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THURSDAY, NOVEMBER 16, 1978

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

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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[3195-01-M]

Title 3—The President

Executive Order 12098 • **November 14, 1978**

Physical Fitness and Sports

By the authority vested in me as President by the Constitution of the United States of America, and in order to amend the composition of the President's Council on Physical Fitness and Sports, Executive Order No. 11562, as amended by Executive Order No. 11945, is hereby further amended by revising Section 2(a) to read as follows:

"There is hereby established the President's Council on Physical Fitness and Sports, hereinafter referred to as the Council, which shall be composed of fifteen members appointed by the President. The Chairman shall be designated by the President from among the members. The Council shall meet at the call of the Chairman.".

Jimmy Carter

THE WHITE HOUSE,
November 14, 1978.

[FR Doc. 78-32500 Filed 11-15-78; 10:38 am]

rules and regulations

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

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

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-E]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart E—Business and Industrial Loan Program

FORMS AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations to remove the reference to Form FmHA 440-48, "Association and Organization Activity Report," and substitute Forms FmHA 2033-39 thru 2033-41. These forms are used internally to submit information concerning Business and Industry facilities from the field to the agency computer center. This revision is designed to facilitate and improve FmHA reporting requirements which will result in better service to program managers and ultimately to the general public.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Darryl Evans, Business and Industry Loan Division, telephone 202-447-3949.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) amends § 1980.451, paragraph B.2 under the heading "administrative" of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations.

Section 1980.451, paragraph B.2 under the heading "administrative" is revised to eliminate Form FmHA 440-48, "Association Organization Activity Report", used for internal processing of information which is now obsolete. The agency is embarking on a new computer reporting system which will require the use of new forms in series 2033-38 through 41. These forms do not effect the general public in any way.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This revision, however, is not published for proposed rulemaking since no substantive changes have been made which affect the public. Since the changes are procedural in nature, public participation is unnecessary. Accordingly, as revised § 1980.451, paragraph B.2 under the heading "administrative" reads as follows:

§ 1980.451 Filing and processing applications.

* * * * *

ADMINISTRATIVE

* * * * *

B. *The State Director*

1. * * *

2. Will prepare and submit Form FmHA 2033-37, "Rural Community Facility Applicant/Borrower Definition," Form FmHA 2033-38, "Rural Community Facility and Funding Data," Form FmHA 2033-39, "Rural Community Facility Status Detail," Form FmHA 2033-40, "Rural Community Fund Dispositions," and Form FmHA 2033-41, "Rural Community Facility Actual Verifications of Employment and Users," in accordance with FmHA Instruction 2033-F. (Available from any State Office or the National Office.) The Standard Industrial Classification (SIC) manual will be used in coding of projects.

* * * * *

AUTHORITY: 7 U.S.C. 1989; delegation by the Secretary of Agriculture; 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

Dated: October 12, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-32229 Filed 11-15-78; 8:45 am]

[3410-02-M]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

[Milk Order No. 4; Docket No. AO-160-A55]

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Order Suspending Certain Provisions; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule; correction.

SUMMARY: An order suspending certain provisions of the Middle Atlantic order was issued on October 18, 1978, and published in the FEDERAL REGISTER on October 23, 1978 (43 FR 49285). The authority citation for this action was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: The suspension order became effective on October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTARY INFORMATION: The proper authority citation for the suspension cited above is:

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

Signed at Washington, D.C. on: November 13, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-32230 Filed 11-15-78; 8:45 am]

[3128-01-M]

Title 10—Energy

CHAPTERS II AND III—DEPARTMENT OF ENERGY

AMENDMENT OF THE TITLES FOR THE FEDERAL ENERGY ADMINISTRATION AND THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby amends the titles of Chapters II and III of Title 10 of the Code of Federal Regulations to read "Department of Energy". The purpose of this action is to reflect the fact that the regulations contained in Chapters II and III of Title 10 are now administered by DOE, the successor agency of the Federal Energy Administration and the Energy Research and Development Administration.

EFFECTIVE DATE: Upon issuance.

FOR FURTHER INFORMATION CONTACT:

Kristina Clark (Office of General Counsel), Department of Energy, Room 5146, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: The Department of Energy was established by the Department of Energy Organization Act ("DOE Act", Pub. L. 95-91, August 4, 1977). By Executive Order 12009, issued September 13, 1977 (42 FR 46267, September 15, 1977), the President established the effective date of the Act as October 1, 1977.

The DOE Act consolidated in the DOE various energy functions previously performed by several Federal agencies. Section 301(a) of the Act generally transferred to and vested in the Secretary of Energy the functions of the former Federal Energy Administration (FEA) and the Energy Research and Development Administration (ERDA). Section 705 of the DOE Act provides that rules and regulations relating to functions transferred to the Department and in effect on the effective date of the Act shall continue in effect according to their terms until revoked or modified by the Department or other competent authority. Pursuant to these provisions, the Department since October 1, 1977 has been administering the regulations contained in Chapters II and III of Title 10 of the Code of Federal Regulations, which were previously administered by FEA and ERDA, respectively.

The Department has therefore determined to change the titles of Chapters II and III of Title 10 of the Code of Federal Regulations to reflect that the FEA and ERDA are no longer in existence, and that the Department is now administering the regulations contained therein. Thus, the titles of such Chapters II and III are hereby amended to read "Department of Energy."

The Department intends in the near future to reorganize the regulations contained within these two chapters, arranging them according to the offices, officers or other appropriate entities within the Department having responsibility to administer the regulations and simplifying, modifying or revoking regulations where appropriate. At that time, references to specific offices contained in existing particular regulations will be amended to reflect the appropriate offices or other entities within DOE which should be named.

It should be noted that not all regulations implementing other functions transferred to or vested in the DOE or entities within the DOE by the DOE Act are necessarily contained within present Title 10. The Department currently contemplates that the reorganization of regulations mentioned above will accomplish the consolidation of these other regulations in Title 10 where appropriate.

The Department has determined that the rule adopted herein concerns a matter of agency organization and procedure and does not require notice or a hearing under 5 U.S.C. 553. Thus, the provisions of Section 501 of the DOE Act are not applicable to the adoption of this rule.

(Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, the titles of Chapters II and III of Title 10 of the Code of Federal Regulations are amended to read "Department of Energy."

Issued in Washington, D.C. on November 9, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-32173 Filed 11-15-78; 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

PART 250—MISCELLANEOUS INTERPRETATIONS

Operations Subsidiaries; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: This document corrects § 250.141 in a previous document (FR Doc. 33-11813) which was published on August 21, 1968.

FOR FURTHER INFORMATION CONTACT:

Wanda Baldwin, Technical Editor, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3565.

On page 11813 in the issue for August 21, 1968, the reference to 12 CFR 222.122 in the last line of paragraph (f), should read "225.122". In paragraph (g), the reference in the tenth line to 12 CFR 222.104(e) should read "225.104(e)".

Board of Governors of the Federal Reserve System, November 7, 1978.

JOHN M. WALLACE,
Assistant Secretary of the Board.

[FR Doc. 78-32278 Filed 11-15-78; 8:45 am]

[6720-01-M]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-578]

AMENDMENTS RELATING TO NOW ACCOUNTS

OCTOBER 25, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: In partial implementation of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, the Federal Home Loan Bank Board amends its regulations regarding transaction (or NOW) accounts by adding New York to the list of States

in which financial depository institutions are permitted to offer such accounts.

EFFECTIVE DATE: November 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: Present Bank Board regulations list only the New England States of New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, and Vermont, as States in which accountholders in financial depository institutions are permitted to withdraw funds from savings accounts by negotiable or transferable instruments for the purpose of making transfers to third parties. The Bank Board hereby amends 12 CFR 526.8, 12 CFR 545.4-1, and 563.7-3 by adding New York to the list of States contained in those sections in implementation of title XIII of the Financial Institutions Regulatory Interest Rate Control Act of 1978.

The Bank Board finds that: (1) Notice and public procedure are unnecessary under 5 U.S.C. § 553(b) and 12 CFR 508.11 because these amendments relieve restriction and immediate implementation of the Act is in the public interest; and (2) publication of the amendments for the 30-day period specified in 5 U.S.C. § 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

Accordingly, the Federal Home Loan Bank Board amends: (1) 12 CFR 526.8 by adding New York after Maine to the list of States in the introducing paragraph and paragraph (c) of the section; (2) 12 CFR 545.4-1 by adding New York after Maine to the list of States in subparagraph (a)(3); and (3) 12 CFR 563.7-3 by adding New York after Maine to the list of States in that section.

(Title XIII, Financial Institutions Regulatory and Interest Rate Control Act of 1978, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Pub. L. 93-100, as amended; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-32290 Filed 11-15-78; 8:45 am]

[6720-01-M]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-579]

PART 564—SETTLEMENT OF INSURANCE

Increase of Insurance of Accounts

OCTOBER 25, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment increases from $40,000 to $100,000 the maximum amount of insurance coverage for Individual Retirement Accounts (IRA) and Keogh accounts in institutions insured by the Federal Savings and Loan Insurance Corporation. This change reflects an increase in insurance coverage provided in the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

EFFECTIVE DATE: November 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, hereby amends § 563.10 of the Rules and Regulations for Insurance of Accounts (12 CFR 564.10) to increase from $40,000 to $100,000 the maximum amount of insurance coverage for accounts which qualify under section 401(d) or section 408(a) of the Internal Revenue Code of 1954. This change reflects amendment of section 405(d) of the National Housing Act by title XIV of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 to provide for such increased coverage.

Because this amendment relieves restriction and the Bank Board believes it is in the public interest that the statutory amendment be reflected in the regulations without delay, it finds that notice and public procedure with respect to the amendment is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b); the Bank Board also finds that publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to effective date is unnecessary for the same reason.

Accordingly the Bank Board hereby amends § 564.10 to read as follows:

§ 564.10 Trust Accounts and IRA and Keogh Accounts.

All trust estates for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and insured up to $40,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements, except that all vested and ascertainable interests of the same benficiary which qualify under section 401(d) or section 408(a) of the Internal Revenue Code of 1954 shall be added together and insured up to $100,000 in the aggregate.

(Secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

Dated: October 25, 1978.

By the Federal Home Loan Bank Board,

J. J. FINN,
Secretary.

[FR Doc. 78-32297 Filed 11-15-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17739; Amdt. 39-3350]

PART 39—AIRWORTHINESS DIRECTIVES

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement as necessary of the gland nut and the associated locking plate/locking screw of the main landing gear shock absorber struts on British Aircraft Corporation Viscount Models 744, 745D, and 810 Series airplanes. The AD is prompted by reports of gland nuts becoming detached in serviced which have caused malfunctioning of the retraction/extension system as well as serious damage to associated main landing gear components.

DATES: Effective December 18, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable technical leaflets may be obtained from:

British Aerospace, Inc., 13850 McLearen Rd., Herndon, Va., 20070, telephone: 703-435-9100. Copies of the technical leaflets are contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, c/o American Embassy, Brussels, Belgium, telephone: 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and replacement as necessary of the gland nut and the associated locking plate/locking screw of the main landing gear shock absorber struts on British Aircraft Corporation Viscount Models 744, 745D and 810 Series airplanes was published in the FEDERAL REGISTER at 43 FR 15433 on April 13, 1978. The proposal was prompted by reports of gland nuts becoming detached in service, causing malfunctioning of the retraction/extension system as well as serious damage to associated main landing gear components.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

ADOPTION OF THE AMENDMENT

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

BRITISH AIRCRAFT CORPORATION. Applies to Viscount Models 744, 745D, and 810 Series airplanes, certificated in all categories.

Compliance is required as indicated.

The following parts are affected by this AD:

	700 Series		800 Series
	10" Oleos	14" Oleos	
Gland Nut.....	70050-317	72450-69	81050-69
Locking Plate...		72450-71	81050-71
Locking Screw..	70050-259		

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

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

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

(c) Within 500 landings after the effective date of this AD, unless already accomplished within the last 2,500 landings, and thereafter at intervals not to exceed 3,000 landings, remove the gland nut and inspect the condition of the threads in accordance with the criteria established in paragraph 2.2.2 of British Aircraft Corporation PTL No. 299 (700 Series) or PTL No. 168 (800 Series), as applicable, both at Revision 3, dated January 12, 1977, or an FAA-approved equivalent.

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

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

This amendment becomes effective December 18, 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 7, 1978.

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

[FR Doc. 78-32070 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Docket No. 18441; Amdt. 39-3349]

PART 39—AIRWORTHINESS DIRECTIVES

Let Blanik L-13 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which requires reinforcement of the No. 1 bulkhead where the tow release system contershaft bracket attaches on certain Let Model L-13 gliders. This AD is prompted by reports of bulkhead cracks at the tow release system countershaft bracket attach point which could result in failure of the tow release system to release.

DATES: Effective November 27, 1978. Compliance schedule—As prescribed in the body of this AD.

ADDRESSES: The applicable service bulletin may be obtained from Omnipol FTC, Washingtonova 11, Praha I, Czechoslovakia. A copy of the service bulletin is contained in the rules docket for this amendment in room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don 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: There have been reports of cracks in the No. 1 bulkhead where the tow release system countershaft bracket attaches on certain Let Model L-13 gliders. These cracks if not repaired could result in failure of the tow release to function. Since this condition is likely to exist or develop on other gliders of the same type design, and airworthiness directive is being issued which requires inspection of certain Let Blanik L-13 gliders for cracks in the No. 1 bulkheads, immediate reinforcement when cracking is found, and eventual reinforcement of all the No. 1 bulkheads.

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

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:

LET BLANIK. Applies to Model L-13 gliders, Serial Numbers 173205 through 174730, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent tow release malfunction due to structural cracks at the attach point of the tow release system countershaft bracket, accomplish the following:

(a) Within the next 10-hours time in service after the effective date of this AD, inspect the No. 1 bulkhead for cracks at the

attach points of the tow release system countershaft brackets in accordance with Let Mandatory Bulletin No. L13/047 dated January 11, 1978, and Note 2 in Bulletin No. L13/047 (Supplement), dated April 1, 1978, or an equivalent procedure approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

(b) If cracks are found during inspection in accordance with paragraph (a) of this AD, before further flight:

(1) Where cracks do not exceed 6 mm in length, repair and reinforce the No. 1 bulkhead in accordance with paragraph A, "Reinforcement of bulkhead No. 1" of Let Mandatory Bulletin No. L13/047 dated January 11, 1978, and Bulletin L13/047 (Supplement) dated Arpil 1, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region; or

(2) Where cracks exceed 6 mm in length, repair and reinforce the No. 1 bulkhead in accordance with the metal repair procedures, Section 3 of FAA Advisory Circular 43.13-1A, or equivalent approved by the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region.

(c) If no cracks are found during the inspection required by paragraph (a) of this AD, within the next 100-hours time in service after the effective date of this AD, reinspect, repair, and reinforce the No. 1 bulkhead as follows:

(1) If no cracks have developed, in accordance with the method specified in paragraph (b)(1) of this AD; or

(2) If cracks have developed, in accordance with the applicable method specified in paragraph (b) of this AD.

This amendment becomes effective November 27, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1978, as amended (49 U.S.C. 1454(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 3, 1978.

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

[FR Doc. 78-31914 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-SW-16; Amdt. No. 39-3348]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Aviation Corp. Models SA226T, SA226AT, and SA226TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Swearingen Aircraft Corp. Models SA226T, SA226AT, and SA226TC airplanes by providing an alternate means of compliance involving engine nacelles modification.

DATES: Effective November 17, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES:

The applicable service bulletins may be obtained from Swearingen Aviation Corp., P.O. Box 32486, San Antonio, Tex. 78284.

A copy of each of the service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591, or Office of the Regional Counsel, Building 3B, Room 100, 4400 Blue Mound Road, Fort Worth, Tex.

FOR FURTHER INFORMATION CONTACT:

Jack W. Ligon, Systems and Equipment Section, Engineering and Manufacturing Branch, telephone 817-624-4911, extension 505, or Randy Whitlock, Propulsion Section, extension 526.

SUPPLEMENTARY INFORMATION: This airworthiness directive amends Amendment 39-2735, 41 FR 43713, AD 76-20-04 which requires inspection of the wheel wells every 50 hours for hydraulic and fuel leaks on Swearingen Aviation Corporation aircraft Models SA226T, SA226AT, and SA226TC airplanes. After issuing Amendment 39-2735, FAA determined a specific modification can be made to the engine nacelles which will enable discontinuance of the repetitive inspections required by Amendment 39-2735.

Based on this, a notice was issued in the FEDERAL REGISTER (43 FR 31939) which proposed to amend the existing AD by requiring engine nacelles modification.

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

Several commentors objected to the proposal being made mandatory. Primary reasons given for objection were: there have been no fires since issuance of the inspection AD; the existing inspection requirement is adequate to detect leaks and prevent a fire; the new hydraulic fluid would be too expensive and difficult to procure; additional hydraulic carts would be required; and cost of the modification and aircraft down time for incorporation of the modification is excessive.

Three commentors agreed with the proposal with exceptions. One commentor objected to the requirement for MIL-H-83282 hydraulic fluid; one objected to the 30-day compliance period and suggested it be changed to 300 hours; and one commented that more stringent manufacturing specifications for the hydraulic power pack should be required.

FAA concurs with the comments that no fires have occurred since issuance of Amendment 39-2735 and the inspection requirement specified in that Amendment is adequate to detect leaks and prevent a fire; therefore, the proposed AD Amendment is changed so the modification is an "optional" alternate means of compliance rather than mandatory.

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2735, 41 FR 43713, AD 76-20-04 is amended by adding the following paragraphs:

E. After the effective date of this AD and as an alternate means of compliance:

(1) If Swearingen Aviation Corp. Models SA226TC (applies to serial numbers TC-201 through TC-212), SA226T (applies to serial numbers T-201 through T-251, except T-249), and SA226AT (applies to serial numbers AT-001 through AT-033, except AT-025) airplanes are modified in accordance with Swearingen Aviation Corp. service bulletin SB 21-009 dated May 11, 1977, "Addition of Bleed Air Heat Exchangers;" and if Swearingen Aviation Corp. Models SA226TC (applies to serial numbers TC-201 through TC-228, except TC-227E and TC-228E), SA226T (applies to serial numbers T-201 through T-271), and SA226AT (applies to serial numbers AT-001 through AT-056) airplanes are modified in accordance with Swearingen Aviation Corp. service bulletin SB 54-003 dated April 28, 1977, "Improved Fire Resistance of the Fuel and Hydraulic Systems"; then the repetitive inspections specified in paragraphs A and B of this AD are no longer necessary.

(2) Or, if modifications are made to the above airplane models in a manner approved by the Chief, Engineering and Manufacturing Branch, ASW-210, Southwest Region, then the repetitive inspections called for in paragraphs A and B of this AD are no longer necessary.

This amendment becomes effective on November 17, 1978.

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

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

Issued in Fort Worth, Tex. on November 2, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-31932 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-84]

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

Alteration of Control Zone: Newburgh, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Newburgh, N.Y., control zone, over Stewart Airport, Newburgh, N.Y. This alteration will extend the operating hours of the control zone. This alteration arises out of a decision to operate the tower for additional hours.

EFFECTIVE DATE: 0901 GMT December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Newburgh, N.Y., control zone. On page 44548 of the FEDERAL REGISTER for September 28, 1978, the FAA published a proposed amendment to the subject control zone for full-time operation. Interested parties were given time in which to submit comments. No objections were received. The MTA has requested that the proposal be changed to hours of operation which are less than 24 hours daily for 7 days duration. The hours would be less than 24 for Saturday, Sunday, and Monday. Since the changes are less restrictive than the NPRM, notice and public procedure are unnecessary for those changes.

ADOPTION OF THE AMENDMENT

Accordingly pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT December 28, 1978, as follows:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Newburgh, N.Y., control zone by deleting all after "Poughkeepsie, N.Y., control zone.", and by inserting the following in lieu thereof; "This control zone is effective from 0000-2359 hours, local time, Tuesday through Friday; 0000-2300 hours, local time, Saturday; 0700-2300 hours, local time, Sunday; 0700-2400 hours, local time, Monday."

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

Issued in Jamaica, N.Y., on November 2, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-32072 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket Number 78-CE-24]

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

Designation of Control Zone, Clinton, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a part-time control zone at Clinton, Iowa, to serve the Clinton, Iowa, Municipal Airport in order to provide additional controlled airspace protection for aircraft utilizing said airport.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a part-time control zone is being designated effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual. The intended effect of this action is to insure segregation of aircraft operating under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS

On pages 41408 and 41409 of the FEDERAL REGISTER dated September 18, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a part-time control zone at Clinton, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making. Accordingly, Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355) is amended effective 0901 GMT February 22, 1979, by adding the following new control zone:

CLINTON, IOWA

That airspace extending upward from the surface within a 5-mile radius of the Clinton Airport (latitude 41°49'55"N; longitude 90°19'45"W) and within 3 miles each side of Davenport VORTAC; 044° radial, extending from the 5-mile radius area to the VORTAC; and within 3 miles each side of the Clinton NDB 327° bearing from the airport, extending from the 5-mile radius area to 8½ miles northwest; and within 2½ miles each side of the 030° bearing from the Clinton Airport, extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

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

Issued in Kansas City, Mo., on November 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc 78-32067 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-CE-23]

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

Designation of Transition Area, Oskaloosa, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition

area at Oskaloosa, Iowa to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oskaloosa, Iowa Municipal Airport based on the Ottumwa, Iowa VOR, a navigational aid.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Oskaloosa, Iowa Municipal Airport is being established based on the Ottumwa, Iowa VOR, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Oskaloosa, Iowa at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS

On pages 41409 and 41410 of the FEDERAL REGISTER dated September 18, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Oskaloosa, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 GMT February 22, 1979, by adding the following new transition area:

OSKALOOSA, IOWA

That airspace extending upward from 700 feet above the surface within a six-mile radius of the Oskaloosa Municipal Airport (latitude 41°13'36" N; longitude 92°29'30" W) excluding the portion that overlies the Ottumwa, Iowa, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

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

Issued in Kansas City, Mo., on November 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-32066 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-21]

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

Establishment of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realines and redesignates the 1,200-foot transition area at Kalispell, Mont. Such action will provide controlled airspace for straight-in approaches to Glacier Park International Airport and additional controlled airspace for air traffic control purposes.

EFFECTIVE DATE: December 28, 1978, 0910 G.m.t.

FOR FURTHER INFORMATION CONTACT:

David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

HISTORY

On August 21, 1978, the FAA published for comment, a notice of proposed rulemaking (NPRM) to realine and redesignate the existing Kalispell, Mont., 1,200-foot transition area (43 FR 36972). No objections were received in response to this notice.

RULE

This amendment to part 71 of the Federal Aviation Regulations (FAR's) realines and redesignates the 1,200-foot transition area at Kalispell, Mont. This action is necessary to provide controlled airspace for straight-in approaches to Glacier Park International Airport and additional controlled airspace for air traffic control purposes. This amendment does not affect the existing 700-foot transition area at Kalispell.

DRAFTING INFORMATION

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., December 28, 1978, as follows:

By amending subpart G, § 71.181 by designating the following 1,200-foot transition area:

KALISPELL, MONT.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 47°30'00" N., 113°30'00" W., to 48°30'00" N., 113°30'00" W., to 48°30'00" N., 115°00'00" W., to 48°12'00" N., 115°00'00" W., to 48°12'00" N., 115°30'00" W., to 47°30'00" N., 115°30'00" W., to the point of beginning.

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

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

Issued in Aurora, Colo., on November 6, 1978.

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

[FR Doc. 78-32239 Filed 11-15-78; 8:45 am]

[4910-13-M]

[Docket No. 18454; Amdt. No. 1124]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes standard instrument approach procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the national airspace system, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air

traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA regional office of the region in which the affected airport is located; or
3. The flight inspection field office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:
1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA regional office of the region in which the affected airport is located.

BY SUBSCRIPTION

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

FOR FURTHER INFORMATION CONTACT:

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

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

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

This amendment of part 97 is effective on Nobember 16, 1978, and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the national airspace system or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a national flight data center (FDC) notice to airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking standard instrument approach procedures, effective at 0910Z on the dates specified, as follows:

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

* * * *effective January 11, 1979.*

Belvidere, IL—Belvidere, LTD, VOR-A, Amdt. 1
Alexandria, IN—Alexandria, VOR Rwy 27, Amdt. 4
Bay City, MI—James Clements Municipal, VOR-A, Amdt. 5
Marshall, MI—Brooks Field, VOR Rwy 28, Amdt. 4
Standish, MI—Standish City, VOR-A, Amdt. 1
Laurel/Hattiesburg, MS—Pine Belt Regional, VOR Rwy 36, Amdt. 1
Elizabeth City, NC—Coast Guard Asirbase/Muni, VOR Rwy 1, Amdt. 4

* * * *Effective* December 28, 1978:

Gunnison, CO—Gunnison County, VOR-A, Amdt. 4
Paris, IL—Edgar County, VOR/DME-A, Original
Gaylord, MI—Otsego County, VOR Rwy 9, Amdt. 2
Gaylord, MI—Otsego County, VOR Rwy 27, Amdt. 6
Mason, MI—Mason Jewett Field, VOR-A, Original
Picayune, MS—Picayune-Pearl River, VOR-A, Amdt. 8
Scottsbluff, NE—Scotts Bluff County, VOR/DME Rwy 5, Original
Chesapeake, VA—Chesapeake Muni, VOR/DME Rwy 4, Original

* * * *Effective* November 30, 1978:

Wichita, KS—Cessna Aircraft Field, VOR/DME-C, Original

* * * *Effective* November 16, 1978:

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

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

* * * *Effective* December 28, 1978:

Waukegan, IL—Waukegan Memorial, LOC Rwy 23, Amdt. 3
Marquette, MI—Marquette County, LOC BC Rwy 26, Amdt. 4

* * * *Effective* December 14, 1978:

Portland, OR—Portland Int'l, LOC BC Rwy 10L, Amdt. 9

* * * *Effective* November 16, 1978:

Binghamton, NY—Broome County, LOC Rwy 16, Amdt. 1, canceled

* * * *Effective* October 30, 1978:

Milwaukee, WI—General Mitchell Field, LOC BC Rwy 1L, Original, canceled

NOTE.—The FAA published an amendment in docket No. 18348, Amdt. No. 1122 to part 97 of the Federal Aviation Regulations (vol. 43 FR No. 205 page 49302; dated October 23, 1978) under § 97.25 effective December 28, 1978, which is hereby amended as follows: Dayton, OH—James M. Cox Dayton International, LOC Rwy 24R Amdt. 1, remains in effect; disregard cancellation.

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

* * * *Effective* January 11, 1979:

Cheraw, SC—Cheraw Muni, NDB Rwy 25, Amdt. 1
Medford, WI—Taylor County, NDB Rwy 33, Amdt. 2

* * * *Effective* December 28, 1978:

Port Heiden, AK—Port Heiden, NDB Rwy 5, Amdt. 1
Port Heiden, AK—Port Heiden, NDB Rwy 13, Amdt. 1
Paris, IL—Edgar County, NDB Rwy 27, Amdt. 2
Salem, IL—Salem-Leckrone, NDB Rwy 18, Amdt. 6
Waukegan, IL—Waukegan Memorial, NDB Rwy 23, Amdt. 3
Cadillac, MI—Wexford County, NDB Rwy 7, Admt. 6
Cadillac, MI—Wexford County, NDB Rwy 25, Amdt. 1
Houghton Lake, MI—Roscommon County, NDB Rwy 27, Amdt. 5
Marquette, MI—Marquette County, NDB Rwy 26, Original
Sturgis, MI—Kirsch Municipal, NDB Rwy 18, Amdt. 1
Sturgis, MI—Kirsch Municipal, NDB Rwy 24, Amdt. 5
Black River Falls, WI—Black River Falls Area, NDB Rwy 8, Original
Black River Falls, WI—Black River Falls Area, NDB Rwy 26, Amdt. 1, canceled

* * * *Effective* December 14, 1978:

Cleveland, OH—Cuyahoga County, NDB Rwy 23, Original
Walla Walla, WA—Walla Walla City-County, NDB Rwy 20, Amdt. 3

* * * *Effective* November 30, 1978:

Pendleton, OR—Pendleton Muni, NDB-A, Amdt. 4

* * * *Effective* November 16, 1978:

Billings, MT—Billings Logan Int'l, NDB Rwy 9, Amdt. 17

4. By amending § 97.29 ILS-MLS SIAP's identified as follows:

* * * *Effective* January 11, 1979:

Laurel/Hattiesburg, MS—Pine Belt Regional, ILS Rwy 18, Amdt. 2

* * * *Effective* December 28, 1978:

Detroit, MI—Detroit-Metropolitan-Wayne County, ILS Rwy 3R, Amdt. 2
Medford, OR—Medford-Jackson County, ILS Rwy 14, Amdt. 9

* * * *Effective December 14, 1978:*

Walla Walla, WA—Walla Walla City-County, ILS Rwy 20, Amdt. 3

* * * *Effective November 30, 1978:*

Pendleton, OR—Pendleton Muni, ILS Rwy 25R, Amdt. 19

* * * *Effective November 16, 1978:*

Lewiston, ID—Lewiston-Nez Perce County, ILS Rwy 26, Amdt. 6
Billings, MT—Billings Logan Int'l, ILS Rwy 9, Amdt. 22
Binghamton, NY—Broome County, ILS Rwy 16, Original

NOTE.—The FAA published an Amendment in docket No. 18348, Amdt. No. 1122 to part 97 of the Federal Aviation Regulations (vol. 43 FR No. 205 page 49302; dated October 23, 1978) under § 97.29 effective December 28, 1978, which is hereby amended as follows: Dayton, OH—James M. Cox Dayton International, ILS Rwy 24R original is rescinded.

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

* * * *Effective November 30, 1978:*

St. Louis, MO—Lambert-St. Louis Int'l, RADAR-1, Amdt. 21

* * * *Effective November 16, 1978:*

Billings, MT—Billings Logan Int'l, RADAR-1, Amdt. 4

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

* * * *Effective January 11, 1979.*

Watertown, WI—Watertown Municipal, RNAV Rwy 5, Original

* * * *Effective December 28, 1978:*

Scottsbluff, NE—Scotts Bluff County, RNAV Rwy 12, Original

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

NOTE.—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; Mar. 8, 1978).

Issued in Washington, D.C., on November 10, 1978.

JAMES M. VINES,
Chief, Aircraft Programs Division.

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

[FR Doc. 78-32240 Filed 11-15-78; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-445]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Certain Textiles and Textile Products From Argentina

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Govenment of Argentina has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of woolen wearing apparel. Deposited countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally due on dutiable shipments of this merchandise.

Men's and boys' apparel consisting of fabrics other than wool and textile mill products of cotton, wool, and manmade fiber, however, are not considered to have benefited from either a bounty or grant.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8256.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23781). The notice stated that it had been preliminarily determined that benfits had been received by Argentine manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool and manmade fiber which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA numbers in the appendix to the above-cited FEDERAL REGISTER notice.

The preliminary countervailing duty notice stated that the programs under which these benefits were conferred included:

(1) Special tax and import benefits to all companies that locate in geographically designated sections of Argentina.

(2) Reduction in income taxes paid on export earnings by a deduction in taxable income derived from export sales.

The preliminary determination also stated that programs which appeared not to be a bounty or grant included:

(1) The remission of the value-added tax on export.

(2) Cash rebates (reembolsos) paid as a percentage of the value of the ex-

ported merchandise. This rebate was believed to be more than offset by numerous indirect taxes, other than the value-added tax, that were considered as directly related to the final product exported. Included among these taxes were provincial level turnover taxes, export taxes, and a variety of national taxes assessed against the exported merchandise or components thereof on an AD VALOREM basis.

(3) Preferential short-term financing, that did not appear to be a bounty based on information that the interest rate charged was not less than that available commercially.

(4) Export credit insurance benefits which appeared not to be a bounty since the government-sponsored program was self-sustaining based on premiums assessed.

(5) Duty exemptions for imported raw materials used in exported articles in conformance with internationally accepted principles of "drawback".

Practices listed in the preliminary determination as not applicable or not utilized by the textile industry in Argentina included:

(1) Free Trade Zone. None exist in Argentina.

(2) Multiple Exchange Rates. Argentina currently operates only one exchange rate.

(3) Duty exemptions for imported capital equipment. This provision, once available, has been abolished.

The notice of the preliminary countervailing duty determination granted interested persons a 30-day period within which to submit relevant data, views or arguments.

After consideration of all information received, it has been decided that the reembolso paid with respect to woolen garments constitutes a bounty within the meaning of the Act. Data contained in a survey of 70 percent of the textile manufacturers/exporters supplied by the Government of Argentina indicate that some of the taxes previously considered in the preliminary determination to be offset against the reembolso on woolen garments are, in fact, labor-related taxes, calculated as a percentage of wages, or taxes, on real estate, credit to industrial corporations and automobile license plates which are not directly related to the production or exportation of the article. Disallowance of these potential offsets requires that a corresponding portion of the reembolso be determined to constitute a bounty. The Government of Argentina, however, is assembling additional information on the cost structure of the woolen garment industry which could result in a subsequent revision or elimination of the affirmative countervailing duty determination respecting this product.

The amount of reembolso paid on other textile products and wearing apparel composed of materials other than wool was less, and in most circumstances substantially less, than that granted on woolen apparel. Consequently, as the tax incidence of otherwise rebatable indirect taxes on these products was nearly equivalent to that experienced in the manufacture of wool garments, the reembolso was fully offset on these items. No bounty, therefore, exists with respect to them.

Other data received since the issuance of the preliminary determination indicate that the regional development incentive and the reduction in income taxes paid on export earnings have not been utilized by the textile industry and hence do not constitute a bounty or grant. Of the 12 textile manufacturers operating within the designated zones which qualify a company for receipt of the development incentive, none directly export their product. Moreover, balance sheets submitted by the major exporting textile manufacturers indicate that they have not availed themselves of the income tax reduction opportunities.

Accordingly, notice is hereby given that dutiable woolen garments, imported directly or indirectly from Argentina, if entered, or withdrawn from warehouse, for consumption on or after November 16, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been determined to be 3.23 percent of the f.o.b. price for export of woolen garments to the United States.

The dutiable woolen garments, determined to benefit from a bounty or grant, are identified by TSUSA number in Section II of the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). Men's and boys' apparel consisting of fabrics other than wool and the other textiles and textile products which are the subject of this investigation have been determined to be free from any benefit which might be considered to constitute either a bounty or a grant.

Effective on or after November 16, 1978, upon the entry, or withdrawal from warehouse, for consumption of the merchandise from Argentina which benefits from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of the woolen garments involved are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of woolen garments manufactured in Argentina.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country" the name "Argentina", and inserting under the column headed "Commodity" the words "woolen garments", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Bounty Declared-Rate" in the column headed "Action".

