropriate instrumentality, reporting institutions must employ the manual, computer-assisted system designed by SIC.

For the purposes of this system, all reporting institutions must register as either direct or indirect inquirers. Direct inquirers make inquiries of the system directly by using telephone, telex, or mail. Alternatively, a reporting institution can participate as an indirect inquirer by arranging with a direct inquirer to act on its behalf in making inquiries of the system. Direct inquirers will be charged the registration fees and usage charges described below. Indirect inquirers will not be charged any fees by SIC but may expect direct inquirers acting on their behalf to charge them costs and service charges.

Upon registering with the systems a direct inquirer, the reporting institution will be assigned appropriate access codes which will be based, in part, on the institution's FINS number. The code must be used each time the reporting institution makes an inquiry of the system, whether on its own behalf or on behalf of another institution, to insure that only authorized direct inquirers have access to the system.

In addition to the reporting institution's access code, the inquiry must include the securities CUSIP and certificate numbers (including all suffixes and prefixes). Multiple inquiries can be made in a single mailing, telephone call, or telex transmission.

All direct inquirers must have at least one primary access station from which inquiries will be made to SIC and to which monthly written inquiry confirmations will be mailed. If desired, a direct inquirer can access the system from various stations within its organization. These additional stations can be registered as either primary or secondary access stations. A secondary station makes inquiries of the system directly but written confirmations of such inquiries will be directed to a primary access station of the institution. A primary access station receives confirmations for its own use of the system and for use by its secondary access stations, if any. Every secondary station must be associated with one and only one primary station.

Processing of Inquiries

Direct inquirers may inquire of the data base by telephone, telex, or mail. In the case of telephone inquiries, direct inquirers will receive a special telpehone number to be used for such purposes. On calling, the direct inquirer must furnish the operator its access code, and the certificate's CUSIP and certificate number. Each inquiry will be assigned a validation number which confirms for the direct inquirer that the inquiry was made. Mail and telex inquiries should include the identical information and will be processed upon their receipt by SIC.

The operator will then enter the data into the data base to determine if the CUSIP and certificate numbers in the inquiry match those in a previous-

[3] FINS ("Financial Industry Number Standard") numbers are compiled in the 1976 FINS Directory (first edition), published by the Depository Trust Co. If an institution is uncertain as to whether it has a FINS number, it should consult this Directory, its self-regulatory organization, its trade association, or SEC personnel at 202-376-8134. If an institution has not been assigned a FINS number, a number may be obtained at no cost by writing the Depository Trust Co., attention: FINS Publication, 55 Water Street, New York, N.Y. 10041.

ly submitted report. If so (a "hit"), the inquiring institution will be notified immediately of the match. This positive confirmation will include instructions on how to contact the reporting institution which submitted the matching report and notice, if any, of suspected criminality. The reporting institution will also be notified of the hit and of the identity of the inquiring institution.

Written confirmations of inquiries that do not result in a match (negative confirmations) will be mailed to the direct inquirer monthly. An optional prompt written confirmation service will be available to direct inquirers at additional cost. With this service, the primary access station will receive confirmation by mail of all inquiries (positive or negative) and of all reports received by the system from that station or its secondary access stations. There will be one such mailing for each day on which reports and/or inquiries are received from the station or its secondary access stations.

Schedule of Charges

Under a pricing structure and schedule of fees approved by the Commission, organizations that are direct inquirers will be charged an annual registration fee and usage fees. An indirect inquirer will not be charged these fees but may expect that the institution that makes inquiries on its behalf will require compensation for its costs and services.

Fees do not cover participants use of the mails, telephone, or telex for making reports or inquiries, nor any training or education of employees of direct or indirect inquirers in connection with the use of the system.

Registration: This annual fee for direct inquirers covers the cost of maintaining registration data, assignment of access codes, and billing of all charges. The fee is based on the number of access stations designated by the direct inquirer on its registration form.

For each primary access station	$20
For each secondary access station	$10

Prompt Written Confirmation Service (Optional): Institutions desiring this service will receive prompt written confirmaiton of all inquiries and reports received from a direct inquirer each day via mail, telephone or telex.

Each primary access station using the service (per quarter)	$20

Usage: These fees will cover the cost of verification of authorized system access, matching of reports and inquiries, notification of matches, confirmation of inquiries, retention of files, and system improvements.

Usage charges will be billed quarterly in advance to a single primary access station. These charges, approved by the Commission, are based on the aggregate volume of inquiries made by all participating institutions. The aggregate cost for processing these inquiries is apportioned among all direct inquiries according to their size classification. Thus, an institution is not billed on the basis of its actual usage of the system and, for the charge assessed, it may make an unlimited number of inquiries.

The charges outlined below are based on estimates of the number of direct inquirers that will register for 1979 and of the aggregate number of inquiries (10,000 per day). The chart shows how the range in rates may be affected by the total number of registered direct inquirers. It must be stressed that neither the Commission nor SIC has any control over this variable.

Type	Size	Estimated Annual Usage Charges		
		If 500 Direct Inquirers	If 1000 Direct Inquirers	If 1500 Direct Inquirers
Banks	Amounts of Deposits			
	Over $1 Billion	3200	3000	2800
	$500 Million to $1 Billion	1600	1500	1400
	Less than $500 Million	150	100	75
Securities Organizations	Annual Revenue (Most recent fiscal year)			
	Over $25 Million	3200	3000	2800
	$5 Million to $25 Million	2100	1800	1600
	$500,000 to $5 million	600	500	400
	Less than $500,000	300	250	200
Non-Bank Transfer Agents	Number of Shares Issued Last Year			
	100,000 shares or more	150	150	150
	Less Than 100,000 shares	50	50	50

All charges will be billed in advance on a quarterly basis and adjusted subsequently to reflect the actual aggregate volume of inquiries.

Questions concerning any aspect of the Lost and Stolen Securites Program should be directed to Commission personnel at 202-376-8129 or to SIC at 617-235-1940.

(Please photocopy this form, complete, and submit to SIC.)

1979 Registration Form
Lost and Stolen Securities Program

Instructions

COMPLETION AND FILING OF THE FORM - All institutions completing and filing this form should fill in Part I and Part IV and either Part II or Part III of the form. Completed forms should be returned to:

Securities Information Center, Inc.
Post Office Box 421
Wellesley Hills, Massachusetts 02181

The deadline for filing this form is December 15, 1978.

WHO SHOULD USE THIS FORM - This form should be completed and filed by all institutions subject to Rule 17f-1 (17 CFR §240.17f-1) 1/

(1) Who have NOT submitted a registration form for the Lost and Stolen Securities Program to Securities Information Center, Inc., OR
(2) Who have submitted a registration form for the Lost and Stolen Securities Program to Securities Information Center, Inc. and registered as a DIRECT INQUIRER, OR
(3) Who have submitted a registration form for the Lost and Stolen Securities Program to Securities Information Center, Inc., and registered as an INDIRECT INQUIRER AND desire to amend their prior registration form to either update the information submitted OR change their inquiry participation status.

WHO SHOULD NOT USE THIS FORM - Institutions should NOT complete or file this form if they have previously registered as an INDIRECT INQUIRER in the Lost and Stolen Securities Program by submission of a registration form to Securities Information Center, Inc. AND the data submitted thereon is current AND they do not desire to change their inquiry participation status. If an institution does not submit this form, the prior election of inquiry participation status will continue and be binding through June 30, 1979.

1/ The institutions subject to Rule 17f-1 are as follows: every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation.

PART I

A. Name of Institution _____

Mailing Address _____

_____

Zip Code _____

FINS Identification No. 2/ _ _ _ _ _ _ _

Name, Title, and Telephone Of Person to Whom Bills Should Be Directed: _____

( ) _____

Name, Title and Telephone of Person Responsible for Institution's Compliance with Rule 17f-1 (if different from above): _____

( ) _____

B. Type of Institution - Check all classifications listed below that describe the institution. 3/

( ) 1. Federal Reserve System member.
( ) 2. Bank whose deposits are insured by the Federal Deposit Insurance Corporation.
( ) 3. National Securities Exchange.
( ) 4. National Securities Exchange member.
( ) 5. National Securities Exchange member firm.
( ) 6. Registered Securities Association.
( ) 7. Registered Securities Association member.
( ) 8. Securities broker.
( ) 9. Securities dealer.
( ) 10. Municipal securities dealer.
( ) 11. Registered transfer agent.
( ) 12. Registered clearing agency.
( ) 13. Participant in a registered clearing agency.