(R.S. 251, as amended secs. 303, as amended, 624, 46 Stat. 687, 759 19 U.S.C. 66, 1303, 1624.)

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 7, 1978.

[FR Doc. 78-32181 Filed 11-15-78; 8:45 am]

[T.D. 78-446]

[4810-22-M]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Certain Textiles and Textile Products From Brazil

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Brazil has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain textiles and textile products from Brazil. Both dutiable and duty-

free merchandise are included in this determination. The case involving the duty-free merchandise is being referred to the International Trade Commission for an injury determination. Countervailing duties on dutiable items are being waived based on actions by the Brazilian Government to reduce their adverse effect.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, Department of Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8585.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23783). The notice stated that it had been preliminarily determined that benefits had been received by Brazilian manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "textile mill products" include yarns (except cotton yarn, item numbers 300.60 through 302.98 TSUSA, which was the subject of a previous countervailing duty investigation), fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

The men's and boys' apparel and textile mill products from Brazil which are classified under items 307.60, 705.30 and 791.76 are free of duty.

The preliminary determination stated that the programs under which benefits were conferred include the following:

1. Certificates granted by the Brazilian Government in the amount of the IPI/ICM tax which are in addition to the ordinary exemption on export of the value added tax.

2. Preferential financing for exports under Resolution 398.

3. Tax relief on equipment and earnings, in addition to grants to certain new industries and industries located in economically depressed areas under Law 1137.

4. Partial exemption from payment of IPI and import duties on machinery purchases.

5. Cash assistance given to certain enterprises under BEFIEX, a government agency.

Programs preliminarily determined not to be bounties or grants within the meaning of the Act included the following:

1. Exemption from the Industrial Products Tax (IPI), a value added tax, and the ICM tax, a provincial value added tax, on export transactions. The Department has consistently held that the nonexcessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law.

2. Exemption from the payment of import duties and the IPI tax on imports that are incorporated in finished products for export. This follows internationally recognized principles of drawback.

The notice offered interested parties an opportunity to submit any relevant data, views, or arguments in writing with respect to the preliminary determination on or before July 1, 1978.

Subsequent information derived from submission by the Government of Brazil revealed the following:

(1) Short-term financing provided by the Government under Resolution 398 resulted in a weighted average bounty of 6 percent based on a survey of those firms comprising a majority of Brazil's exports. The bounty is the difference in terms provided by the Government loans as compared to those available commercially.

(2) The duty-free treatment of imported machinery under Law 1189 is considered as a bounty or grant since the concept of drawback cannot be applied to imported capital items that subsequently would not be exported. The bounty derived from this benefit is computed by taking the amount of the duty saved over the useful life of the imported capital item.

(3) Only one of the exporters investigated was an eligible enterprise under the BEFIEX program. Benefits included the reduction in IPI taxes, as well as the forgiveness of a prior import deposit of customs duties on imported machinery. The benefit was calculated in a manner similar to that under Law 1189.

(4) None of the companies investigated were the recipient of tax breaks for locating facilities in specifically designated geographic areas of Brazil.

(5) While export earnings are exempted from the payment of income taxes and therefore a bounty, the possible benefits derived therefrom were not computed into the final bounty in view of the uncertainty of the overall tax effect of the IPI/ICM credits, which themselves are treated as income.

(6) The benefit derived from the IPI/ICM credits was computed by taking the total credits utilized by the firms representing a majority of Brazil's textile exports with the final amount of 30.3 percent reflecting a weighted average based on the firms' sales. It should be noted that all credits cannot be utilized to the extent that domestic tax obligations, for which these credits are used, have been exhausted by the end of a business year.

After consideration of all information received, it is hereby determined that textiles and textile mill products which are the subject of this investigation from Brazil are subject to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of the IPI/ICM credits, preferential financing under resolution 398, remission of customs duties on imported capital equipment under Law 1189, and benefits received under the BEFIEX program. The net amount of the bounty or grant has been ascertained and determined to be 37.2 percent of the f.o.b. price for export to the United States of textiles and textile mill products from Brazil. The net bounty for leather wearing apparel has been ascertained and determined to be 34.8 percent of the f.o.b. price.

Effective on or after November 16, 1978, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such dutiable textile products imported directly or indirectly from Brazil, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of textiles and textile mill products from Brazil are benefitting from a bounty or grant smaller that the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this Order shall be deemed to have benefitted from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacturer, production, or exportation of textiles and textile mill products from Brazil.

Notwithstanding the above, a "notice of waiver of countervailing

duties" is being published concurrently with this Order which covers textiles and textile mill products from Brazil subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

Further, the textiles and textile mill products subject to this determination which are classified under item 307.60, 791.76 and 705.30 of the Tariff Schedules of the United States, Annotated (TSUSA), are entered duty-free pursuant to the U.S. Generalized System of Preferences, authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465, 88 Stat. 2066-2071).

In accordance with section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article of merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that 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 article or merchandise into the United States.

Accordingly, the U.S. International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free items subject to this investigation will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would consider it appropriate to waive countervailing duties under section 303(d) of the Act. The Government of Brazil is committed toward the removal of the effective net bounty derived from the IPI/ICM credits, preferential financing under resolution 398, and duty-free treatment of imported machinery under Law 1189. This action will be accomplished as follows:

(1) A 25 percent reduction in the net bounty of 37.2 percent by the imposition of an equivalent export tax on or before November 7, 1978;

(2) A further 25 percent reduction of the bounty on January 3, 1979;

(3) The remaining net bounty or grant of 18.6 percent would be eliminated by no later than January 1, 1980.

In addition the Government of Brazil has committed itself to active participation in the multilateral trade negotiations in Geneva, has agreed on a number of principles that should be included in a code governing the use of subsidies and countervailing duties and will endeavor, with the United States, to reach an agreement on that code during the negotiations in Geneva this month. In addition the Government of Brazil has agreed to make reductions in its overall export incentive program as a contribution to more discipline in international trade.

Effective on or after November 16, 1978, and until further notice, upon the entry for consumption of withdrawal from warehouse for consumption of such duty-free textile products, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "country", the name "Brazil", and inserting the words "dutiable textile products", in the column headed "commodity", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "bounty declared-rate" in the column headed "action".

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303), as amended, 1624).

Pursuant to Reorganization Plan #26 of 1950 and Treasury Department Order 190 (revision 15), March 16, 1978, and the provisions of the Treasury Department Order #165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-32182 Filed 11-15-78; 8:45 am]

[4810-22-M]

[T.D. 78-444]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Certain Textile Products From Uruguay

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Uruguay has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production or exportation of certain textiles and textile products from Uruguay. Both dutiable and duty-free merchandise are included in this determination. Estimated countervailing duties in the amount of these benefits will be collected in addition to duties normally due on dutiable shipments of this merchandise. The case involving the duty-free merchandise is being referred to the International Trade Commission for an injury determination.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23795). The notice stated that it had been preliminarily determined that benefits had been received by Uruguayan manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers which might constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

The textile mill products from Uruguay which are classified under item 307.60 of the TSUSA are free of duty.

A program of tax concessions and services for firms located within free ports and zones was determined not to be utilized by the investigated industry.

Programs found not to be bounties or grants include:

(1) Corporate tax holidays for new export-oriented businesses. It was found that qualifying new businesses receive the same tax exemption as already established businesses.

(2) Rebates of value-added taxes upon export of the goods. The Treasury has consistently held that the nonexcessive rebate or remission of indirect taxes directly related to the pro-

duction of a good does not constitute a bounty or grant.

(3) Rebate of import duties paid on raw materials used in the production of goods for export.

Benefits found to constitute bounties or grants were conferred under the following programs:

(1) Corporate income tax exemptions on certain export related income. Under this program, companies may be exempted from the 25 percent income tax on the portion of their net income related to exports as long as the company contributed at least 15 percent of the value of the product.

(2) Short-term financing at preferential rates for export industries. The Government of Uruguay claims that the rate charged in their export financing program has been changed and is now equal to commercial rates of interest and, therefore, is not a bounty or grant. However, no documentation has been supplied to show the change or relate the new interest rate on export financing to existing commercial rates. The Treasury considers this program a bounty or grant at this time, but would revise this determination if appropriate documentation is provided.

(3) The granting of tax certificates, known as "reintegros", to manufacturers upon the exportation of goods. A number of offsets to the face value of the "reintegros" have been claimed by the Government of Uruguay, including the incomplete rebate of the Uruguayan value-added tax upon export, a number of export taxes and taxes on inputs and raw materials used in the manufacture of these products. Although a number of these offsets would be permissible, sufficient documentation has not been supplied at this time to permit the accurate calculation of the offset. Therefore, the Treasury considers the full value of the "reintegros" to be a bounty or grant at this time. If appropriate documentation is subsequently provided, a review of the size of the net bounty or grant would be undertaken.

The notice announcing the preliminary determination offered interested persons an opportunity to submit any relevant data, views, or arguments in writing with respect to the preliminary determination on or before July 1, 1978.

After consideration of all information received subsequent to the preliminary determination, it is hereby determined that exports of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers from Uruguay benefit from bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of corporate income tax exemptions, the granting of reintegros, and preferential export financing. Accordingly, notice is hereby given that the dutiable merchandise which is the subject of this determination, imported directly or indirectly from Uruguay, if entered, or withdrawn from warehouse, for consumption on or after November 16, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been estimated to be the following percentages of the f.o.b. price for export to the United States of the dutiable merchandise from Uruguay covered by this notice:

	Pct.
Yarns	16.8
Fabric	38.8
Apparel	42.8

Effective on or after November 16, 1978, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of the dutiable merchandise from Uruguay which benefits from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount estimated in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of the dutiable merchandise in this investigation are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation.

The duty-free merchandise referred to in this notice is included in the above determination that bounties or grants were paid or bestowed within the meaning of section 303 of the Act. In accordance with section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that 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 article or merchandise into the United States. Accordingly, the International Trade Commission is being advised of this determination, and the liquidation of enteries, or of withdrawals from warehouse, for consumption of the duty-free apparel in question will be suspended pending the determination of the Commission. Accordingly, effective on or after November 16, 1978, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such duty-free merchandise, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country" the word "Uruguay", inserting under the column headed "Commodity" the words "textile mill products and men's and boys' apparel", inserting under the column headed "Treasury Decision" the number of this Treasury Decision, and inserting under the column headed "Action" the words "Bounty Declared-Rate".

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759, 19 U.S.C. 66, 1303, as amended 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 7, 1978.

[FR Doc. 78-32180 Filed 11-15-78; 8:45 am]

[4810-22-M]

[T.D. 78-447]

PART 159—LIQUIDATION OF DUTIES

Waiver of Countervailing Duties—Textiles from Brazil

AGENCY: Department of the Treasury, U.S. Customs Service.

ACTION: Waiver of Countervailing Duties.

SUMMARY: This notice is to inform the public that a determination has been made to waive countervailing duties that would otherwise be required by section 303 of the Tariff Act of 1930 on imports of textiles from Brazil. The waiver is issued based on actions by the Brazilian Government to reduce the adverse effects of the subsidy on these items. The waiver will expire on January 4, 1979, unless revoked earlier.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, Department of the Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220 202-566-8585.

SUPPLEMENTARY INFORMATION: In T.D. 78-446, published concurrently with this determination, it has been determined that bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed directly or indirectly upon the manufacture, production, or exportation of textiles from Brazil.

Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive the imposition of countervailing duties during the 4-year period beginning on the date of enactment of the Trade Act of 1974, if he determines that:

(1) Adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(2) There is a reasonable prospect that under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(3) The imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Based upon analysis of all the relevant factors and after consultation with agencies and parties with direct interest in this proceeding, I have concluded that steps have been taken to reduce substantially the adverse effects of the bounty or grant. Specifically the Government of Brazil on November 7, 1978, acted to reduce the net bounty of 37.2 percent by 25 percent by the imposition of an equivalent export tax. A further reduction of 25 percent will be accomplished in a similar manner on or before January 3, 1979. The remaining bounty of 18.6 percent will be eliminated by no later than January 1, 1980. In addition the Government of Brazil has committed itself to active participation in the multilateral trade negotiations in Geneva, has agreed on a number of principles that should be included in a code governing the use of subsidies and countervailing duties and will endeavor, with the United States, to reach an agreement on that code during the negotiations in Geneva this month. In addition the Government of Brazil has agreed to make reductions in its overall export incentive program as a contribution to more discipline in international trade.

After consulting with appropriate agencies, including the Department of State, the Department of Labor, and the Office of the Special Representative for Trade Negotiations, I have further concluded:

(1) That there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for reduction or elimination of barriers to or other distortions of international trade; and

(2) That the imposition of countervailing duties on textiles from Brazil would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, pursuant to section 303(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(d)), I hereby waive the imposition of countervailing duties on textiles from Brazil.

This determination may be revoked, in whole or in part, at any time and shall be revoked whenever the basis supporting such determination no longer exists. Unless sooner revoked or made subject to a resolution of disapproval adopted by either House of the Congress of the United States pursuant to section 303(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(e)), this waiver of countervailing duties will in any event by statute, cease to have force and effect on January 4, 1979.

On or after the date of publication in the FEDERAL REGISTER of a notice revoking this determination, in whole or in part, the day after the date of adoption by either House of Congress of a resolution disapproving this "waiver of countervailing duties," or January 4, 1979, whichever occurs first, countervailing duties will be assessable on textiles imported directly or indirectly from Brazil in accordance with T.D. 78-446, published concurrently with this determination.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Brazil under the commodity heading "textiles," the number of this Treasury decision in the column heading "Treasury Decision," and the words "imposition of countervailing duties waived" in the column headed "action."

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303), as amended, 1624.)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-32183 Filed 11-15-78; 8:45 am]

[6820-27-M]

Title 29—Labor

CHAPTER XVI—AUTOMOTIVE AGREEMENT ADJUSTMENT ASSISTANCE BOARD

Removal of CFR Chapter

EDITORIAL NOTE: The Automotive Agreement Adjustment Assistance Board was established by authority of section 302(k) of the Automotive Products Trade Act of 1965 (79 Stat. 1021), and Executive Order 11254, 30 FR 13569.

Regulations were published establishing chapter XVI at 31 FR 827, January 21, 1966, and redesignated at 33 FR 20049, December 31, 1968.

The Automotive Agreement Adjustment Assistance Board was terminated as of June 30, 1968, by the terms of section 302 of the Automotive Products Trade Act of 1965 (79 Stat. 1021).

Because the Automotive Agreement Adjustment Assistance Board is no longer in existence and because of the desire of the Office of the Federal Register to remove any regulations from the Code of Federal Regulations which are no longer in force and effect, pursuant to 1 CFR 8.2, Chapter XVI of Title 29 is hereby removed.

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-228]

PORT SECURITY REGULATIONS UPDATE

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment deletes portions of the current regulations issued under the authority of the Magnuson Act (50 U.S.C. 191) which pertain to the security of U.S. ports and the issuance of security credentials. Regulations requiring special validation of Merchant Mariner's Documents are deleted since this special validation is no longer utilized by the Coast Guard. In addition, this amendment corrects cross-references to reflect current citations.

EFFECTIVE DATE: December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) David G. Dickman, Port Safety Branch (G-WLE-1/73), Room 7319, Department of Transportation, NASSIF Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1927.

SUPPLEMENTARY INFORMATION: No notice of proposed rulemaking is being published because these changes are rules of agency procedure and practice. (5 U.S.C. 533 (b)(3)(A).)

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant (Junior Grade) David G. Dickman, USCG, Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE NEW REGULATIONS

The special validation endorsements for emergency service for merchant marine personnel were issued under the Magnuson Act (50 U.S.C. 191) and served to screen applicants to protect the integrity and security of U.S. ports and harbors during times of national emergency. In recent years this special validation endorsement has become unnecessary. Thus, the special validation endorsement no longer appears on the Merchant Mariner's documents. For this reason, the entire 33 CFR Part 121 is no longer necessary and is being deleted. Also, any references to this special validation endorsement in other sections of these regulations are also being deleted. In addition, the reference to 46 CFR Part 146 in these regulations requires update. Most of 46 CFR Part 146 has been incorporated into 49 CFR Parts 170-189, 46 CFR Parts 146-148, and 46 CFR Parts 150-156. These regulations are therefore being corrected to reflect this change. This final regulation has been evaluated under the Department of Transportation Policies for Improving Government Regulations published on March 8, 1978 (43 FR 9582). The final evaluation is available for public review at the above address. In consideration of the foregoing, Chapter I to Title 33, Code of Federal Regulations is amended as follows:

PART 6—PROTECTION AND SECURITY OF VESSELS, HARBORS, AND WATERFRONT FACILITIES

§ 6.10-3 [Deleted]

1. By deleting entire § 6.10-3.

2. By revising § 6.12-1 to read as follows:

§ 6.12-1 General supervision and control

The Captain of the Port may supervise and control the transportation, handling, loading, discharging, stowage, or storage of hazardous materials on board vessels as covered by the regulations in 49 CFR Parts 170-189, 46 CFR Parts 150-156, 46 CFR Parts 146-148 and the regulations governing tank vessels (46 CFR Parts 30-39).

PART 121—SPECIAL VALIDATION ENDORSEMENT FOR EMERGENCY SERVICE FOR MERCHANT MARINE PERSONNEL [DELETED]

3. By deleting the entire part 121.

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES

4. By revising § 125.09(b) to read as follows:

§ 125.09 Identification credentials

* * * * *

(b) Merchant Mariner's Document.

* * * * *

5. By revising § 125.17(b) to read as follows:

§ 125.17 Persons eligible for Coast Guard Port Security Cards.

* * * * *

(b) A holder of a Merchant Mariner's Document shall not be issued a Port Security Card, unless his Merchant Mariner's Document is surrendered to the Coast Guard. In this connection, see § 125.09.

(40 Stat. 220, as amended (50 U.S.C. 191)).

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

NOVEMBER 2, 1978.

[FR Doc. 78-32063 Filed 11-15-78; 8:45 am]

[4910-14-M]

[CGD 11-78-08]

PART 165—SAFETY ZONES

Establishment of Safety Zone Around LPG Vessel "Cavendish" in Los Angeles Harbor

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard Safety Zone Regulations establishes a safety zone around the LPG Vessel *Cavendish* during the period of its arrival, transit, mooring and cargo transfer of liquefied petroleum gas in the waters of Los Angeles Harbor. This zone has been instituted to provide an exceptional degree of safety and control for the duration of this operation from the estimated time of arrival on November 16, 1978, until approximately November 19, 1978.

EFFECTIVE DATE: This amendment becomes effective on November 16, 1978, and remains in effect until the vessel departs Los Angeles Harbor or until November 30, 1978 whichever is earlier.

FOR FURTHER INFORMATION CONTACT:

ENS J. T. Roosen, Vessel Management Officer, Captain of the Port, Los Angeles-Long Beach, 165 North Pico Avenue, Long Beach, Calif. 90802, 213-590-2315.

SUPPLEMENTARY INFORMATION: This safety zone is being enforced by representatives of the Captain of the Port Los Angeles-Long Beach, Calif. In addition, the Captain of the port will be assisted in enforcing this safety zone by the Los Angeles Harbor Department, Los Angeles Police Deprtment and Los Angeles Fire Department.

As provided in the General Safety Zone Regulations (33 CFR 165.20), no person or vessel may enter a safety zone unless authorized by the Captain of the Port or the District Commander. These general Regulations and other regulations in 33 CFR, part 165 apply to the safety zone established for the navigable waters within 1 nautical mile of the LPG Vessel *Cavendish* while it is anchored outside the middle breakwater or in Los Angeles Harbor.

An opportunity to comment on this safety zone as a proposed rule has not been provided and good cause exists for making the zone effective immediately. A determination has been made that to do otherwise would be both im-

practicable and contrary to the public interest. In view of the imminent arrival of the LPG Vessel *Cavendish*, there is not sufficient time to allow an opportunity for public comment or to provide for a delayed effective date. Following these administrative procedures would prevent timely establishment of the safety zone and, thus would thwart the purpose of the zone.

DRAFTING INFORMATION

The principal person involved in drafting this rule is: ENS J. T. Roosen, Vessel Management Officer, Captain of the Port Los Angeles-Long Beach, Calif.

In consideration of the above, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a § 165.110 to read as follows:

§ 165.110 11th Coast Guard District.

(a) The navigable waters within 1 nautical mile of the LPG Vessel *Cavendish* while it is anchored outside the middle breakwater in Los Angeles Harbor, or is transiting from anchorage to berth 120 Los Angeles Harbor, or departing from berth 120 until clear of Los Angeles Harbor. Vessels moored or anchored may remain so during the transit of the LPG Vessel *Cavendish* unless otherwise directed by the Captain of the Port Los Angeles-Long Beach or Los Angeles Harbor Department.

(b) The navigable waters within 100 yards of the LPG Vessel *Cavendish* while the vessel is moored at berth 120 Los Angeles, Calif.

(Port and Tanker Safety Act of 1978. Pub. L. 95-474, 92 Stat. 1471, 49 CFR 1.46(n)(4).)

Dated: November 9, 1978.

W. W. WHITE,
Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 78-32283 Filed 11-15-78; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 257—PHILATELY

Revision and restatement of policies and procedures on philatelic sales and cancellations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: All postal regulations concerning the sale of stamps and philatelic cancellations are being revised or restated. In general, this action is being taken to make existing philatelic regulations comply with changed postal operating requirements or to make them complete and clear because some of the regulations have, at times, been misunderstood by postal employees and the public.

EFFECTIVE DATE: December 15, 1978; except that § 257.6 became effective on August 4, 1978 (43 FR 29119).

FOR FURTHER INFORMATION CONTACT: Linda Whitehead, 202-245-4956.

SUPPLEMENTARY INFORMATION: On December 21, 1977, the Postal Service published for comment a proposed recodification of Part 257 of Title 39, Code of Federal Regulations, dealing with policies and procedures on philatelic sales and cancellations. (42 FR 63903.)

The Postal Service received a number of written comments. However, no comments were received concerning proposed § 257.6, which dealt with the copyright of philatelic designs. Since proposed § 257.6 would regulate the use of illustrations of philatelic designs, and since the Postal Service decided to copyright such designs, it was decided to adopt that section as a final rule even though the Postal Service was not yet ready to adopt the rest of the philatelic regulations. Section 257.6 was adopted in the July 6, 1978 FEDERAL REGISTER. 43 FR 29119.

Thirty-two individuals and four Government organizations commented on the remaining portions of the proposal. The comments, and the Postal Service response thereto, follow:

Four individuals objected to the limitation in proposed § 257.4(e)(3)(v) of 50 first day of issue cancellations per customer where the Postal Service is requested to affix the stamps; one individual stated that this restriction is unfair to small dealers. The objection is not well taken. First day cover service is designed to meet the needs of individual collectors. The rule will treat all persons equally by requiring that all customers submitting more than 50 covers for first day of issue cancellations buy and affix their own stamps. There will be no limitation on the number of covers canceled by the Postal Service when the customer submits already stamped covers. This practice has already received nearly universal acceptance in the philatelic trade.

Five persons suggested that the Postal Service permit first day cover collectors to provide a self-addressed stamped envelope for return of their canceled first day cover or alternatively to return covers in protective plastic wrappers. We did not adopt these suggestions. The first suggestion would seriously impede first day of issue cancellation operations by requiring that in the processing stream the cover(s) to be canceled be kept together with the customer's return envelope. This would prevent bulk canceling of covers and would slow down service while increasing postal costs. As to the use of protective wrappers, the Postal Service previously experimented with return of covers in protective plastic wrappers but determined it to be too costly measured against the benefits to be derived.

One person stated that collectors should be able to receive at least five unofficial first day cancellations at any post office on a handback basis. The rule (§ 257.4(b)(3)(i)) substantially provides the service requested since it permits customers who purchase newly issued postage stamps and stationery items at the official post office of issuance on their first day of sale to take them to any other post office for postmarking on that same day. Handback service may be obtained on 50 or fewer covers. One individual proposed that the Postal Service accept cash in payment of stamps to be affixed on first day covers. We discourage the mailing of cash because coins may damage canceling equipment and cash payments are subject to loss. Furthermore, accounting for coins slows processing of first day cover orders and makes processing more cumbersome since the coins must be individually removed from the envelopes and counted.

One person commented that the last sentence of proposed § 257.4(c)(5) is ambiguous since it is not clear from the wording that "obliterators" may be used for philatelic purposes if other postmarking devices are not available. We agree that the wording was ambiguous and in the final rule we have revised the sentence to read: "The following devices are obliterators and may be used for philatelic purposes in cases where none of the postmarks or postmarking devices described above is available." We also made several numbering changes in § 257.4(c) including numbering the above sentence as § 257.4(c)(2).

One commenter said that the reference to "nonmachineable covers" in proposed § 257.4(e)(3)(vi) is confusing. We agree. To correct this, we have revised the first sentence of the section to read: "Handstamped cancellations will be applied at the first day ceremony location, at the main post office windows of the first day post office and on covers which cannot be fully canceled by postal cancellation machines."

Three persons stated that handback service should be permitted on unaddressed covers canceled by machine. Handback service on unaddressed machine canceled covers was prohibited

in the proposal on the premise that most cancellation machines are not located in the immediate retail sales area and that to offer the service under those circumstances would be unduly disruptive of postal operations and an inconvenience to other postal customers. Because these conditions may not exist in all post offices, § 257.4(b)(3)(i) is amended to permit handback service on unaddressed machine canceled covers only where the cancellation equipment is readily accessible to the window clerk and where the providing of such service will not interfere with other sales or mail processing operations and will not inconvenience other customers.

One person expressed concern that the proposed rule will not allow the holding of mail for cancellation on a special date. This comment reflects an incorrect interpretation of the proposed regulations (§ 257.4(g)(4)) which, in fact, will allow post offices to hold mail for future cancellation on a specified date when the date of the event is certain and not subject to change.

One commenter suggested that envelopes which cannot be held for future cancellation be returned unserviced in an outer envelope with an explanation of why service cannot be provided rather than having the Postal Service provide an unwanted cancellation on the envelope, rendering it unusable in the future. The suggestion is accepted and § 257.4(g)(4) is amended to incorporate it.

Eight people objected to the proposed regulation in § 257.3(e) on plate blocks for stamps having denominations from 1 cent to 16 cents. They claimed that it would constitute an unreasonable burden on collectors. Under the proposal, clerks were to be permitted to break a pane of stamps to sell a plate block or other marginal marking only when they did not have broken panes of the same stamp. If clerks had a broken pane of the desired stamp that lacked the plate block or the marginal marking, customers would be required to make a minimum purchase of a full pane of stamps in order to buy the plate block or marking. Efficient operation of window retail facilities in post offices requires that broken panes of stamps be kept to a manageable level in order to avoid adverse effects on clerk accountability, to maintain stamp stocks in an orderly manner and to facilitate examinations and audits of clerks' accountable stocks and disposal of unsaleable stock. Nevertheless, to assist collectors who desire the plate block when there is a previously broken pane of stamps of that denomination or stamp subject from which the plate block has been removed, the regulations have been revised to permit clerks to sell, instead of the whole pane, one marginal strip of stamps (a strip of stamps two rows wide, including the plate block) for each stamp design. There will also be a maximum purchase limitation for each transaction of one strip of stamps for each stamp subject being sold by the clerk. When a pane of that denomination or stamp subject has been broken prior to the transaction, with the plate block or other marginal marking attached, the clerk will be permitted to sell the customer the stamps requested from the broken pane without a minimum purchase. The revised section will also prohibit clerks from removing plate blocks in advance. The Postal Service expects to evaluate the impact this change in policy has on its operations generally over a period from 12 to 18 months, and if the results show that efficient operations have been impeded a further revision of this policy will be considered.

One individual urged that postal clerks be instructed to tear stamps from the edge farthest from the plate block or other marginal markings first for sale to noncollectors to insure ample supplies of plate blocks for collectors. This proposal has merit and is incorporated into § 257.3(e)(2)(ii)(B) in the interest of serving a larger number of collectors by insuring that plate blocks are left intact for them.

One person suggested that local post offices be supplied with panes of stamps with all four corner positions of plate block numbers. This suggestion is not adopted. To accommodate collectors, the Postal Service supplies all philatelic centers (approximately 250 offices) with four-position stock. The distribution of such stock beyond these offices is made impractical by the uneven distribution of plate positions and by the costliness of hand selecting and packing that would be required.

One individual suggested that the Postal Service permit the sale of plate blocks of four or six postage due stamps. Operating efficiency requires that this suggestion not be adopted. Reducing the purchase requirement to four or six stamps to meet the needs of plate block collectors would require post offices to supply far more postage due stamps than they would otherwise need. The sales policy for plate blocks of postage due stamps is the same as that applicable to other postage stamps.

One individual disagreed with the provision (§ 257.3(c)(3)(vi)(A)) that prohibits the sale of stamps withdrawn from sale by the Philatelic Sales Branch. Post offices carry an inventory of 60 days' supply of commemorative stamps while philatelic outlets supply them for as long as they remain on sale at the Philatelic Sales Branch. This period is generally 1 year or longer. This provides collectors ample opportunity to obtain any stamps or other items they should need. Accountability and security considerations make it impractical to maintain inventories of older stamps in anticipation that a collector may want them. Permitting the sale of commemorative stamps for unlimited periods might lead post offices to requisition excessive supplies of some particularly popular commemorative or other stamps and might in turn discourage requisitioning of subsequent issues.

One person suggested that cancellations with red ink should be permitted. Section 257.4(b)(2) is revised to permit cancellations with red ink when that color is otherwise in use and the collector specifically indicates a preference for that color. One individual suggested that multiple cancellations be permitted on mailed in covers in addition to handed back covers when the customer encloses a self-addressed, stamped envelope for return of the covers. The suggestion is not adopted. Mail back service is not permitted for multiple cancellations because the appearance of envelopes in the mailstream bearing multiple postmarks, such as a cancellation for each day of an event, would impede the collection of data by the Postal Service used to measure mail delivery standards in its Origin Destination Information System (ODIS) program. Under ODIS procedures, the earliest postmark on mail which has more than one postmark and which is not forwarded or returned mail is recorded. In the case of multiple cancellation mail, this would cause the date of cancellation rather than the date of mailing to be recorded. As to returning the covers in a stamped self-addressed envelope, this will not be permitted because it would slow down postal operations if it were necessary for postal personnel to keep multiple cancellation covers together with a return envelope.

One person suggested that the Postal Service allow collection of cancellation service fees at the local post office when the service is provided. We did not adopt this suggestion because local administration increases the possibility of incorrect application of the regulations and of improper diversion of fees which are not evidenced by item sales.

One individual suggested that the Postal Service permit clerks at all post offices to break or open coils of stamps to enable collectors to purchase the line pairs. This suggestion is not adopted for it would disrupt retail operations at postal windows and would create large quantities of loose coil stamps. it would also render coil stamps unusable by an important seg-

ment of mail users who desire to purchase full coils of stamps for affixing by machines. As an accommodation to collectors, philatelic outlets and the Philatelic Sales Branch will be permitted under § 257.3(e)(iii) to open coils of stamps to sell line pairs upon purchase of the specified number of stamps.

One commenter suggested that fractional value coiled stamps be sold in any multiple which reaches a full cent amount. The proposed rule overlooked the fact that fractional values can reach full cent amounts in multiples other than 10. Section 257.3(e)(3)(iii) is amended to correct this oversight.

One person stated that the Postal Service should make its special philatelic items more readily available to persons not attending the events at which they are placed on sale. The Postal Service agrees with the commenter and will distribute all special philatelic items to its principal philatelic outlets and to the Philatelic Sales Branch for mail order sales.

One individual requested that the Postal Service improve distribution of new stamps to post offices. We already endeavor to inform all post offices of new issues in advance. This effort will be continued in official postal publications to employees.

One person objected that the number of regular cancellations which will be provided to collectors will be reduced from 100 to 50. Philatelic services are designed primarily to meet the needs of individual stamp and postmark collectors. The Postal Service has concluded that individual requirements—as opposed to commercial or dealer requirements—for postmarks will be generally met by servicing (postmarking) fewer than 50 covers or other items. Quantities above this amount often require special arrangements, so the Postal Service will service more than 50 covers only when advance approval is granted by the Stamps Division.

One person objected to the return postage charge for mail back service on the ground that the customer has already paid postage on each canceled item and has received cancellation but not delivery service on them. The commenter requested that the canceled items be returned under penalty cover. Mail back service is provided for the convenience of the customer. While it is true that return postage has been paid by the customer on all individual items being mailed back, they could be dropped in the mail individually and not enclosed in another envelope. It is the customer who requests this additional service and protection for his mail. The Postal Service may not provide free postage for materials which do not constitute official postal business.

One person inquired whether "mailback" service is permitted on postal cards. Section 257.4(h)(2)(iii) is clarified to specify "mailback" service in bulk applies to submittal of postal cards.

One person contended that the Postal Service should permit imprints of precancel devices on blank pieces of paper. Postmarking devices and obliterators, including precanceling devices, are intended exclusively for the cancellation of postage stamps and, therefore, they may not be applied to blank pieces of paper.

One individual asserted that the Postal Service should allow the precancellation of postage due stamps. Postage due stamps are not valid for prepayment of postage and, therefore, are not precanceled in normal postal operations.

One person commented that the Postal Service should emphasize that postal employees should not cancel stamps by pen, illegible smudging, or unevenly or overly inked machines. Section 257.4(b)(2) is amended to direct clerks to avoid such cancellations. The protection of postal revenue will at times, however, necessitate pen cancellations and mail processing operations may render frequent checking of ink levels on cancellation machines impractical.

One person suggested that the Postal Service replace stamps that have been destroyed by unacceptable cancellations. The suggestion is not adopted because the Postal Service cannot accept liability for damage to items in its possession unless they have been insured or registered.

One commenter suggested that the Postal Service print and sell a special label to identify philatelic mail. The demand for this service is not believed to be so great as to warrant development, procurement, sale, and distribution of philatelic labels. In addition, the costs of identifying this mail for special handling where no special fee would be charged are prohibitive.

One person suggested that philatelic centers should be permitted to fill mail order requests in addition to the Philatelic Sales Branch so that service could be improved and handling fees and minimum orders avoided. The suggestion is based on the faulty assumption that the Postal Service would waive handling fees and minimum order amounts if it decentralized mail order sales. The complexity of mail order fulfillment is such that a single facility is most suited to offer the complete range of stamps and other philatelic items. Those who prefer to obtain stamps and other items locally may visit their local post office or philatelic center in person, avoiding handling fees and minimum orders.

One person suggested that § 352.54 of the Postal Service Manual on "Local Postmarks" be incorporated into Part 257, the philatelic regulations. Section 352.54 of the Postal Service Manual states that persons desiring local postmarks may use special lobby drops. Incorporation of this provision into Part 257 might mistakenly convey the impression that philatelic quality cancellations would be applied to mail deposited in special lobby drops. Because collectors could be misled, this suggestion will not be adopted.

One individual suggested that all post offices be required to have postmarking devices with which hand stamped cancellations can be provided. All post offices are currently supposed to have the rubber postmarking device with killer bars (Item 550) for canceling local holdout mail or for philatelic purposes. The Postal Service issued a reminder notice in the Postal Bulletin (P.B. 21143, April 20, 1978) that all post offices should have Item 550 available.

One person noted that the statement in the proposed rule that post offices may not order precancel devices solely to meet philatelic demand contradicts another statement of policy in Part 143 of the Postal Service Manual that directs post offices with 36 or more revenue units to acquire a precancel device solely to meet philatelic demand. We have resolved this conflict by amending Part 143 of the Postal Manual to state that philatelic demand alone does not warrent the securing of precancel devices by post offices. These devices should be obtained only by post offices which service the needs of precancel permit holders. Offices having operating needs for precancel devices will be authorized to precancel postage stamps for nonpermit holders for philatelic purposes.

One person said that the Postal Service should remove the current limitation in Part 143 of the Postal Service Manual on the number of precanceled stamps that a collector may purchase. The maximum purchase is now one pane of precanceled regular sheet stamps or one coil of precanceled stamps. The Postal Service agrees and has amended Part 143 of the Postal Manual to eliminate any maximum purchase limitation on precanceled regular or full coil postage stamps.

We also received numerous comments on subjects which were not directly addressed in the proposed rule. Because these comments were outside the scope of the proposed rule, they were not considered in this rulemaking.

The Postal Service will make the following additional changes in the proposed rule (1) to reflect a transfer of functional responsibility within the

Postal Service, (2) to correct oversights in the original text, and (3) to facilitate philatelic cancellation services at military post offices:

Section 257.2 is amended to include commemorative stationery in its description of the purpose and selection of commemorative stamps. The omission of commemorative stationery was unintentional in the original text.

The proposed rule stated in § 257.3 (a) and (b) that the Management Sectional Centers were responsible for distribution of philatelic products. Because not all Management Sectional Centers distribute philatelic products, references to the Management Sectional Centers are changed to refer to the Stamp Distribution Offices.

Section 257.3(b) is revised to continue the current practice of requiring accountable paper depositories to provide philatelic outlets with plate blocks of stamps only in denominations of $1 and above. The proposed rule, which would have permitted the tearing of stamps into marginal strips in values from 17 cents to 99 cents, might have imposed an unreasonable burden on the productive capacity of the accountable paper depositories at this time. A conforming amendment is made to § 257.3(c)(3)(vi)(A).

Section 257.3(c)(1) is amended to delete the parenthetical reference to Postiques and add the following language "Some philatelic outlets are referred to as Postiques. (Postique is a registered trademark of the U.S. Postal Service.)" The proposed section unintentionally conveyed the impression that all philatelic outlets are Postiques, whereas they constitute only one variety of philatelic center.

In order to avoid an interpretation that temporary philatelic stations are to be established only at occasions of public interest specifically mentioned in the regulation, the last sentence of § 257.3(c)(3)(i) has been revised to read "They are most frequently located at stamp shows, philatelic exhibitions, stamp dedications, State fairs, conventions, parades or at other occasions of significant public or philatelic interest."

The word "direct" has been deleted from the fourth sentence in § 257.3(c)(3)(ii) in order to dispel any inference that payment of indirect fees may be authorized below the headquarters level.

Proposed § 257.4(b) mentioned only envelopes in describing philatelic postmarking. This was unintentional and to correct the impression that other items are excluded the final two sentences of the section have been revised to specify that items in addition to envelopes are included.

Sections 257.4(e)(3)(iv) and (g)(3)(iv) are revised to specify that hand back service will not be provided on first day of issue covers presented after the first day of issuance.

Section 257.4(e)(3)(ii)(A) is amended to indicate that preferential service will be accorded to first day covers on which customers have affixed their own stamps as opposed to those covers on which the Postal Service must affix the stamps.

Section 257.4(e)(3)(ii)(B) is amended to indicate that first day cover orders containing checks in payment of stamps will be held until the checks have been cleared.

Section 257.4(f)(1) is amended to clarify current policy that special cachet and cancellation services for inaugural flights and other aviation events of national interest will be limited to mail actually carried on the flight. This will make clear the existing policy excluding service on items carried as luggage on board the flight but not dispatched as mail by postal authorities.

The proposed rule stated in § 257.4(f)(2) that the Air Transportation Division coordinated arrangements for the Postal Service for flight covers. This responsibility has been transferred to the Stamps Division. All references to the Air Transportation Division are changed to refer to the Stamps Division.

Section 257.4(f)(2) is further amended to indicate that backstamped postmarks on international flights to U.S. destinations will be applied only when the postal administration of the country of the flight's origin officially requests that the U.S. Postal Service provide philatelic treatment to mail carried on the flight.

This section is also amended to state that announcements of both official cachets and cancellation services for flight covers are published in the Postal Bulletin. The proposed rule inadvertently overlooked cancellation services.

The second sentence of § 257.4(f)(3) is modified by deleting the words "letter mail" and replacing them with the word "airmail." This change will make the section clearer.

Sections 257.4 (g)(3) and (h) have been revised to refer to both "cover servicers" and "dealers" since it was intended that the regulations govern both categories of customers. The first sentence of § 257.4(g)(5) is amended to state specifically the types of cancellations to which the 30 day request period for replacement applies. In addition, a new sentence has been inserted following the second sentence in § 257.4(g)(5) to clarify the current Postal Service policy of not providing replacements on envelopes that are marked on the back by letter sorting machine code numbers as they moved through the mail stream.

Section 257.4(g)(7) on "Military Post Offices" is amended to permit the postal chief at each installation to establish the maximum number of covers that individual collectors or dealers may submit. The provision for approval of quantities above that number and for the handling fee is deleted because of the difficulty of fairly administering this program at military post offices and because of the added burden of administration it would place on military post offices.

Section 257.5(b) on philatelic presentations is corrected in order to permit the use of canceled and uncanceled U.S. postage stamps, postal stationery and other philatelic products for official postal business purposes. The omission of this use in the proposal was an oversight. The Postal Service also made certain minor, editorial and technical changes and corrections.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following revision to 39 CFR part 257:

Part 257 is revised to read as follows:

PART 257—PHILATELY

Sec.

257.1 Policy.
257.2 Purpose and selection of commemorative stamps, postal stationery, and philatelic products.
257.3 Distribution and sale of stamps, stamped paper and philatelic products.
257.4 Cancellations for philatelic purposes.
257.5 Special philatelic services, products and programs.
257.6 Copyright of philatelic designs.

AUTHORITY: 39 U.S.C. 401, 404.

§ 257.1 Policy.

There shall be a single national policy governing the release, sale and discontinuance of postage stamps and stamped paper. The policy shall be established by the Customer Services Department, USPS Headquarters, Washington, D.C. 20260. The policy governing philatelic products shall be administered by the Philatelic Marketing Division. All other policies shall be administered by the Stamps Division. Uniform application of policies will provide a high degree of integrity to the entire program, and all post offices, postal employees and contractors shall comply with the policies set forth in part 257. The Postal Service will avoid the creation of philatelic rarities.

§ 257.2 Purpose and selection of commemorative stamps, postal stationery, and philatelic products.

(a) *Purpose of Commemorative Stamps and Postal Stationery* Commemorative stamps and postal stationery (postal cards, embossed stamped envelopes and aerogrammes) explain the cultural and historical heritage of

the United States. They describe our Nation's achievements, portray the natural wonders of our country, instill pride in America, and focus attention on worthy causes, issues and interests that are of national concern. The Postal Service encourages the widespread use of these stamps and stationery items to promote our national ideals, progress and heritage. Commemorative stamps are not intended to replace regular stamps of the same class, but are provided upon request when available.

(b) *Selection of Commemorative stamps.* Subjects for commemorative postage stamps and postal stationery may be proposed by the public through correspondence to the Citizens' Stamp Advisory Committee. The Committee, which is composed of individuals from outside the Postal Service appointed by the Postmaster General, reviews suggestions and makes recommendations for commemorative stamps and postal stationery to the Postmaster General, who makes the final selections. Because the Committee works far in advance of actual stamp issuance, all proposals should be submitted at least two years prior to the desired issuance date. All suggestions should be forwarded to the Citizens Stamp Advisory Committee, U.S. Postal Service c/o Stamp Development Branch, 475 L'Enfant Plaza, SW., Washington, D.C. 20260.

(c) *Philatelic Products.* Philatelic products are produced and sold to expand interest in the hobby of stamp collecting by demonstrating both the fun and the informative value of stamps.

§ 257.3 Distribution and sale of stamps, postal stationery and philatelic products.

(a) *Distribution.* All post offices receive initial supplies of new issue commemorative stamps without requisition. Philatelic products such as Mint Sets, Stamp Collecting Kits, etc., are distributed automatically to Stamp Distribution Offices. Stamp Distribution Offices shall establish a program for the distribution of new philatelic products and the replenishment of existing philatelic products to associate post offices. Stamp Distribution Offices shall assure that less-than-bulk quantities of stamps are supplied to all post offices so they can be placed on sale in accordance with instructions issued in the Postal Bulletin. Stamp Distribution Offices requiring additional philatelic products should requisition them from the regional accountable paper depository. All other post offices shall requisition philatelic products from their Stamp Distribution Office or usual source of supply for less-than-bulk orders.

(b) *Requisitioning.* The accountable paper custodian or other individual in charge of the stamp stock at each post office is responsible for requisitioning and maintaining an adequate inventory of stamps, postal stationery and other philatelic products required for efficient and effective operation. This individual should periodically evaluate philatelic demand and, when necessary, forward a separate requisition to the normal source of supply for additional stock. All requisitioning shall be in accordance with the procedures in Section 520. Series F-1 Handbook, Financial and Cost Controls. Accountable paper custodians should, when necessary, reduce the quantity of stamps received automatically to preclude costly overstocking and subsequent destruction; this is done by memorandum to the Bureau of Engraving and Printing for bulk quantities or the Postal Data Center for less-than-bulk quantities. The Stamp Distribution Office accountable paper custodian should maintain a good working supply of stamps for sale in philatelic outlets including plate blocks of four of $1.00 to $5.00 stamps. Stamps Distribution Office accountable paper custodians can requisition plate blocks from $1.00 to $5.00 stamps directly from the regional accountable paper depository. The regional accountable paper depository is responsible for tearing stamps with a denomination higher than $1.00 blocks and disposing of partial sheets in accordance with Section 553, Series F-1 Handbook.

(c) *Retail Sales.* Stamps, postal stationery and philatelic products are sold at various types of postal retail facilities. Most of these facilities have regular stamp windows or have been designated as "Stamp Collecting Centers." "Stamp Collecting Centers" sell the current commemorative stamps and philatelic products. Other post offices provide specialized philatelic services and sell the full range of stamps and philatelic products offered by the Postal Service. These facilities, described below as well as the Philatelic Sales Branch, are referred to collectively as "philatelic outlets."

(1) *Philatelic Centers.* Philatelic Centers are retail selling areas or self-contained facilities separate from the lobby window positions. Some philatelic outlets are referred to as Postiques. (Postique is a registered trademark of the U.S. Postal Service.) They display and sell all current stamps and related philatelic products. The stamps and postal stationery stock offered for sale include commemorative stamps, definitive and regular issue stamps, coils, postage due stamps, air mail and special delivery stamps, booklets and booklet panes, packets of stamped embossed envelopes, postal cards, and message reply cards and aerogrammes. The Philatelic Sales Branch is a Philatelic Center.

(2) *Dedicated Philatelic Windows.* A Dedicated Philatelic Window is a lobby window designated to sell stamps and related philatelic products only. No other postal services are available at Dedicated Philatelic Windows, which are to be indentified so that customers desiring normal postal services are directed to other windows. The same items sold at Philatelic Centers are also sold at Dedicated Philatelic Windows.

(3) *Temporary Philatelic Stations—*
(i) *Purpose of Participation.* Post offices establish special temporary stations to provide philatelic services, and to sell commemorative stamps and philatelic products. These stations may include specially constructed counters or mobile retail units. They are most frequently located at stamp shows, philatelic exibitions, stamp dedications, state fairs, conventions, parades or at other locations of activities of significant public or philatelic interest.

(ii) *Requests for Participation.* Requests for Postal Service participation at such events should be made by the sponsors or organizers to the local postmaster for initial action. Only request for first day of issue or other special support which must come from the national level should be directed to the Stamps Division. All first day ceremonies are conducted under the direction of the Stamps Division. The payment of fees for space may not be authorized below the Headquarters level. Once a postmaster has agreed to participate in an exibition, a unilateral withdrawal from such a commitment may not be made without the approval of the Regional Retail Branch based upon a showing of good cause.

(iii) *Authorization.* Temporary philatelic stations may be authorized by the postmaster with approval by the Regional Retail Manager. Postmasters are authorized to participate at events where admission fees are charged by sponsor, but in these cases the same cancellation used at the event must be available on request to those not attending the event.

(iv) *Ceremonies.* Postmasters and other local officials are encouraged to participate in opening ceremonies for stamp exibitions or other stamp ceremonies arranged by philatelic groups whether or not a temporary philatelic station has been authorized.

(v) *Announcement and Publicity—*
(A) *Posters.* An announcement of the temporary philatelic station and any show cancellation must be posted on the main post office lobby bulletin board and may be posted in other post offices within a 10-mile radius of the event so that collectors will be advised

of the USPS's participation. In case of larger shows the posting may occur throughout the sectional center. Posters should be placed on display at least 15 days before the event but in no case more than 30 days before the event. All announcements must emphasize the temporary philatelic station. The announcements should mention the name of the stamp show, pictorial or standard cancellation (if any), the dates and hours open to the public, and the location. Promotional material for the show itself must not be incorporated.

(B) *Press Releases.* The postmaster should also announce through press releases to local newspapers the planned establishment of this station. The post office, however, must not distribute free flyers to homes, sell or distribute tickets, exchange ticket coupons, or authorize the use of post office facilities for direct show promotion.

(vi) *Arrangements.* Postmasters should insure that detailed planning begins well in advance of the show so that participation brings credit to the USPS and provides a wide range of stamps and philatelic products to collectors. Particular attention should be taken in selecting sales personnel who are knowledgeable about stamp collecting and who have retail experience. All clerks should be fully trained in philatelic sales and cancellation policies.

(A) *Stamp Stock.* The postmaster should secure a wide range of philatelic products and current postage, using the Philatelic Sales Branch stock list (PS Form 3300) as a guide. Consideration should be given to prepackaging sets of regular issues or postage dues for sale to collectors. No stamp which has been withdrawn from sale by the Philatelic Sales Branch may be sold by any philatelic station. Withdrawals are noted in the Postal Bulletin. Postmasters should requisition philatelic stock not already available in their post office from the Regional Accountable Paper Depository on Form 17, "Stamp Requisition," indicating the quantity required and the fact that it is a stamp show. For stamp shows, stamps with a denomination higher than $1.00 may be requisitioned in partial sheets or plate blocks of four as noted in § 257.3(b). At the conclusion of the show, excess philatelic stock, including remainders from commemorative sheets, should be sold at the regular windows for postage purposes.

(B) *Philatelic Products.* Postmasters should display and sell philatelic products such as Souvenir Mint Sets, "Stamps & Stories," and Stamp Collecting Kits.

(C) *Sales Restrictions.* The sales policies regarding plate number blocks, marginal markings and line markings on coil stamps are described in § 257.3(e)(3) (ii) and (iii).

(D) *Security and facilities.* Postmasters should insure that sufficient security for the stamp stock is provided at the show site and that all other facilities are adequate.

(E) *Appearance.* Postmasters should insure that the appearance of the temporary philatelic station brings credit to the Postal Service by utilizing attractive signs and having space for satisfactory service. The hours that the station is open should be posted.

(F) *Prompt Service.* At those exhibitions where a large number of collectors is expected, postmasters should consider utilizing a speedy line or customer numbers which can be distributed and announced so that customers will not have to wait to make their purchases.

(G) *Cancellation Service.* Cancellation service should be provided separately from stamp sales. A sufficient number of clerks should be available to provide speedy service. Clerks should be trained in advance how to provide handstamped postmarks of philatelic quality. Refer to § 257.4(c) for cancellation regulations.

(H) *Sales Report.* An exhibition sales report must be submitted to the Regional Retail Manager within 1 week of the close of every station showing both gross revenues and net revenues.

(d) *Mail Order Sales.* The Philatelic Sales Branch services mail orders for postage stamps of selected quality and other philatelic items. Customers may obtain an order form listing items available by writing to the Philatelic Sales Branch, U.S. Postal Service, Washington, D.C. 20265. Post offices may not fill mail orders for stamps and other philatelic items other than mail orders under the Stamps by Mail program and orders for local precancels. Customers must furnish a self-addressed stamped envelope for return of precanceled stamps. Postmasters may not order precancel devices solely to satisfy collector demands. Philatelic Centers and Dedicated Philatelic Windows may accept and fill mail orders for special cacheted envelopes with cancellations authorized under § 257.5(a). This section shall not affect procedures outlined in § 257.4(h)(3) for purchase of newly issued stamps by cover services from the first day of issue post office.

(e) *Sales Policies*—(1) *New Issues.* Only the post office or offices designated as the official first day of issue office(s) shall sell a new item on the first day of sale. New issues shall be placed on sale at all other offices on the day after the first day of sale.

(2) *Regular Stamp Windows and Stamp Collecting Centers*—(i) *Commemorative Stamps.* It is the Postal Service's intent that all commemorative stamps be sold and none destroyed. Offices shall place commemorative stamps on regular sale, holding aside only enough for the local philatelic demand. All supplies should be sold within 60 days after being placed on sale. After 60 days, clerks should sell all remaining commemorative stamps to customers in place of other sheet stamps. Commemorative stamps of local interest may remain on sale for a longer period but in no case after the date of withdrawal from sale announced in the *Postal Bulletin.*

(ii) *Plate Number Blocks and Marginal Markings for all Stamps*—(A) *Definition.* Plate number blocks are the stamps located on one corner of a pane of stamps with a plate number or numbers printed on the margin (selvage). The plate number blocks may include as few as four stamps where a single number appears, or as many as 20 where multiple floating numbers and other markings such as Mr. ZIP and notice of copyright appear.

(B) *Setting Aside Plate Number Blocks.* As a pane of stamps is broken for regular sale purposes, the clerk shall tear stamps first from the edge of the pane farthest from the plate number(s) or other marginal markings in order to preserve the plate block for collectors. Clerks shall set aside additional quantities of plate blocks or marginal markings as panes are broken, but may not set them aside in advance.

(C) *Minimum Purchase Requirements and Sales Limitations.* (*1*) When the clerk has a broken pane of stamps from which the plate block or other marginal marking has been sold, and when no plate block or other marginal marking has been set aside, the following minimum purchases must be made by a customer desiring the plate block or other marginal marking:

Denomination	*Minimum purchase*
1 to 50 cents	Full marginal strip of stamps (two rows deep having all marginal markings.)
51 to 99 cents	Half marginal strip.
$1 to $5	Block of four stamps.

(*2*) Exception. There are no minimum purchase requirements when a clerk has:

(*i*) Only full panes of the requested stamp in stock, or (*ii*) a broken pane that contains the plate block or other marginal marking.

(*3*) There are limitations to sales as follows: Each customer for whom a pane has been broken is limited to one marginal strip (1 to 50 cents); a half marginal strip (51 to 99 cents); or a block of four stamps ($1 to $5) for each stamp subject per day. It is necessary to place a limit on individual sales of plate blocks and other marginal markings so that the stamp stock available at post

office windows may accommodate as many collectors as possible each day. Customers requesting more than the maximum permissible purchase in denominations of the first class rate and below should be asked to inquire on another day. Customers requesting more than the maximum permissible purchase in denominations higher than the first-class rate should be asked to inquire on another day, or should be referred to the Philatelic Sales Branch.

(D) *Return of Unsold Stamp Stock.* Broken panes of stamps without marginal strips and which exceed clerk requirements for regular stamp sales or use on parcel post, should be returned to the main stamp stock. To return stock, the clerk shall complete Form 17 in accordance with section 552 of Handbook F-1. The returned stock must be redistributed in the following priority: (*1*) to fulfill "Stamps by Mail" requests; (*2*) to be utilized in locally prepared stamp packages for vending machines; and (*3*) to be sold at other regular stamp windows. After 30 days, any stock remaining unsold at regular stamp windows is returned (using Form 17) to the main stamp stock, and handled in accordance with section 553 of Handbook F-1.

(E) *Exceptions to Sales Policies.* The Stamps Division may establish exceptions to the sales policies on selected stamp issues. Exceptions are announced in the *Postal Bulletin.*

(iii) *Coiled Stamps.* These offices may not open and break coils of stamps.

(iv) *Precanceled Stamps.* There is no limitation on the sale to collectors of sheet stamps or full coils of each of the precanceled denominations available. Purchases may be made in person or by mail by nonpermit holders for collection purposes only. Mail order requests must be accompanied by stamped, self-addressed envelopes for the return of the stamps purchased by the collector. Precanceled stamp policy is described in detail in Section 143 of the Postal Service Manual.

(3) *Philatelic Outlets.*—(i) *Commemorative Stamps.* These offices may keep an issue on sale until a notice of its removal from sales at the Philatelic Sales Branch is published in the *Postal Bulletin.*

(ii) *Plate Number Blocks and Marginal Markings for All Stamps.* The sales and disposition policies described in § 257.3(e)(iii) apply except as follows: Clerks may sell each customer one matched set of four marginal strips for any stamp in stock, and there is no limitation on the sale of plate blocks of stamps having denominations from $1 to $5. The Philatelic Sales Branch mail order section, however, may sell any quantity of marginal strips of stamps of issues having a face value above the first class letter rate; for issues having a face value at or below the first class letter rate, marginal strips will be sold only when full panes are ordered.

(iii) *Coiled Stamps.* These offices may open coils of stamps as requested, except that coils having fractional denominations can only be sold in multiples that reach full cent amounts. To guarantee receipt of "line pairs" or "line markings" on coils, the following minimum purchases are required: Bulk rate denomination (when fractional)—minimum of 30 stamps; $1—minimum of six stamps; and all other denominations—minimum of 25 stamps. (A "line marking" is the vertical line of color appearing at intervals of 25 stamps made by the joint or seam where printing plates meet on a rotary press. The "line pair" consists of the two coil stamps on either side of the "line marking." Line markings may not be visible on all coils.)

(iv) *Precanceled Stamps.* The sales policy described in § 257.3(e)(iv) applies except that coils of precanceled stamps may be opened for the sale of individual stamps to collectors.

(v) *Stamp Credit (Accountability).* Philatelic outlets should maintain a good working level of stamp stock, stationery and philatelic products to encourage philatelic interest and to meet the needs of collectors. Philatelic outlets are authorized stamp and stationery credits of $50,000 to $125,000, plus credits for the full range of current philatelic products. This paragraph does not apply to the Philatelic Sales Branch.

(vi) *Inventory of Available Items.* Updated lists (PS Form 3300) of items available at the Philatelic Sales Branch are periodically furnished to philatelic outlets to guide them in maintaining a current inventory for collectors. All listed stamps shall be maintained by permanent philatelic outlets unless sold out and not available by requisition.

(vii) *Stamp Packets.* Stamps withdrawn from sale which are incorporated in philatelic products such as Mint Sets or Collecting Kits may be sold by philatelic windows, Postal Stores, Stamp Collecting Centers, and the Philatelic Sales Branch.

(f) *Stamp Withdrawals.* Notices concerning stamp withdrawals are published in the *Postal Bulletin* and give effective dates for removing stamps from sale. On the effective withdrawal date, philatelic outlets must immediately return their supply of the withdrawn stamp to the main stamp stock, using a Form 17. The stock must then be redistributed to regular stamp windows for sale for a period of 30 days. After 30 days, any remaining stock is handled in accordance with section 553 of Handbook F-1.

§ 257.4 Cancellations for philatelic purposes.

(a) *Definition and Policy.* A postmark is a postal cancellation which contains the post office name, State, ZIP code and month, day and year the canceling post office accepted custody of the material except as provided in § 257.4(g) (1) and (4). Other postal markings are made by validators, obliterators or special purpose cancelers. The Postal Service shall endeavor to make all unusual postmarking services widely known to collectors through advance national publicity so as to avoid such postmarks being available only to small groups of people. It is the policy of the Postal Service to prohibit backdating of mail except:

(1) When postal operating requirements and public demand necessitate that cancellation commence prior to and continue after the date contained in the postmark;

(2) When replacements are being made of damaged, defective, or missing cancellations or covers; or

(3) When all requirements for cancellations were met by customers and cancellations were not applied because of errors of postal personnel.

(b) *Philatelic Postmarking*—(1) *General.* Postmarking for philatelic purposes is provided at the request of collectors or covers servicers for postmarking outside ordinary mail processing. This service requires special procedures and arrangements so that other postal operations and services are not interferred with or disrupted. It may involve handstamping requested either on a hand back or mail back basis and may entail the holding of mail for cancellation. Before this specialized service can be provided, all its conditions must be met. As a free service it is limited to transactions with fewer than 50 envelopes or other items. For 50 or more envelopes or other items, advance approval of the Stamps Division is required before service can be provided.

(2) *Cooperation with Collectors.* Employees should strive to furnish clear and legible postmarks to stamp collectors by insuring that cancellation machines and handstamp devices are properly inked. Postal employees shall give special attention to mail bearing an endorsement that is of philatelic value or to requests for light cancellations; and should avoid canceling stamps by pen or illegible smudging; however, stamps must be canceled sufficiently to protect postal revenue. The Postal Service cannot provide special attention to a philatelic cover if it has been routinely entered into the mailstream by the sender. Postmarking devices may be used only under the supervision of authorized postal personnel. All handstamped postmarks shall be made with black ink unless the customer specifically indicates a preference for the color otherwise in use. Employees should also exercise care in handling all philatelic covers to assure that they are not damaged in mail handling. These covers are generally indentifiable by a design printed on the left side of the envelope. Postal employees should assure that philatel-

ic covers are not over-canceled, backstamped, marked "received this date" or otherwise defaced on front or back, used as a top piece in a bundle for destination package for labeling purposes or bent, folded, mutilated or damaged by rubber bands.

(3) *"Hand Back" and "Mail Back" Service.* Postmarks rather than other obliterations should be used to provide the following services whenever they are available:

(i) *"Hand Back" Service.* Post offices shall honor requests for "hand back" cancellation service where a customer personally presents an addressed or unaddressed envelope, postal card or other item described in § 257.(g) to a postal clerk for cancellation with the current day's postmark and immediate return or hand back to the customer. The envelope, card or other item does not enter the mailstream. All such materials must bear uncanceled postage at the applicable first class rate. So that service to other customers is not disrupted, there is a limit of 50 cancellations which can be provided for any single customer. This service may be provided for special die hub or regular machine cancellations only when the particular cancellation machine is readily accessible to the postal clerk, where the providing of such service will not interfere with other sales or mail processing operations and will not inconvenience other customers.

(ii) *"Mail Back" Service.* "Mail back" service refers to that service authorized by the Stamps Division for stamp dealers and cover servicers which permits envelopes, cards or other items submitted for cancellation to be returned in bulk through the mail. Conditions of service are further described in § 257.4(h)(3). This form of "mail back" service must be approved in writing in advance by the Stamps Division. Mail back service shall not be provided for special die hub or machine cancellations.

(c) *Permissible Cancellation Devices.* (1) The following postmark devices may be used to provide handstamped cancellations for collectors:

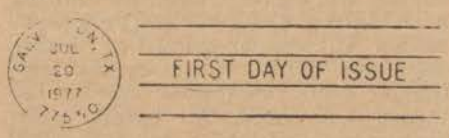
(A) Standard cancellation with killer bars (Item 550).



(B) Circular cancellation without killer bars. (Item 550 without killers bars.)



(C) First day of issue cancellation at the post office where an item s first issued.



(D) Bull's eye cancellation.



(E) Pictoral cancellation subject to conditions set forth in § 257.4(d)(2).



(2) The following devices are obliterators and may be used for philatelic purposes in cases where none of the postmarks or postmarking devices described above is available:

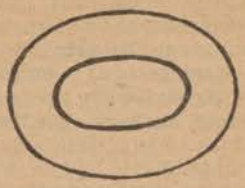
(A) Validator stamp (also known as a registry stamp or round dater—Item 570).



(B) Parcel post canceler (Item 502).



(C) Rubber oval stamp (Item 0-681).



(D) Receiving or dating stamp (Item 552).



(d) *Types of Postmarks or Cancellations*—(1) *First Day of Issue.* These cancellations are provided by the post office when a philatelic issue is first placed on sale and are dated to show that day. They include both machine and handstamp cancellations. The words "First Day of Issue" appear in the killer bars. Requests for first day cancellations must be postmarked no later than the date specified in the *Postal Bulletin* to qualify for service. Bull's eye cancellations are used when the conventional first day of issue postmark will not cancel all the unused stamps on an item presented for postmarking.

(2) *Pictorial Cancellations.* These cancellations are authorized to be used only at temporary philatelic stations and at other philatelic outlets. They shall not be used at regular stamp windows for special local celebrations. Cancellations used are generally handstamps except when volume requires the use of a machine cancellation. They may be used only during the operation of the temporary philatelic station. Requests for such cancellations must be at the post office offering the service no later than the date of the cancellation to qualify for service. A station may be authorized only one pictorial cancellation during its operation at an event. Different cancellations for each day of an event are authorized only for international philatelic exhibitions recognized by the Stamps Division and held in the United States.

(3) *Special Die Hub Cancellations.* Special die hub cancellations contain words relating to an event. These cancellations are applied by machine to

live mail. Hand back service may be provided only as described in § 257.4(b)(3)(i). Mail back (return in bulk) service shall not be provided, but cancellations can be provided on addressed envelopes or postal cards which are delivered to the addressee or addressees through mail delivery. Cancellations of philatelic quality are often not possible.

(4) *Standard Cancellations.* Circular handstamped cancellations with or without killer bars may be provided upon request at post offices, stations and branches in conformance with Part 332, Postal Service Manual. They are available every day the office is open for business. No slogan or pictorial material may be included. Mail requests for these cancellations must be at the post office offering the service on the date of the cancellation to qualify for service.

(5) *Flight Cancellations.* Refer to § 257.4(f). These cancellations are made by regular cancellation equipment or by handstamp depending on volume.

(6) *Regular Machine Cancellations.* Post offices may not machine cancel mail with the regular postmark when the envelopes are unaddressed or when the customer requests hand back service except as described in § 257.4(b)(3)(i). Mail back (return in bulk) service shall not be provided, but cancellations can be provided on addressed envelopes or postal cards which are delivered to the addressee or addressees through mail delivery.

(e) *First Day of Issue*—(1) *First Day Sale.* A particular post office or postal facility is usually designated to have the exclusive sale of a new issue on the day it is issued. No other postal facility may begin general sale of the new issue until the following day. For purposes of this section, the word "issue" shall mean postage stamp, stamp booklet, or booklet pane, postal card, stamped envelope or aerogramme.

(2) *Notification.* New stamps and other philatelic issues are announced by notices displayed in post office lobbies, in the Postal Bulletin and through news releases distributed to the press and philatelic periodicals.

(3) *First Day Covers*—(i) *Definition.* A first day cover is an envelope, post card, or other item of reasonable dimension bearing a new stamp or booklet pane or a new postal card, a new stamped envelope or a new aerogramme canceled with a die reading "First Day of Issue" and showing place and date of first day sale.

(ii) *Procedures.* Customers who want first day cancellations of new stamps have two options:

(A) They may buy their stamps at their local post offices when the stamps are placed on sale and affix them to their own envelopes. The stamped envelopes are then mailed to the postmaster at the city of issuance for cancellation. Preferential service is accorded covers on which collectors have affixed their own stamps.

(B) They may submit their envelopes with proper remittance to cover the cost of the stamps desired. The Postal Service will affix and cancel the stamps except as indicated in subdivision (iv) of this subparagraph. Remittance should be made by money order or cashier's, certified or personal check made payable to the U.S. Postal Service. Orders containing personal checks will be held until the checks have cleared. Cash will not be accepted, nor will postage stamps or foreign coins and currency; any orders containing such remittance will be returned unserviced. All covers must bear addresses to the right side of the envelope and at least ⅝ of an inch up from the bottom of the envelope. Requests must be postmarked no later than the date specified in the announcement, which usually will be 15 calendar days from the date of issuance, to qualify for cancellation service. Covers must not be returned in outer envelopes even when furnished by collectors because to do so impedes operating efficiency.

(iii) *Requirements.* Envelopes submitted by collectors must be of ordinary letter size and must be properly addressed. Collectors should place a filler of postal card thickness in each envelope, and either turn in the flap or seal it. If applicable, collectors should put a pencil notation in the upper right corner of each cover to show the position and number of postage stamps to be placed there.

(iv) *Unacceptable Covers.* The issuing post office shall not provide cancellation service on covers submitted through the mail which are unaddressed, or bear stamps issued after the issue date and before the submittal cut-off date, or bear previously canceled stamps nor may the post office provide hand back service on any items presented after the first day of issuance. These restrictions can be waived only by written authorization of the Stamps Division.

(v) *Bulk Orders.* The post office servicing first day covers shall not accept from any one customer more than 50 envelopes requiring that stamps be affixed. When more than 50 envelopes are submitted, they must be returned unserviced to the customer, with a statement that service will be provided upon resubmittal of stamped envelopes of 50 or fewer envelopes. Care must be taken to prevent customers from avoiding this rule by placing multiple smaller orders. Customers desiring cancellations on more than 50 covers must buy and affix their own stamps to their envelopes.

(vi) *Handstamped Cancellations.* Handstamped cancellations will be applied at the first day ceremony location, at the main office windows of the first day post office, and on covers which cannot be fully canceled by postal cancellation machines. In all other cases, machine cancellations will be supplied, except as provided in § 257.4(h)(3).

(vii) *Hand Back Service.* Hand back service for first day cancellations is limited to the first day of issue. Material to be canceled must be presented to the main office window of the first day post office.

(viii) *Mail Orders for Mint Stamps.* The first day post office may not accept mail order requests for uncanceled stamps from customers outside their service area, except for cover servicers as provided in § 257.4(h)(3)(i).

(4) *Unofficial First Day Covers.* Stamps acquired at the first day post office may be canceled at any post office. Envelopes containing new stamps canceled on the first day of sale at a post office other than the issuing office are known as unofficial first day covers.

(f) *Flight Covers*—(1) *Definition.* The Postal Service authorizes special cachet and cancellation services for mail carried on inaugural flights and other aviation events of national interest. Flight covers generally bear official USPS cachets, the postmark of the city of origin and the backstamped postmark of the city of destination.