2/ FINS ("Financial Industry Number Standard") numbers are compiled in the 1976 FINS Directory (First Edition), published by the Depository Trust Company. If an institution is uncertain as to whether it has a FINS number, it should consult this Directory, its

(Footnote Continued)

C. Size of Institution - Check the line below that describes the size of the institution.

1. Banks (those who checked lines 1 or 2 of B, above)

( ) More than $1 billion in deposits
( ) $500 million to $1 billion in deposits
( ) Less than $500 million in deposits

2. Securities Organizations (those who checked lines 3 through 10 of B, above)

( ) More than $25 million in annual revenues
( ) $5 million to $25 million in annual revenues
( ) $500,000 to $5 million in annual revenues
( ) Less than $500,000 in annual revenues

3. Non-Bank Transfer Agents (those who checked only classification 11 of B, above)

( ) That issued 100,000 shares or more last year
( ) That issued less than 100,000 shares last year

(Continued Footnote)

self-regulatory organization, its trade association, or SEC personnel at 202-376-8129. If an institution has not been assigned a FINS number, a number may be obtained at no cost by writing the Depository Trust Company, Attention: FINS Publication, 55 Water Street, New York, New York 10041.

3/ If no classification describes the institution, the institution is not subject to Rule 17f-1. If the institution desires to participate in the Lost and Stolen Securities Program as a "permissive inquirer," a special application must be made to the Commission pursuant to paragraph (d) of Rule 17f-1 in accordance with the instructions given in Securities Exchange Act Release No. 13832 at 42 FR 41024 (August 12, 1977).

PARTS II & III

Election of Inquiry Participation Status

To register as a DIRECT INQUIRER, complete Part II below. To register as an INDIRECT INQUIRER, complete Part III below. This election of inquiry participation status is binding through June 30, 1979.

Direct inquirers will be able to make inquiries of the data base directly and will be charged usage fees and registration fees as described in the Appendix of Securities Exchange Act Release No. 15289. Indirect inquirers will NOT be able to make inquiries directly and so must make arrangements with a registered direct inquirer to inquire on its behalf. Indirect inquirers will NOT be charged any fees by Securities Information Center, Inc. but should be aware that the institution making inquiries on their behalf may assess costs and service charges. (Indirect inquirers, however, should make reports of loss directly).

PART II

DIRECT INQUIRER

To register as a direct inquirer, please complete (A), (B), and (C) below.

A. Registration of Access Stations - Indicate the number of primary and secondary access stations the institution will use to make inquiries of the system. 4/ All institutions must have at least one primary access station. There is an annual registration fee of $20.00 for each primary access station and $10.00 for each secondary access station. 5/

NUMBER OF PRIMARY ACCESS STATIONS-----_____
NUMBER OF SECONDARY ACCESS STATIONS---_____

4/ Access stations are described in the "Description of the System" to which this form is appended.

5/ Institutions establishing secondary access stations should append to this form a list of the titles, addresses, and names of the responsible individual for each secondary access station.

B. Optional Prompt Written Confirmation Service - Indicate whether the institution desires prompt written confirmation service. If an institution desires this service, the Securities Information Center, Inc. will send the institution written confirmations of all inquiries and reports received by telephone, telex, and mail on a daily basis. If an institution does not desire this service, confirmations of inquiries will be sent on a monthly basis. There is a $20.00 per quarter charge for each primary access station using this service.

( ) We do NOT desire prompt written confirmation service.
( ) We do desire prompt written confirmation service and agree to pay the fee for this service.

C. Agreement to Pay Fees - After reading the statement below, please sign in the space provided.

Beginning January 3, 1979, we will participate in the Lost and Stolen Securities Program as a direct inquirer. We agree to pay Securities Information Center, Inc. the annual registration fee of $20.00 for each primary access station and $10.00 for each Secondary Access Station. We also agree to pay in advance quarterly usage fees, charges for optional services we request, and all sales, use and excise taxes, or other taxes, which may be levied on or in connection with, the furnishing of the facilities or services of the Securities Information Center, Inc. We understand that all fees are due and payable within ten days of date of invoicing.

_____
(Signature of Authorized Institutional Representative)

_____
(Type or Print) (TITLE)

PART III
INDIRECT INQUIRER

To register as an indirect inquirer, please complete the statement below and sign in the space provided.

Beginning January 3, 1979, we will participate in the Lost and Stolen Securities Program as an indirect inquirer. We have entered into an agreement with _____
who will (Name of Registered Direct Inquirer)

make inquiries on our behalf and we have a copy of this agreement on file available for inspection. We are aware that we will receive no direct confirmations from Securities Information Center, Inc., and that the institution that makes inquiries for us may pass through to us the costs of using the system on our behalf as well as additional service charges.

_____
(Signature of Authorized Institutional Representative)

_____
(Type or Print) (TITLE)

PART IV

ALL institutions filing this form must complete (A) and (B) below.

A. Agreement - After reading the statement below, please sign in the space provided.

We understand that our participation in the Lost and Stolen Securities Program is required by Rule 17f-1 (17 CFR §240.17f-1) under the Securities Exchange Act of 1934, as amended. We agree that we will make reports of missing, lost, counterfeit and stolen securities and make inquiries relative thereto, in accordance with Rule 17f-1 and instructions of the Commission or its designee.

We understand that the Securities Exchange Commission has designated Securities Information Center, Inc. to operate the Lost, Missing, Stolen, and Counterfeit Securities Information System. Securities Information Center, Inc. will perform its work in a businesslike manner and in accordance with reasonable standards of care. It does not, however, guarantee the accuracy of any information contained in the records of the System or of the responses to inquiries concerning missing, lost, counterfeit, and stolen securities furnished by it. Securities Information Center, Inc. shall not be liable for any unintentional delays, inaccuracies, errors or omissions in said responses, or for any damages arising therefrom or occasioned thereby, nor

will it be liable for non-performance or interruption of services due to fire, storms, strikes, labor disputes or any causes beyond its control or due to the act or omission of any other person, firm or corporation.

_____
(Signature of Authorized Institutional Representative)

_____
(Type or Print) (TITLE)

B. Names and Signatures of Persons Making Reports on Behalf of the Institution - All reports of missing, lost, counterfeit or stolen securities and all reports of recoveries must be submitted on Form X-17F-1A and signed by an individual whose signature is on file with Securities Information Center, Inc. All individuals having this authority should fill in the spaces below (attach additional pages on institution letterhead if necessary).

_____ _____
(Signature and Date) (Signature and Date)

_____ _____
(Print or Type) (TITLE) (Print or Type) (TITLE)

MAIL THIS FORM TO:

Securities Information Center, Inc.
Post Office Box 421
Wellesley Hills, Massachusetts 02181

DEADLINE FOR FILING IS DECEMBER 15, 1978.

[FR Doc. 78-31618 Filed 11-8-78; 8:45 am]

Federal Register

THURSDAY, NOVEMBER 9, 1978
PART III



DEPARTMENT OF COMMERCE

Economic Development Administration

■

SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

Advance Notice of Proposed Rulemaking

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

[13 CFR Part 308]

SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

Advance Notice of Proposed Rulemaking

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking announces that the Economic Development Administration is in the process of revising its regulations regarding the Special Economic Development and Adjustment Assistance Program. The Agency will be revising these regulations to establish separate programs for the two basic types of assistance extended under the authorizing legislation in order to facilitate administration of the Program. The intended effect of this advance notice is to provide the public and interested organizations with the opportunity to participate early in the rulemaking process.

DATES: Comments must be received on or before: December 11, 1978.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Economic Development Administration, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Paul J. Dempsey, National Title IX Coordinator, U.S. Department of Commerce, Room 7814B, Washington, D.C. 20230, 202-377-2659.

SUPPLEMENTARY INFORMATION: The Economic Development Administration (EDA) is considering amending Part 308 of Title 13 of the Code of Federal Regulations to establish separate programs for assistance extended under the "sudden and severe economic dislocation" provisions of section 901 of the Public Works and Economic Development Act of 1965 (Act) (42 U.S.C. 3241) and for assistance extended under the "long-term economic deterioration" provision of section 901. Currently, 13 CFR Part 308 provides a single framework for all assistance extended under the authority of Title IX of the Act. At this time, EDA has developed guidelines for the sudden and severe economic dislocation (SSED) program and is in the process of preparing guidelines to govern the long-term economic deterioration (LTED) program.

EDA is publishing the SSED program guidelines as an advance notice of proposed rulemaking in order to provide the public with opportunity to participate early in the rulemaking process, as required by Executive Order 12044 on Improving Government Regulations. As soon as guidelines are prepared concerning the LTED program, EDA will publish those guidelines as an advance notice as well. EDA is proceeding to revise its regulations at 13 CFR Part 308 in accord with the requirements of Executive Order 12044 regarding the preparation of "significant" regulations and is tentatively planning to publish new proposed regulations within the next six months.

GUIDELINES FOR THE PROPOSED SUDDEN AND SEVERE ECONOMIC DISLOCATION PROGRAM

I. AUTHORITY

Authority for this program is provided by Title IX of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121, 3241 *et seq.*), which was enacted on September 27, 1974 (Pub. L. 93-423) and amended on October 12, 1976 (Pub. L. 94-487). Regulations implementing Title IX appear in Volume 13 of the Code of Federal Regulations, Chapter III, Part 308.