(2) *Authorization.* The Stamps Division may authorize cachet and cancellation service for (i) all stop points on a new airmail route; (ii) new stop points on an existing route; and (iii) other aviation events of national interest. Notices authorizing official cachets and cancellation services are published in the Postal Bulletin. This service will not be authorized for new aircraft used on an existing airmail route. Backstamped postmarks may be authorized where international airmail service is inaugurated to a stop point in the United States when the postal administration of the country of the flight's origin officially requests that the U.S. Postal Service provide philatelic treatment to mail carried on the flight.

(3) *Preparation of Covers.* Collectors must preaddress each cover to the right side of the envelope and at least ⅝ of an inch from the bottom of the envelope. Each envelope must bear postage at the applicable airmail rate. Each envelope should include a uniform enclosure of the approximate weight of a postal card to assure a good impression. A clear space 2½ inches by 2½ inches, on the lower portion of the envelope and to the left of

the address must be allowed for the cachet. An additional 1½ inches to the left of the innermost stamp must be provided to permit a clear postmark.

(4) *Submittal of Covers.* Collectors should send the envelopes for inaugural cachets under cover and endorsed "Flight Covers" to the post office or airport mail facility applying the cachet and postmark. A request to hold covers for the inaugural service should be enclosed, indicating the directional service and cachet desired.

(5) *Compliance With Collectors' Requests*—(i) *Direction Specified.* Post offices should comply with requests for dispatched in a particular direction to the greatest extent practicable unless otherwise specified by the Stamps Division. No directional service will be accorded for events of national aviation interest.

(ii) *Direction Not Specified.* In the absence of specific requests, post offices should dispatch covers on the actual first flight, regardless of direction.

(iii) *Incomplete Instructions.* If the collector's request is not clear, post offices should dispatch covers in accordance with the judgment of the dispatching office.

(iv) *Color of Ink Used for the Cachet.* The Stamps Division will determine the color of ink to be used on the cachet at each stop point. Requests from collectors for other ink colors must not be honored.

(v) *Position of Cachet.* Post offices should apply cachets legibly and neatly to the left side of the address side of the cover.

(6) *When Cachets Must Not Be Applied.* Cachets must not be applied to:

(i) Covers for immediate return to sender. All covers must be dispatched on the flight.

(ii) Covers bearing a previous official or unofficial cachet.

(iii) Covers lacking sufficient clear space for application of cachet without obscuring the address.

(iv) Aerogrammes and postal cards.

(v) Double postal or post cards intended for return reply purposes.

(vi) Covers received after the flight.

(vii) Covers on which postage is not fully prepaid.

(viii) Covers containing previously canceled postage stamps.

(ix) Anything other than a flight cover.

(7) *Backstamping.* All inaugural covers will be backstamped with machine or hand cancellation devices at the destination post office. Postage stamps are not required for the second cancellation. Requests for additional or special backstamping must not be honored.

(8) *Delay of Flight.* If, after postmarking of covers has begun, the flight is canceled or the scheduled date of departure is delayed to a subsequent date, the postmark dates already stamped on the flight covers will not be changed, replacement covers will not be issued, nor will any liability be accepted.

(g) *When and Where Philatelic Postmarking May Be Done*—(1) *Date and Place of Postmarking.* Postmarking provided for philatelic purposes may commence prior to the actual date of the cancellation requested and may continue after that date when demand, processing capability, or other requirements of the Postal Service dictate it. Under no circumstances may any postmarked materials be released before the date of the cancellation. The Regional Retail Branch may determine that local processing capability requires that philatelic cancellation services be performed at an office other than the post office whose cancellation is used; in these cases, however, all materials to be postmarked must be received at or deposited in the post office whose cancellation is being used, or at an office designated by the Regional Retail Branch or the Stamps Division.

(2) *Preparation Requirements.* Post cards, postal cards, and envelopes submitted through the mail must bear postage at the applicable rate and complete addresses, except as provided in § 257.4(h)(iv). Materials submitted for hand back service need not be addressed.

(3) *Special Types of Materials on Which Cancellations Are Requested.* The materials herein described may be canceled as indicated. These provisions do not apply to any arrangements made with cover servicers and dealers by the Stamps Division under § 257.4(h).

(i) *Plain Cards, Slips of Paper, and Blank Envelopes.* Postal employees may not place postmarks for customers on plain slips of paper, plain cards, or blank envelopes which do not bear unused postage in an amount equaling or exceeding the first class rate.

(ii) *Picture Post Cards (Maximum Cards).* Picture post cards with the stamp placed on the face of the card rather than on the address side are known as maximum cards. Postmasters may cancel these cards and hand them back to the person presenting them.

(iii) *Posters, Portfolios, and Other Memorabilia.* These items with the stamps placed thereon may be canceled when presented in person for hand back service. Submittal and return through the mail is not permitted.

(iv) *Already Canceled Stamps/Multiple Cancellations.* Items bearing previously canceled stamps and postmarks are acceptable for additional cancellations when presented for hand back service. First day of issue cancellations may not be provided on a hand back basis after the first day of issuance. Mint stamps to cover the first class rate must be affixed for each cancellation. Materials bearing multiple cancellations may not be submitted or returned through the mail in outer envelopes.

(v) *Currency.* Currency bearing unused postage stamps of first class value or items bearing currency with stamps affixed or adjacent thereto may be canceled when presented in person for hand back services. Submittal and return through the mail is not permitted. The Postal Service does not accept responsibility for currency in its possession in conjunction with philatelic services.

(vi) *Backs of Envelopes.* Post offices may cancel unused stamps when they are affixed to the reverse side of envelopes bearing already canceled stamps. This service is available only for envelopes presented for hand back service. They may not be returned through the mail even when outer envelopes are provided. Such a cancellation denotes only that the item was presented to the post office for postmarking on that date; it does not denote that the envelope was carried by the Postal Service and should be differentiated from flight covers described in § 257.4(f). This type of cover may be presented, for instance, in situations reenacting Pony Express routes, promoting special airline flights, balloon ascents, and the like, on which covers are carried outside the mail service.

(vii) *Foreign Postage Stamps.* Unused foreign postage stamps may be canceled with a U.S. Postal Service postmark only when unused U.S. postage of an appropriate rate is canceled with the same stroke.

(4) *Holding the Mail.* Post offices may hold mail to comply with customers' requests that the mail be postmarked on a specified date. Post offices may not, however, hold mail for an event where the date of occurrence is not certain or where it is subject to change or for cancellation on a day when the office will be closed, except as authorized by the Stamps Division. In these latter instances, the envelopes submitted should be returned unserviced in an outer envelope to the customer with a short note explaining why the requested service cannot be performed. There will be a limit of 50 covers per customer which can be held for cancellation. Except on first day covers where customers have affixed their own stamps, quantities above this number must receive the prior written authorization of the Stamps Division. The Stamps Division may also authorize the holding of mail for events of nationwide interest.

(5) *Damaged or Missing Covers.* Requests for replacement of first day cancellations, pictorial cancellations, and standard cancellations may be accepted at the appropriate post office for a period of 60 days from the date of issuance for first day covers, or 30 days from the date of cancellation for pictorial and standard cancellations. Replacement cancellations will be made for poor quality of cancellation, damage to the envelope, or other similar defects. Replacements will not be made, however, in cases where envelopes were marked on the back by letter sorting machine code numbers as they moved through the mail system. The customer must return the unsatisfactory cover or covers to the appropriate post office for replacement. Replacement covers must be returned to the customer in a penalty envelope so that a stale postmark does not appear in the mail stream. Damaged covers should be disposed of in accordance with section 553, Series F-1 Handbook. The Postal Service will not replace missing or unsatisfactory standard machine cancellations, special die hub cancellations, or flight cancellations, as these cancellations are made in the course of live mail processing. All claims for nonreceipt of other covers submitted for servicing by the Postal Service must be sent to the appropriate post office no later than 60 days from the date of postmark or from the date cancellations were last applied. Claims for replacement cancellations filed after this time will not be honored and will be returned to the customer with a short explanation as to why the request cannot be honored. The Postal Service is not responsible for damage or loss of cacheted covers or of other items of value.

(6) *Special Requests.* Requests for cancellations at postal facilities that normally do not cancel mail must be made in writing to the Regional Retail Branch at least 60 days in advance to permit regional authorization and appropriate national publicity. These requirements also apply to requests for cancellations at offices which are inaccessible to the public or to requests for cancellations at any offices on dates when mail is not normally canceled (i.e., Sundays and holidays). Cover servicers, as described in § 257.4(h), must submit their requests for cancellations to the Stamps Division.

(7) *Military Post Offices.* Military post offices, including APO's and FPO's may handstamp covers both on a hand back basis and on mail order requests in conformance with all policies and in accordance with all conditions and procedures herein stated, except that: (i) the postal chief at each such installation may establish the maximum number of covers individual collectors or dealers may submit; and (ii) military post offices may not establish temporary philatelic stations or provide pictorial cancellations.

(h) *Cover Servicers and Dealers*—(1) *Definitions.* Cover servicers and dealers include those individuals, groups, or commercial enterprises that submit 50 or more envelopes or other items for cancellations, whether presented in one or more packages, and that request return in bulk.

(2) *Mail Back Service.* (i) Service subject to a service charge as indicated in § 257.4(h)(3) may be provided by postmasters only when the customer requesting it has received the prior written approval of the Stamps Division.

(ii) Mail back service or return under cover in bulk, is available to dealers only when return postage, registration if desired, and all other applicable fees such as special handling and special delivery are remitted to the postmaster at the place of postmarking. Such requests which do not include such payment will be held until the proper amount is received. In the event of overpayment by the cover servicer, the amount in excess of postage and fees required shall be returned separately in mint postage stamps. If the refund is $10 or more, it must be sent under registered mail.

(iii) Mail back service is generally permitted on first day of issue, pictorial or standard cancellations requested on the following materials: envelopes, postal cards, maximum cards and posters, portfolios or other memorabilia. The Postal Service will not accept covers for first day of issue cancellation which bear a stamp issued after the date of the postmark but before the expiration date for submittal.

(iv) Unless the cover servicer has received written Headquarters' approval for cancellation service, the envelopes will be returned to the cover servicer unserviced with a letter stating that advance approval from the Stamps Division must be obtained before the request can be honored.

(3) *Conditions of Service*—(i) *First Day of Issue Cancellations.* Customers recognized as first day cover servicers will be permitted, though not required, to purchase mint stamps by mail from the first day post office or from the Philatelic Sales Branch on the date of issuance. Machine cancellations will be provided to dealers free of charge only when stamp-affixed envelopes are submitted. All stamped envelopes must be returned for servicing within the prescribed time limit. Hand cancellations will be provided subject to a service charge established by the Stamps Division.

(ii) *Pictorial Cancellations.* These handstamped cancellations are provided subject to approval by and a service charge established by the Stamps Division, except for exhibition or convention sponsors as indicated in § 257.4(i)(5).

(iii) *Special Die Hub Machine Cancellations.* All envelopes must be addressed. They will be canceled free of charge on any quantity of envelopes submitted, but may not be returned in bulk.

(iv) *Standard Cancellations.* These handstamped cancellations may be applied on unaddressed covers and returned in bulk only when authorized by the Stamps Division. Orders are subject to a service charge established by the Stamps Division.

(v) *Flight Cancellations.* These covers must be addressed and service is subject to approval by the Stamps Division. A service fee is charged when handstamped cancellations are requested.

(i) *Cancellation Services at Temporary Philatelic Stations*—(1) *Approval.* Postmasters may request authority from the Regional Retail Branch to provide cancellation service at temporary philatelic stations. Only the standard circular cancellations shall be provided, unless the sponsors or organizers apply to the postmaster for use of a pictorial cancellations at least 10 weeks prior to the event. The sponsors or organizers must also propose a design and finished artwork for a pictorial cancellation. The cancellation service and design require the approval of the Postmaster, the District Manager, and the Regional Retail Manager.

(2) *Requirements.* All cancellations must carry the name of the exhibition or event, followed by the word "Station" or "Sta.," the city, State and ZIP code, and the month, day and year. The design of pictorial cancellations cannot carry a commercial message or endorsement, and may not directly refer to fraternal, political, religious or trade organizations. Overall dimensions cannot exceed 4 inches horizontally and 2 inches vertically.

(3) *Publicity.* The Regional Retail Manager must submit a reproducible copy of the pictorial cancellation (actual size) to the Stamps Division so that appropriate national publicity can be arranged. The use of standard cancellations at temporary philatelic stations must also be reported. All reports should include the dates the temporary philatelic stations will be open. Reports and copies of pictorial cancellations shall be submitted the first of each month for those cancellations authorized 2 months later (e.g., January 1 for March authorization; February 1 for April, etc.).

(4) *Equipment.* Pictorial and standard cancellations shall be applied by rubber handstamps purchased by the

Region. If more than 100,000 pieces of mail are anticipated, the Region may apply to the Stamps Division at least 60 days in advance for purchase of a metal die for machine cancellation. These cancellations may only be provided for the duration of the temporary philatelic station. Special cancellations which are to be used for a longer time are governed by Part 258, Postal Service Manual.

(5) *Service Limitations.* Except for the exhibition or convention sponsor, handstamping as a free service will be limited to a maximum of 50 covers for any single individual or group. The sponsor may obtain any reasonable amount of hand backs free of service charge for its members, and special folders or programs prepared by the sponsor may be canceled and made available upon the opening of the show. Individuals or groups requiring more than 50 handstamped cancellations may obtain this service only by paying a special fee. Written application for this service must be made in advance to and authorized by the Stamps Division.

(6) *Use and Return of Equipment.* Philatelic cancellation handstamps, like other canceling devices, may be used only under the supervision of authorized postal personnel and must be returned by the postmaster to the Regional Retail Branch 65 days after close of the exhibition or convention, by which time all replacement requests will have been handled. The Regional Retail Manager shall destroy the cancellation device upon receipt.

§ 257.5 Special philatelic services, products and programs.

(a) *Postal Cacheted Envelopes.* Postal Service produced cachets or cacheted envelopes are permitted only for first flights and for major postal or aviation events, such as the opening of a new Philatelic Center or Dedicated Philatelic Window. All such cachets or cacheted envelopes must be approved by the appropriate Regional and Headquarters organizations, and their approval must be communicated to the Stamps Division at least 2 months prior to the event so that national publicity of their availability can be arranged.

(b) *Presentations.* The Postmaster General, the Assistant Postmaster General, Customer Services, and the Stamps Division General Manager are authorized to approve the use of canceled and uncanceled U.S. postage stamps, postal stationery, and other philatelic products for information and official postal business purposes and as official presentations of the U.S. Postal Service. All such presentations shall be approved in writing by one of the three authorized officials with a statement indicating the intended use. These presentations shall not be used as postage and will be restricted to those instances when the best interests of the Postal Service will be served.

(c) *Autographs.* Postal employees have the prerogative to accept or refuse requests for autographs. Employees should exercise fairness in handling such requests. Nothing of value may be accepted or requested in exchange for autographs.

§ 257.6 Copyright of philatelic designs.

(a) *Policy.* The designs of postage stamps, stamped envelopes, postal cards, aerogrammes, souvenir cards, and other philatelic items issued on or after January 1, 1978, have been copyrighted by the U.S. Postal Service in accordance with Title 17, United States Code.

(b) *Permission for use.* The use of illustrations of the designs covered by such copyrights is permitted as follows:

(1) In editorial matter in newspapers, magazines, journals, books, philatelic catalogs, and philatelic albums.

(2) In advertising matter, circulars, or price lists for the sale of the postal items illustrated.

(3) In advertising matter, circulars, or price lists for the sale of newspapers magazines, journals, books, philatelic catalogs, and philatelic albums containing illustrations of philatelic designs.

(4) In motion picture films, microfilms, slides, or electronic tape for projection upon a screen or for use in telecasting but not for use in advertising, other than for uses permitted in § 257.6(b) (2) and (3). No print or other reproduction from such films, slides, or tapes shall be made except for the uses permitted in § 257.6(b) (1), (2), and (3).

(c) *Reproduction of Designs.* Illustrations permitted by § 257.6(b) (1), (2), and (3) may be in color or in black and white and may depict philatelic items as uncanceled or canceled. When depicting uncanceled items in color, illustrations must be less than 75 percent or more than 150 percent, in linear dimension, of the size of the design of the philatelic items as issued. Color illustrations of canceled philatelic items and black and white illustrations of uncanceled and canceled philatelic items may be in any size.

(d) *Requests for Licenses.* The U.S. Postal Service may grant licenses for the use of illustrations of its copyright designs outside the scope of the above permission. Requests for such licenses should be addressed to the Chairman, Intellectual Property Rights Board, Office of Contracts, U.S. Postal Service, Washington, D.C. 20260.

(39 U.S.C. 401, 404.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-32081 Filed 11-15-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1007-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart YY—Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Technical Correction.

SUMMARY: The Environmental Protection Agency's approval of the compliance schedule affecting the Dairyland Power Cooperative in Alma, Wisconsin, was inadvertently excluded from publication in the Code of Federal Regulations (CFR). This notice implements certain CFR procedural requirements to reinstate the approval notice.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Miller, Air Programs Branch, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2205.

SUPPLEMENTARY INFORMATION:

On May 14, 1973, (38 FR 12713), the U.S. Environmental Protection Agency approved a compliance schedule for the Alma Generating Station, owned by the Dairyland Power Cooperative of La Crosse, Wis., by promulgating § 52.2578(a) in Part 40. On June 20, 1973, (38 FR 16170), a notice that the Wisconsin State Implementation Plan did not meet the requirements of 40 CFR 51.15(c) was also promulgated at § 52.2578(a), thereby replacing the approved compliance schedule. On August 23, 1973, (38 FR 22752), this error was corrected by relettering the disapproval notice from §§ 52.2578(a) to 52.2578(b), but the compliance schedule approval was not reinstated. Today's action restores the Dairyland Power Cooperative compliance schedule to § 52.2578 under paragraph (d) to

be included in proper alphabetical order with other approved compliance schedules. Because this procedural corrective action does not affect the rights of any parties, it is immediately effective.

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

Subpart YY—Wisconsin

1. Section 52.2578 is corrected by adding an additional compliance schedule to paragraph (d).

§ 52.2578 Compliance schedules.

* * * * *

(d) * * *

Source	Location	Regulation involved	Date schedule adopted	Final compliance date
	Buffalo County			
Dairyland Power Cooperative	Alma	NR 154.12(1).	Aug. 16, 1972.	May 1, 1974

(42 U.S.C. 7410.)

Dated: November 7, 1978.

JOHN MCGUIRE,
Regional Administrator.

[FR Doc. 78-32171 Filed 11-15-78; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 187]

PART 1-9—PATENTS, DATA, AND COPYRIGHTS

Institutional Patent Agreements

CROSS REFERENCE: For a document concerning observance of the new effective date for Federal Procurement Regulation Amendment 187 on Institutional Patent Agreements, see FR Doc. 78-32236 published in the Notices section of this issue. Refer to the table of contents under the General Services Administration for the correct page number.

[6820-23-M]

CHAPTER 5B—PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

[PBS P 2800.6A CHGE 3]

PART 5B-2—PROCUREMENT BY FORMAL ADVERTISING

Listing of Subcontractors; Correction

AGENCY: General Services Administration.

ACTION: Correction.

SUMMARY: This document corrects an error in a previously published regulation in the FEDERAL REGISTER regarding procurement by formal advertising listing of subcontractors. This regulation is keyed to the earlier document and the error is clearly identified for correction.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony Ratkus, Jr., of the Procurement Policy Review Staff, Office of Program Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1954.

In FR Doc. 78-25456 appearing at page 40227 in the FEDERAL REGISTER of Monday, September 11, 1978, paragraph (3) of § 5B-2.202-70(f)(e) appearing on page 40228 is corrected to read as follows:

(3) For all other categories, the contractor shall require each subcontractor named in the bid for an entire category or portion thereof to perform with personnel carried on the subcontractor's own payroll (other than operators of leased equipment) not less than 70 percent of the onsite work of that category or portion of category.

Dated: October 24, 1978.

JAMES B. SHEA, Jr.,
Commissioner, PRS.

[FR Doc. 78-32196 Filed 11-15-78; 8:45 am]

[7910-01-M]

Title 47—Telecommunications

CHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY AND NATIONAL SECURITY COUNCIL

AGENCY: Office of Science and Technology Policy.

ACTION: Chapter heading change.

SUMMARY: 47 CFR Chapter II is amended by retitling Chapter II as set forth below.

CHAPTER II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY AND NATIONAL SECURITY COUNCIL

DATE: This amendment is effective on November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Col. Wayne Kay, 202-395-3272.

FRANK PRESS,
Director, Office of Science and Technology Policy.

[FR Doc. 78-32324 Filed 11-15-78; 8:45 am]

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 72-23; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seat Belt Assembly Anchorages

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 210, *Seat Belt Assembly Anchorages,* to eliminate the anchorage location requirements for passive seatbelt assemblies that meet the frontal crash protection requirements of Safety Standard No. 208. The purpose of the amendment is to give manufacturers wider latitude in passive belt design in order to facilitate the early introduction of passive restraints in existing passenger car designs. The amendment will allow manufacturers to experiment with various passive belt designs to help determine the optimum relationship between anchorage location and passive belt effectiveness in a variety of crash modes and their comfort and convenience. Anchorage location would still be indirectly controlled by the necessity for passive belts to comply with the Standard No. 208 requirements.

DATES: Effective date: November 16, 1978.

ADDRESSES: Petitions for reconsideration should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108—Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William Smith, Office of Vehicle Safety Standards, National Highway

Traffic Safety Administration, Washington, D.C. 20590, 202-426-2242.

SUPPLEMENTARY INFORMATION: Safety Standard No. 210, *Seat Belt Assembly Anchorages* (49 CFR 571.210), specifies zones and acceptable ranges within which seatbelt anchorages must be located to insure that the anchorages are in the proper location for effective occupant restraint and specifies strength requirements to reduce the likelihood of their failure in a crash. In response to a petition from General Motors Corp., the NHTSA issued a proposal to delete these anchorage location requirements for passive belt systems that meet the dynamic frontal crash protection requirements of Safety Standard No. 208 (43 FR 22419, May 25, 1978).

The proposal noted that General Motors would like to use a passive belt design whose anchorages, in some vehicles, would lie outside the parameters specified in the standard. GM stated that the anchorage locations of this design are intended to insure the comfort and convenience of the passive belt so that it will not be disconnected by vehicle users who find current active belts lacking in these qualities. General Motors wanted to introduce this passive belt design prior to the effective date of the passive restraint requirements issued July 5, 1977 (42 FR 34289). As stated in the preamble of the proposal, the agency has determined manufacturers should be given wide latitude in passive belt design in order to facilitate the early introduction of passive systems, since they should save many lives and prevent hundreds to thousands of injuries. Although the current anchorage location requirements were developed primarily for active belt systems, passive belt systems such as the one used on the Volkswagen Rabbit have successfully complied with the anchorage location requirements and met the frontal injury criteria of Standard No. 208, as well. Nonetheless, manufacturers have said they can develop more effective and comfortable passive systems to comply with Standard 208. The agency thinks they should be given the opportunity. Nevertheless, it is the agency's view that research should be conducted to determine the optimum anchorage locations for the various passive belt designs in terms of both passive belt effectiveness and of comfort and convenience for vehicle occupants. Accordingly, the earlier notice proposed the deletion of the anchorage requirements for passive belts until appropriate requirements for these systems can be developed and incorporated in the standard.

Comments in support of the proposed change were received from Chrysler, British Leyland, American Motors, Ford, Volkswagen, General Motors, and the Association Peugeot-Renault. These commenters argued that manufacturers should not be restricted in passive belt design, so that manufacturers can determine which designs are the most effective and at the same time acceptable to the public. The Center for Auto Safety argued against the proposal, however, stating that elimination of the anchorage location requirements may degrade available occupant protection.

The Center for Auto Safety agreed that manufacturers should be allowed flexibility in passive belt design to facilitate the early introduction of passive restraints. However, it argued that elimination of the forward boundary for upper torso belt anchorages may "(1) seriously degrade occupant protection available by allowing the anchorages to be installed in areas likely to be struck by the occupant in a side impact and (2) may result in systems that do not sufficiently restrain the occupant from submarining or moving laterally under the belt." The Center's first concern is that side-impact head injuries will increase if passive belt retractors, buckles, and other hardware are permitted in areas likely to be struck by the occupant's head in a side collision. The comment noted that vehicles equipped with passive belts are not required to meet the lateral impact requirements of Standard No. 208 and that manufacturers would, therefore, have no incentive to design anchorages and other hardware to avoid injuries in nonfrontal collisions.

The Center's second concern is that elimination of the anchorage location requirements will allow passive belt designs that lead to more lateral occupant movement and "submarining" in side crashes, thereby increasing side impact injuries.

The Center also argued that it should be the responsibility of General Motors to demonstrate the safety consequences of moving passive belt anchorages outside the current range requirements, before the agency eliminates the requirements for passive belts. Finally, the Center is concerned that once the exemption is allowed, it might be years before new location requirements for passive belts are specified.

Regarding the Center's first concern, the present requirements do not prohibit the placement of hardware in areas where they could be struck by an occupant's head in a side collision. While manufacturers may not be constrained by present standards from placing hardware where it poses a danger to occupants in side impacts, all manufacturers are on notice that the agency is preparing to propose a side impact standard as delineated in the agency's rulemaking plan. Thus, in anticipation of the upgraded side impact requirements, manufacturers should design their passive belt systems in such a way that they will not compromise side impact protection.

The Center's concern about the potential for increased lateral movement and submarining in side crashes was not supported by any data. The NHTSA is also concerned about side impact injuries. However, the existing location requirements for belt anchorages were not specifically designed to address the problem of lateral occupant motion in nonfrontal collisions where the occupant is restrained by a single, diagonal passive upper torso restraint used with a knee bolster.

The notice of proposed rulemaking explicitly stated that the NHTSA intends to issue separate anchorage location requirements for passive belts following research to determine the optimum locations for passive belt effectiveness, comfort and convenience, and that the proposed exemption from the current requirements is only an interim measure. The NHTSA intends to conduct studies to look at the change in injury data resulting from displacement of the upper anchorage point of a single diagonal belt for various sizes of occupants. The research program includes testing that will investigate the "submarining" problem and, during frontal oblique impact simulations, the likelihood of excessive lateral movement. The agency will consider simulated side impact testing during this research program to evaluate potential degradation of occupant protection in this crash mode. The agency will also consider anchorage location during the upgrading of side impact protection requirements. As stated in the recent "Five Year Rulemaking Plan," the improvement of occupant protection in side impacts is one of the NHTSA's highest priorities.

The Center's suggestion that GM demonstrate the safety consequences of passive belt anchorages should be addressed by the NHTSA's intention to look with great care at manufacturers' compliance testing of all passive belt designs to assure that these new systems will, in fact, provide at least the level of overall protection now afforded by conventional restraint systems.

Finally, regarding the Center's concern that new location requirements for passive belt anchorages will not be specified for many years, the notice of proposed rulemaking and this notice make it clear that the exemption is only an interim measure to allow improvements in passive belt designs. It is consistent, however, with the attempt to make FMVSS 208 a performance standard to the greatest extent possible. Nevertheless, should any manufacturer produce passive belt

hardware or systems that cause or exacerbate injuries that would not occur with active systems currently in production, the NHTSA's safety defect authority would permit the agency to investigate such systems for possible recall and correction. Manufacturers are hereby put on notice of that fact.

In summary, the NHTSA has concluded that manufacturers should be given wide latitude in passive belt design in order to aid the early introduction of passive restraints and to aid the development of optimum designs in terms of both effectiveness and comfort and convenience. The agency agrees that anchorage location requirements are important for passive belts, but believes that more effective requirements can be developed following further research specifically involving passive belts. To insure that safe and effective systems are being developed, the agency will be testing many of the new passive systems that will come on the market prior to the 1982 model year. In addition, the agency intends to ask manufacturers to supply data concerning the performance of passive systems in both compliance crash testing and in sled and crash testing in other modes.

The NHTSA has determined that this amendment will have no economic or environmental consequences.

The engineer and lawyer primarily responsible for the development of this notice are William Smith and Hugh Oates, respectively.

In consideration of the foregoing, Federal Motor Vehicle Safety Standard No. 210, *Seat Belt Assembly Anchorages* (49 CFR 571.210), is amended to add the following sentence at the end of the text of S4.3:

§ 571.210 Standard No. 210, seat belt assembly anchorages.

* * * * *

S4.3 *Location.* * * * Anchorages for passive belt systems that meet the frontal crash protection requirements of Standard No. 208 are exempt from the location requirements of this section.

* * * * *

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on November 3, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-32015 Filed 11-9-78; 9:56 am]

proposed rules

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

[3410-16-M]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 651]

LAND RIGHTS, WATER RIGHTS, AND CONSTRUCTION PERMITS

Policy on Requirements for Projects Receiving Federal Financial Assistance

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish policy for acquiring landrights including water rights, mineral rights, and other subsurface rights for projects receiving Federal financial assistance under programs administered by the Soil Conservation Service.

DATE: Written comments should be submitted on or before January 15, 1979.

ADDRESS: All comments to: Verne M. Bathurst, Deputy Administrator for Administration, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Lincoln F. Gallacher, Room 2203 Auditors Building, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-4811.

SUPPLEMENTARY INFORMATION: Soil Conservation Service requires sponsors of projects to acquire all necessary landrights as a condition for receiving Federal financial assistance. This part sets forth the requirements for the acquisition of landrights under Soil Conservation Service programs. There will be no significant impact on the public due to the Soil Conservation Service implementation of program requirements as set out by specific Acts.

Dated: November 8, 1978.

VERNE M. BATHURST,
Deputy Administrator for Administration.

Title 7 CFR is proposed to be amended by adding a new Part 651 to read as follows:

PART 651—LAND RIGHTS, WATER RIGHTS, AND CONSTRUCTION PERMITS

Subpart A—General

Sec.
651.1 Purpose and scope.
651.2 Definitions.

Subpart B—Landrights not Authorized for Federal Financial Assistance

651.10 General.
651.11 Designation of sponsor responsible for landrights.
651.12 Duration of landrights.
651.13 Sponsors' responsibilities.
651.14 Responsibilities of SCS.

Subpart C—Landrights Authorized for Federal Financial Assistance

651.20 General.
651.21 Sponsors' responsibilities.
651.22 Responsibilities of SCS.

Subpart D—Conservation Operations

651.30 Responsibility for acquisition of landrights.
651.31 [Reserved]

Subpart E—Emergency Watershed Protection

651.40 Responsibility for acquisition of landrights.
651.41 [Reserved]

Subpart F—Great Plains Conservation Program

651.50 Responsibility for acquisition of landrights.
651.51 [Reserved]

AUTHORITY: 7 CFR 2.62

Subpart A—General

§ 651.1 Purpose and scope.

(a) This part sets forth the requirements for Federal financial assistance to projects under programs administered by the Soil Conservation Service (SCS) for:

(1) Acquisition of landrights including water rights and mineral or subsurface rights.

(2) Acquisition of installation permits.

(3) Acquisition of clearances required by Federal, State, and local statutes.

(4) Implementation of part 21 of this title as it relates to the acquisition of interests in real property.

(b) These regulations apply to measures installed under the following programs:

(1) Watershed Protection and Flood Prevention (W.P. & F.P.). See part 622 of this chapter.

(2) Flood Prevention (FP). See part 623 of this chapter.

(3) Resource Conservation and Development (R.C. & D.).

(4) Conservation Operations (CO). See part 610 of this chapter.

(5) Great Plains Conservation (GP). See part 631 of this chapter.

(6) Emergency Watershed Protection (EWP). See part 624 of this chapter.

(7) Specifically authorized projects.

(c) These regulations are to remain in force until they are superseded. Project measures in an existing project agreement are not affected by these regulations.

§ 651.2 Definitions.

Acquiring agency. Any agency or organization that has or acquires an interest in real property to carry out a project with Federal financial assistance under programs administered by SCS. In watershed projects and resource conservation and development areas, the acquiring agency must be a sponsor of the project.

Donated landright. A donated landright is a conveyance of real property or an interest in real property in which the only consideration paid is a pro forma amount such as $1 customarily cited as the consideration for a landright's conveyance.

Easement. An interest in land that entitles the easement holder to a specific limited use or enjoyment.

Induced flooding. Flooding caused by installation of a project measure.

Landrights. Any interests acquired or permission obtained to use land, buildings, structures, or other improvements classified or referred to generally as real property or as land, easements, and rights-of-way.

Landrights agreement. A fund obligating document that identifies the eligible landrights to be acquired and the amount of Federal financial assistance to be provided.

Land users. Those who individually or collectively use land as owners, lessees, occupiers, or by other arrangements which give them conservation planning or implementation concern and responsibility for the land involved.

Mineral right. An interest in minerals, including the right to exploit or develop that interest.

Permit. A permission or license issued by a person in authority or proprietary control empowering the permittee to do some act(s) not forbidden

by law but allowable only with that permission or license.

Project agreement. A written agreement entered into between SCS and the sponsor(s) in which detailed working arrangements are established for the installation of works of improvement or for other related purposes.

Project measures. An undertaking for watershed protection; flood prevention; the conservation, development, utilization, and disposal of water; the conservation and proper utilization of land; or a combination thereof. The undertaking may consist of land treatment, nonstructural or structural measures or a combination thereof.

Sponsor. An agency or organization with authority to provide local responsibility for a Federal financially assisted local project under a program administered by SCS.

State conservationist. The SCS line officer responsible for SCS activities within a particular State, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.

Term easement. An easement in effect for a specified period of time, such as a term of years or months, or for the life of either the grantor or grantee.

Water right. Any interest acquired in, priority established for, or permission obtained for the use of water.

Subpart B—Landrights Not Authorized for Federal Financial Assistance

§ 650.10 General.

This subpart prescribes the regulations for the acquisition of landrights when Federal financial assistance for landrights is not authorized.

§ 651.11 Designation of sponsor responsible for landrights.

One or more sponsors are to be responsible for the acquisition of landrights needed for project measures. The responsible sponsors are to be designated in the program agreement along with their authority and sources of funds to acquire landrights.

§ 651.12 Duration of landrights.

(a) The sponsor must acquire the necessary landrights before the project agreement can be signed.

(b) The rights must extend through a reasonable period for planning and installation and (1) the evaluated life of the project measure, (2) the evaluated life of project measures that are economically evaluated as a unit, or (3) the useful life of project measures for land conservation or land use.

(c) Permits are sufficient for financially assisted project measures as follows:

(1) Project measures that do not require operation and maintenance.

(2) Project measures that are to be operated and maintained by the landowner.

(3) One-time operations within a project measure such as a survey, investigation, or spoil spreading.