II. STATEMENT OF PURPOSE

A. *Public Works and Economic Development Act (PWEDA).* The Act authorizes financial assistance for planning, public works and development activities designed to foster economic development in jurisdictions experiencing substantial and persistent unemployment and underemployment. The financial assistance should enable such areas to contribute to the enhancement of the domestic prosperity and to help themselves achieve: (a) lasting improvement; (b) a stable and diversified local economy; (c) improved local conditions. These objectives should be sought in a manner that does not transfer jobs from other areas of the country and that is consistent with sound, long-range planning.

B. *Title IX.* An amendment to the Act, Title IX provides special economic development and adjustment assistance to help State and local areas:

1. Meet special needs arising from actual or threatened severe and sudden economic dislocations; and
2. Meet special needs associated with long-term economic deterioration.

In addition, Title IX encourages cooperative intergovernmental action to prevent or solve economic adjustment problems.

These guidelines govern only the administration of the sudden and severe economic dislocation provision of Title IX. Separate guidelines have been developed for the long-term economic deterioration provision of Title IX.

III. SUMMARY OF THE SUDDEN AND SEVERE ECONOMIC DISLOCATION PROGRAM

The Sudden and Severe Economic Dislocation program is intended to help local areas develop and implement economic adjustment plans. The assistance is designed to anticipate and prevent the occurrence of an economic dislocation, or to reestablish employment opportunities and economic stability consistent with the long term economic prospects for the area as soon as possible after a dislocation occurs. It is meant to be a rapid response program.

In order to qualify for assistance, an area must be threatened with, or must have recently suffered, a severe economic dislocation. Qualifying criteria are provided in Section IV below.

The cornerstone of the Sudden Dislocation program is an Adjustment Plan that identifies the adjustment needs of the area, describes the activities planned to meet them, and explains how these activities are to be carried out. EDA cannot commit Title IX funds to carry out an adjustment effort until it has reviewed and approved the applicant's Adjustment Plan.

Adjustment Planning Grants are available to support preparation of an Adjustment Plan, if one does not already exist. Awarding such a grant to an area, however, does not commit EDA subsequently to fund all or any of the plan's component projects.

Preliminary Adjustment Planning Grants. When the actual extent of a dislocation is difficult to determine, but there is reason to believe it may be severe, a Preliminary Adjustment Planning Grant may be awarded for the principal purpose of identifying explicit adjustment needs, and their magnitudes. If warranted, a regular Adjustment Planning Grant will subsequently be awarded to complete a detailed Adjustment Plan.

Ajustment Implementation Grant. The Sudden and Severe Economic Dislocation program can fund the implementation of related projects (activities) encompassed by the approved Adjustment Plan with a single Adjustment Implementation Grant. Such assistance may be combined with funds from other EDA programs, as appropriate. While there are virtually no limitations on the types of projects that can be funded (as long as they are shown to help solve the problems(s) identified), a component project must meet all applicable statutory requirements before program funds can be disbursed for it.

If an Adjustment Plan identifies needed long-term adjustments in the local economy (in addition to immediate measures), the detailed planning for these, and any related implementation funding, will be considered under this program only if they are directly related to the sudden and severe dislocation. If the relationship is marginal, these other adjustments will be considered under other programs.

IV. ELIGIBILITY REQUIREMENTS

A. *Eligible Applicants.* To be eligible, an applicant must be one of the following:

1. A public or private non-profit organization that has been determined to be the representative of a redevelopment area established under Title IV of the Act;
2. An Economic Development District established under Title IV of the Act;
3. An Indian tribe;
4. A State;
5. A city or other political subdivision of a State; or
6. A consortium of such political subdivisions.

In general, the smallest entity capable of dealing effectively with the problem will be deemed the proper applicant. A State will be considered the proper applicant only in those cases in which the problem is common to a wide area or is most effectively handled at the State level.

B. *Eligible Time-Frames.* In order to be eligible for consideration:

1. The applicant may not request assistance more than two years in advance of a threatened dislocation; or
2. The applicant must request assistance within one year after a dislocation has taken place.

C. *Eligible Economic Dislocations.* There are two basic types of eligible economic dislocations:

1. The permanent loss of a significant number of jobs owing to direct actions of the Federal Government, import competition,[1] a disaster that permanently destroys a significant part of the employment base and for which other recovery assistance is unavailable, or the sudden and permanent closure or severe curtailment of a major employer for other reasons; and
2. Sudden major economic changes of a magnitude beyond the capacity of an area to respond, such as those that might be associated with the establishment of a major new defense installation, for which other sources of assistance are unavailable.

[1] Assistance extended under the SSED program on the basis of the loss of jobs because of the effects of import competition is limited to providing assistance to the affected community. Adjustment assistance for trade impacted firms and workers is available under the Trade Act programs.

Priority consideration will be given to dislocations resulting in the loss of a significant number of jobs.

D. *Minimum Impact Thresholds* (for job-loss dislocations only). In order to qualify for consideration, eligible dislocations must meet the following minimum test of impact severity:

1. For areas not in Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to:

- 2 percent of the employed population, or
- 500 direct jobs.

b. If the unemployment rate of the Labor market area is equal to or less than the national average, the dislocation must amount to:

- 4 percent of the employed population, or
- 1,000 direct jobs.

2. For areas within Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Standard Metropolitan Statistical Area exceeds the national average, the dislocation must amount to:

- 0.5 percent of the employed population, or
- 4,000 direct jobs.

b. If the unemployment rate of the Standard Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to:

- 1 percent of the employed population, or
- 8,000 direct jobs.

Surpassing the minimum impact threshold does *not* confer eligibility for the program on an area. These are merely the *minimum* criteria for consideration of an area. Many other factors are considered, as discussed in section V below.

Eligible time-frames and minimum impact threshold requirements may be waived in cases in which the Assistant Secretary determines that adherence to them would hinder achieving the intended purposes of Title IX.

V. PREFERENCE FACTORS IN AWARDING GRANTS

Because of limited program funds, preference will be given to areas demonstrating the greatest need and ability to make effective use of grant funds. Preference factors include the following:

A. *Permanent loss of a significant number of jobs:*

1. The number of jobs lost;
2. The percentage *increase* in unemployment in the impacted area attributable to the dislocation;
3. The characteristics of the affected work force (i.e., age, skill categories, etc., which would have bearing on their ability to obtain other work);
4. The composition and status of the local and area economy and the composition of the area work force;
5. The probable magnitude of the secondary and tertiary impacts on the area;
6. The national implications of the proposed project for saving a large number of jobs nationwide. (Demonstration of the viability of a new technology, for example, could help prevent the threatened loss of a large number of jobs nationwide).

B. *Sudden major change in the economy of an area:*

1. The extent to which the abrupt need for increases on local services exceeds the capacity of the community to provide them;
2. The degree of distress incurred by the population present before the build-up;
3. The degree to which the adjustment problem was precipitated by a direct act of the Federal Government or by a need to meet a national emergency.

C. *General:*

The demonstrated capacity of the applicant to administer the proposed project effectively;

2. The extent to which community support is mobilized behind the adjustment effort;
3. The degree to which the adjustment plan is anticipatory and innovative in meeting the adjustment needs identified;
4. The extent to which program funds will leverage private investment;
5. The amount of funding from other sources, both public and private, and the unavailability of funding from other sources for the activities for which program funds are requested;
6. The extent to which program funds will act as a catalyst to bring forth cooperative efforts;
7. The extent to which the requested assistance will have impacts that go beyond the direct benefits of the assistance;
8. The degree to which the dislocation may cause or exacerbate chronic economic problems in the area; and
9. The extent to which the requested assistance appears to fulfill the purposes of the Act (see section IIA, items a–c).

VI. TYPES OF ASSISTANCE AVAILABLE

A. *Adjustment Planning Grants.* Adjustment Planning Grants may be awarded to eligible applicants that do not have an approved Adjustment Plan, and do not have the resources to prepare one.

The Adjustment Plan must address both the immediate reemployment or other assistance needs of the dislocated workers and the economic adjustment needs of the local economy. Because of the emergency nature of

these problems, the Adjustment Plan should be completed within three to six months. To be approvable, it must contain the following elements:

Part 1: Detailed Adjustment Plan

a. Brief economic history and overview of the area, providing an understanding of the context of the dislocation(s).

b. Description of each economic dislocation, including the causal factors and the direct and indirect impacts on the area; with particular reference to the preference factors in section V. A or V. B and V. C, above.

c. Identification of the specific immediate and longer term objectives of the adjustment strategy. Objectives should be in measurable terms and should incorporate target dates (e.g., create interim reemployment opportunities for 500 presently dislocated workers within six months; reduce employment dependence on a certain industry by 25 percent within five years; complete a study of potential new indigenous enterprises that would provide at least 200 new local jobs within one year; expand manufacturing employment by 300 jobs within three years; etc.)

d. Description of each activity proposed as part of the Adjustment Plan. The description of each element intended to offset the dislocation(s) in the near term and therfore to be implemented immediately should include: start-up and operating costs, anticipated source(s) of funding, and a detailed explanation of the method by which it will be carried out. The description of elements addressing longer-term restructuring needs of the local economy may be considerably less detailed, if they are to be considered under other programs; their purpose here is to provide an understanding of the broader and longer-term context in which the near-term measures will be taken.

e. Explanation of the interrelationships among the various proposed activities and the manner in which they comprise elements of an integrated overall adjustment program that addresses the reemployment of impacted workers and the adjustment needs of the local economy.

f. A graphic device that shows the timing of the various activities (or components of the activities) that are planned, the relationship between the completion of one activity and the initiation of another, and the connection between each element and one or more of the specified adjustment objectives. The purpose of this graphic device is to establish a set of specific incremental performance criteria for the benefit of both the applicant and the EDA project manager. A summary overall financial plan should accompany the graphic device, including identification of funding sources other than EDA.

Part 2: Adjustment Plan Support

g. Evidence that the plan was developed in cooperation with Regional Commissions, State 302 and other planning agencies, political subdivisions, Indian tribes, Economic Development Districts, and other planning and development organizations that might be affected by its implementation; that it is consistent with existing zoning ordinances, plans, and planning efforts; and that there has been involvement of the impacted individuals in its development.

h. Comparison between the chosen adjustment plan and alternatives that were considered (for selected elements or for the entire plan), and an explanation of why the proposed program is the most cost-effective or otherwise superior means for attaining the specified adjustment objectives.

i. Identification and analysis of the potential environmental impacts of the planned activities, according to instructions provided in Attachment 3 of the guidelines.

j. Where a revolving loan fund has been recommended, detailed plans for the administration and use of the funds as a tool in implementing the adjustment plan and for other development and adjustment uses after the plan has been implemented.

k. Description of how the community is mobilizing to carry out the adjustment plan (groups that have been formed, individual actions and responsibilities, etc.).

Award of an Adjustment Planning Grant does not commit EDA subsequently to fund the implementation of all or any part of the Adjustment Plan.

B. *Preliminary Adjustment Planning Grants.* If EDA determines that insufficient information is available to establish the appropriate level of assistance, a Preliminary Adjustment Planning Grant may be awarded. This preliminary grant will be primarily for the purpose of identifying and assessing the magnitude of the impacts of the dislocation. In addition, the plan must provide a preliminary description of the activities planned to meet identified adjustment needs and a preliminary explanation of the details of the methods of carrying out the planned activities. If the preliminary plan calls for grant funds to be used for adjustment loans, it must contain assurances that proceeds from the repayment of loans will be used for economic adjustment.

A Preliminary Adjustment Planning Grant will usually be modest and of short duration. EDA must approve the choice of contractor, in writing, and must be represented at at least one review meeting during the contract performance period. If, upon completion of the Preliminary Adjustment Planning Grant, EDA determines that further assistance is warranted, a regular Adjustment Planning Grant will be awarded to support full-scale adjustment planning in accordance with VI. A., above. In order to avoid any semblance of conflict of interest, the contractor performing on a Preliminary Adjustment Planning Grant will not be eligible to perform on a subsequent regular Adjustment Planning Grant, if awarded. EDA recognizes that adjustment activities tentatively identified under a Preliminary Adjustment Planning Grant may be revised during plan preparation under a regular Adjustment Planning Grant.

C. *Adjustment Implementation Grants.* An Adjustment Implementation Grant may be awarded to assist the implementation of an approved Adjustment Plan. As a rule, the *maximum* amount of an Adjustment Implementation Grant will be $3,000 per job retained or replaced, with an upper limit of $5 million. Projects for which implementation funds are sought must be shown in the Adjustment Plan to represent the most cost-effective response to the dislocation(s) upon which eligibility is based.

Adjustment Implementation Grants may be used for any of the following: public facilities, public services, business development, planning, unemployment compensation (as provided in 903(d) of the Public Works and Economic Development Act), rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals and businesses, and other assistance which demonstrably furthers the economic adjustment objectives of Title IX.

VII. APPLICATION PROCEDURES

A. *Adjustment Planning Grants.* Application for an Adjustment Planning Grant must be made according to the application procedures contained in Attachment "M" of Office of Management and Budget Circular A-102 Revised. Part IV, Program Narrative, of Attachment "M" (Exhibit M-3) must be prepared according to the instructions in Attachment 1 of these Guidelines. Environmental requirements are explained in Attachment 3 of these Guidelines.

B. *Preliminary Adjustment Planning Grants.* If EDA determines that a Preliminary Adjustment Planning Grant should be awarded, application procedures will be the same as for regular Adjustment Planning Grants. The grant agreement will be amended to convert it to a regular Adjustment Planning Grant subsequently, if deemed appropriate by EDA.

C. *Adjustment Implementation Grants.* Application for an Adjustment Implementation Grant must be made according to the application procedures contained in Attachment "M" of Office of Management and Budget Circular A-102 Revised. Part III, Budget, and Part IV, Program Narrative, of Attachment "M" (Exhibit M-3) must be prepared according to the instructions in Attachment 2 of these Guidelines. Environmental requirements are explained in Attachment 3 of these Guidelines.

VIII. PROCESSING OF APPLICATIONS

Sudden and Severe Economic Dislocation program applications will be devoloped by the applicant with the assistance of the Economic Development representative and the Regional Office staff. Completed applications will be processed through the Regional Offices and sent to Washington, D.C., for final action.

Grants will be approved by the Assistant Secretary and obligated upon acceptance of the grant offer by the grantee. In most instances, disbursements of funds will be by letter of credit according to procedures provided by the Agency.

IX. FINANCIAL GUIDELINES

A. *Use of Grant Funds.*

1. Adjustment Planning Grants and Preliminary Adjustment Planning Grants may be used by the recipient only for direct expenditures, including the purchase of services.

2. Adjustment Implementation Grants may be used either in direct expenditures by the recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other forms of assistance, with the exception that no grant shall be made to a private profit-making entity.

B. *Redistribution of Loans*

1. Interest rates on loans may be charged by grant recipients consistent with the rates charged under their existing authorities. In the absence of existing authorities, reasonable rates as agreed to by EDA may be charged. However, the minimum interest rate allowable is four percentage points below the interest rate charged under Title II of the Act.

2. Third party loan repayments will be maintained in a revolving credit account. The grant recipient must certify to EDA that any reuse of loan repayments will be for economic development and adjustment activities consistent with the purposes of Title IX, and consistent with the plan for the reuse of revolving loan funds.

C. *Local Share.* The grant rate for Title IX SSED grants normally will be 75 percent. A non-Federal share is expected and encouraged as evidence of the involvement of State and local government and, if appropriate, the local community. The local share may be in-kind, and at the discretion of EDA does not have to be in place prior to disbursement of grant funds.

Since the program is designed to provide timely assistance to address an economic adjustment problem, the non-Federal share can be waived by EDA if a local share cannot reasonably be expected to be obtained or when its provision would delay and adversely affect the implementation of a plan of adjustment.

D. *Partial Funding.* EDA may choose to fund only certain elements of an Adjustment Plan. This applies to all situations including those in which an applicant received an Adjustment Planning Grant.

X. MONITORING

A. *Reporting Requirements.* Each grantee will be required to submit a complete report to the Assistant Secretary or his designee for each year that grant funds are being used and for one year thereafter.

Such annual reports will describe:

1. The status of each activity identified in the scope of work funded by the grant;

2. The costs incurred for each completed and/or partially completed activity, including operational costs;

3. How each activity in the scope of work was carried out, the extent to which performance benchmarks were achieved or surpassed (and why), and problems encountered in general and with regard to each activity;

4. The degree to which activities have achieved their goals as described in the adjustment strategy; and

5. A general evaluation of the effectiveness of the use of the Special Adjustment Assistance provided to the recipient.

B. *Audit Requirements.* The program budget must provide for audits by an auditor acceptable to the Office of Audits of the Department of Commerce and in accordance with OMB Circular No. A-102, Attachment G, and OMB Circular No. A-110, Attachment F. Such audits will be conducted for submission to the Agency, either at the termination of an individual project that is part of the Adjustment Plan, or at the termination of the entire adjustment program, whichever EDA deems most appropriate.

Comments are welcome on these guidelines. Comments should be sent to the Assistant Secretary at the above address within thirty days, although all comments will be considered. The attachments referred to in Part VII of the guidelines are available upon request.

This advance notice of proposed rulemaking is issued under the authority to sections 701 and 901-905 of the Act (Pub. L. 89-136, 79 Stat. 570, 42 U.S.C. 3211, 3241 *et seq.*), and Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

Dated: November 6, 1978.