(4) Subordination of the rights of utilities within a project measure area.

(d) Term or perpetual easements are required for financially-assisted project measures that require operation and maintenance by someone other than the landowner.

§ 651.13 Sponsors' responsibilities.

Sponsors are to: (a) Acquire those landrights, water rights, and permits needed for the investigation and survey, installation, inspection, operation, and maintenance of project measures to be installed with Federal financial assistance in conformance with SCS policy set forth in this part.

(b) Acquire the rights in accordance with Pub. L. 91-646 and the implementing regulations of the U.S. Department of Agriculture (USDA) (part 21 of this title).

(c) Be responsible for all costs associated with acquiring or failing to acquire landrights.

(d) Complete the acquisition of all landrights before entering into a project agreement to install the project measures.

(e) Submit the proposed landrights instruments for SCS approval.

(f) Submit proposed special provisions before they are included in landrights instruments.

(g) Provide certification of the legality and adequacy of the landrights acquired along with copies of the landrights instruments for SCS review.

§ 651.14 Responsibilities of SCS.

(a) The State conservationist is to determine for each project measure the minimum area for which landrights must be acquired. In making his determination, the State conservationist is to include all areas needed to comply with the criteria set forth below and such additional areas as, in his prudent judgment, are to be included because of present, proposed, or possible future land uses that will adversely affect the functioning of the project measure.

(1) *Dams.* Sponsors must acquire landrights for the area of the structure, reservoir, and spillway; areas adversely affected by changed waterflow including but not limited to areas for spillway discharge; areas for environmental and protective features; and other areas needed for activities, such as design, operation and maintenance, construction, spoil disposal, borrow, ingress and egress, and diversion of water. If the structure is designed with an emergency spillway, upstream landrights are required at a minimum for that area below the higher elevation of either the crest of the primary emergency spillway or the maximum elevation of the water surface attained during passage of the 100-year, 24-hour hydrograph through the structure. If the dam is not designed with an emergency spillway, minimum upstream landrights are to include all the area below the elevation of the top of the dam.

(2) *Channels.* The sponsor must acquire landrights for those areas within the channel's designed top width and the berm width necessary on each channel bank to insure stability of the channel, channel banks, and side slopes; the areas needed for installation, inspection, design, operation and maintenance, ingress and egress, disposal, and diversion of water; areas needed for environmental and protective features; and other areas adversely affected by changed streamflow characteristics or induced flooding.

(b) The State conservationist is to furnish the sponsor a landrights work map showing the specific areas on which landrights are to be obtained and the minimum interest that must be acquired in each area. As a minimum, the map is to show landmarks for location of area, acquisition elevations, flowage elevations, apparent tract ownerships, acreages and boundaries, location of the project measure, installations affected by construction such as roads, utility lines, pipelines, railroads, buildings, wells, springs, bridges, all right-of-way boundaries, routes of ingress and egress where essential, and other similar features.

(c) The State conservationist is to meet the following criteria before installing any structure that would result in flooding of railroads, highways, public roads, dwellings, buildings, water sources, public utilities, burial sites, and historic sites or monuments.

(1) Railroads that are to remain in use may not be flooded.

(2) Highways and public roads may not be flooded below the elevation of the flowage line unless:

(i) The highway or public road is closed for a brief period and there is an alternate all-weather route that can be used with a minimum of inconvenience.

(ii) A written right or permission to flood the highway or public road has been obtained from the State, county, or agency having jurisdiction over the highway or public road. The written right or permission may be an easement, court order, or, if those cannot legally be given, a permit. The written right or permission must be accompanied by a citation of the applicable State statute or a written opinion of the State attorney general stating that the State, county, or agency

granting the permission has legal authority to allow the road to be closed by flooding.

(iii) Dwellings are accessible by an all-weather road that will not flood more frequently than under preconstruction conditions. If a road providing the only access to a dwelling is at a lower elevation than the flowage line, an historical record of preconstruction flooding is to be developed and documented in the landrights file.

(d) The State conservationist may not allow dwellings, including basements, or any other buildings that contain valuable property or that may be used as permanent or seasonal living quarters to remain in the area requiring flowage rights unless they are floodproofed or otherwise protected from damage by the storm event used to establish the flowage right elevation. Before financial assistance is made available to a sponsor, the dwelling or building must be: (1) Demolished, (2) relocated, (3) raised, or (4) protected by a floodwall. If the dwelling or building is raised or protected by a floodwall, it must be done in such a manner that there will be adequate drainage and no unreasonable ponding of water.

(l) If formally requested by the sponsor and approved by the State conservationist, other buildings such as barns and garages may remain in the flowage easement area. Generally, approval for flooding buildings of this type will not be granted if the building is used for the storage of feed, perishable items, supplies, equipment, or other items that would be substantially damaged by flooding. This also applies to any building used for other purposes if flooding would cause an interruption or delay of operations carried on in the building or cause a hazard that may result in damage to the building's contents, injury or death.

(e) The State conservationist may not allow the flooding of water sources such as springs or wells until sponsors have complied with State laws, ordinances, and regulations relating to matters such as contamination.

(f) The State conservationist may not allow public utilities to be flooded unless the utility company has determined that the function of the facility will not be affected adversely and a subordination agreement has been obtained.

(g) The State conservationist may not allow burial sites such as private family plots, cemeteries, and graveyards to be flooded unless disinterment and reburial has been accomplished in accordance with State law.

(h) The State conservationist may not allow historical sites or monuments to be flooded unitl part 656 of this title has been complied with.

(i) The State conservationist is to assist the sponsor in obtaining permission to survey for and/or recover archeological or historical resources in accordance with part 656 of this title.

(j) The State conservationist is to identify apparent water rights needed and develop a procedure for the sponsor to document these rights under State laws.

(k) The State conservationist is to advise the sponsor of the importance of mineral rights to the project measure and review the findings on outstanding mineral rights against design criteria for the measure.

(l) Before landrights negotiations begin, the State conservationist is to review and approve all instruments to be used in acquiring landrights except for those used in condemnation proceedings.

(m) The State conservationist is to review all special provisions to be included in landrights instruments as a result of the negotiations for the landright.

(n) The State conservationist is to arrange for periodic inspections of the sponsor's records to see that relocation assistance, relocation assistance advisory services, and relocation payments are being provided and that the sponsor is complying with pledged assurances.

(o) The State conservationist is to determine the need for and provide necessary technical assistance to the sponsors as available.

Subpart C—Landrights Authorized for Federal Financial Assistance

§ 651.20 General.

This subpart supplements and modifies subpart B if a program agreement authorizes Federal financial assistance for landrights from SCS program funds.

§ 651.21 Responsibilities of sponsors.

(a) Fair market values for the landrights needed are to be established based on appraisals as provided by part 21 of this title and agreed to by the sponsor and the State conservationist.

(b) Sponsors are to enter into landrights agreements with SCS.

(c) The sponsor must obtain evidence of title for all fee simple interests for which Federal financial assistance is authorized. After SCS approves the preliminary title evidence, the sponsor may proceed to acquire the property. Federal financial assistance will not be provided until the property has been acquired and final title evidence has been approved.

§ 651.22 Responsibilities of SCS.

(a) The amount of Federal financial assistance shown in the landrights agreement is to be applied as follows:

(1) For negotiated landrights the SCS share is to be computed on the price paid by the sponsor or the fair market value jointly determined by the sponsor and SCS, whichever is the lesser amount.

(2) For landrights acquired by condemnation, SCS provides financial assistance computed on the amount of damages awarded by the court, except that, if SCS considers the court award excessive and the sponsor does not exercise an appeal that is considered necessary by SCS, the financial assistance is to be based on the fair market value determined by SCS.

(3) For landrights costs included in a project agreement or its equivalent, the SCS financial assistance is to be computed on the actual cost of the work incurred under the project agreement or its equivalent.

(b) SCS is to prepare a landrights agreement documenting the eligible landrights and the level of Federal financial assistance. The agreement is to be consistent with arrangements in the program agreement.

(c) SCS may provide financial assistance to perform joint appraisals in satisfying the requirements for appraisal and review prior to purchase under part 21 of this title.

(d) SCS is to arrange for the legal review of title evidence provided by the sponsor.

(e) SCS is to identify project areas that require fee simple title ownership by the sponsor.

Subpart D—Conservation Operations

§ 651.30 Responsibility for acquisition of landrights.

Land users who receive technical assistance on conservation practices are responsible for obtaining the landrights necessary to carry out the practice. Land users must indemnify and save the United States harmless from any infringements upon the rights of others or from any failure to comply with applicable laws or regulations.

§ 651.31 [Reserved]

Subpart E—Emergency Watershed Protection

§ 651.40 Responsibility for acquisition of landrights.

Sponsors are responsible for the acquisition of landrights needed for emergency measures. The responsible sponsor is to be designated in the plan of work for the emergency measures. The pertinent procedures set forth in subpart B of this part apply to these measures.

§ 651.41 [Reserved]

Subpart F—Great Plains Conservation Program

§ 651.50 Responsibility for acquisition of landrights.

Responsibility for practices under the GPCP are contained in § 631.30 of this chapter.

§ 651.51 [Reserved]

[FR Doc. 78-32228 Filed 11-15-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-RM-28]

ALTERATION OF TRANSITION AREA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to alter the Minot, N. Dak., Grand Forks, N. Dak., Bismarck, N. Dak. and Sioux Falls, S. Dak. 1,200 foot transition areas to provide controlled airspace within the delegated approach control boundaries and to allow approach control the flexibility to utilize all available airspace for air traffic control purposes.

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

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

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1,200 foot transition areas at Minot, North Dakota, Grand Forks, North Dakota, Bismarck, North Dakota and Sioux Falls, South Dakota. The present transition areas are inadequate in size to contain the delegated approach control areas. It is proposed to alter the transition areas to allow approach control the flexibility to utilize all available delegated airspace for air traffic control purposes.

Accordingly, the Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending supbart G, 71-181 so as to alter the following transition areas to read:

MINOT, N. DAK.

* * * that airspace extending upward from 1,200 feet above the surface within 54 mile radius of Minot AFB excluding the area north of latitude 49°00'00" N.

GRAND FORKS, N. DAK.

* * * and that airspace extending upward from 1,200 feet above the surface within a 39 mile radius of Grand Forks AFB, within the State of North Dakota.

BISMARCK, N. DAK.

* * * that airspace extending upward from 1,200 feet above the surface within a 41 mile radius of the Bismarck VORTAC excluding all Federal airways.

SIOUX FALLS, S. DAK.

* * * and that airspace extending upward from 1,200 feet above the surface within the State of South Dakota bounded on the west by longitude 97°50'00" W., and on the north by latitude 44°30'00" N., excluding all federal airways.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber/Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

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

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

Issued in Aurora, Colorado on October 31, 1978.

ISSAC H. HOOVER,
Deputy Director,
Rocky Mountain Region.

[FR Doc. 78-31933 Filed 11-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-27]

CONTROL ZONE AND TRANSITION AREA—MANHATTAN, KANS.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Manhattan, Kans. to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 21 at the Manhattan, Kans. Municipal Airport utilizing an existing VOR, a navigational aid. Also, it has been determined that while the Manhattan Control Zone is adequate for the new instrument approach procedure, a control zone extension to the northeast is no longer required due to an instrument approach procedure being cancelled. Therefore, the extension is being removed from the description.

DATES: Comments must be received on or before December 16, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

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

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before December 16, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106 or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering amendments to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the control zone and 700-foot transition area at Manhattan, Kans. To enhance airport usage, a new instrument approach procedure has been developed for Runway 21 at the Manhattan, Kans. Municipal Airport utilizing an existing VOR, a navigational aid. Also, it has been determined that while the Manhattan Control Zone is adequate for the new instrument approach procedure, an extension to the control zone to the northeast is no longer required due to an instrument approach procedure being cancelled. Therefore, the extension is being removed from the control zone description. The establishment of the new instrument approach procedure entails alteration of the transition area at Manhattan, Kans. at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), by altering the following control zone:

MANHATTAN, KANS.

Within a five-mile radius of the Manhattan, Kans. Municipal Airport (latitude 39°08'28" N; longitude 96°40'10" W) and within 2 miles each side of the Manhattan, Kans., VOR 146° radial, extending from the five-mile radius zone to 11 miles Southeast of the VOR, and within two miles Northeast and three miles Southwest of the 126° bearing from the McDowell Creek RBN, extending from the 5-mile radius zone to 10 miles Southeast of the RBN, excluding the Fort Riley, Kans., control zone and the portion within R-3602. The control zone shall be effective during the times established by Notice to Airmen and published continuously in the Airman's Information Manual.

Additionally, the Federal Aviation Administration proposes to amend Subpart G, Section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978, (43 FR 440), by altering the following transition area:

MANHATTAN, KANS.

That airspace extending upward from 700 feet above the surface, within a 7-mile radius of the Manhattan, Kans., Municipal Airport (latitude 39°08'28" N; longitude 96°40'10" W) and within 4 miles each side of the Manhattan, Kans. VOR 046° radial extending from the 7-mile radius area to 11 miles Northeast of the VOR, within 2 miles Northeast and 3 miles Southwest of the 126° bearing from the McDowell Creek RBN, extending from the RBN to 10 miles Southeast, within 6 miles South and 9 miles North of the Fort Riley VOR 059° radial extending from the VOR to 21 miles Northeast, within 2 miles each side of the Fort Riley VOR 222° radial extending from the VOR to 8 miles Southwest.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

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

Issued in Kansas City, Mo., on November 3, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-32068 Filed 11-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-29]

TRANSITION AREA, WEST UNION, IOWA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at West Union, Iowa to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the George L. Scott Municipal Airport, West Union, Iowa, which is based on a Non-Directional Radio Beacon (NDB) navigational aid being installed near the airport.

DATES: Comments must be received on or before December 16, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

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

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before December 16, 1978, will be considered before action is taken on the proposed amdndment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106 or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regualtions (14 CFR § 71.181) by altering the 700-foot transition area at West Union, Iowa. To enhance airport usage by providing additional instrument approach capability to the George L. Scott Municipal Airport, the City of West Union, Iowa is installing an NBD near the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails alteration of the transition area at West Union, Iowa at and above 700-feet Above Ground Level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

WEST UNION, IOWA

George L. Scott Municipal Airport, West Union, Iowa. That airspace extending upward from 700 feet above the surface within an eight-mile radius of the George L. Scott Municipal Airport (latitude 42°59'00" N, longitude 91°48'00" W). Within 3 miles each side of the 174° bearing from the George L. Scott Municipal Airport, extending from the eight-mile radius to 10.5 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

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

Issued in Kansas City, Missouri, on November 3, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-32069 Filed 11-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-51]

TRANSITION AREA, PONCA CITY, OKLA.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Ponca City, Okla. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Blackwell/Tonkawa Municipal Airport. The circumstances which created the need for this action were the proposed approaches using the Pioneer VORTAC for flight under instrument weather conditions to the airport. Coincident with this action the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

DATES: Comments must be received on or before December 18, 1978.

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

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

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

FOR FURTHER INFORMATION CONTACT:.

Ken Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

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

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before December 18, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Ponca City, Okla. The FAA believes this action will enhance IFR operatons at the Blackwell/Tonkawa Municipal Airport by providing additional controlled airspace for aircraft executing proposed instrument approach procedures using the Pioneer VORTAC. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

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

* * * within a 5-mile radius of the Blackwell/Tonkawa Airport (latitude 36°44'40" N., Longitude 97°20'58" W.), and 2 miles each side of the Pioneer VORTAC 269° radial, extending from the 5-mile radius to the VORTAC, and 2.5 miles each side of the 180° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles south of the Airport, and 2.5 miles each side of the 360° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles north of the Airport.

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

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

Issued in Fort Worth, Tex., on November 2, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-32071 Filed 11-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-29]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Mohall, N. Dak., 700-foot transition area to provide controlled airspace for aircraft executing the new VOR/DME runway 31, amendment 1, Standard Instrument Approach Procedure, developed for the Mohall Municipal Airport, Mohall, N. Dak.

DATE: Comments must be received on or before December 18, 1978.

ADDRESS: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo 80010.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber/Mr. Pruett B. Helm, Airspace and Procedures Specialists, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700-foot transition area at Mohall, N. Dak. The present 700-foot transition area is inadequate to contain the new VOR/DME runway 31, amendment 1, Standard Instrument Approach Procedures, to the Mohall Municipal Airport, Mohall, N. Dak. It is proposed to make the transition area's alteration coincide with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending Subpart G, § 71.181 so as to alter the following transition area to read:

MOHALL, N. DAK.

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of the Mohall Municipal Airport (latitude 48°46'41" N., longitude 101°32'20" W.) and within 2.5 miles each side of the 161° bearing from the Mohall Municipal Airport, extending from the 7.5-mile-radius area to 9.5 miles southeast of the airport.

DRAFTING INFORMATION

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

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

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

Issued in Aurora, Colo., on November 6, 1978.

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

[FR Doc. 78-32241 Filed 11-15-78; 8:45am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Special Regulations Docket 29165; SPDR-50D; Dated: November 9, 1978]

[14 CFR Part 380]

CONSUMER PROTECTIONS FOR CHARTER PARTICIPANT

Simplified Prospectus Filing Procedures

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action extends for 30 days the filing date for comments in a rulemaking proceeding regarding refund provisions and disclosure requirements in charter packages, and simplified prospectus filing procedures, the extension was requested by the Federal Trade Commission.

DATES: Comments by December 13, 1978. Reply comments by December 28, 1978.

ADDRESSES: Comments should be sent to Docket 29165, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. 202-673-5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking SPDR-50B (43 FR 39807, September 7, 1978) the Board proposed to amend the Public Charter regulation (14 CFR Part 380) to entitle charter participants to refunds when there are major changes, and to establish new requirements for advertising and for contracts between tour operators and participants. The proposed amendment also would simplify procedures for filing prospectuses, and requested comments on requiring operators to obtain permits. The comment closing date was October 23, 1978.

On October 19, 1978, for good cause shown by the American Express Co., supported by the National Air Carrier Association, the deadline date was extended to November 13, 1978.[1]

The Federal Trade Commission has requested an extension to December 13, 1978. The basis of this request was to give the Commission time to consolidate the findings of the internal bureaus into a comprehensive statement from the Commission which will take into account the individual bureau contributions and the results of the investigation by the Boston Regional Office.

Upon consideration of the above, the undersigned finds good cause to grant the extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations [14 CFR 385.20(d)], the time for filing comments is extended to December 13, 1978, and the time for reply comments is extended to December 28, 1978. The original target date of January 15, 1979 is extended to February 15, 1979, for adoption of a final rule.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

RICHARD B. DYSON,
Associate General Counsel.

[FR Doc. 78-32299 Filed 11-15-78; 8:45 am]

[1] SPDR-50C, 43 FR 49994 Oct. 26, 1978.

[1505-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9078]

NATIONAL SYSTEMS CORP. AND NORTH AMERICAN CORRESPONDENCE SCHOOLS T/A NORTH AMERICAN SCHOOL OF CONSERVATION, ETC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 78-30523 appearing at page 50446 in the FEDERAL REGISTER for Monday, October 30, 1978, make the following corrections:

(1) In the middle column of page 50446, in the last line of the first paragraph under "Supplementary Information", "(16 CFR 4.9 (b)(140)" should have read "(16 CFR 4.9 (b)(14)".

(2) In the middle column of page 50449, in the third line from the bottom of the page, "* * * all the lessons is the course * * *" should have read "* * * all lessons in the course * * *".

(3) In the third column of page 50451, in the eighth and ninth lines of paragraph 1. of Appendix A, the parenthesis should be closed around the word "(percentage)".

(4) In the third column of page 50454, in the fourth complete paragraph, the last sentence should read "If you fail to do so, you will be ineligible for a tuition adjustment."

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

DELEGATION OF AUTHORITY TO DENY REGISTRATION

Proposed Rule

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission is proposing to adopt a new § 1.10e of Part 1 of its General Regulations under the Commodity Exchange Act. The purpose of the new section is primarily to delegate to the Commission's staff authority in certain circumstances to deny registration to an applicant where facts apparently exist upon the basis of which the applicant may be found unfit for registration and the applicant does not request a hearing to controvert those facts.

DATES: Written comments on the proposed rule must be received by the Commission at its offices in Washington, D.C., by December 1, 1978.

ADDRESS: In order to be considered, written comments on the proposed rule must be submitted to: Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Seaton, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 202-254-7566.

SUPPLEMENTARY INFORMATION: The Commodity Exchange Act requires registration with the Commission of futures commission merchants and persons associated therewith, commodity trading advisors, commodity pool operators and floor brokers. Pursuant to section 8a(2) of the Act, 7 U.S.C. 12a(2) (1976), the Commission may refuse to register a person in any of these capacities in certain enumerated circumstances and "for other good cause shown." [1]

At present the decision whether to institute proceedings that may lead to a refusal of registration to any person pursuant to Section 8a(2) is made by the Commission itself. This procedure has proven to be an unnecessary imposition upon the valuable time of Com-

[1] The Commission may also deny, revoke or suspend registration of commodity trading advisors and commodity pool operators pursuant to Section 4n(6) of the Act, 7 U.S.C. 6n(6) (1976), as amended by Pub. L. 95-405, 92 Stat. 865, et seq.

mission members, since, in most cases, a decision to institute proceedings to refuse registration to an applicant is based upon essentially indisputable facts showing unfitness for registration and the absence of any significant mitigating circumstances.

The Commission has therefore determined to propose for adoption Regulation 1.10e, which would delegate to its staff the authority to handle routine denials of applications for registration in those circumstances in which any one of several specifically enumerated disqualifications exist and the applicant, after having been notified of the disqualifying factor, does not request a hearing. The staff will also be authorized, pursuant to section 8a(2)(A) of the Act, to refuse registration without a hearing to any person whose prior registration has been revoked or has been suspended, the period of suspension not having expired. The rule will also authorize the Commission's staff to notify an applicant where an apparent disqualification exists and require that the applicant confirm in writing that he nevertheless wishes to have his application given further consideration; if the applicant fails to respond to such a notification his application will be deemed to have been withdrawn.

Subsection (a) of the proposed Regulation provides a procedure by which it may be presumed that an applicant has withdrawn his application in the face of significant adverse information. Under its provisions, the Director or Deputy Director of Trading and Markets will be permitted to advise an applicant when facts have come to his attention upon the basis of which the applicant might be found unfit for registration. The standards to be applied are substantially those contained in Section 8a(2) of the Act and the Commission's release concerning good cause.[2] When those standards are met the applicant would be required to reconfirm in writing that he wishes to have his application given further consideration. Unless he does so, subsection (a) provides that his application will be deemed to have been withdrawn and will be given no further consideration.

Under subsection (b) an applicant may be informed by the Executive Director of the Commission not merely that information has come to the staff's attention of a possible basis for a finding of unfitness—which is the standard under subsection (a)—but that the Division of Trading and Markets and the Division of Enforcement allege and are prepared to prove the fact of the disqualifying circumstance. In this situation, unless the applicant wishes to challenge the alleged facts by requesting a hearing, his application for registration may be denied on the basis of the alleged facts, which will be deemed to be true for that purpose. Of course, the applicant must be fully informed of the consequences of failing to request a hearing before any adverse action may be taken.

If an applicant requests a hearing on the question of denial of his application after he has received the kind of letter authorized by subsection (b), an Administrative Law Judge will conduct a proceeding in accordance with the Commission's rules of practice, 17 CFR Part 10. If A hearing is to be held, however, the Division of Enforcement will be free to seek whatever additional forms of relief would be appropriate in the circumstances and, with leave of the Commission, will also be permitted to allege grounds for denial of registration in addition to those that the Executive Director had originally set forth in his letter.

If an applicant does not request a hearing in response to a letter written pursuant to subsection (b), subsection (d) differentiates between the procedure for handling applications for initial licenses and applications for renewal of a registration previously granted. Where an initial license is involved, the Executive Director will be delegated authority to determine the applicant's fitness and grant or deny registration; where the application involves renewal of a license previously granted, the matter will be referred to an Administrative Law Judge to determine whether the application should be granted or denied. This distinction is based upon a provision of the Administrative Procedure Act that no person may participate in the final decision of a matter if he has participated in the investigation or prosecution of that matter or a factually-related case. This provision of the Administrative Procedure Act does not apply, however, in the case of initial licenses.

Subsection (e) of the proposed rule will delegate to the Executive Director the Commission's authority under section 8a(2)(a) of the Commodity Exchange Act summarily and without hearing to refuse to register any person whose registration is currently under suspension or has previously been revoked.

Subsection (f) will permit an applicant or the Division of Enforcement to seek reconsideration by the Commission of orders granting or refusing registration. Under subsection (g), the Commission will be authorized to stay the effectiveness of any order issued under the rule pursuant to delegated authority, either on its own motion or based upon a petition for reconsideration filed pursuant to subsection (f).

Under subsection (h)(1), the Director or Deputy Director of the Division of Trading and Markets may give notice pursuant to subsection (a), which may result in the withdrawal of an application, only with the concurrence of the Director of the Division of Enforcement or his designee. Where a notice is to be given by the Executive Director under subsection (b), which may result in a denial of registration or a hearing to determine fitness, that notice may be given only with the concurrence of the Director of the Division of Trading and Markets, the Director of the Division of Enforcement and the Deputy General Counsel, or their designees.

Under subsection (i), the Commission reserves to itself the decision whether to institute a denial proceeding in any case not covered by the disqualifying circumstances that are enumerated in subsection (a).

Pursuant to authority contained in sections 2a(11) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. § 4(a)(j) and 12a(5) (1976), the Commodity Futures Trading Commission hereby proposes for adoption § 1.10e of Part 1 of Chapter I of Title 17 of the Code of Federal Regulations as set forth below:

§ 1.10e Delegation of authority to deny registration.

(a) The Director or Deputy Director of the Division of Trading and Markets may at any time give written notice to any applicant for registration in any capacity under the Commodity Exchange Act, stating that

(1) Information has come to his attention which tends to show that one or more of the following circumstances exist: That the applicant or any general partner, officer, director, person performing similar functions, controlling person, or holder of more than 10 percent of the stock of the applicant—

(i) Was convicted of any felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made a false or misleading material statement in his application or willfully omitted to state a material fact in connection with the application; or

(ii) Within 10 years preceeding the filing of the application has been convicted of a misdemeanor which (A) involves any transactions or advice concerning any commodity or security; (B) arises out of conduct of the business of a futures commission merchant, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing; or (C) involves embezzlement, fraudulent

[2] 40 FR 28125 (July 3, 1975).

conversion, misappropriation of funds, securities or other property, counterfeiting, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of component jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, (A) from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing, or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities or securities; or

(iv) Within 10 years preceding the filing of the application, has been found by any court of competent jurisdiction, by the Commission or the Securities and Exchange Commission, or has admitted by agreement or settlement to which the Commission or the Securities and Exchange Commission is a party, (A) to have violated any provision of the Commodity Exchange Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, Investment Advisers Act of 1940, or any rule or regulation under any such statutes; (B) to have aided, abetted, counseled, commanded, induced, or procured the violation by any other person of such statutes or rules or regulations; or (C) to have failed reasonably to supervise, with a view to preventing violations of such statutes, rules or regulations, another person who commits such a violation, if such person is subject to his supervision; or

(v) Is subject to an outstanding order of the Commission denying trading trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, or associated person, or suspending or expelling such person from membership on any contract market;.

(2) This information, if true, is a basis upon which the applicant may be found unfit for registration and upon which the applicant's registration may be denied;

(3) Unless the applicant voluntarily withdraws his application it may be necessary, after further investigation of these facts, to institute the public procedures for denial of registration described in paragraph (b) of this section;

(4) In these circumstances, an applicant is required to reconfirm in writing that he wishes to have his application given further consideration; and

(5) Unless the applicant files with the Director or Deputy Director of the Division of Trading and Markets a notification in writing, within 30 days of the date of the notice that the applicant wishes to have his application for registration given further consideration, his application will be deemed to have been withdrawn and will be given no further consideration.

(b) On the basis of apparently credible evidence the Executive Director may at any time give written notice to any applicant for registration in any capacity under the Commodity Exchange Act that

(1) The Division of Trading and Markets and the Division of Enforcement allege and are prepared to prove that one or more of the circumstances set forth in paragraph (a)(1) of this section exist;

(2) The allegations set forth in the notice, if true, constitute a basis upon which the applicant may be found unfit for registration pursuant to section 8a(2)(B) of the Commodity Exchange Act and upon which the applicant's registration may be denied;

(3) The applicant is entitled to a hearing at which he may challenge the truth of the allegations set forth in the notice or show cause why, notwithstanding the truth of those allegations, registration should nevertheless be granted;

(4) A hearing for these purposes may be obtained by filing a written request with the Executive Director within 30 days after the date of the notice to the applicant;

(5) If the applicant does not timely request a hearing he will be deemed to have waived his right to a hearing on all issues concerning his application; and

(6) If the applicant does not timely request a hearing the Commission or the Executive Director or Chief Administrative Law Judge (acting pursuant to authority delegated under paragraph (d) of this section) may thereafter decide whether to grant or deny his registration based upon the facts stated in the notice, which will not have been disputed and which may be deemed to be true for that purpose.

(c) If an applicant should request a hearing in accordance with paragraph (b)(4) of this section, an adjudicatory proceeding on the question of the applicant's fitness for registration shall thereafter be conducted and concluded in accordance with the Commission's rules of practice, 17 CFR Part 10; the matter shall be referred to the Chief Administrative Law Judge who shall set a date for hearing and assign an Administrative Law Judge to conduct the proceeding. For purposes of that proceeding, the notice given in accordance with paragraph (b) of this section shall be treated as a duly authorized complaint by the Division of Enforcement seeking, as relief, denial of the application for registration, and the request for hearing shall be treated as an answer which generally denies every allegation contained in the notice upon which a hearing has been requested: *Provided, however,* That (1) the Division of Enforcement may thereafter amend the complaint to seek such other and further relief as may be appropriate in view of the matters charged and, with leave of the Commission, may allege further grounds as a basis for denial of registration; and (2) the applicant may supplement his answer to set forth any affirmative defenses he may wish to assert and the alleged facts upon which those defenses are based. The provisions of §§ 10.22 and 10.23 of the rules of practice, concerning a complaint and answer, shall otherwise be inapplicable.

(d) If no request for a hearing is received by the Executive Director within 30 days after a notice has been given in accordance with paragraph (b) of this section, the Executive Director may proceed as follows:

(1) In the case of an applicant for an initial registration, pursuant to authority hereby delegated by the Commission, the Executive Director may determine the applicant's fitness for registration and may issue an order, pursuant to section 8a(2) of the Commodity Exchange Act, granting or refusing registration to the applicant based upon the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested.

(2) In the case of an applicant for renewal of a registration previously granted, the Executive Director may transmit to the Chief Administrative Law Judge a true copy of the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested, and, based thereon, the Chief Administrative Law Judge, pursuant to authority hereby delegated by the Commission, may determine the applicant's fitness for registration and may issue an order, pursuant to section 8a(2) of the Commodity Exchange Act, granting or refusing registration to the applicant.

(e) Notwithstanding any other provision contained in this section, the Executive Director is hereby delegated authority pursuant to section 8a(2)(A) of the Commodity Exchange Act to enter an order refusing to register any person if the prior registration of such

person has been suspended (and the period of such suspension shall not have expired) or has been revoked.

(f) A copy of any order issued pursuant to paragraph (d) or (e) of this section shall promptly be served upon the applicant and the Division of Enforcement and provided to each member of the Commission. Within fifteen days after service upon an applicant of an order grantng or refusing registration issued pursuant to paragraph (d) or (e) of this section, the applicant or the Division of Enforcement may file with the Commission's Secretariat a petition for reconsideration setting forth the grounds in support thereof. The petition of an applicant shall not be based upon any matter of which the applicant had notice and opportunity for hearing under paragraph (b) of this section unless it be claimed, and supported by affidavit, that notice under paragraph (b) of this section was not timely received by the applicant.

(g) An order granting or refusing registration issued pursuant to paragraph (d) or (e) of this section shall be effective as a final order of the Commission thirty days after the date it was served upon the applicant. Within that period the Commission, on its own motion, or based upon a petition filed pursuant to paragraph (f) of this section, may stay the effectiveness of the order and then or thereafter may reverse, affirm or modify the order or direct reconsideration of the order on such basis and in accordance with such procedures as it may determine.

(h)(1) The Director or Deputy Director of the Division of Trading and Markets shall give notice under paragraph (a) of this section only with the concurrence of the Director of the Division of Enforcement or his designee. The Executive Director shall give notice under paragraph (b) of this section only with the concurrence of the Director of the Division of Trading and Markets, the Director of the Division of Enforcement and the Deputy General Counsel, or their designees.

(2) For purposes of this section, notice to and service upon the applicant shall be sufficient if mailed first class properly addressed to the applicant at the address shown on his application or any amendment thereto, and shall be complete upon mailing; a record showing the date upon which a document was duly mailed, and by whom, prepared and retained in the normal course of Commission business, shall be adequate proof of service of the document. Documents submitted to the Executive Director or the Director of the Division of Trading and Markets shall be considered filed only upon actual receipt.

(i) The Commission reserves to itself the decision in any case whether to institute a proceeding to determine whether to refuse an applicant's registration for reasons other than the existence of circumstances described in paragraph (a)(1) of this section.

Issued in Washington, D.C., on November 9, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-32232 Filed 11-15-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 4, 6, 10, 123, 162, and 171]

PENALTIES FOR VIOLATIONS OF CUSTOMS AND NAVIGATION LAWS

Proposed Rule

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978" made numerous changes to laws enforced by the Customs Service. Some of the changes relate to fines, penalties, and forfeitures incurred for violations of customs and navigation laws relating to:

1. The transportation of merchandise by foreign or other nonentitled vessels in the coastwise trade,

Foreign repairs and equipment purchases by vessels of the United States,

3. The falsity or lack of a manifest, and

The false and fraudulent entry of merchandise.

Generally, the Act changes the penalties provided, adds new procedural rules to be followed at the administrative level, and provides for more judicial review. This document proposes to amend the Customs regulations to establish new procedures to reflect these changes.

DATE: Comments must be received on or before December 18, 1978. A shorter than normal comment period is mandated as the result of the early effective date of the new statutory procedures.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Edward T. Rosse, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8317.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Customs Procedural Reform and Simplification Act of 1978 (Pub. L. 95-410), approved October 3, 1978 (the "Act"), makes numerous amendments to statutes administered by the Customs Service which relate to fines, penalties, and forfeitures for violations of the customs and navigation laws. Specifically, the Act further amends:

1. Section 27, Merchant Marine Act of 1920 (46 U.S.C. 883), relating to the transportation of merchandise by foreign or other nonentitled vessels in the coastwise trade,

2. Section 466, Tariff Act of 1930 (19 U.S.C. 1466), relating to foreign repairs and equipment purchases by vessels of the United States,

3. Section 584, Tariff Act of 1930 (19 U.S.C. 1584), relating to falsity or lack of manifest, and

4. Section 592, Tariff Act of 1930 (19 U.S.C. 1592), relating to false and fraudulent entry of merchandise.

This document proposes to amend the Customs regulations to reflect these changes made by the Act.