ROBERT HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-31717 Filed 11-8-78; 8:45 am]

federal register

THURSDAY, NOVEMBER 9, 1978
PART IV



COMMUNITY SERVICES ADMINISTRATION

■

GRANTEE FINANCIAL MANAGEMENT

Non-Federal Share Requirements for Title II, Sections 221, 222(a), and 231 Programs

[6315-01-M]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-3a]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule informing grantees of a change in the non-Federal share contribution required for assistance provided under sections 221 and 222(a) of the Economic Opportunity Act of 1964 as amended. The final rule also consolidates into one subpart those existing waiver criteria which will continue to be applicable to grants under these sections of the Act. This document implements a legislative change to section 225(c) enacted by passage of the Economic Opportunity Amendments of 1978.

EFFECTIVE DATE: Section 1068.20-2(a), Legislative Requirements (secs. 221 and 222(a)), is effective as of the date of enactment of the Economic Opportunity Amendments of 1978 (Nov. 2, 1978). Remaining sections of this subpart are effective December 11, 1978.

FOR FUTHER INFORMATION CONTACT:

Ms. Jacqueline G. Lemire, telephone 202-254-5047; teletypewriter 202-254-6218.

SUPPLEMENTARY INFORMATION: As a result of a provision in the Community Services Act of 1974 mandating a decrease for 2 consecutive years in the Federal share contribution to grants made under sections 221 and 222(a) of the Economic Opportunity Act, both community action agencies and other organizations were required to increase their share in direct proportion. This brought the Federal to non-Federal ratios to 70/30 and 60/40 depending on the aggregate amount of financial assistance received.

Because of this required massive increase in local support, many CAA's and other grantees were unable to increase local financial support in the amounts called for. Therefore, the Agency was forced to issue relatively broad criteria for waiver as provided for in section 225(c) and published in § 1068.22 (CSA Instructions 6802-5a and 6802-5a, Ch. 1.)

The Congress recognized the burden that this high matching requirement was imposing on programs for the poor and acted to return the matching requirement to the Pre-Community Services Act level by revising the first sentence of section 225(c) of the EOA to read as follows: "Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to section 221 and section 222(a) of this title shall not exceed 80 per centum of the approved costs of the assisted programs or activities."

The main purpose for issuing this subpart is to inform grantees and the public that the non-Federal share requirement for grants made under sections 221 and 222(a) has been reduced and to provide a formula by which grantees can calculate the non-Federal share for their ongoing grants.

In addition, we are taking this opportunity to consolidate into this subpart most of the existing regulations containing criteria for waiving the non-Federal share. One major exception to be noted is § 1068.22 (CSA Instruction 6802-5a and the change thereto) which provides eligibility for waiver of some of the NFS to grantees serving communities which are experiencing severe economic problems. This broad criteria for waiver was implemented because almost one-third of CSA's grantees were unable to raise the non-Federal share when the requirements were 30 percent and 40 percent. The Agency feels that the new 80/20 requirement is a realistic match and that most grantees can raise the required local share. In supporting a return to this ratio before the Congress, the Director noted that the new match would be strictly enforced. Therefore, the waiver criteria based on severe economic conditions in the community will not apply to a grant or that portion of a grant that carries an 80/20 matching ratio.

Other existing waiver criteria remain in effect with one exception. Section 1068.25 (CSA Instruction 6802-8, Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds) is being dropped since all conversions from Program Account 22 to Program Account 21 have been completed and the Forms 314 reflect the NFS waiver.

You will note that the waiver criteria for poor counties has been carried over into this consolidated regulation and that the data base continue to be the 1970 Census of Housing and Population, PC-1 Series, as shown in the 1972 County-City Data Book. There has been no update of data related to counties since 1970. The next update will be as a result of the 1980 Census. Therefore, in order to act equitably, CSA is continuing to use the 1970 census data.

The Agency has determined that it will not be necessary to revise existing forms 314 to change the non-Federal share requirement for that portion of the grant/program year which will carry the 80/20 matching ratio. The policy contained in this final regulation will suffice for audit purposes.

The provisions of this subpart are issued under the authority of Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

GRACIELA (Grace) OLIVAREZ,
Director.

1. 45 CFR 1068.21-1 through 1068.21-3, 1068.23-1 through 1068.23-4, 1068.24-1 through 1068.24-3, and 1061.32-1 through 1061.32-4 are hereby deleted. The substantive provisions of those sections have been consolidated in to a revised subpart consisting of §§ 1068.20-1 through 1068.20-5 as set forth below.

2. 45 CFR 1068.25-1 through 1068.25-2 is deleted.

3. In 45 CFR Part 1068, Subpart — Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs, is revised to read as follows:

Subpart—Non-Federal-Share Requirements for Title II, Sections 221, 222 (a), and 231 Programs

Sec.

1068.20-1 Applicability.
1068.20-2 Non-Federal-share requirements.
1068.20-3 Waivers of non-Federal share requirements and criteria.
1068.20-4 Pooling of non-Federal share.
1068.20-5 Maintenance of effort.

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

Subpart—Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs

§ 1068.20-1 Applicability.

This subpart is applicable to grants funded under title II, sections 221, 222(a), and 231 of the Economic Opportunity Act as amended if the assistance is administered by the Community services Administration.

§ 1068.20-2 Non-Federal-share requirements.

(a) Legislative requirement (secs. 221 and 222(a)). All grants funded under sections 221 and 222(a) of the EOA which become effective on or after October 1, 1978 carry a requirement for a 20 percent matching share. for ongoing grants, the 80/20 matching requirement is applicable to that portion of the time remaining in the grant year. (See appendix A, re procedures for prorating the non-Federal share for grants to which both the higher rate and the new requirements apply.)

(b) Administrative requirement (sec. 231). Grantees who receive financial assistance under section 231 (SEOOs) are required to provide non-Federal share in the amount of 20 percent.

§ 1068.20-3 Waivers of non-Federal share requirements and criteria.

Section 225(c) of the EOA as amended also provides that, "The Director may approve assistance in excess of such percentages if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purpose of (title II)." Following are notices of waivers for certain programs, communities, and activities. Publication of the following, however, does not preclude the Director from developing additional waiver criteria for other circumstances; however, in the event that such criteria are developed they will be published in the FEDERAL REGISTER.

(a) *Program waivers.* (1) Community Food and Nutrition (222(a)(1)). Because the requirement of non-Federal share could pose serious obstacles to meeting program objectives on an emergency basis the non-Federal share requirments have been waived for this program since its inception and continue to be waived. The waiver is automatic and does not require a request for waiver.

(2) *Emergency energy conservation program—Crisis intervention (222(a)(5)).* Non-Federal share requirements are waived for grants made under section 222(a)(5) for intervention activities to prevent hardship or danger to health due to the emergency nature of these grants. Components include grants, loans, fuel voucher or stamp programs, or payment guarantees; mediation with utility companies or fuel suppliers, warm clothing, and blankets. The waiver is automatic and does not require a request for waiver from grant applicants.

(3) *Emergency energy conservation program—Program Support (222(a)(5)).* Eligible activities under Program Support (training and technical assistance, research and demonstration, and evaluation) are not the type that can generate non-Federal share since they are process-oriented rather than operational in nature. Therefore, the non-Federal-share requirement is automatically waived for Program Support projects funded under section 222(a)(5).

(b) *Activity waivers.* (1) *Crisis relief (natural disasters).* One of the major objectives of non-Federal share is to provide local resources for and to encourage involvement at the local level in the operating programs of CSA grantees. However, to require non-Federal share contributions for grants awarded to provide crisis intervention assistance to communities affected by natural disasters over which there is no control, for example floods and tornadoes, is inconsistent with the major intent of the legislation. Consequently, the Director is exercising his/her authority under section 225(c) of the Economic Opportunity Act of 1964 as amended by waiving the non-Federal share for grants to provide crisis relief as a result of a natural disaster. The waiver is automatic and does not require a request for waiver from the grant applicant.

(2) *Phaseout grants.* (i) In certain instances and under defined procedures, CSA terminates and closes out grantee operations. As necessary, CSA may award additional Federal funds when there is a grantee termination and phaseout action and there are not sufficient funds on hand to meet liabilities of the grantee and/or its delegate agencies to third parties when such costs result from the phaseout activities. To require non-Federal share contributions for grants awarded to meet the legal obligations of grantees is inconsistent with the major intent of the legislation. Consequently, the Director is exercising his/her authority under section 225(c) of the Economic Opportunity Act of 1964 as amended by waiving the non-Federal requirement for a phaseout grant as a result of termination. The grant, however, must include no operational elements, all previously required portions of the work program must have been completed, and there must be documented evidence that the grantee has insufficient funds to meet those liabilities which are costs of phasing out.

(ii) The grantee must formally request a waiver and the above conditions must exist or be satisfied by the grantee prior to consideration of a waiver under this subsection.

(c) *Communities.* (1) *Low-income counties.* (i) A long-standing objective of CSA's exemption policy has been to assure that the poorest counties in the Nation are able to participate in community action programs despite their lack of local economic resources to match Federal grant funds. These exemtions continue. (ii) CSA's waiver criteria in this instance reflects a percentage of the population below the poverty threshold.