COASTWISE TRANSPORTATION OF MERCHANDISE

1. Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), provides generally that no merchandise shall be transported between points within the coastwise laws of the United States, directly or by way of foreign port, or for any part of the transportation, except in a vessel built in and documented under the laws of the United States, and owned by a U.S. citizen.

Prior to enactment of Pub. L. 95-410, the sole penalty for violation of 46 U.S.C. 883 was forfeiture of the merchandise unlawfully transported. Section 213 of the Act amends 46 U.S.C. 883 to provide that Customs may assess a monetary penalty in an amount up to the value of the merchandise as an alternative to forfeiture. Also, the vessel owner, agent, or operator, or any person with a commercial interest in the merchandise, is made liable for the monetary penalty.

To reflect these changes, it is proposed to amend § 4.80, Customs regulations (19 CFR 4.80), by adding a new paragraph setting forth the alternative of assessing a monetary penalty in an amount up to the value of the merchandise. The district director of Customs would be given discretion as to whether to seize the merchandise or to assess a monetary penalty. It also is proposed to amend § 171.22(a), Customs regulations (19 CFR 171.22(a)),

to state that the monetary penalty, regardless of its amount, is subject to remission by the district director if he is satisfied that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

FOREIGN REPAIRS AND EQUIPMENT PURCHASES BY U.S. VESSELS OR AIRCRAFT

2. Prior to enactment of Pub. L. 95-410, section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), provided for forfeiture of a vessel of U.S. registry, together with its tackle, apparel, and furniture, for the willful and knowing neglect or failure of the owner or master to report, make entry, and pay duties on repairs to, or equipment purchases for, the vessel made in a foreign country. The provisions of 19 U.S.C. 1466 are made applicable to U.S.-registered aircraft by § 6.7(d), Customs regulations (19 CFR 6.7(d)), issued under the authority of section 1109, Federal Aviation Act of 1958, as amended (49 U.S.C. 1509).

Section 206 of the Act amends 19 U.S.C. 1466 to provide a monetary penalty in an amount up to the value of the vessel (or aircraft) as an alternative to forfeiture. In addition, it expands the activities subject to penalty to include the making or procuring of any false statement concerning the purchases or repairs without reasonable cause to believe the truth of the statements.

This section also amends 19 U.S.C. 1466 to include a prepenalty notice procedure to provide persons suspected of violating the statute an opportunity to discuss with Customs officials why a penalty notice should not be issued or, if issued, why it should be in a lesser amount than that proposed by the district director. However, the prepenalty notice procedure is not available if the district director elects to seize and forfeit the vessel (or aircraft).

Accordingly, it is proposed to add new subpart G, relating to violations of 19 U.S.C. 1466, to part 162, Customs Regulations (19 CFR Part 162). Proposed § 162.70(a)(1) would provide that the provisions of the new subpart would apply to violations that occur after October 3, 1978, the effective date of section 206 of the Act. Proposed § 162.72(a) would provide that the district director may seize the vessel (or aircraft) or assess a monetary penalty in an amount up to its value.

It also is proposed to add a prepenalty notice procedure in new §§ 162.76, 162.78, and 162.79 of subpart G. This procedure would require the district director to provide written notice of his intent to issue a penalty claim if he has reasonable cause to believe a violation has occured and determines that further proceedings are warranted. The prepenalty notice would describe all material facts and circumstances of the alleged violations, specify all laws and regulations allegedly violated, and state the estimated loss of duties, if any, and the amount of the proposed penalty. The notice also would inform the person concerned of his right to make a written and an oral presentation as to why he believes a claim should not be issued or, if issued, why it should be in a lesser amount than proposed. Generally, the person would have 30 days from the date of mailing of the notice to make both written and oral presentations. However, if less than 1 year remains before the statute of limitations may be asserted as a defense, the district director may specify a shorter period of time to respond to the prepenalty notice, but this period may not be less than 7 days from the date of mailing. Furthermore, extensions of time to respond may be given under the same circumstances that extensions of time for filing petitions for relief may be given under § 162.32(a), Customs Regulations (19 CFR 162.32(a)), as amended by T.D. 78-36, published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4595). The district director in his discretion, may allow more than one written and one oral presentation.

After considering any presentations made, the district director either will inform the person in writing that no violation has been found and that no claim will be issued, or will issue a notice of a claim for a monetary penalty. The notice will contain any changes in the information provided in the prepenalty notice, and inform the person of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), in accordance with part 171, Customs Regulations (19 CFR Part 171).

FALSITY OR LACK OF MANIFEST

3. Section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431), requires the master of a vessel arriving in the United States to have on board a manifest in the form prescribed by the Secretary of the Treasury. The manifest must be signed by the master under oath as to the truth of the statements it contains. Section 583, Tariff Act of 1930, as amended (19 U.S.C. 1583), requires the master of every vessel and the person in charge of every vehicle bound to a port or place in the United States to deliver the vessel or vehicle manifest to Customs. These requirements regarding the manifest are made applicable to aircraft arriving in the United States by §§ 6.3 and 6.7, Customs Regulations (19 CFR 6.3, 6.7), issued under the authority of section 1109, Federal Aviation Act of 1958, as amended (49 U.S.C. 1509). Customs uses the manifest to ensure that all merchandise on the vessel, vehicle, or aircraft ultimately is entered or otherwise appropriately accounted for under the customs laws and regulations.

Various penalties are provided in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), for failure to have a manifest on board or for having a false manifest. A penalty equal to the domestic value of the merchandise is assessed if merchandise is found on board or is unloaded which is not included in, or does not agree with, the manifest (an overage). This is the most common of the several penalties provided in 19 U.S.C. 1584. However, if the master or person in charge (or commander) fails to produce the manifest, or if any merchandise described in the manifest is not found on board (a shortage), a penalty of $500 is assessed.

Section 109 of the Act amends 19 U.S.C. 1584 to limit the penalty provided for an overage to the lesser of the domestic value of the merchandise or $10,000. In addition, section 109 provides that before a claim for a monetary penalty in excess of $500 resulting from an overage, failure to produce the manifest, and a shortage may be made, a prepenalty notice must be issued. The person suspected of a violation must be provided the opportunity to discuss with Customs officials why a penalty notice should not be issued or, if issued, why it should be in a lesser amount than proposed.

Section 109 of the Act also extends the liability for the various penalties under 19 U.S.C. 1584 to any person directly or indirectly responsible for any discrepancy in the manifest. Previously, only the master of the vessel, the person in charge of the vehicle, or the owner of the vessel or vehicle (or the commander or owner of the aircraft), was liable for a penalty.

Under 19 U.S.C. 1584, if Customs is satisfied that the manifest is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unloaded or discharged except as specified in the report of the master (or commander), penalties shall not be incurred. The Act amends 19 U.S.C. 1584 by defining the term "clerical error" as a "nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest."

Accordingly, it is proposed to amend part 162, Customs Regulations (19 CFR Part 162), by adding a new § 162.72(b) in subpart G to set forth the penalty of $500 for failure to produce a manifest, the penalty of $500 for a shortage, and the penalty of the lesser of the domestic value of the merchandise or $10,000 for any overage. This section also would state what

persons would be liable for these penalties. In administering this section, Customs will endeavor to assess penalties only against the parties actually responsible for the manifest discrepancy. For example, a penalty under 19 U.S.C. 1584 would not be assessed against the carrier if the record clearly showed that the cargo was packaged in such a way that the carrier's employees or agents were prevented from knowing its contents. An example of such packaging would be that a cargo container was filled at the exporter's factory in a foreign country and was not opened until it reached the importer's facility in the United States.

Proposed § 162.70(a)(1) would make the new provisions applicable to violations that occur after October 3, 1978, the effective date of section 109 of the Act.

The prepenalty notice procedure in proposed §§ 162.76, 162.78 and 162.79, applicable to violations of 19 U.S.C. 1466, also would be applicable to these violations. However, the prepenalty notice also would describe the merchandise and the details of any discrepancy in the manifest, and no prepenalty notice would be issued if the proposed penalty is $500 or less.

The following sections of the Customs Regulations also would be amended to conform to the new statutory language:

1. Footnote 23 to § 4.12, which contains part of the text of 19 U.S.C. 1584,

2. Sections 4.12(a)(5) and 6.7(h)(5), which define the term "clerical error or other mistake," and

3. Section 162.65(c), which specifies the persons to whom a notice and demand for payment of a penalty for failure to manifest narcotics or marihuana will be sent.

FALSE AND FRAUDULENT ENTRY OF MERCHANDISE

4. Prior to the enactment of Pub. L. 95-410, if any person entered or introduced, or attempted to enter or introduce, or aided or procured the entry or introduction of, merchandise into the commerce of the United States by means of specified false or fraudulent acts or omissions, the merchandise or its domestic value was subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). Section 110 of the Act completely revises 19 U.S.C. 1592.

The penalty has been changed from an in rem penalty, forfeiture of the merchandise or its domestic value, to an in personam penalty, a monetary liability of the violator. However, seizure of the merchandise is permitted if Customs has reasonable cause to believe that the importer is insolvent or outside U.S. jurisdiction, or that seizure is necessary to protect the revenue or prevent the importation of prohibited or restricted merchandise. The seized merchandise would be forfeited to the United States under 19 U.S.C. 1592 only if the monetary penalty is not paid.

The monetary penalty has been changed from a fixed amount, the domestic value of the merchandise, to an amount varying according to the violator's culpability, i.e., whether the violation is the result of fraud, gross negligence, or negligence. The penalty for a fraudulent violation may not exceed the domestic value of the merchandise. The penalty for gross negligence may not exceed the lesser of the domestic value or four times the loss of duties involved. If there is no loss of duties, the penalty for gross negligence may not exceed 40 percent of the dutiable value of the merchandise. The penalty for negligence would be the lesser of the domestic value or twice the loss of duties. If there is no loss of duties, the negligence penalty could not exceed 20 percent of the dutiable value. No penalty may be assessed because of clerical errors or mistakes of fact unless they are part of a pattern of negligent conduct.

If the violator makes a prior disclosure of a fraudulent violation, the penalty may not exceed an amount equal to the loss of duties, or 10 percent of dutiable value if there is no loss of duties. If it is a grossly negligent or negligent violation that is disclosed, the penalty may not exceed the amount of interest accruing on the loss of duties.

A prepenalty notice procedure for suspected violations of 19 U.S.C. 1592 has been provided. The notice would not be required, however, in noncommercial cases or if the proposed penalty is $1,000 or less. The Act thus incorporates, in general, the prepenalty notice procedure in Part 171, Customs Regulations (19 CFR Part 171).

The Act also provides that the alleged violator shall have a reasonable opportunity to make oral and written presentations in seeking relief from a penalty under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618). At the conclusion of any proceeding under 19 U.S.C. 1618, Customs is required to provide a written statement setting forth the determination and the findings of fact and conclusions of law on which the determination is based.

Except for alleged intentional violations which (1) Involve Japanese television receivers that were or are the subject of antidumping proceedings, (2) occurred before October 3, 1978, and (3) were the subject of a Customs investigation begun before October 3, 1978, these changes to 19 U.S.C. 1592 are effective with respect to proceedings commenced after December 31, 1978.

Therefore, the excepted violations, and all other violations for which proceedings commenced before January 1, 1979, will continue to be subject to the provision of 19 U.S.C. 1592 existing before its amendment by Pub. L. 95-410 and to the applicable provisions of parts 162 and 171, Customs Regulations, currently in force.

It is proposed, therefore, to add provisions relating to violations of 19 U.S.C. 1592 to new subpart G of part 162, Customs Regulations.

Proposed § 162.70(a)(2) would identify those violations of 19 U.S.C. 1592 covered by the provisions in subpart G, and would state that all other provisions of part 162 would apply to those violations, unless subpart G provides special procedures.

Proposed § 162.71 would define the following terms used in subpart G: "loss of duties", "actual loss of duties", "potential loss of duties", "noncommercial importation", "clerical error", and "mistake of fact".

Proposed § 162.73 would state the maximum monetary penalties assessable under 19 U.S.C. 1592. It essentially would follow the language of the statute, setting forth the ceilings for the monetary penalties.

Proposed § 162.74 would contain procedures relating to the prior disclosure provisions of the Act similar to Customs current voluntary disclosure procedures set out in § 171.1(a), Customs Regulations (19 CFR 171.1(a)), as amended by T.D. 78-152, published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23711). It would state that a prior disclosure is made if the person concerned discloses the circumstances of the violation before, or without knowledge of, the commencement of a formal investigation, and tenders any loss of duties at the time of disclosure or within 30 days after Customs notifies him of the amount of the loss of duties. The person who claims a lack of knowledge of the commencement of a formal investigation would have to prove that lack of knowledge. It also is proposed to authorize the district director to extend that 30-day period if he determines there is good cause to do so. If a prior disclosure were made the amount of the monetary penalty would be limited as provided in proposed § 162.73.

Proposed § 162.74 also would continue the current practice of the district director referring disclosures to the field office of the Office of Investigations. After investigation, the matter would be referred back to the district director to determine whether a prior disclosure has been made. Proposed § 162 also would set forth the circumstances constituting "commencement of a formal investigation." The cir-

cumstances would be identical to those in § 171.1(a)(1), Customs Regulations, which are considered in determining whether an investigation has been initiated for purposes of applying the voluntary disclosure provisions.

Proposed § 162.74 also would continue Customs policy of not assessing a penalty if the disclosed violation involves a loss of duties of $250 or less and the other criteria of § 171.1(a)(3)(ii) are met. However, for cases to which subpart G of part 162 relates, it is proposed to change the procedures in § 171.1(a)(2) with regard to undisclosed violations discovered by Customs as the result as the investigation of another violation. Customs now treats these undisclosed violations as "disclosed" as long as they are not intentional violations. Because of the Congressional intent as expressed in the legislative history of the Act (H.R. Rep. No. 95-621, 95th Cong., 1st sess., p. 17 (1977)), it is proposed to include in the regulations a provision stating that this type of violation no longer will be treated as if "disclosed", and therefore will not be entitled to treatment under the prior disclosure provisions.

Proposed § 162.75 would contain the provisions relating to seizures under 19 U.S.C. 1592. It would emphasize that seizure is a provisional remedy authorized only under the limited circumstances set forth in the Act. Moreover, no seizure would be allowed if a prior disclosure were made. It also would provide specifically for the seizure notice already required under § 162.31 (19 CFR 162.31).

Proposed § 162.75 also would specify that the seized merchandise would be released upon the deposit of security equal to the maximum penalty which may be assessed. It is proposed that the merchandise would be released, upon deposit of security equal to the penalty assessed, to the person from whom seized if the entry is not prohibited or restricted. It also is proposed that the merchandise could be released to any other person upon deposit of adequate security, (1) if the entry is not prohibited or restricted, (2) if the district director is satisfied that the person has a substantial interest in the merchandise, and (3) if the person submits either a hold-harmless agreement or a release from the owner and/or person from whom the merchandise was seized. Finaly, proposed § 162.75 would state that the merchandise may be forfeited only if the monetary penalty were not paid on time.

Proposed § 162.77 would contain the prepenalty notice requirements of the Act. Because seizure is a provisional remedy, the proposed section would state that the notice will be issued whether or not a seizure has been made. It also would set forth the requirements for the contents of the prepenalty notice as specified in the Act and would state that no prepenalty notice would be needed if the claim were for $1,000 or less or if it involved a noncommercial importation.

Proposed §§ 162.78 and 162.79 would contain the provisions relating to making representations in response to the prepenalty notice and acting on those presentations. These provisions would apply to alleged violations of 19 U.S.C. 1592 as well as to alleged violations of 19 U.S.C. 1466 and 1584.

Proposed § 162.79a would provide for a written notice of a claim for a monetary penalty if no prepenalty notice were required.

Proposed § 162.79b would reflect the change made by the Act that actual loss of duties shall be collected for a violation of 19 U.S.C. 1592, whether or not a monetary penalty is assessed.

In addition to adding new subpart G to part 162, it also is proposed to amend part 171, relating to petitions for relief from fines, penalties, or forfeitures incurred.

Section 171.1 would be amended to except the cases under subpart G, part 162, from its provisions. Section 171.1 contains the voluntary disclosure and prepenalty notice provisions which will continue to apply to 19 U.S.C. 1592 cases which do not come under the Act.

A new § 171.14 would be added to provide for an oral presentation seeking relief from penalties incurred for violations of 19 U.S.C. 1592 for which proceedings commenced after December 31, 1978. The person desiring to make an oral presentation in support of a petition for relief would have to request an opportunity to do so in the petition. If so requested, Customs would give him a reasonable opportunity to make the presentation. In addition, other oral presentations could be allowed in the discretion of the district director, regional commissioner, or Commissioner whenever a petition or supplemental petition is under his consideration. Thus, the current Customs practice of allowing oral presentation of arguments for relief whenever appropriate would be continued.

New § 171.31a would provide for written statements to the petitioner of the Customs decision as to relief from those violations. The statement would set forth the findings of fact and conclusions of law upon which the decision is based.

It also is proposed to amend other sections of the Customs Regulations to conform to changes made by the Act. Rather than provide for a separate section in new subpart G relating only to the penalties to which the Act relates, it is proposed to amend the following sections so as to apply to all penalty cases:

1. Section 10.41(d), Customs Regulations (19 CFR 10.41(d)), provides that any foreign vehicle, aircraft, or boat used in international traffic without a proper entry having been made will be subject to "forfeiture" under 19 U.S.C. 1592. Sections 123.12(c) and 123.14(d), Customs Regulations (19 CFR 123.12(c), 123.14(d)), provide that the use of foreign locomotives, railroad equipment, trucks, buses, or taxicabs in violation of the regulations relating to international traffic from contiguous countries will subject them to "forfeiture" under 19 U.S.C. 1592. Inasmuch as the Act provides for monetary penalties under that statute and limits the circumstances under which seizure and forfeiture may take place, it is proposed to amend these three sections to provide that the use of the articles without making proper entry or in violation of the regulations may result in "liabilities" being incurred under 19 U.S.C. 1592.

2. Section 162.21(a), Customs Regulations (19 CFR 162.21(a)), as amended by T.D. 77-136, published in the FEDERAL REGISTER on May 17, 1977 (42 FR 25323), states when Customs officers will seize merchandise. It provides that any Customs officer having reasonable cause to believe that a law has been violated, making property subject to forfeiture, will seize the property if it is available, except for violations of 19 U.S.C. 1592 when the circumstances set out in § 162.41(a) exist. Because the Act limits the use of seizure as a remedy for violations of 19 U.S.C. 1592, and authorizes a monetary penalty as an alternative to seizure for violations of 19 U.S.C. 1466 and 46 U.S.C. 883, § 162.21(a) is inconsistent with the Act in that this section mandates seizure in many cases. Therefore, it is proposed to amend § 162.21(a) to provide that property may be seized by any Customs officer who has reasonable cause to believe that any law or regulation enforced by Customs has been violated, by reason of which the property has become subject to seizure or forfeiture. A new sentence also would be added to that section to make it clear that the section does not authorize seizures otherwise restricted, nor does it authorize a remedy other than seizure when it is required by law.

3. Section 162.43(b), Customs Regulations (19 CFR 162.43(b)), relating to appraisement of property for penalty purposes, provides that for property not under seizure, the basis for the claim for forfeiture value or for assessment of a penalty is the domestic value of the property. Because the Act provides that penalties may be less than the full forfeiture value and may be based on dutiable value, it is pro-

posed to amend that section to make it clear that domestic value is the basis for a claim for forfeiture value or for an assessment of a penalty relating to forfeiture value.

AUTHORITY

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 466, 584, 592, 624, 46 Stat. 718, 748, 750, as amended, 759 (19 U.S.C. 1466, 1584, 1592, 1624), section 27, 41 Stat. 999, as amended (46 U.S.C. 883), and section 1109, 72 Stat. 799, as amended (49 U.S.C. 1509).

COMMENTS

Consideration will be given to any written comments on these proposed amendments that are submitted timely, preferably in triplicate, to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document is Richard M. Belanger, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

PROPOSED AMENDMENTS

It is proposed to amend parts 4, 6, 10, 123, 162, and 171 of the Customs Regulations (19 CFR ps. 4, 6, 10, 123, 162, 171) in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. It is proposed to amend footnote 23 to § 4.12 to read as follows:

§ 4.12 Explanation of manifest discrepancy.

* * *

[23] * * * If any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be subject to a penalty of $500: *Provided*, That if the collector (appropriate Customs officer) shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *.

(Sec. 584, Tariff Act of 1950, as amended; 19 U.S.C. 1584.)

§ 4.12 [Amended]

2. It is proposed to amend the second sentence of § 4.12(a)(5) to read as follows:

(a) * * *

(5) * * * For purposes of this section, the term "clerical error" is defined as a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. * * *

3. It is proposed to amend § 4.80 by redesignating present paragraphs (b), (c), (d), (e), (f), and (g) as (c), (d), (e), (f), (g), and (h), respectively, and by inserting a new paragraph (b) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) *Penalties for violating coastwise laws.* (1) The penalty imposed for the illegal transportation of merchandise between coastwise points is forfeiture of the merchandise or, in the discretion of the district director, a monetary penalty in an amount up to the value of the merchandise to be recovered from the consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing the merchandise to be transported (46 U.S. 883).

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $200 for each passenger so transported and landed (46 U.S.C. 289).

PART 6—AIR COMMERCE REGULATIONS

It is proposed to amend the second sentence of § 6.7(h)(5) to read as follows:

§ 6.7 Documents for entry.

* * * * *

(h) * * *

(5) * * * For purposes of this section, the term "clerical error" is defined as a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. * * *

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

It is proposed to amend the last sentence of § 10.41(d) to read as follows:

§ 10.41 Instruments, exceptions.

* * * * *

(d) * * * The use of any such vehicle, aircraft, or boat without a proper entry having been made may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. It is proposed to amend § 123.12(c) to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

* * * * *

(c) *Penalty for improper use.* The use of any foreign locomotive and other foreign railroad equipment in violation of this section may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

2. It is proposed to amend § 123.14(d) to read as follows:

§ 123.14 Entry of foreign-based trucks, buses, and taxicabs in international traffic.

* * * * *

(d) *Penalty for improper use.* The use of any vehicle referred to in this section in violation of this section may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. It is proposed to amend § 162.21(a) to read as follows:

§ 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Property may be seized, if available, by any Customs officer who has reasonable cause to believe that any law or regulation enforced by the Customs Service has been violated, by reason of which the property has become subject to seizure or forfeiture. This paragraph does not authorize seizure when seizure or forfeiture is restricted by law or regulation (see, for example, § 162.75), nor does it authorize a remedy other than seizure when seizure or forfeiture is required by law or regulation. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized.

2. It is proposed to amend the first sentence of § 162.43(b) to read as follows:

§ 162.43 Appraisement.

* * * * *

(b) *Property not under seizure.* With respect to property not under seizure,

the basis for a claim for forfeiture value or for an assessment of a penalty relating to the forfeiture value is the domestic value as defined in paragraph (a), of this section, except that the value shall be fixed as of the date of the violation. * * *

* * * * *

3. It is proposed to amend the first sentence of § 162.65(c) to read as follows:

§ 162.65 Penalties for failure to manifest narcotic drugs or marihuana.

* * * * *

(c) *Notice and demand for payment of penalty.* A written notice and demand for payment of the penalty for failure to manifest incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), together with a copy of 19 U.S.C. 1584, shall be sent to the master of the vessel, or commander of the aircraft, or the person in charge of the vehicle and to the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible. * * *

4. It is also proposed to amend part 162 by adding a new subpart G to read as follows:

Subpart G—Special Procedures for Certain Violations

Sec.

162.70 Applicability.
162.71 Definitions.
162.72 Penalties under sections 466 and 584(a)(1), Tariff Act of 1930, as amended.
162.74 Prior disclosure.
162.75 Seizures limited under section 592, Tariff Act of 1930, as amended.
162.76 Prepenalty notice for violations of sections 466 or 584(a)(1), Tariff Act of 1930, as amended.
162.77 Prepenalty notice for violations of section 592, Tariff Act of 1930, as amended.
162.78 Presentations responding to prepenalty notice.
162.79 Determination as to violation.
162.79a Other notice.
162.79b Recovery of actual loss of duties.

Subpart G—Special Procedures for Certain Violations

§ 162.70 Applicability.

(a) The provisions of this subpart apply only to fines, penalties, or forfeitures incurred for the following violations of the customs laws:

(1) Violations of sections 466 and 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1466, 1584(a)(1)), that occur after October 3, 1978, and

(2) Except as provided in paragraph (b) of this section, violations of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), with respect to which proceedings have commenced after December 31, 1978. For purposes of this subparagraph, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

(b) The provisions of this subpart do not apply to alleged intentional violations of 19 U.S.C. 1592 if the alleged violation—

(1) Involves television receivers that are the products of Japan and were or are the subject of antidumping proceedings (see § 153.46 of this chapter),

(2) Occurred before October 3, 1978, and

(3) Was the subject of a Customs investigation begun before October 3, 1978.

(c) The provisions of subparts A through F of this part shall apply to the violations referred to in paragraph (a) of this section unless this subpart specifically provides otherwise.

§ 162.71 Definitions.

When used in this subpart, the following terms shall have the meanings indicated:

(a) *Loss of duties.* "Loss of duties" means the duties of which the Government is or may be deprived by reason of the violation and includes both actual and potential loss of duties.

(1) *Actual loss of duties.* "Actual loss of duties" means the duties of which the Government has been deprived by reason of the violation in respect of entries on which liquidation had become final at the time of discovery of the violation.

(2) *Potential loss of duties.* "Potential loss of duties" means the duties of which the Government tentatively was deprived by reason of the violation in respect of entries on which liquidation had not become final at the time of discovery of the violation.

(b) *Noncommercial importation.* "Noncommercial importation" means merchandise imported by a traveler for an individual's personal or household use, or as a gift, but not imported for sale or other commercial purposes.

(c) *Clerical error.* "Clerical error" means an error in the preparation, assembly, or submission of a document which results when a person intends to do one thing but does something else. It includes, for example, errors in transcribing numbers, errors in arithmetic, and the failure to assemble all the documents in a record.

(d) *Mistake of fact.* "Mistake of fact" means an action based upon a belief by a person that the material facts are other than they really are; it can be that a fact exists but is unknown to the person, or that he believes something is a fact when in reality it is not. An action is not a mistake of fact if the erroneous belief is caused by the neglect of a legal duty.

§ 162.72 Penalties under sections 466 and 584(a)(1), Tariff Act of 1930, as amended.

(a) *Foreign repairs and equipment purchases; election to proceed.* If the district director has reasonable cause to believe that a violation of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), has occurred, he may elect to proceed against the vessel or aircraft, or against the violator for a claim for a monetary penalty in an amount up to the domestic value of the vessel or aircraft.

(b) *Falsity or lack of manifest.* The penalties for violation of section 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1584(a)(1)), are as follows:

(1) A penalty of $500 against the master of a vessel, the commander of an aircraft, or the person in charge of a vehicle bound to the United States who does not produce the manifest on demand.

(2) A penalty of $500 against the master of a vessel, the commander of an aircraft, the person in charge of a vehicle, or the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible for the discrepancy, if any merchandise described in the manifest is not found on board (a "shortage").

(3) A penalty equal to the lesser of $10,000 or the domestic value of merchandise found on board of, or after having been unladen from, a vessel, aircraft, or vehicle, which is not included or described in the manifest or does not agree with it (an "overage"). This penalty may be assessed against the master of the vessel, the commander of the aircraft, the person in charge of the vehicle, the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible for the discrepancy. Unmanifested merchandise belonging to or consigned to the master or crew of the vessel, the commander or crew of the aircraft, or to the owner or person in charge of the vehicle, also shall be subject to forfeiture.

(c) *Exception.* There is no violation, and consequently no penalty incurred under paragraph (b), in the circumstances described in §§ 4.12(a)(5) and 6.7(h)(5) of this chapter.

§ 162.73 Penalties under section 592, Tariff Act of 1930, as amended.

(a) Maximum penalty without prior disclosure. If the person concerned has not made a prior disclosure as provided in § 162.74, the monetary penalty under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), shall not exceed:

(1) For fraudulent violations, the domestic value of the merchandise;

(2) For grossly negligent violations (i) The lesser of the domestic value of

the merchandise or four times the loss of duties, or

(ii) If there is no loss of duties, 40 percent of the dutiable value of the merchandise; and

(3) For negligent violations (i) The lesser of the domestic value of the merchandise or two times the loss of duties, or

(ii) If there is no loss of duties, 20 percent of the dutiable value of the merchandise.

(b) *Maximum penalty with prior disclosure.* If the person concerned has made a prior disclosure, the monetary penalty shall not exceed:

(1) For fraudulent violations (i) One times the loss of duties, or

(ii) If there is no loss of duties, 10 percent of the dutiable value of the merchandise; and

(2) For grossly negligent and negligent violations, the interest on any loss of duties. The interest shall be computed from the date of liquidation at the prevailing rate of interest applied under section 6621, Internal Revenue Code of 1954, as amended (26 U.S.C. 6621).

(c) *Exception; clerical error or mistake of fact.* There is no violation and, consequently, no penalty incurred, if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of a pattern of negligent conduct.

§ 162.74 Prior disclosure.

(a) *In general.* A prior disclosure is made if the person concerned discloses the circumstances of a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any loss of duties in accordance with paragraph (e) of this section. If a prior disclosure is made, the maximum penalties shall be as set forth in § 162.73(b).

(b) *Referral for investigations.* Any disclosure of a violation shall be referred immediately by the district director to the appropriate field office of the Office of Investigations. Upon completion of its investigation, the field office immediately shall return the disclosure, together with its report, to the district director for appropriate action.

(c) *Commencement of formal investigation.* A formal investigation of a violation is considered to be commenced:

(1) In the case of a referral by an import specialist or other Customs officer of a matter involving the disclosing party and the disclosed information for investigation of a possible violation of 19 U.S.C. 1592, on the date the matter was referred to the Office of Investigations;

(2) In the case of referral by an import specialist or other Customs officer of a request for value, classification or other technical investigation, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possiblity of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(3) In the case of an investigation prompted by an individual other than a Customs officer with regard to the disclosing party and the disclosed information, on the date recorded on the Memorandum of Information Received, Customs Form 4621, by the Office of Investigations as the date on which the information was received;

(4) In the case of an ongoing investigation of a possible violation of 19 U.S.C. 1592 not involving the disclosing party and the information disclosed, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(5) In the case of a general ongoing investigation of a specific class of goods or industry, on the date recorded by the Office of Investigations as the date on which it determined to direct its investigation specifically to the disclosing party and the disclosed information; and

(6) In all other cases, on the date recorded in a Report of Investigation, Customs Form 23, as the date on which an investigator was assigned to investigate possible violations of 19 U.S.C. 1592 by the disclosing party with respect to the disclosed information.

(d) *Proof of lack of knowledge.* A person who claims a lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge.

(e) *Tender of loss of duties.* A person who discloses the circumstances of the violation shall tender any loss of duties at the time of disclosure, or within 30 days after the district director notifies the person in writing of his calculation of the loss of duties. The district director may extend the period if he determines there is good cause to do so.

(f) *Undisclosed volations.* Undisclosed violations discovered by Customs as the result of an investigation of a prior disclosure of another violation shall not be entitled to treatment under the prior disclosure provisions.

(g) *Minor violations.* If the district director determines that:

(1) The disclosed violation involves a loss of duties of $250 or less,

(2) Any loss of duties has been deposited, and

(3) The violation disclosed either does not extend to other ports, or already has been disclosed at other ports, he shall not refer the matter for investigation or establish a penalty case unless there are compelling reasons for doing so, such as a history of similar violations.

§ 162.75 Seizures limited under section 592, Tariff Act of 1930, as amended.

(a) *When authorized.* Merchandise may be seized for violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592) *only* if the district director has reasonable cause to believe that a person has violated the statute and that

(1) The person is insolvent,

(2) The person is beyond the jurisdiction of the United States,

(3) Seizure otherwise is essential to protect the revenue, or

(4) Seizure is essential to prevent the introduction of prohibited or restricted merchandise into the Customs territory of the United States.

(b) *No seizure if prior disclosure.* Under no circumstances shall merchandise be seized under the authority of 19 U.S.C. 1592 if there has been a prior disclosure of the violation. This paragraph does not limit seizures under the authority of any other applicable law or regulation.

(c) *Seizure notice.* If merchandise is seized, the district director shall promptly issue a written notice of seizure to the person concerned and to any other person the facts of record indicate has an interest in the merchandise. The seizure notice shall contain the information required by § 162.31 and shall state why the seizure was necessary.

(d) *Release of seized merchandise—*(1) *To person from whom seized.* The district director shall return seized merchandise to the person from whom seized upon the deposit of security, in a form acceptable to the district director, equal to the maximum penalty which may be assessed, if the entry of the merchandise into the commerce of the United States is not prohibited or restricted.

(2) *To others.* The district director may release seized merchandise to any other person upon the deposit of adequate security, in a form acceptable to the district director, if the entry of the merchandise into the commerce of the United States is not prohibited or restricted, and if:

(i) The district director is satisfied that the person has a substantial interest in the merchandise, and

(ii) The person submits either an agreement to hold the United States and its officers and employees harmless, or a release from the owner and/

or the person from whom the merchandise was seized.

(3) *Forfeiture.* If neither a petition for relief is filed in accordance with Part 171 of this chapter, nor the monetary penalty paid within the time provided by law, the district director immediately shall:

(1) Report the facts to the U.S. attorney for the judicial district in which the seizure was made, if the appraised value of the seized merchandise exceeds $10,000, or

(2) Proceed under the summary forfeiture provisions of Subpart E of this part, if the appraised value does not exceed $10,000.

§ 162.76 Prepenalty notice for violations of sections 466 or 584(a)(1), Tariff Act of 1930, as amended.

(a) *When required.* If the district director has reasonable cause to believe that a violation of section 466 or 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1466, 1584(a)(1)), has occurred and determines that further proceedings in the form of a claim for a monetary penalty are warranted, he shall issue to the person concerned a written notice of his intent to issue a penalty claim.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall:

(i) Describe the merchandise, if applicable,

(ii) Set forth the details of the error in the manifest, if applicable,

(iii) Specify all laws and regulations allegedly violated,

(iv) Describe all material facts and circumstances which establish the alleged violation, and

(v) State the estimated loss of duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty.