Counties with 35 percent or more of families poor[1] are eligible for waivers of a portion or all of the required NFS. In addition those counties with at least 24.5 percent of families poor[1] may request a waiver of up to 50 percent of the required NFS. Appendices B and C provide complete listings of the eligible counties.

(iii) A request for a waiver must be in the form of a letter accompanying application for a grant and shall state (A) the amount of the non-Federal share which the community can provide, and (B) that the applicant has made a reasonable effort to raise more non-Federal share and has been unsuccessful. CSA may require that additional evidence be submitted in support of these representations.

(iv) To compute NFS for a multi-county CAA where one or more counties qualify for waivers, use the following procedure:

(A) Determine each county's NFS on the basis of the relative proportion of total target population in the counties.

Example: A three county CAA with a target population of 100,000 whose Federal assistance requiring NFS is $500,000:

County	Population	Proportion of NFS (percent)	NFS at 20 percent
A	20,000	20	$25,000
B	30,000	30	37,500
C	50,000	50	62,500
Total	100,000	100	125,000

(B) If one or more counties are eligible for waiver the NFS is first computed as noted above. If county A qualifies for and receives a waiver of all NFS, the NFS contribution required of that CAA would be reduced by $25,000.

(C) If county C qualifies for a partial waiver, reduce the $62,500 by the *approved percentage* of NFS waived and reduce the total NFS requirement of that CAA by the resulting dollar figure.

(2) *Indian Reservations, Puerto Rico, the Trust Territories, and the Virgin Islands.* (i) Because of the high incidences of poverty on Indian reservations and in Puerto Rico, the Trust Territories, and the Virgin Islands, any federally recognized Indian tribe on a reservation, or any organization or agency in these areas applying for funds under sections 221, 222(a), and 231 of the Economic Opportunity Act is eligible for a waiver of a portion or all of the non-Federal share requirement.

(ii) A request for waiver must be in the form of a letter accompanying each request for *program year* funding and should be addressed to the community services office which administers grants for that particular area. The letter shall state (A) the period for which the waiver is being requested, (B) the amount of the non-Federal share which the community can provide, and (C) that the applicant has made a reasonable effort to raise the required amount of the non-Federal share and has been unsuccessful. CSA may require that additional evidence be submitted in support of these representations.

[1] 1970 Census of Housing and Population, PC-1(c) series as shown in the 1972 County-City Data Book.

(3) *Farmworker-governed organizations (grants under section 222(a)(5), emergency energy conservation services program only).* (i) Because of the relatively recent establishment of most farmworker-governed organizations, and the lack of opportunity to develop relationships with private sector, local governments, and other sources of non-Federal share contributions, CSA has determined requirements of a non-Federal share for grants made to farmworker-governed organizations under section 222(a)(5) of the act would be unreasonable.

(ii) Therefore, the non-Federal share requirement is waived for grants made under section 222(a)(5) of the Economic Opportunity Act as amended to farmworker-governed organizations.

(4) *Communities faced with severe economic problems.* The provisions of § 1068.22 (CSA instructions 6802-5a and s 6802-5a, CH1) apply only to those grants or portions of grants whose non-Federal share requirement exceeds 20 percent.

§ 1068.20-4 Pooling of non-Federal share.

(a) CSA permits pooling of non-Federal share between exempt and nonexempt counties served by the same CAA.

(b) Pooling of excess non-Federal share among those program accounts funded by the Community Services Administration during a single program year also is acceptable. (NOTE.—This does not allow pooling with other programs authorized under the Economic Opportunity Act which are administered by other Federal agencies, e.g., title V, Headstart and Follow Through, administered by HEW.)

§ 1068.20-5 Maintenance of effort.

(a) Section 225(d) states that no program shall be approved for assistance under sections 221 and 222(a) unless the Director satisfies himself/herself (1) that the services to be provided under such program will be in addition to, and not in substitution for, services previously provided without Federal assistance and (2) that funds or other resources devoted to programs designed to meet the needs of the poor within the community will not be diminished in order to provide any contributions required under section 225(c).

(b) The principal intent of this requirement is to insure that the ongoing level of antipoverty effort in the community is increased. Federal assistance is intended to supplement and raise existing levels of local support for action against poverty, not to replace it.

(c) To insure that the requirements of section 225(d) are satisfied, both of the following conditions must be met:

(1) The applicant must demonstrate that the proposed expenditures, including any amounts claimed as non-Federal share, will represent a net increase in the expenditures from non-Federal sources for similar activities for this purpose. The base period to be used for comparison is fiscal year 1975.

(2) In addition, the applicant shall assure CSA that the prior level of expenditures or contributions within the community which are concerned with poverty will be maintained in the sense that funds have not been and will not be diverted from other activities focusing on the needs of the poor so as to finance the community action programs.

(d) The requirements of section 225(d) apply only with respect to program accounts funded in whole or in part under sections 221 and 222(a) of the act, and not to activities which are financed under other sections.

APPENDIX A

HOW TO COMPUTE NON-FEDERAL SHARE FOR GRANTS CARRYING BOTH A 20-PERCENT NON-FEDERAL SHARE REQUIREMENT AND A HIGHER RATE

Following are tables and a formula which may be used in computing NFS for grants carrying both a 20-percent NFS requirement and a higher rate.

(NOTE.—Since Federal funds are not affected by the change in NFS requirement, forms 314 will not be amended.)

ACTION

Months* elapsed from effective date of grant to October 1, 1978	Multiply Federal share by figures in appropriate column to determine new non-Federal share (in dollars)	
	Grant currently carries 40 percent NFS requirement	Grant carries 30 percent NFS requirement
1	0.28472	0.26488
2	.31944	.27976
3	.35416	.29464
4	.38889	.30952
5	.42361	.32440
6	.45833	.33928
7	.49305	.35416
8	.52778	.36904
9	56250	.38392
10	59722	.39880
11	.63194	.41368

*Do not count partial months.

You may call the Information and Management Systems staff, CSA Headquarters, 202-254-5300, for assistance in determining NFS for grants carrying NFS requirements other than those indicated above.

[6315-01-C]

APPENDIX B
09-18-78

COUNTIES WITH 35% OR MORE LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
PHILADELPHIA	VIRGINIA	LEE	39.7
	WEST VIRGINIA	BRAXTON	37.4
		CALHOUN	37.1
		CLAY	39.6
		GILMER	37.0
		LINCOLN	38.0
		MINGO	36.5
		WEBSTER	39.1
ATLANTA	ALABAMA	BARBOUR	36.0
		BULLOCK	46.6
		CHOCTAW	35.5
		CONECUH	35.5
		CRENSHAW	38.5
		GREENE	53.7
		HALE	44.7
		LAMAR	35.0
		LOWNDES	50.2
		MACON	37.4
		MARENGO	40.3
		PERRY	41.5
		SUMTER	45.1
		WILCOX	46.6
	FLORIDA	JEFFERSON	35.1
		WASHINGTON	35.9
	GEORGIA	ATKINSON	41.0
		BAKER	45.7
		BROOKS	35.2
		BURKE	43.1
		CALHOUN	43.0
		CLAY	51.7
		CRAWFORD	35.9
		DOOLY	39.2
		EARLY	36.5
		HANCOCK	42.0
		JENKINS	35.9
		MILLER	40.2
		QUITMAN	47.1
		RANDOLPH	41.8
		STEWART	43.0
		TALIAFERRO	41.0
		TERRELL	35.5
		TREUTLEN	35.0
		UNION	35.4
		WARREN	37.8
		WEBSTER	41.2

COUNTIES WITH 35% OR MORE LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	KENTUCKY	BELL	39.3
		BREATHITT	54.9
		CLAY	57.6
		CLINTON	40.0
		CUMBERLAND	39.4
		ELLIOTT	43.7
		HARLAN	36.2
		JACKSON	50.2
		JOHNSON	38.5
		KNOTT	56.6
		KNOX	48.4
		LAWRENCE	40.0
		LEE	48.4
		LESLIE	55.5
		LETCHER	40.1
		MC CREARY	53.7
		MAGOFFIN	48.9
		MARTIN	53.4
		METCALFE	39.7
		MONROE	40.5
		MORGAN	43.5
		OWSLEY	61.6
		PERRY	39.6
		ROCKCASTLE	36.1
		RUSSELL	35.7
		WAYNE	50.1
		WHITLEY	39.7
		WOLFE	59.0
	MISSISSIPPI	AMITE	42.1
		ATTALA	37.3
		BENTON	38.2
		BOLIVAR	44.7
		CARROLL	42.9
		CHOCTAW	35.5
		CLAIBORNE	42.5
		COAHOMA	42.8
		COPIAH	35.9
		FRANKLIN	37.8
		GREENE	38.8
		HOLMES	53.0
		HUMPHREYS	53.8
		ISSAQUENA	42.7
		JASPER	40.5
		JEFFERSON	59.0
		JEFFERSON DAVIS	39.8
		KEMPER	48.6
		LAWRENCE	36.9
		LEAKE	38.5
		LEFLORE	36.4
		MADISON	39.8
		MARION	36.8
		MARSHALL	44.1
		MONTGOMERY	37.8
		NOXUBEE	47.5
		PANOLA	38.5
		QUITMAN	49.8
		SHARKEY	46.8
		SUNFLOWER	46.2
		TALLAHATCHIE	50.0