(2) *Right to make presentation.* The prepenalty notice also shall inform the person of his right to make a written and an oral presentation within 30 days of the mailing of the notice (or such shorter period as may be prescribed under § 162.78) as to why a claim for a monetary penalty should not be issued or, if issued, why it should be in a lesser amount than proposed.

(c) *Exception.* No prepenalty notice shall be issued if the proposed penalty for an alleged violation of 19 U.S.C. 1584(a)(1) is $500 or less.

§ 162.77 Prepenalty notice for violations of section 592, Tariff Act of 1930, as amended.

(a) *When required.* If the district director has reasonable cause to believe that a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), has occurred, and determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to issue a claim for a monetary penalty. The prepenalty notice shall be issued whether or not a seizure has been made.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall:

(i) Describe the merchandise,

(ii) Set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or abetting of the entry, introduction, or attempt,

(iii) Specify all laws and regualtions allegedly violated,

(iv) Disclose all material facts which establish the alleged violation,

(v) State whether the alleged violation occurred as the result of fraud, gross negligence, or negligence, and

(vi) State the estimated loss of duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty.

(2) *Right to make presentations.* The prepenalty notice also shall inform the person of his right to make an oral and a written presentation within 30 days of the mailing of the notice (or such shorter period as may be prescribed under § 162.78) as to why a claim for a monetary penalty should not be issued or, if issued, why it should be in a lesser amount than proposed.

(c) *Exceptions.* A prepenalty notice shall not be issued if:

(1) The claim is for $1,000 or less, or

(2) The violation occurred with respect to a noncommercial importation.

§ 162.78 Presentations responding to prepenalty notice.

(a) *Time within which to respond.* Unless a shorter period is specified in the prepenalty notice or an extension is given in accordance with paragraph (b) of this section, the named person shall have 30 days from the date of mailing of the prepenalty notice to make a written and an oral presentation. The district director may specify a shorter reasonable period of time, but not less than 7 days, if less than 1 year remains before the statute of limitations may be asserted as a defense.

(b) *Extensions.* If at least 1 year remains before the statute of limitations may be asserted as a defense, the district director, upon written request, may extend the time for filing a written presentation, or making an oral presentation, or both, for any of the reasons given in § 162.32(a) relating to extensions of time for filing petitions for relief. Other extensions may be authorized only by Headquarters.

(c) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is the written presentation in response to the prepenalty notice. It should contain answers to the allegations in the prepenalty notice and set forth the reasons why the person believes the claim should not be issued or, if issued, why it should be in a lesser amount than proposed.

(d) *Additional presentations.* In addition to one written and one oral presentation, the district director, in his discretion, may allow further presentations.

§ 162.79 Determination as to violation.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice, the district director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no claim for a monetary penalty will be issued.

(b) *Violation*—(1) *Written notice of claim.* If, after considering any presentations made in response to the prepenalty notice, the district director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of a claim for a monetary penalty to that person.

(2) *Contents.* The notice of a claim for a monetary penalty shall contain any changes in the information provided in the prepenalty notice, and shall inform the person of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), in accordance with part 171 of this chapter.

§ 162.79a Other notice.

If no prepenalty notice is issued, a written notice of any monetary penalty incurred shall contain the information required under § 162.76(b)(1) or § 162.77(b)(1), except that the notice shall state the amount of the claim for a monetary penalty. The notice also shall inform the person of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), in accordance with Part 171 of this chapter.

§ 162.79b Recovery of actual loss of duties.

Whether or not a monetary penalty is assessed under this subpart, the district director shall require the deposit of any actual loss of duties resulting from a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), notwithstanding that the liquidation of the entry to which the loss is attributable has become final.

PART 171—FINES, PENALTIES, AND FORFEITURES

1. It is proposed to amend § 171.1 by adding a new paragraph (c) to read as follows:

§ 171.1 Special procedures for certain liabilities incurred under section 592, Tariff Act of 1930, as amended.

* * * * *

(c) *Exceptions.* The provisions of this section do not apply to violations referred to in § 162.70(a)(2) of this chapter.

2. It is proposed to amend Part 171 by adding a new § 171.14 to read as follows:

§ 171.14 Oral presentations seeking relief.

(a) *For certain violations.*—(1) *Right to make oral presentation.* If the penalty incurred is for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the person named in the notice also may make an oral presentation seeking relief in accordance with this paragraph. For purposes of this paragraph, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

(2) *Prerequisites.* The person shall be given a reasonable opportunity to make an oral presentation provided that a petition has been filed under § 171.12, and that the petition contains a request to present orally the reasons for remission or mitigation of the penalty.

(b) *Other oral presentations.* Oral presentations other than those provided in paragraph (a) of this section may be allowed in the discretion of the district director, regional commissioner, or Commissioner whenever a petition or supplemental petition is under his consideration.

3. It is proposed to amend § 171.22(a) to read as follows:

§ 171.22 Special cases acted upon by district director.

(a) *Merchandise illegally transported coastwise.* A forfeiture of merchandise or a monetary penalty incurred under title 46, United States Code, section 885, for illegally transporting merchandise coastwise, may be remitted by the distrcit director, regardless of the value of the merchandise or the amount of the penalty, if the petition for relief establishes to the satisfaction of the district director that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

4. It is proposed to amend Part 171 by adding a new § 171.31a to read as follows:

§ 171.31 Written decision.

If a petition or supplemental petition (see § 171.33) for relief relates to a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the petitioner shall be provided with a written statement setting forth the decision on the matter and the findings of fact and conclusions of law upon which the decision is based. For purposes of this section, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

R. E. CHASEN,
Commissioner of Customs

Approved: October 26, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-32242 Filed 11-15-78; 8:45 am]

[4180-22-M]

[19 CFR Parts 11, 111, 133, 148, and 162]

RECORDKEEPING, REPORTING BY CUSTOMHOUSE BROKERS, TRADEMARKS, AND THE DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES, AND MALT LIQUOR

Proposed Rules

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978", approved October 3, 1978, made numerous changes to the Tariff Act of 1930. One of the significant changes was to require that records of the type normally kept in the ordinary course of business be made pertaining to the importation of merchandise and furnished to Customs, upon request, for examination and inspection. The Act also required all licensed customhouse brokers to file a status report with Customs on specified dates. In addition, the Act modified the procedures relating to the importation, seizure, and disposal of articles having a U.S.-registered trademark, as well as the disposal of imported liquor forfeited to the Government. This document proposes to amend the Customs regulations to reflect these changes.

DATES: Comments must e received on or before: December 18, 1978.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

John E. Elkins, Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978" ("the Act"), was approved on October 3, 1978.

Two of the major objectives of the Act are:

1. To permit the establishment of more efficient and flexible procedures for handling the documentary and financial aspects of import transactions while insuring compliance with Customs laws and the collection of accurate import statistics, and

2. To modify Customs procedures to expedite the processing of goods and individuals while reducing administrative costs for the Government.

To carry out these objectives, numerous provisions of the Tariff Act of 1930 were amended. These amendments necessitate changes to the Customs regulations. This document relates only to the recordkeeping requirements, reporting requirements of customhouse brokers, and the importation, seizure, and disposal of articles having a U.S.-registered trademark, as well as the disposal of imported liquor forfeited to the Government. Additional provisions of the Act which will require amendments to the Customs regulations will be the subject of other documents published in the FEDERAL REGISTER.

RECORDKEEPING

1. Prior to the Act, there was no general recordkeeping requirement in the Tariff Act of 1930, as amended, applicable to importers. Section 104 of the Act added a new section 508 to require records to be kept by any owner, importer, consignee or their agent who either imports goods into the Customs territory of the United States or knowingly causes goods to be imported.

Records pertaining to the importation of merchandise or substantiating the correctness of information contained in the documents required in connection with the entry of merchandise and which are normally kept in the ordinary course of business have to be made, kept, and available for examination and inspection by Customs. Importers and other affected persons must keep the required records for such period as the Secretary of the Treasury may prescribe, not to exceed 5 years from the date of entry of the merchandise.

In general, domestic transactions between an importer and a person ordering merchandise from him are excluded from the recordkeeping requirement. For example, an individual ordering an article from a retailer and a retailer ordering an article from an importer would not be required to make a record of the transaction for Customs purposes. However, if the person ordering the merchandise from an importer provides technical data, molds, equipment, other production assists, material, components, or parts with knowledge that they will be used in the manufacture or production of the imported merchandise, or the terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is merely the agent of the person placing the order), records of the transaction must be made and kept for Customs purposes.

It is proposed to amend parts 111 and 162, Customs regulations, to reflect these changes.

EXAMINATION OF IMPORTERS

2. Under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), appropriate Customs officers could examine under oath, any owner, importer, consignee, agent, or other person, upon any matter relating to the classification or value of imported goods and require the production of any letters, accounts, contracts, invoices, or other documents relating to the goods. An order to appear and produce documents under 19 U.S.C. 1509 could be used only to obtain information about unliquidated entries or importations made during the preceding year.

As amended by section 105 of the Act, 19 U.S.C. 1509 provides that the Secretary of the Treasury or his delegate is permitted to summon, upon reasonable notice, any person involved with the importation of merchandise or any person who has possession, custody, or care of relevant records, and to examine records and to take testimony necessary to determine the correctness of an entry, the liability of any person for duties and taxes, and the amount of fines and penalties, or to insure compliance with the applicable laws and regulations administered by the Customs Service.

Special procedures concerning third-party summonses are also provided in section 105 of the Act. These procedures provide notice to a person whose records of import transactions are being kept by a third party if that third party is summoned to produce the records. The term "third-party recordkeeper" means: (1) A customhouse broker, (2) an attorney, or (3) an accountant.

It is proposed to amend parts 111 and 162, Customs Regulations, to reflect these changes.

ENFORCEMENT OF ADMINISTRATIVE SUMMONS

3. Under section 510, Tariff Act of 1930, as amended (19 U.S.C. 1510), any person refusing to appear, produce documents, sign a deposition, or answer interrogatories under 19 U.S.C. 1509, was subject to a penalty of not less than $20 nor more than $500. If an owner, importer, or consignee perjured himself during an examination, the goods could be forfeited or their value recovered from him.

As amended by section 106 of the Act, 19 U.S.C. 1510 is similar to many statutes which provide for judicial enforcement of administrative summonses. The U.S. district courts are given jurisdiction, after notice and hearing, to compel the production of records or the giving of testimony as ordered by Customs under 19 U.S.C. 1509. If a person fails to obey a court order, he could be punished for contempt. In addition, a person who refused to obey a court order and who is adjudged guilty of contempt could be prohibited from importing merchandise or obtaining release of any of his merchandise of which Customs has custody for so long as he remains in contempt. If he refuses to obey for 1 year, all of his merchandise in Customs custody could be sold at public auction or otherwise disposed of under the Customs laws.

It is proposed to amend part 162, Customs Regulations, to reflect these changes.

REPORTING REQUIREMENT FOR CUSTOMHOUSE BROKERS

4. Under section 641 of the Tariff Act of 1930 as amended (19 U.S.C. 1641), the Secretary may prescribe rules and regulations governing the licensing of customhouse brokers. Under this section, Customs determines the qualifications and responsibilities of brokers, administers examinations, and issues, suspends, and revokes licenses. However, there is a need for Customs to be provided current information on the status of licensed brokers.

As amended by section 113 of the Act, 19 U.S.C. 1641 requires all licensed customhouse brokers to file a status report with Customs on or before February 1, 1979, and on or before February 1 of each third year thereafter.

Each individual broker is required to state the name and address of his business and whether he is actively engaged in transacting Customs business. Each corporation, partnership, or association is required to report the name and address of the business, the names and addresses of the officers or members licensed as individual brokers qualifying it for a license, and whether it is actively engaged in transacting Customs business. It is proposed to amend § 111.30, Customs Regulations, to reflect these changes.

DISPOSITION OF FORFEITED MERCHANDISE

5. Under section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), merchandise which remains in Customs custody for 1 year from the date of its importation without the payment of estimated duties, storage fees, and other charges is considered unclaimed and abandoned to the Government. Abandoned merchandise is appraised and sold by Customs at public auction.

Section 492, Tariff Act of 1930, as amended (19 U.S.C. 1492), permits the District Director of Customs to destroy forfeited merchandise subject to internal revenue tax if he believes it "will not sell" for an amount sufficient to pay the taxes due. While section 492 appears to permit the sale of forfeited liquor, Customs has interpreted section 5688(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5688(a)) as prohibiting sale and requiring destruction of forfeited liquor. This is the case even though section 5688(a) appears to provide an exception to the general rule if a different manner of disposal is "otherwise provided by law." As a result, Customs sells abandoned liquor and destroys forfeited liquor.

As amended by section 208 of the Act, 19 U.S.C. 1491 explicitly permits the sale of forfeited distilled spirits, wines, and malt liquor. However, forfeited spirits, wines, or malt liquor could be sold only if no Government agency or charitable institution needs them. It is proposed to amend § 162.46, Customs Regulations, to reflect these changes.

Section 111 of the Act amends sections 607, 610, and 612, Tariff Act of 1930, as amended (19 U.S.C. 1607, 1610, 1612), to raise from $2,500 to $10,000 the value of merchandise subject to summary forfeiture. Accordingly, it also is proposed to amend the heading to section 162.46, Customs Regulations, to reflect this change. Conforming amendments to the Customs Regulations to incorporate the change will be published separately.

TREATMENT OF TRADEMARKED ARTICLES

6. Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), prohibits the importation of merchandise which copies or simulates a U.S. registered trademark, or which bears any mark or name calculated to induce belief that the merchandise is manufactured in the United States. Merchandise which

is imported in violation of this provision may be: (1) Forfeited and sold by Customs after obliteration of the trademark, (2) returned to the country of origin, (3) sold by the importer after obliteration of the trademark, or (4) destroyed.

With respect to imported articles which violate 15 U.S.C. 1124, section 211 of the Act provides the following:

(a) The articles shall be seized.

(b) The trademark owner shall be notified of the seizure.

(c) The articles shall be forfeited to the Government unless the trademark owner gives written consent to some other disposition, such as reexportation or entry after obliteration of the trademark.

(d) The articles shall be delivered to a Federal, State, or local government agency which needs them for an official purpose or to a charitable institution.

(e) The articles shall be sold at public auction if, after one year, they cannot be delivered to a Federal, State, or local government agency or a charitable institution. However, unless obliteration of the trademark would destroy the articles or be disproportionately expensive with regard to their value, the trademark shall be obliterated on the articles to be sold.

(f) Articles which are unsafe or a health hazard shall be destroyed.

Section 526, Tariff Act of 1930 (19 U.S.C. 1526), prohibits the importation of goods bearing a trademark owned by a corporate or real citizen of the United States and registered in accordance with 15 U.S.C. 1124, unless written consent of the trademark owner to the goods' importation has been given. Merchandise imported in violation of 19 U.S.C. 1526 may be seized and forfeited by Customs.

As amended by section 211 of the Act, 19 U.S.C. 1526 permits, under certain conditions, the entry of imported trademarked merchandise accompanying persons arriving in the United States. The trademarked articles must be for the arriving person's personal use, and the exemption could be claimed only by the same person for the same type of article once each 30 days. If any exempt article is sold within 1 year following importation, the article or its value (to be recovered from the importer) would be subject to forfeiture. Generally, the exemption would be limited to one article of a type bearing a protected trademark. For example, it appears cameras are usually imported singly for personal use. Thus only one camera may be imported under the exemption irrespective of the trademark it bears. The Commissioner of Customs will determine if a quantity of an article in excess of one may be entered and, with the approval of the Secretary of the Treasury, publish in the FEDERAL REGISTER a list of types of articles and the quantities of each entitled to exemption. Further, if the holder of a protected trademark allows importation of a quantity in excess of one of its particular trademarked article, the total of those trademarked articles authorized by the trademark holder may be entered without penalty.

It is proposed to amend §§ 11.13(d), 133.21(c), and 133.22(c), Customs Regulations, to reflect these changes. It is also proposed to amend Parts 133 and 148, Customs Regulations, by adding new §§ 133.25 and 148.55, respectively.

AUTHORITY

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66); sections 491, 509, 510, 511, 526, 624, 46 Stat. 726, as amended, 733, as amended, 741, 759 (19 U.S.C. 1491, 1509, 1510, 1511, 1526, 1624); Pub. L. 95-410 (October 3, 1978).

COMMENTS

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

The comment period is 30 days, instead of the 60 days ordinarily required by Executive Order 12044 of March 23, 1978 (43 FR 12661) because this proposal is designed to implement legislative changes made by Pub. L. 95-410, which becomes effective upon enactment.

DRAFTING INFORMATION

The principal author of this document was John E. Elkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

PROPOSED AMENDMENTS

It is proposed to amend parts 11, 111, 133, 148, and 162, Customs Regulations (19 CFR Parts 11, 111, 133, 148, 162) in the following manner:

PART 11—PACKING AND STAMPING, MARKING

§ 11.13 [Amended]

It is proposed to amend § 11.13(d) by substituting a comma for the period at the end of the section and adding "except articles disposed of under § 133.25 (a) or (b) of this chapter."

PART 111—CUSTOMHOUSE BROKERS

§ 111.23 [Amended]

1. It is proposed to amend § 111.23(a) by substituting "5 years" for "6 years" wherever it appears.

§ 111.25 [Amended]

2. It is proposed to amend § 111.25 by substituting "in accordance with the provisions of §§ 162.1a through 162.1i" for "on demand".

§ 111.26 [Amended]

3. It is proposed to amend § 111.26 by substituting "Except in accordance with the provisions of §§ 162.1a through 162.1i, a" for "A" at the beginning of the sentence.

4. It is proposed to amend § 111.30 by changing the section heading and adding a new paragraph (d) to read as follows:

§ 111.30 Change of business address, organization, or name; status report.

* * * * *

(d) *Status report.* Each customhouse broker shall file a status report with Customs on or before February 1, 1979, and on or before February 1 of each third year thereafter. The original shall be filed with the Commissioner of Customs, U.S. Customs Service, Attention: Entry and Licensing Branch, Washington, D.C. 20229. A copy also shall be filed with the District Director of Customs in each district where the broker is licensed to transact Customs business. No form or particular format is required. Each individual broker shall state whether he is actively engaged in transacting Customs business; if so, he shall state the name under which his business is conducted (if he is a sole proprietor) or the name of his employer, his business address (or addresses if he has branch offices), and the names of any corporate, partnership, or association brokers for which he is an officer. The report of each corporation, partnership, or association shall state the name under which its business is conducted, its business address, the names and addresses of the members of the partnership or officers of the corporation or association qualifying it for a license, and whether it is actively engaged in transacting Customs business.

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. It is proposed to amend § 133.21(c) by deleting "or" at the end of paragraph (5), replacing the period at the end of paragraph (6) with a semicolon

followed by the word "or", and adding a new paragraph (7) to read as follows:

§ 133.21 Restrictions on importation of articles bearing recorded trademarks and trade names.

* * * * *

(c) *Restrictions not applicable.* * * *

(7) The articles of foreign manufacture bear a recorded trademark and the personal exemption is claimed and allowed under § 148.55 of this chapter.

2. It is proposed to amend § 133.22(c) by adding two new sentences at the end of the section to read as follows:

§ 133.22 Detention of articles subject to restrictions.

* * * * *

(c) *Failure to obtain release in 30 days.* * * * The owner of the trademark will be notified of the seizure and the quantity of the articles seized. Unless the trademark owner within 30 days of notification provides written consent to an importation of the articles, exportation, entry after obliteration of the trademark, or other appropriate disposition, the articles shall be disposed of in accordance with § 133.25.

3. It is proposed to amend part 133 by adding a new § 133.25 to read as follows:

§ 133.25 Disposition of forfeited trademarked articles.

The Commissioner or his designee shall dispose of forfeited trademarked articles after obliteration of the trademark, where feasible, in the following manner:

(a) *Government use.* By delivery to any Federal, State or local government agency which, in the opinion of the Commissioner or his designee, has established a need for the articles.

(b) *Gifts to charities.* By delivery to any charitable institution which, in the opinion of the Commissioner or his designee, has established a need for the articles.

(c) *Sale.* If more than 1 year has passed since the forfeiture, the articles may be sold at public auction by the Commissioner or his designee. Prior to sale, the Commissioner or his designee shall detemine that a need for the article has not been established by any eligible government organization or charitable institution under paragraphs (a) or (b) of this section.

(d) *Destruction.* If the article is unsafe or a health hazard, it shall be destroyed.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

It is proposed to amend part 148 by adding a new § 148.55 to read as follows:

§ 148.55 Exemption for articles bearing American trademark.

(a) *Application of exemption.* An exemption is provided for trademarked articles accompanying any person arriving in the United States which would be prohibited entry under section 526, Tariff Act of 1930, as amended (19 U.S.C. 1526), or section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), because the trademark has been registered with the U.S. Patent Office and recorded with Customs. The exemption may be applied to those trademarked articles of foreign manufacture bearing a trademark owned by a citizen of, or a corporation or association created or organized within, the United States when imported for the arriving person's personal use in the quantities provided in paragraph (c) of this section. Unregistered and unrecorded trademarked articles are not subject to quantity limitation.

(b) *Limitations.*—(1) *30-day period.* The exemption in paragraph (a) of this section shall not be granted to any person who has taken advantage of the exemption for the same type of article within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he claimed this exemption shall be considered to be the date he last took advantage of the exemption.

(2) *Sale of exempted articles.* If an article which has been exempted is sold within one year of the date of importation, the article or its value (to be recovered from the importer), is subject to forfeiture. A sale subject to judicial order or in the liquidation of an estate is not subject to the provisions of this paragraph.

(c) *Quantities.* Generally, each person arriving in the United States may apply the exemption to one article of the type bearing a protected trademark. The Commissioner shall determine if a quantity of an article in excess of one may be entered and, with the approval of the Secretary of the Treasury, publish in the FEDERAL REGISTER a list of types of articles and the quantities of each entitled to the exemption. If the holder of a protected trademark allows importation of a quantity in excess of one of its particular trademarked article, the total of those trademarked articles authorized by the trademark holder may be entered without penalty.

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. It is proposed to amend the title to part 162 to read "Part 162—Recordkeeping, Inspection, Search, and Seizure" as set forth above.

2. It is proposed to amend § 162.0 by deleting the first sentence and inserting the following two sentences:

§ 162.0 Scope.

This part sets forth the recordkeeping requirements and procedures governing the examination of records and persons in connection with routine audits and investigations of possible violations of laws and regulations administered by Customs. It contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. * * *

3. It also is proposed to amend part 162 by deleting present §§ 162.1 and 162.2, by amending the title to subpart A to read "Subpart A—Recordkeeping, Inspection, Examination and Search", and by adding new §§ 162.1a through 162.1i to read as follows:

§ 162.1 [Reserved]

§ 162.1a Definitions.

When used in §§ 162.1a through 162.1i, the following terms shall have the meaning indicated:

(a) *Records.* "Records" means:

(1) Books, papers, correspondence, accounts, statements, declarations, technical data, and other documents, including automated record storage devices (e.g., magnetic discs and tapes) and computer programs necessary to retrieve information in a usable form, which:

(i) Relate to the importation or entry of merchandise;

(ii) Are of the type normally kept in the ordinary course of business; and

(iii) Are sufficiently detailed:

(A) To establish the right to make entry,

(B) To establish the correctness of any entry,

(C) To determine the liability of any person for duties and taxes due, or which may be due, the United States,

(D) To determine the liability of any person for fines, penalties, and forfeitures, and

(E) To insure compliance with the laws and regulations administered by the Customs Service; and

(2) Any specific records required elsewhere in this chapter.

(b) *Third-party recordkeeper.* "Third-party recordkeeper" means any Customs broker, attorney, or accountant.

(c) *Summons.* "Summons" means any summons issued under this subpart which requires the production of records or the giving of testimony relating to records.

(d) *Technical data.* "Technical data" includes records, diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, or other media.

§ 162.1b Recordkeeping.

(a) *Who must keep records.* Any owner, importer, consignee, or their agent who imports, or knowingly causes to be imported, any merchandise into the Customs territory of the United States, shall make and keep records as defined in § 162.1a(a).

(b) *Domestic transaction excluded.* A person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported and is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise.

§ 162.1c Record retention period.

Unless a different period of time is provided elsewhere in this chapter with respect to a specific type of record, any record required or made under § 162.1b shall be kept for 5 years from the date of entry of the merchandise.

§ 162.1d Examination of records and witnesses.

(a) *Records.* During the course of any inquiry or investigation initiated:

(1) To determine the correctness of any entry, the liability of any person for duties and taxes due or which may be due, or any liability for fines, penalties, and forfeitures, or

(2) To insure compliance with the laws and regulations administered by the Customs Service,

any Customs officer, with the consent of the owner, importer, consignee, or their agent, or any other person concerned, may examine, or cause to be examined, any relevant records by providing the person with reasonable notice, either orally or in writing, which describes the records with reasonable specificity.

(b) *Summons.* During the course of any inquiry or investigation initiated for the reasons set forth in paragraph (a) of this section, the Commissioner of Customs or his designee, but no designee of the Commissioner below the rank of district director (area director in region II) or special agent in charge, may with reasonable notice issue a summons to any owner, importer, consignee, their agent, or any other person who imported merchandise, or knowingly caused merchandise to be imported.

(c) *Transcript of testimony under oath.* Testimony of any person examined under this section shall be taken under oath and may be transcribed.

§ 162.1e Contents of summons.

(a) *Summons for person.* Any summons issued under § 162.1d(b) to compel the appearance of an owner, importer, consignee, or their agent, a third-party recordkeeper, or any other person, shall state the following:

(1) The name and title of the Customs officer before whom the appearance shall take place;

(2) The place where the person shall appear, not to exceed 100 miles from the place where the summons was served;

(3) The time of appearance; and

(4) The name and address of the Customs officer issuing the summons.

(b) *Summons for records.* If the summons requires the production of records, in addition to containing the information required by paragraph (a) of this section, the summons shall describe the records with reasonable specificity.

§ 162.1f Service of summons.

(a) *Who may serve.* Any person designated in the summons is authorized to serve it.

(b) *Method of service*—(1) *Natural person.* Service upon a natural person shall be made by personal delivery.

(2) *Corporation, partnership, or association.* Service shall be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivery to an officer, managing or general agent, or any other agent authorized to receive service of process.

(c) *Certificate of service.* On the hearing of an application for the enforcement of the summons, the certificate of service signed by the person serving the summons is prima facie evidence of the facts it states.

§ 162.1g Third-party recordkeeper.

(a) *Notice.* Except as provided by paragraph (f) of this section, if a summons issued under § 162.1d to a third-party recordkeeper requires the production of records or testimony relating to import transactions of an owner, importer, consignee, or their agent, or any person other than the person summoned, and the person is identified in the description of the records in the summons, notice of the summons shall be provided the person to whom the records relate.

(b) *Time of notice.* Notice of service of summons required by paragraph (a) of this section should be provided by the issuing officer immediately after service of summons is obtained under § 162.1f, but in no event shall notice be given less than five business days before the date set in the summons for the examination of records or persons.

(c) *Contents of notice.* The issuing officer shall insure that any notice issued under this section includes a copy of the summons and contains the following information:

(1) That compliance with the summons may be stayed if written direction is given by the person receiving notice to the person summoned not to comply with the summons.

(2) That a copy of the direction not to comply and a copy of the summons shall be mailed by registered or certified mail to the person summoned at the addresses in the summons and to the issuing Customs officer.

(3) That the actions under paragraphs (c) (1) and (c)(2) of this section shall be accomplished not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given.

(d) *Service of notice.* The issuing officer shall serve the notice required by paragraph (a) of this section in the same manner as is prescribed in § 162.1f for the service of a summons, or by certified or registered mail to the last known address of the person entitled to notice.

(e) *Examination precluded.* If notice is required by this section, no records may be examined and no testimony may be taken before the date fixed in the summons as the date to examine the records or to take the testimony. If the owner, importer, consignee, or their agent, or any other person concerned issues a stay of the summons, no examination shall take place, and no testimony shall be taken, without the consent of the person staying compliance, or without an order issued by a U.S. district court.

(f) *Exceptions to notice*—(1) *Personal liability for duties and taxes.* This section does not apply to any summons served on the person, or any officer or employee of the person, with respect to whose liability for duties and taxes the summons is issued.

(2) *Verification.* This section does not apply to any summons issued to determine whether or not records of

the import transactions of an identified person have been made or kept.

(3) *Court order.* Notice shall not be given if a U.S. district court determines, upon petition by the issuing Customs officer, that reasonable cause exists to believe giving notice may lead to an attempt:

(i) To conceal, destroy, or alter relevant records;

(ii) To prevent the communication of information from other persons through intimidation, bribery, or collusion; or

(iii) To flee to avoid prosecution, testifying, or production of records.

§ 162.1h Enforcement of summons.

Whenever any person does not comply with a summons issued under § 162.1d, the issuing officer may request the appropriate U.S. attorney to seek an order requiring compliance from the U.S. district court for the district in which the person is found or resides or is doing business.

§ 162.1i Failure to comply with court order.

(a) *Importations prohibited.* If a person fails to comply with a court order enforcing the summons, and is adjudged guilty of contempt, the Commissioner, with the approval of the Secretary of the Treasury, may prohibit that person from directly or indirectly importing merchandise, and withhold delivery of merchandise imported by that person or for his account for so long as he remains in contempt.

(b) *Sale of merchandise.* If the failure of a person to comply with a summons continues for more than 1 year after the Commissioner issues instructions to withhold delivery, the merchandise shall be considered abandoned, and shall be sold at public auction or otherwise disposed of in accordance with subpart E of this part.

§ 162.2 [Reserved]

4. It is proposed to amend § 162.46(a) by deleting the period and adding "or section 491(b), Tariff Act of 1930, as amended (19 U.S.C. 1491(b))."

5. It is proposed to further amend § 162.46 by amending the section heading and by adding a new paragraph (e) to read as follows:

§ 162.46 Summary forfeiture where value not over $10,000; Disposition of goods.

* * * * *

(e) *Disposition of distilled spirits, wines, and malt liquor.* In addition to disposition by sale or destruction as provided for by this section, distilled spirits, wines, and malt liquor may be delivered:

(1) To any Government agency the district director determines has a need for these articles for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Goverment agency, or

(2) By gift to any charitable institution the district director determines has a need for the articles for medical purposes.

R. E. CHASEN,
Commissioner of Customs.

Approved: October 26, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-32243 Filed 11-15-78; 8:45am]

[6732-01-M]

FEDERAL MEDIATION AND CONCILIATION SERVICES

[29 CFR Part 1404]

ARBITRATION SERVICES

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Proposed regulations.

SUMMARY: Federal Mediation and Conciliation Service (FMCS) proposes to amend Part 1404 of Title 29, CFR governing FMCS services in arbitration of labor disputes. This notice contains the text of the proposed regulations, a description of the major changes, and an invitation for comment by the public. The proposed changes are designed primarily to clarify the current regulations, to strengthen the prohibitions against the listing of advocates on the Roster of Arbitrators, and to spell out certain concepts of due process in connection with the removal of arbitrators from the Roster. The proposed regulations also establishes in the Arbitrator Review Board, a mechanism for advising the Director of the Service as to the Admission or removal of arbitrators, functions for which the Director has ultimate responsibility.

DATE: Comments are due on or before January 15, 1978.

ADDRESS: Send comments to the Office of the General Counsel, Federal Mediation and Conciliation Service, 2100 K. Street NW., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT:

David Vaughn, Associate General Counsel, 653-5303 and FTS: 653-5305.

SUPPLEMENTARY INFORMATION:

COMMENT

Part 1404 of Title 29, CFR contains the Federal Mediation and Conciliation Service (FMCS) rules concerning the policy of the FMCS Arbitration Services program, standards of eligibility of arbitrators for admission to and retention on the roster, procedures for obtaining arbitration services, guidelines for the conduct of proceedings, and the procedures for administrative action regarding arbitrators on the roster.

In the course of administering the FMCS arbitration program, and after extended discussion with the Arbitration Services Advisory Committee of FMCS, the Service has determined that changes in Part 1404 are needed. Notice of the availability of the preliminary draft on which these proposed regulations are based was published in the FEDERAL REGISTER on November 13, 1978.

Changes which are proposed to be made in the FMCS Regulation on Arbitration are designed primarily to clarify the current regulation, to strengthen the prohibitions against the listing of advocates on the roster of Arbitrators, and to spell out certain concepts of due process in connection with the removal of arbitrators from the roster. The proposed new regulation also establishes, in the Arbitrator Review Board, a mechanism for advising the Director of the Service as to the admission or removal or arbitrators, functions for which the Director has ultimate responsibility.

Descriptions of the more significant changes follow.

SCOPE AND AUTHORITY (1404.1)

This is a new section which is intended to spell out in the Regulation the Statutory authority of the Service to maintain and administer its arbitration process. While the Section is new the authorities which are cited are not.

POLICY (1404.2)

This is a restatement of the policy which was contained in Section 1404.1 of the current Regulation. The section contains nothing new, and is intended merely as a clarification of existing policy.

ADMINISTRATIVE RESPONSIBILITIES (1404.3)

This is a new section. It not only clarifies and defines the responsibilities of the Office of Arbitration Services and the Director but it also establishes and defines the responsibilities of the Abritrator Review Board. The Board is given responsibility for reviewing the qualifications of applicants for listing on the Roster of Arbitrators, for reviewing the status of persons already on the roster, and for recommending appropriate action with respect to such persons to the Director.

ROSTER AND STATUS OF MEMBERS (1404.4)

While this section is new it does not contain new requirements. Rather, it is an attempt to spell out things that are included in present Subpart B, or that result from inherent limitations on FMCS or other administering agencies by operation of law. The new section also specifies that arbitrators have no vested right to be nominated to any particular panel or number of panels or to be appointed in any case.

LISTING ON THE ROSTER; CRITERIA FOR LISTING AND RETENTION (1404.5)

This is a restatement and simplification of criteria contained in the old Regulation. It also redefines and strengthens the definition of "advocacy", establishes a "grandfather clause" permitting continued use of advocates who were on the Roster before the effective date of the present Regulation, and perfects the ban on admission of advocates or continued service of persons already on the Roster who become advocates after they were admitted.

The section defines reasons for removal from the Roster, including removal for unacceptability to the parties who use FMCS arbitration facilities. Finally, the section incorporates due process requirements designed to prohibit arbitrary or capricious action on the part of the agency.

NOMINATIONS OF ARBITRATORS (1404.12)

This section spells out criteria which may be used by the Office of Arbitration Services in selecting persons to be nominated on panels. It is nothing more than a codification of practices that have been used for such purposes in the past.

CONDUCT OF HEARINGS, AND REPORTS, ETC. (1404.14)

These sections are mechanical, not substantive, and clarify the Service's authority to require arbitrators on the Roster to submit reports, to assist in the preparation of their own biographical sketches, and to do other such things associated with their activities deriving from their listing on the Roster.