COUNTIES WITH 35% OR MORE LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	MISSISSIPPI	TUNICA	55.4
		WALTHALL	35.9
		WAYNE	37.3
		WILKINSON	47.9
		YALOBUSHA	37.4
		YAZOO	42.7
	NORTH CAROLINA	BERTIE	37.5
		NORTHAMPTON	38.1
		PERQUIMANS	35.2
		TYRRELL	37.9
	SOUTH CAROLINA	CLARENDON	42.5
		JASPER	37.0
		LEE	40.1
		WILLIAMSBURG	40.5
	TENNESSEE	CAMPBELL	36.2
		CLAIBORNE	38.8
		CLAY	39.3
		FAYETTE	44.5
		FENTRESS	42.9
		GRUNDY	40.2
		HANCOCK	55.5
		HAYWOOD	40.8
		JACKSON	38.0
		LAUDERDALE	39.6
		OVERTON	35.8
		SCOTT	42.1
CHICAGO	ILLINOIS	PULASKI	35.7
DALLAS - FORT WORTH	ARKANSAS	CHICOT	43.9
		FULTON	41.5
		LEE	43.8
		LINCOLN	36.8
		MONROE	38.5
		NEWTON	41.9
		PHILLIPS	38.1
		SEARCY	35.4
		STONE	41.3
	LOUISIANA	AVOYELLES	38.3
		CATAHOULA	36.6
		EAST CARROLL	51.1

COUNTIES WITH 35% OR MORE LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DALLAS - FORT WORTH	LOUISIANA	EVANGELINE	39.4
		FRANKLIN	42.1
		MADISON	45.1
		NATCHITOCHES	37.9
		POINTE COUPEE	36.8
		RED RIVER	40.4
		RICHLAND	37.4
		ST HELENA	44.3
		ST LANDRY	38.4
		ST MARTIN	36.2
		TENSAS	50.1
		WEST CARROLL	37.5
		WEST FELICIANA	39.4
	NEW MEXICO	GUADALUPE	38.5
		MORA	57.3
		SANDOVAL	38.3
		SAN MIGUEL	39.9
		TAOS	35.9
	OKLAHOMA	ADAIR	41.9
		PUSHMATAHA	37.0
	TEXAS	BROOKS	42.0
		CAMERON	38.6
		DIMMIT	51.0
		DUVAL	43.6
		EDWARDS	35.9
		FRIO	35.5
		HIDALGO	42.2
		JIM HOGG	46.3
		KINNEY	45.7
		LA SALLE	48.8
		LOVING	46.2
		MAVERICK	44.1
		PRESIDIO	40.9
		ROBERTSON	36.1
		SAN JACINTO	38.3
		STARR	52.3
		WEBB	38.5
		WILLACY	46.2
		ZAPATA	50.6
		ZAVALA	43.6
KANSAS CITY	MISSOURI	OREGON	36.2
		RIPLEY	36.5

COUNTIES WITH 35% OR MORE LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DENVER	COLORADO	CONEJOS	36.7
	NORTH DAKOTA	SIOUX	38.2
	SOUTH DAKOTA	BUFFALO	38.8
		SHANNON	44.6
		TODD	40.8
		WASHABAUGH	49.3
		ZIEBACH	41.0
SAN FRANCISCO	ARIZONA	APACHE	46.5
SEATTLE	ALASKA	ANGOON	97.2
		BETHEL	58.9
		KUSKOKWIM	55.2
		WADE HAMPTON	67.8
PHILADELPHIA	MARYLAND	SOMERSET	24.6
	VIRGINIA	ACCOMACK	25.2
		AMELIA	26.2
		BATH	24.9
		BRUNSWICK	25.4
		BUCHANAN	27.2
		BUCKINGHAM	29.1
		CHARLES CITY	28.8
		CUMBERLAND	33.3
		DICKENSON	34.0
		FLUVANNA	27.6
		GREENSVILLE	29.8
		HALIFAX	26.1
		KING AND QUEEN	27.1
		LOUISA	24.5
		MECKLENBURG	24.7
		MIDDLESEX	26.0
		NELSON	28.6
		NORTHAMPTON	32.2
		RAPPAHANNOCK	30.5
		RICHMOND	24.6
		RUSSELL	25.4
		SCOTT	27.0
		SOUTHAMPTON	27.6
		SUSSEX	26.3
		WESTMORELAND	28.9
		WISE	27.4

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
PHILADELPHIA	WEST VIRGINIA	BARBOUR	25.9
		BOONE	26.5
		GRANT	28.0
		HARDY	26.9
		MC DOWELL	29.8
		MONROE	29.2
		NICHOLAS	25.2
		PENDLETON	28.7
		POCAHONTAS	27.7
		PRESTON	26.9
		RITCHIE	25.0
		ROANE	27.1
		SUMMERS	33.7
		TUCKER	24.9
		WIRT	29.3
ATLANTA	ALABAMA	BIBB	30.0
		BUTLER	31.5
		CHILTON	24.8
		CLARKE	29.8
		CLAY	28.8
		COVINGTON	24.7
		DALLAS	31.6
		DE KALB	29.5
		ESCAMBIA	25.5
		FAYETTE	25.3
		GENEVA	25.7
		HENRY	31.9
		LAWRENCE	27.3
		MONROE	34.6
		PICKENS	32.5
		PIKE	29.9
		RANDOLPH	27.5
		RUSSELL	28.2
		WASHINGTON	31.8
	FLORIDA	CALHOUN	34.0
		DIXIE	25.9
		FRANKLIN	31.3
		GADSDEN	31.2
		HAMILTON	31.8
		HARDEE	24.6
		HOLMES	32.7
		JACKSON	30.7
		LIBERTY	28.5
		MADISON	33.5
		SUMTER	25.9
		SUWANNEE	28.1
		WAKULLA	26.9
		WALTON	26.8

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	GEORGIA	APPLING	31.8
		BACON	28.7
		BEN HILL	24.5
		BERRIEN	25.5
		BRYAN	25.3
		CANDLER	34.7
		CLINCH	29.3
		COFFEE	26.4
		COOK	25.6
		CRISP	26.8
		DAWSON	25.9
		DECATUR	33.0
		DODGE	29.3
		ECHOLS	32.7
		EMANUEL	29.2
		EVANS	32.9
		GILMER	24.6
		GLASCOCK	33.0
		GRADY	29.0
		GREENE	26.8
		HARRIS	25.7
		IRWIN	34.9
		JASPER	32.2
		JEFF DAVIS	24.5
		JEFFERSON	32.6
		JOHNSON	32.0
		LANIER	26.7
		LAURENS	26.3
		LEE	28.1
		LIBERTY	26.3
		LINCOLN	29.9
		LONG	31.8
		MC INTOSH	30.3
		MACON	34.8
		MARION	34.0
		MERIWETHER	26.3
		MITCHELL	30.2
		MONTGOMERY	27.6
		MORGAN	29.5
		PULASKI	29.7
		SCHLEY	27.5
		SCREVEN	34.5
		SUMTER	25.9
		TALBOT	34.6
		TATTNALL	28.5
		TAYLOR	31.1
		TELFAIR	30.9
		THOMAS	25.5
		TOOMBS	26.5
		TOWNS	31.2
		TURNER	26.6
		TWIGGS	33.5
		WASHINGTON	33.0
		WHEELER	32.7
		WILCOX	34.1
		WILKES	28.5
		WILKINSON	25.3
		WORTH	32.5

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	KENTUCKY	ADAIR	34.6
		ALLEN	30.1
		BATH	31.3
		BRACKEN	25.0
		BUTLER	30.5
		CARTER	28.8
		CASEY	30.9
		EDMONSON	28.2
		ESTILL	33.4
		FLEMING	26.5
		FLOYD	34.9
		FULTON	25.9
		GALLATIN	24.6
		GRAYSON	28.6
		HART	27.5
		LAUREL	34.6
		LEWIS	28.1
		LINCOLN	29.9
		MARION	26.2
		MENIFEE	32.0
		OHIO	24.7
		OWEN	24.9
		PIKE	32.2
		POWELL	28.1
		PULASKI	29.3
		ROBERTSON	28.9
		ROWAN	26.9
		TODD	25.7
		TRIGG	24.6
	MISSISSIPPI	ADAMS	28.7
		CALHOUN	32.8
		CHICKASAW	32.1
		CLARKE	33.0
		CLAY	25.9
		COVINGTON	31.8
		GRENADA	27.9
		ITAWAMBA	25.4
		LAFAYETTE	28.6
		LAMAR	27.8
		LINCOLN	29.0
		NESHOBA	30.0
		NEWTON	29.6
		OKTIBBEHA	28.8
		PEARL RIVER	26.1
		PERRY	30.8
		PIKE	30.8
		PONTOTOC	32.4
		PRENTISS	24.7
		SCOTT	32.6
		SIMPSON	30.4
		SMITH	32.9
		TATE	33.2
		TIPPAH	31.8
		UNION	27.6
		WASHINGTON	34.3
		WEBSTER	34.1
		WINSTON	32.9

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	NORTH CAROLINA	ALLEGHANY	26.6
		ANSON	27.3
		ASHE	28.0
		AVERY	29.2
		BEAUFORT	25.0
		BLADEN	30.7
		CHEROKEE	25.2
		CHOWAN	25.0
		CLAY	34.7
		COLUMBUS	28.0
		DUPLIN	29.0
		EDGECOMBE	26.5
		FRANKLIN	28.3
		GATES	25.7
		GRAHAM	24.8
		GREENE	32.8
		HALIFAX	30.3
		HERTFORD	27.6
		HOKE	26.9
		HYDE	34.1
		JACKSON	25.4
		JOHNSTON	24.9
		JONES	29.8
		MACON	24.9
		MADISON	32.1
		MARTIN	28.9
		MITCHELL	28.1
		PAMLICO	29.0
		PENDER	28.8
		PITT	27.1
		ROBESON	31.8
		SAMPSON	29.0
		SWAIN	26.9
		WARREN	34.5
		YANCEY	30.5
	SOUTH CAROLINA	ALLENDALE	31.7
		BAMBERG	28.6
		BARNWELL	24.7
		BERKELEY	26.1
		CALHOUN	34.6
		COLLETON	31.7
		DILLON	33.2
		EDGEFIELD	30.3
		FAIRFIELD	31.5
		GEORGETOWN	29.6
		HAMPTON	31.3
		HORRY	25.4
		MC CORMICK	34.4
		MARION	32.1
		MARLBORO	27.6
		ORANGEBURG	31.4
		SUMTER	25.9
	TENNESSEE	BLEDSOE	33.1

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
ATLANTA	TENNESSEE	CANNON	26.8
		CHESTER	27.1
		COCKE	29.3
		CROCKETT	25.1
		CUMBERLAND	29.0
		GRAINGER	30.6
		HARDEMAN	31.2
		HARDIN	30.4
		HENDERSON	25.9
		HOUSTON	25.7
		JOHNSON	30.4
		LAKE	33.2
		LAWRENCE	24.9
		LINCOLN	25.2
		MC NAIRY	30.7
		MACON	29.1
		MARION	25.1
		MEIGS	30.0
		MONROE	26.1
		MORGAN	27.6
		PERRY	27.4
		PICKETT	33.9
		RHEA	25.3
		SEQUATCHIE	24.9
		STEWART	31.2
		TIPTON	29.4
		TROUSDALE	30.6
		UNION	34.6
		WAYNE	28.2
CHICAGO	ILLINOIS	ALEXANDER	31.8
		POPE	29.3
	MINNESOTA	MAHNOMEN	26.4
		TODD	24.5
	OHIO	ADAMS	27.4
	WISCONSIN	MENOMINEE	34.0

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DALLAS - FORT WORTH	ARKANSAS	ASHLEY	25.2
		BRADLEY	29.6
		CALHOUN	29.6
		CLAY	31.3
		CLEBURNE	33.8
		CLEVELAND	32.1
		CRITTENDEN	32.8
		CROSS	28.7
		DALLAS	24.7
		DESHA	34.2
		DREW	27.1
		HEMPSTEAD	28.3
		IZARD	29.7
		JACKSON	25.0
		JOHNSON	25.6
		LAFAYETTE	33.0
		LAWRENCE	29.5
		LOGAN	27.7
		LONOKE	26.2
		MADISON	33.3
		MARION	30.5
		MISSISSIPPI	29.6
		MONTGOMERY	29.7
		NEVADA	31.9
		OUACHITA	25.2
		PERRY	31.2
		PIKE	24.8
		POINSETT	28.6
		PRAIRIE	29.4
		RANDOLPH	29.7
		ST FRANCIS	34.8
		SCOTT	28.5
		SHARP	32.9
		VAN BUREN	32.5
		WHITE	24.5
		WOODRUFF	34.3
	LOUISIANA	ACADIA	29.6
		ALLEN	30.1
		ASSUMPTION	30.4
		BIENVILLE	34.1
		CALDWELL	33.7
		CLAIBORNE	33.2
		CONCORDIA	32.2
		DE SOTO	34.7
		EAST FELICIANA	33.8
		GRANT	29.2
		IBERVILLE	30.6
		JEFFERSON DAVIS	28.1
		MOREHOUSE	32.9
		SABINE	34.9
		TANGIPAHOA	33.5
		UNION	27.1
		VERMILION	25.2
		WASHINGTON	26.3
		WEST BATON ROUGE	27.3
		WINN	31.2

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DALLAS - FORT WORTH	NEW MEXICO	DE BACA	24.5
		HARDING	28.3
		MC KINLEY	33.7
		RIO ARRIBA	34.7
		SOCORRO	29.5
		TORRANCE	32.6
		UNION	26.2
	OKLAHOMA	ATOKA	29.9
		CHEROKEE	28.0
		CHOCTAW	33.4
		COAL	34.0
		DELAWARE	31.0
		HASKELL	26.7
		HUGHES	29.3
		JOHNSTON	31.1
		LATIMER	29.8
		LE FLORE	29.4
		LOVE	26.7
		MC CURTAIN	32.4
		MC INTOSH	26.8
		OKFUSKEE	34.7
		SEQUOYAH	28.1
	TEXAS	ATASCOSA	28.7
		AUSTIN	25.7
		BASTROP	27.5
		BREWSTER	27.1
		BURLESON	26.4
		CALDWELL	27.7
		CAMP	32.0
		COLLINGSWORTH	25.9
		DELTA	26.9
		FALLS	34.6
		FAYETTE	28.1
		FOARD	28.9
		FRANKLIN	27.2
		GOLIAD	28.2
		GONZALES	28.0
		GRIMES	34.5
		HOUSTON	33.0
		HUDSPETH	28.2
		JEFF DAVIS	26.5
		JIM WELLS	26.6
		KARNES	32.8
		KENEDY	30.1
		KENT	25.1
		LAMB	25.3
		LAVACA	32.2
		LEE	26.8
		LEON	30.4
		LIMESTONE	24.7
		LIVE OAK	26.6
		MADISON	27.7
		MARION	30.9

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DALLAS - FORT WORTH	TEXAS	MARTIN	25.0
		MASON	27.6
		MEDINA	24.8
		MENARD	27.7
		MOTLEY	24.8
		NEWTON	26.0
		PANOLA	24.6
		POLK	28.5
		RAINS	26.5
		REAL	27.6
		RED RIVER	31.8
		SABINE	30.9
		SAN AUGUSTINE	33.2
		SAN PATRICIO	25.2
		SAN SABA	30.8
		SHELBY	26.8
		SUTTON	26.3
		TRINITY	28.5
		UVALDE	29.0
		VAL VERDE	24.5
		WASHINGTON	26.4
		WHARTON	24.7
		WILSON	25.7
KANSAS CITY	MISSOURI	BOLLINGER	27.4
		BUTLER	27.5
		CARTER	25.3
		DADE	24.8
		DALLAS	29.6
		DOUGLAS	32.5
		DUNKLIN	29.8
		HICKORY	26.7
		MERCER	24.5
		MISSISSIPPI	33.5
		NEW MADRID	33.4
		OZARK	32.9
		PEMISCOT	34.7
		PUTNAM	28.0
		REYNOLDS	32.6
		ST CLAIR	25.6
		SHANNON	31.2
		TEXAS	25.6
		WASHINGTON	25.4
		WAYNE	30.8
		WRIGHT	26.4
	NEBRASKA	BOYD	32.4
		CEDAR	27.7
		KEYA PAHA	31.7
		KNOX	27.7

COUNTIES WITH 24.5% - 35% LOW-INCOME FAMILIES
(1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL
DENVER	COLORADO	COSTILLA	34.7
		SAGUACHE	32.6
	MONTANA	BLAINE	25.2
	NORTH DAKOTA	BILLINGS	28.0
		ROLETTE	28.9
	SOUTH DAKOTA	BENNETT	26.9
		CHARLES MIX	27.8
		CORSON	32.4
		DEWEY	31.5
		HUTCHINSON	24.7
		HYDE	25.4
		MELLETTE	26.9
	UTAH	SAN JUAN	33.2
SAN FRANCISCO	ARIZONA	NAVAJO	32.0
SEATTLE	ALASKA	BARROW	27.7
		BRISTOL BAY DIVISION	32.8
		KOBUK	33.0
		NOME	31.2

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