Interested persons are invited to submit comments concerning these proposed Regulations and data or arguments on or before January 15, 1978. Comments should be addressed to Office of the General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427. Telephone inquiries may be directed to David Vaughn, Associate General Counsel, 653-5304 and FTS 653-5305.

These amendments are proposed under the authority set forth below in section 1404.1 of the proposed regulations.

It is therefore proposed to revise Part 1404 of 29 CFR to read as follows:

PART 1404—ARBITRATION SERVICES

Subpart A—Arbitration Policy; Admininstration of Roster

Sec.
1404.1 Scope and authority.
1404.2 Policy.
1404.3 Administrative responsibilities.

Subpart B—Roster of Arbitrators; Admission and Retention

1404.4 Roster and status of members.
1404.5 Listing on the roster; Criteria for listing and retention.
1404.6 Freedom of choice.

Subpart C—Procedures for Arbitration Services

1404.10 Procedures for requesting arbitration panels.
1404.11 Arbitrability.
1404.12 Nominations of arbitrators.
1404.13 Selection and appointment of arbitrators.
1404.14 Conduct of hearings.
1404.15 Decision and award.
1404.16 Fees and charges of arbitrators.
1404.17 Reports and biographical sketches.

AUTHORITY: Title II of the Labor Management Relations Act of 1947, Pub. L. 80-101, an amended in 1959 by Pub. L. 86-257, and 1974 by Pub. L. 93-360.

Subpart A—Arbitration Policy; Administration of Roster

§ 1404.1 Scope and Authority.

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Pub. L. 80-101) as amended in 1959 (Pub. L. 86-257) and 1974 (Pub. L. 93-360). The chapter applies to all arbitrators listed on the FMCS Roster of Arbitrators, to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or factfinding.

§ 1404.2 Policy.

The labor policy of the United States is designed to promote the settlement of issues between employers and represented employees through the processes of collective bargaining and voluntary arbitration. This policy encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and factfinding in disputes and disagreements over establishment or modification of contract terms are important features of constructive labor-management relations, as alternatives to economic strife in the settlement of labor disputes.

§ 1404.3 Administrative responsibilities.

(a) *Director.* The Director of FMCS has ultimate responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster or FMCS arbitration procedures.

(b) *Office of Arbitration Services.* The Office of Arbitration Services (OAS) maintains a Roster of Arbitrators (the "Roster"); administers Subpart C of these Regulations (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new arbitrators; collects information and statistics concerning the arbitration function, and performs other tasks in connection with the function that may be assigned by the Director.

(c) *Arbitrator Review Board.* The Arbitrator Review Board (the "Board") shall consist of a presiding officer and such members and alternate members as the Director may appoint, and who shall serve at the Director's pleasure and may be removed at any time. The Board shall establish its own procedures for carrying out its duties.

(1) *Duties of the Board.* The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in subsection 1404.5 of this part;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under subsection 1404.5 of this part;

(iii) Make recommendations to the Director regarding acceptance or rejection of applicants for listing on the Roster, or regarding withdrawal of listing on the Roster for any of the reasons set forth herein.

Subpart B—Roster of Arbitrators; Admission and Retention

§ 1404.4 Roster and status of members.

(a) *The Roster.* The FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in subsection 1404.5 of this part and whose names have not been removed from the Roster in accordance with subsection 1404.5(d).

(b) *Adherence to Standards and Requirements.* Persons listed on the Roster shall comply with the FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by OAS pursuant to Subpart C hereof. Arbitrators are also expected to conform to the ethical standards and procedures set forth in the Code of Professional

Responsibility for Arbitrators of Labor Management Disputes, as approved by the Joint Steering Committee of the National Academy of Arbitrators.

(c) *Status of Arbitration.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except arbitrators may be subject to certain reporting requirements specified in Subpart C.

(d) *Role of FMCS.* FMCS has no power to:

(1) Compel parties to arbitrate or agree to abritration;

(2) Enforce an agreement to arbitrate;

(3) Compel parties to agree to a particular arbitrator;

(4) Influence, alter or set aside decisions of arbitrators listed on the Roster;

(5) Compel, deny or modify payment of compensation to an arbitrator.

(e) *Nominations and Panels.* On request of the parties to an agreement to arbitrate or engage in fact-finding, or where arbitration or factfinding may be provided for by statute, OAS will provide names or panels of names without charge. Procedures for obtaining these services are contained in subpart C. Neither the submission of a nomination or panel nor the appointment of an arbitrator constitutes a determination by FMCS that an agreement to arbitrate or enter factfinding proceedings exists; nor does such action constitute a ruling that the matter in controversy is arbitrable under any agreement.

(f) *Rights of persons listed on the roster.* No person shall have any right to be listed or to remain listed on the Roster. FMCS retains the authority and responsibility to assure that the needs of the parties using its facilities are served. To accomplish this purpose it may establish procedures for the preparation of panels or the appointment of arbitrators or fact finders which include consideration of such factors as background and experience, availability, acceptability, geographical location and the expressed preferences of the parties.

§ 1404.5 Listing on the roster; criteria for listing and retention.

Persons seeking to be listed on the Roster must complete and submit an application form which may be obtained from the Office of Arbitration Services. Upon receipt of an executed form, OAS will review the application, assure that it is complete, make such inquiries as are necessary, and submit the application to the Arbitrator Review Board. The Board will review the completed applications under the criteria set forth in subsections (a) and (c) of this Section, and will forward to the Director its recommendation on each applicant. The Director makes all final decisions as to whether an applicant may be listed.

(a) General Criteria. Applicants for the Roster will be listed on the Roster upon a determination that they:

(1) Are experienced, competent and acceptable in decisionmaking roles in the resolution of labor relations disputes; or

(2) Have extensive experience in relevant positions in collective bargaining; and

(3) Are capable of conducting an orderly hearing, can analyze testimony and exhibits and can prepare clear and concise findings and awards within reasonable time limits.

(b) *Proof of Qualification.* The qualifications listed in (a) above are preferably demonstrated by the submission of actual arbitration awards prepared by the applicant while serving as an impartial arbitrator chosen by the parties to disputes. Equivalent experience acquired in training, internship or other development programs, or experience such as that acquired as a hearing officer or judge in labor relations controversies may also be considered by the Board.

(c) *Advocacy.* (1) Definition. An advocate is a person who is employed by either labor or management and who represents, as an attorney or consultant, either management or labor in matters of labor relations, including but not limited to the subjects of collective bargaining, unfair labor practices, equal employment opportunity and other areas generally recognized as constituting labor relations. The definition includes attorneys or consultants or others who represent employers or employees in individual cases or controversies involving workmen's compensation, occupational health or safety, minimum wage or other labor standards matters.

(2) Eligibility. Except in the case of persons listed on the Roster before November 17, 1976, no person who is an advocate, as defined above, may be listed and no person who was listed on the Roster at any time who was not an advocate when listed or who did not divulge advocacy at the time of listing may continue to be listed after becoming an advocate or after the fact of advocacy is revealed.

(d) *Duration of Listing, Retention.* Initial listing may be for a period not to exceed three years, and may be renewed thereafter for periods not to exceed two years, provided upon review that the listing is not cancelled by the Director as set forth below. Notice of cancellation may be given to the member whenever the member:

(1) No longer meets the criteria for admission;

(2) Has been repeatedly and flagrantly delinquent in submitting awards;

(3) Has refused to make reasonable and periodic reports to FMCS, as required in Subpart C, concerning activities pertaining to arbitration and required of all persons listed on the Roster;

(4) Has been the subject of complaints by parties who use FMCS facilities and the Director concludes that just cause for cancellation has been shown;

(5) Is determined by the Director to be unacceptable to the parties who use FMCS arbitration facilities; the Director may base a determination of unacceptability on FMCS records showing the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected.

No listing may be cancelled without sixty days notice of the reasons for the proposed removal and an opportunity to submit a written response, unless the Director determines that the FMCS or the parties will be harmed by continued listing. In such cases an arbitrator's listing may be suspended without notice or delay pending final determination in accordance with these procedures. The Director may, at his discretion, appoint a hearing officer to conduct an inquiry into the facts of any proposed cancellation and to make recommendations to the Director.

§ 1404.6 Freedom of choice.

Nothing contained herein should be construed to limit the rights of parties who use FMCS arbitration facilities jointly to select any arbitrator or arbitration procedure acceptable to them.

Subpart C—Procedures for Arbitration Services

§ 1404.10 Procedures for requesting arbitration panels.

The Office of Arbitration Services has been delegated the responsibility for administering all requests for arbitration services under these regulations.

(a) The Service will refer a panel of arbitrators to the parties upon request. The Service prefers to act upon a joint request which should be addressed to the Federal Mediation and Conciliation Service, Washington, D.C. 20427, Attention: Office of Arbitration Services. In the event that the request is made by only one party, the Service will submit a panel; however, any submission of a panel should not be construed as anything more than compliance with a request and does not nec-

essarily reflect the contractual requirements of the parties.

(b) The parties are urged to use the Request for Arbitration Panel form (R-43) which has been prepared by the Service and is available in quantity at all FMCS regional offices and field stations or upon request to the Office of Arbitration Services, 2100 K Street, Washington, D.C. 20427. The form R-43 is reproduced herein for purposes of identification:

(c) A brief statement of the issues in dispute should accompany the request to enable the Service to submit the names of arbitrators qualified for the issues involved. The request should also include a current copy of the arbitration section of the collective bargaining agreement or stipulation to arbitrate.

(d) If form R-43 is not utilized, the parties may request a panel by letter which must include the names, addresses, and phone numbers of the parties, the location of the contemplated hearing, the issue in dispute, the number of names desired on the panel, the industry involved and any special qualifications of the panel or special requirement desired.

§ 1404.11 Arbitrability.

Where either party claims that a dispute is not subject to arbitration, the Service will not decide the merit, of such claim.

§ 1404.12 Nominations of arbitrators.

(a) When the parties have been unable to agree on an arbitrator, the Service will submit to the parties the names of seven arbitrators unless the applicable collective bargaining agreement provides for a different number, or unless the parties themselves request a different number. Together with the submission of a panel of arbitrators, the Service will furnish a biographical sketch for each member of the panel. This sketch states the background, qualifications, experience, and per diem fee and other fees established by the arbitrator, such as cancellation, postponement rescheduling or administrative fees.

(b) When a panel is submitted, an FMCS control case number is assigned. All future communication between the parties and the Service should refer to the case number.

(c) The Service considers many factors when selecting names for inclusion on a panel, but the agreed-upon wishes of the parties are paramount. Special qualifications of arbitrators experienced in certain issues or industries, or possessing certain backgrounds, may be identified for purposes of submitting panels to accommodate the parties. The Service may also consider such things as general acceptability, geographical location, availability, size of fee, and the need to expose new arbitrators to the selection process in preparing panels. The Service has no obligation to put an individual on any given panel, or on a minimum number of panels in any fixed period, such as a month or a year.

(1) If at any time both parties request that a name or names be omitted from a panel, such name or names will be omitted, unless they are excessive in number or otherwise appear to lack careful consideration.

(2) If at any time both parties request that a name or names be included on a panel, such name or names will be included.

(3) If only one party requests that a name or names be omitted from a panel, or that specific individuals be added to the panel, such request shall not be honored.

(4) If the issue described in the request appears to require special technical experience or qualifications, arbitrators who possess such qualifications will, where possible, be included on the panel submitted to the parties.

§ 1404.13 Selection and appointment of arbitrators.

(a) The parties should notify the OAS of their selection of an arbitrator. The arbitrator, upon notification by the parties, shall notify the OAS of his selection and willingness to serve. Upon notification of the parties' selection of an arbitrator, the Service will make a formal appointment of the arbitrator.

(b) Where the contract is silent in the manner of selecting arbitrators, the parties may wish to consider one of the following two methods most commonly utilized by the parties for selection of an arbitrator from a panel:

(1) Each party alternately strikes a name from the submitted panel until one remains. The striking procedure is customarily completed at a joint meeting between the parties.

(2) Each party advises the Service of its order of preference by numbering each name on the panel and submitting the numbered list in writing to OAS. The name on the panel that has the lowest accumulated numerical number will be appointed.

(c) The Service will make a direct appointment of an arbitrator based upon a joint request or upon a unilateral request when the applicable collective bargaining agreement so authorizes.

(d) The arbitrator, upon appointment notification, is required to communicate with the parties immediately to arrange for preliminary matters, such as date and place of hearing.

§ 1404.14 Conduct of hearings.

(a) All proceedings conducted by the arbitrator shall be in conformity with the contractual obligations of the parties. The arbitrator is also expected to conduct all proceedings in conformity with § 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control and the arbitrator's decision is to be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an *ex parte* proceeding of this nature must be based upon evidence presented to the arbitrator.

§ 1404.15 Decision and award.

(a) Arbitrators are encouraged to render awards not later than 60 days from the date of the closing of the record as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by law. A failure to render an award within the 60 days required by FMCS may not affect the validity of such an award. However, it does reflect upon the performance of an arbitrator with regard to his continuing relationship with the FMCS roster.

(b) The parties should inform the OAS whenever a decision is unduly delayed. The arbitrator shall notify the OAS if and when the arbitrator (1) Cannot schedule, hear and determine issues promptly, and; (2) Learns a dispute has been settled by the parties prior to the decision.

(c) After an award has been submitted to the parties, the arbitrator is required to file a copy with the OAS. The arbitrator is further required to submit a Fee and Award Statement, form R-19, showing a breakdown of the fee and expense charges so that the Service may be in a position to review conformance with its fee and expense reporting requiements. Filing both award and report within 15 days after rendering an award is required of all arbitrators.

(d) While the service encourages the publication of arbitration awards, it is the policy of the Service not to release arbitration decisions for publication without the consent of both parties. Furthermore, the Service expects the arbitrators it has nominated or appointed not to give publicity to awards they issue if objected to by one of the parties.

§ 1404.16 Fees and charges of arbitrators.

(a) No administrative or filing fee is charged by the Service. The current policy of the Service permits each of its nominees or appointees to charge a

per diem fee and other predetermined fees for services, the amount of which has been certified in advance to the Service. Each arbitrator's maximum per diem fee and other predetermined fees are set forth on a biographical sketch which is sent to the parties when panels are submitted, and are the controlling fees of the arbitrator selected. The arbitrator shall not change any fee to be noted on his or her biographical sketch without giving at least 30 days advance notice to the Service of the intention to do so.

(b) In cases involving unusual amounts of time and expenses relative to pre-hearing and post-hearing administration of a particular case, an administrative charge may be made.

(c) All charges other than those specified by § 1404.16(a) shall be divulged to and agreement obtained by the arbitrator with the parties immediately after appointment.

(d) The Service requests that it be notified of any arbitrator's deviation from the policies expressed herein. However, the Service will not attempt to make any resolution of any fee dispute or provide a forum to the parties for the Service making any determination of a fee dispute.

§ 1404.17 Reports and biographical sketches.

(a) Arbitrators listed on the Roster shall execute and return all documents, forms and reports required by the Service. They shall also keep the Service informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations, or which creates or gives the appearance of advocacy as defined in § 1404.4(c)(1).

(b) The Service may require each arbitrator listed on the Roster to prepare at the time of initial listing, or to revise, biographical information in accordance with a format to be provided by the Service at the time of initial listing or biennial review. Arbitrators may also request revision of biographical information at other times to reflect changes in fees, additional charges, address, experience and background, or other relevant data. The Service reserves the right to decide and approve the format and content of biographical sketches.

ROBERT P. GAJDYS,
Director of Administration.

[FR Doc 78-32179 Filed 11-15-78; 8:45 am]

[6735-01-M]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2701]

GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Proposed Rulemaking

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes to adopt regulations implementing the Government in the Sunshine Act, 5 U.S.C. 522b. The proposed regulations contemplate that most meetings of the Commission, including those at which the Commission carries out its adjudication responsibilities, will be open to the public.

DATES: Interested persons may comment in writing on the proposed regulations by no later than 5 p.m., December 18, 1978.

ADDRESS: All comments should be addressed to: Robert J. Pleasure, General Counsel, Federal Mine Safety and Health Review Commission, 1703 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert J. Pleasure, General Counsel, 202-653-5610.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

Under the authority of section 113 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 823), the Commission proposes to amend title 29 of the Code of Federal Regulations by adding a new part 2701 to read as follows:

PART 2701—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Sec.
2701.1 Purpose and scope.
2701.2 Open meetings policy: Closure of meetings.
2701.3 Announcement of meetings.
2701.4 Request to open or close meeting.
2701.5 Petition for review.
2701.6 Discussions during open meetings.
2701.7 Expedited closing procedure.

AUTHORITY.—Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 823).

§ 2701.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open, to the extent practicable, the meetings of the Commission to public observation while preserving the Commission's ability to fulfill its responsibilities and respect the interests of persons in confidential consideration of sensitive matters.

(b) *Scope.* This part applies to all meetings of the Commission. A "meeting of the Commission" means a joint deliberation in person or by conference telephone call of at least a majority of either the members of the Commission or of a panel of three or more Commissioners that determines or results in the joint conduct or disposition of official Commission business, but does not include (1) deliberations regarding a decision to open or close a meeting, to withhold information about a meeting, and the circumstances of meetings, such as their time, place, and subject matter, and (2) the individual deliberations of Commission members of matters considered upon circulated documents or other notation procedure.

§ 2701.2 Open meetings policy; closure of meetings.

(a) *Policy.* Commission meetings will generally be open to public observation, including meetings concerning the disposition by the Commission of a formal adjudication. See 5 U.S.C. 522b(c)(10).

(b) *Closure.* Meetings may be closed, or certain information about a meeting may not be disclosed under the circumstances contemplated by 5 U.S.C. 522b (c)(1)-(10), and under the procedures specified by 5 U.S.C. 552b (d) and (f). Commission employees may attend closed meetings of the Commission unless the notice of a closed meeting states otherwise.

§ 2701.3 Announcement of meetings.

(a) *Generally.* The Commission shall publicly announce and submit to the FEDERAL REGISTER at least 7 days before a meeting, the time, place, subject matter of a meeting, whether it is to be open or closed, and the name and phone number of the Commission employee who will respond to requests for information about the meeting. The description of the subject matter of a meeting at which the Commission will consider adjudicatory matters, shall include the names and docket numbers of the cases to be considered. The Commission shall also contact, by phone or mail, the parties to the cases to be considered at the meeting, shall post a copy of a notice of the meeting at the Office of Public Information, shall mail notices to persons who have requested inclusion of their names on a meeting mailing list, and may issue press releases.

(b) *Shorter notice.* If a majority of the members of the Commission or a panel of three or more Commissioners determines by a recorded vote that pressing Commission business requires that a meeting be called in less than 7

days, the announcement required by paragraph (a) of this section shall be made at the earliest practicable time.

(c) *Changes in time, place, subject matter, and decision whether to open or close after public announcement of meeting.* If the time or place of a meeting publicly announced is changed, or an item to be considered at such a meeting is to be deleted, the change or deletion shall be publicly announced without a recorded vote at the earliest practicable time in the manner required by paragraph (a) of this section. The subject matter of a meeting publicly announced shall not be expanded and the decision to open or close such a meeting shall not be changed unless a majority of the members of the Commission or if a panel of three or more Commissioners determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible; the Commission shall publicly announce such a change and the vote of each member upon the change at the earliest practicable time.

§ 2701.4 Request to open or close meeting.

Any person may request that the Commission open a meeting that it has earlier decided to close. Any person whose interest may be directly affected by the opening of a meeting may request that the meeting be closed. Seven copies of a request shall be filed in writing with the Executive Director of the Commission at the earliest practicable time, and no later than one hour before the meeting. A request to close shall state the interest of the person that may be adversely affected. The Commission shall take a recorded vote on the request if one member desires that it do so. The Executive Director shall inform the requesting person of whether a vote was taken, and, if so, its outcome. Requests shall be addressed as follows: Sunshine Act Request, Office of the Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

§ 2701.5 Petition for review.

Any person may petition the Commission to review any action he alleges to be in violation of this part or 5 U.S.C. 552b that was taken by any employee or member of the Commission. The petition shall be in writing and shall be filed with the Executive Director within 30 days of the alleged violation. The Commission shall consider and rule upon the petition with expedition.

§ 2701.6 Discussion during open meetings.

Deliberations, discussions, comments, statements, or observations made during the course of an open meeting do not constitute actions of the Commission, nor do they necessarily represent the basis for any Commission action. Comments made by a Commissioner or an employee of the Commission may be advanced for purposes of discussion or argument, or as an aside, and may not reflect the views or ultimate position of that Commissioner or employee. Reasons for decisions stated by a Commissioner at an open meeting may be later changed by that Commissioner, as may a Commissioner's vote. For these reasons, persons who choose to act on the basis of discussions at open meetings do so entirely at their own risk and without any assurance that the Commission's final decisions will be reflective of the discussions or initial vote.

§ 2701.7 Expedited closing procedure.

(a) *Policy.* Although it is the general policy of the Commission to open to the public meetings that may be subject to closure, including meetings concerning adjudication of cases, the Commission may find it necessary in the public interest to close meetings. The purpose of this section is to provide an expedited closing procedure under 5 U.S.C. 552b(d)(4). The Commission has determined that, inasmuch as the Commision's responsibilities are almost entirely adjudicatory, a majority of its meetings may properly be closed under 5 U.S.C. 5522(c)(10). Although the Commission has to date held few meetings, those that have been held concerned the adjuducation of cases and could properly have been closed.

(b) *Procedure.* A meeting may be closed if a majority of either the members of the Commission or of a panel of three or more Commisioners votes by recorded vote at the beginning of such a meeting to close it to the public. The record of the vote shall reflect the vote of each voting member and shall be made available to the public. A public announcement of the time, place, and subject matter of the meeting shall be made at the earliest practicable time, except to the extent that such information is exempt from disclosure under 5 U.S.C. 552b(c). Section 2701.3 does not apply to meetings closed under this section.

[FR Doc. 78-32250 Filed 11-15-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 78-034]

BOATS AND ASSOCIATED EQUIPMENT

Display of Capacity Information

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule appearing in the September 21, 1978 issue of the FEDERAL REGISTER by changing the reference to a table in two places and making minor clerical changes.

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, room 4314, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4027.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-26561 appearing at page 43006 in the FEDERAL REGISTER of September 21, 1978, 33 CFR 183.41(a)(1) and 183.41(a)(2)(ii) on page 43009 are corrected to read as follows:

§ 183.41 Persons capacity: Outboard boats.

(a) * * *

(1) The maximum weight capacity determined under § 183.35 for the boat minus dry motor and control weight, dry battery weight, and full portable fuel tank weight from Table 4, Subpart H of this part, or

(2) * * *

(ii) Add, in normal operating positions, the dry motor and control weight, dry battery weight, and full portable fuel tank weight, if any, shown in Table 4, Subpart H of this part, for the maximum horsepower capacity marked on the boat. Permanently installed fuel tanks shall be full of fuel.

* * * * *

Dated: November 6, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-31999 Filed 11-15-78; 8:45 am]

[4910-14-M]

[33 CFR Part 117]

[CGD 78-142]

PERQUIMANS RIVER, N.C.

Proposed Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the North Carolina Department of Transportation the Coast Guard is considering changing the regulations governing the operation of the U.S. highway 17 drawbridge across the Perquimans River, mile 12.0, Herdford, N.C., to allow periods when the draw need not open for the passage of vessels. This proposal is being made because of limited openings during the periods proposed. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

DATE: Comments must be received on or before December 18, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23706.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

These regulations are being considered because of limited openings during the period concerned. To illustrate this point, from April 1 through September 30 from midnight to 8 a.m. there were six openings in 1973, five openings in 1974, five openings in 1975, two openings in 1976 and no openings in 1977. From October 1 through March 31 from 10 p.m. to 10 a.m., there were 2 openings in 1973, no openings in 1974, 11 openings in 1975, 2 openings in 1976 and 2 openings in 1977. The Coast Guard feels that this proposed change should be presented to the public for consideration.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding § 117.245(g)(1-a) as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(1-a) Perquimans River, mile 12.0, U.S. 17 drawbridge at Herdford, N.C. The draw shall open on signal, except that from midnight to 8 a.m. from April 1 through September 30, and from 10 p.m. to 10 a.m. from October 1 through March 31 the draw need not open for the passage of 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).)

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 9, 1978.

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

[FR Doc. 78-32284 Filed 11-15-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1007-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Rulemaking: Approval of Good Engineering Practice Stack Height at Kimberly-Clark's Columbia Mill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a revision to the Masachusetts State Implementation Plan (SIP) which would allow Kimberly-Clark's Columbia Mill in Lee, Mass. to burn higher sulfur content fuel than presently required by the federally-approved SIP, upon completion of construction of a taller stack. The proposed stack height increase is an interim control strategy which is consistent with section 123 of the Clean Air Act, as amended, and which will eliminate potential air quality standards violations.

DATE: Comments must be received on or before December 18, 1978.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Boston, Mass. 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On August 11, 1978 the Commissioner of the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a State Implementation Plan (SIP) revision to allow Kimberly-Clark's Columbia Mill in Lee to burn residual fuel oil with a sulfur content not to exceed 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent

sulfur content by weight). The mill is presently limited to use of residual fuel oil with a sulfur content not to exceed 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulphur content by weight).

This source was previously evaluated as part of a SIP revision submitted by the DEQE on April 14, 1977, which proposed a relaxation of the sulfur in fuel limitations to 2.2 percent for all sources in the Berkshire Air Pollution Control District (APCD). The SIP revision, which would bring the federally approved SIP and DEQE regulations into conformance with Chapter 353 of the Acts of 1974 (passed by the State Legislature on June 11, 1974), was approved by EPA in the FEDERAL REGISTER published on March 24, 1978 (43 FR 12324) with the exception of 2 sources. These sources, Kimberly-Clark's Columbia Mill and Crane Paper Company's Pioneer Mill, were predicted by computer dispersion modeling to cause violations of the National Amvient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) and thus had to be limited to the 1.0 percent sulfur content requirement of the original SIP.

The revision now under consideration proposes a change in stack configuration whereby the combustion products emitted from 3 existing stacks at Kimberly-Clark's Columbia Mill with heights of 56, 59.5, and 72.2 feet will be emitted through one new 122 foot stack. Additional modeling submitted by the DEQE shows that this modification will allow the Columbia Mill to burn 2.2 percent sulfur content fuel oil without jeopardizing the NAAQS for SO_2.

A stack height of 122 feet, which is necessary to avoid high ambient concentrations which could have occurred due to the adverse aerodynamic effects of nearby structures on plume disposal from the shorter stacks, also eliminates the previously modeled NAAQS violations. The proposed stack height increase is consistent with section 123 of the Clean Air Act, as amended, and is acceptable as an interim control strategy pending promulgation of EPA regulations under section 123 for the determination of good engineering practice stack height. EPA will reevaluate the SIP revision for consistency with the regulations when they are promulgated.

This SIP revision is not subject to the new requirements for Prevention of Significant Deterioration (PSD) in 40 CFR 52.21. First, the source does not need a PSD permit because (a) construction and use of the new stack does not increase emmissions, and (b) the proposed fuel change, while increasing emissions, is excluded from the definition of a "major modification" which requires a permit (40 CFR 52.21(b)(2)(ii)(d)); and second, the SIP revision, resulting in the increased emissions, does not consume increment because a SIP revision for sources in the Berkshire APCD, proposing an increase in allowable emissions from 1.0 percent sulfur oil to 2.2 percent sulfur oil, was pending in the Regional Office on August 7, 1977 (40 CFR 52.21(b)(11)(i)).

The Regional Adminsitrator proposes to approve the revision to the Massachusetts Implementation Plan and to amend 40 CFR Part 52 in the manner set forth below.

The Administrator's decision to approve or disapprove the plan revison will be based on whether it meets the requirements of sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revison is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: November 1, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

Subpart W—Massachusetts

§ 52.1120 [Amended]

1. In § 52.1120 paragraph (c)(13) is amended by inserting between the date "April 14, 1977" and the word "by" the following phrase: "and additional technical information pertinent to the Schweitzer Division, Kimberly-Clark Corporation, Columbia Mill, Lee submitted on August 11, 1978".

§ 52.1126 [Amended]

2. In § 52.1126 paragraph (g) is amended by deleting "Schweitzer Division, Kimberly-Clark Corporation, Columbia Mill, Lee" from the list of disapproved sources.

[FR Doc. 78-32170 Filed 11-15-78; 8:45 am]

[6560-01-M]

[FRL 978-4; Docket No. A-SS-76-389]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Levesque Lumber Co., Masardis, Maine

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a Delaying Compliance Order for the Levesque Lumber Co. at Masardis, Maine. This action is being taken because the Levesque Lumber Company has altered the compliance strategy outlined in the proposed Delayed Compliance Order. The company now will be disposing of its wood waste by burning it in a boiler system, rather than by landfilling it. This strategy involves the purchase of new equipment and will take an additional 3 months to implement beyond the originally proposed final compliance date of September 1, 1978. Since this strategy represents an even more environmentally sound approach to wood waste disposal than landfilling, Region I of EPA supports the change in plans. However, because of the many steps involved in issuance of a Delayed Compliance Order, Region I does not have sufficient time to have such an order issued in final form to the Levesque Lumber Co. by the new compliance date of December 1, 1978. Therefore this office has decided to alter its enforcement strategy against this source. Region I will soon be issuing an immediate compliance order, incorporating the December 1, 1978 deadline, to the company, pursuant to section 113(a)(1) of the Clean Air Act. This type of order is not required to be published in the FEDERAL REGISTER.

DATE: This withdrawal is immediately effective.

FOR FURTHER INFORMATION CONTACT:

Sam Silverman, attorney, 617-223-5600 or Robert O'Meara, engineer 617-223-5610, both at EPA, Region I, JFK Federal Building, Room 2103, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 43 FR 26460 (June 20, 1978) solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to the Levesque Lumber Co. at Masardis, Maine.

In consideration of the foregoing explanation of the change in the source's compliance strategy and in EPA's enforcement response, the proposal published in the FEDERAL REGISTER (43 FR 26460) on June 20, 1978 entitled "Proposed Delayed Compliance Order for the Levesque Lumber Co., Masardis, Maine," is hereby withdrawn.

Dated September 19, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

[FR Doc. 78-32169 Filed 11-15-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1069]

GRANTEE PERSONNEL MANAGEMENT

Executive Order 12044 on Improving Government Regulations

AGENCY: Community Services Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to Executive Order 12044, Improving Government Regulations, the Community Services Administration (CSA) is planning to revise its entire series of policy statements on grantee personnel management. The CSA Instructions proposed for revision include 6900-01, 6900-02, 6900-03, 6900-04, Personnel Policies and Procedures; 6901-1, Employment of Persons with Criminal Records; 6901-2, Assistance to Vietnam-Era Veterans; 6903-1, Policies and Procedures on $15,000 Per Year Salary limitation; 6903-3, Payment for Overtime and Authorization for Compensatory Time; 6906-1, Social Security Coverage for Employees under CAP Grants; 6907-01, Policy Guidance on Lobbying Activities; 6907-1a, Restrictions on Political Activities; 6907-2, Limitation with Respect to Unlawful Demonstrations, Rioting and Civil Disturbances; 6907-3, Employee Participation in Direct Action; 6907-4, Outside Employment of Grantee and Delegate Agency Personnel; 6909-01, Conflicts of Interest in Community Action Program Contracts; 6909-1, Prohibition Against Acceptance of Gifts and Gratuities.

We are interested in receiving comments on all areas of grantee personnel management, but in particular on the following topics. Are there gaps or omissions in the present rules which cause difficulties for CSA grantees? Are the present rules too restrictive? Are these personnel policies inconsistent with any state or local laws? Do these policies present specific difficulties for public CAAs? If you have had any specific problems in interpreting or in implementing these policies, please describe them to us.

DATE: Comments received before January 15, 1979 will be most useful in drafting the proposed rule.

ADDRESS: Send comments to: Timothy P. McTighe, Community Services Administration, Office of Community Action, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Timothy P. McTighe, telephone 202-254-5047.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc. 78-32074 Filed 11-15-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 32 and 151]

[CGD 75-039]

CERTAIN TANK BARGES

Visual Identification

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: In Docket Number CGD 75-039 (41 FR 5291), the Coast Guard proposed to require barges carrying hazardous or potentially pollutant bulk liquid cargoes to have the name of the barge painted on a horizontal surface so as to be visible from an aircraft. Recent casualty reports indicate that the numerous mass breakaways which motivated this rulemaking are no longer occurring. The Coast Guard, therefore, is withdrawing the proposed rule.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems (G-WLE-4/73), room 7315, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Telephone 202-426-4958.

DISCUSSION

The proposal was in response to a series of mass barge breakaways on the Mississippi River and its tributaries. It was planned to use aircraft to locate and identify barges so that their owners or operators could be called to assist the Coast Guard in recovery operations.

Sixteen letters of comment were received in response to the notice, all but two of which were opposed to the proposal. The principal objection was that the issuance of barge fleeting regulations, which set standards for mooring facilities, solved many of the breakaway problems. Other objections included cost and maintenance problems.

In response to the comments, the Coast Guard has been evaluating the barge fleeting regulations since their issuance on January 2, 1976. It now appears that the regulations are working, and that the incidence of mass breakaways has been greatly reduced.

Therefore, the Coast Guard has determined that rulemaking action concerning barge identification is not appropriate at this time. The withdrawal of this proposal, however, does not preclude the issuance of a similar proposal, in the future.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (41 FR 5291) on February 5, 1976, entitled "Visual Identification of Certain Tank Barges" (CGD 75-039) is hereby withdrawn.

Dated: November 6, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-32000 Filed 11-15-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-316]

FEE REFUNDS AND FUTURE FCC FEES

Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing comments.

SUMMARY: Time for filing comments related to FCC fee refund program Inquiry in General Docket No. 78-316 extended to December 1, 1978.

DATES: Comments must be filed on or before December 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

C. Grey Pash, Jr., Office of General Counsel, 632-7112.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: November 6, 1978.

Released: November 7, 1978.

By the General Counsel pursuant to delegated authority.

In the matter of fee refunds and future FCC fees, Gen Docket No. 78-316.

1. In a notice of inquiry in this proceeding which was released on October 6, 1978 (FCC 78-695, 43 FR 46658), the time for filing comments related to part B of the notice, i.e., to the fee refund program, was set as November 8, 1978. Two parties have asked for an extension of time in which to file comments.[1]

[1] Request for extension of time until December 11, 1978, filed jointly by the law firms of Fletcher, Heald & Hildreth and

Footnotes continued on next page

2. After reviewing the requests, I believe that an additional period of time for the filing of comments on part B of the notice is warranted. The data on the cost calculation process are substantial and detailed, and the proposed procedures for operating the fee refund program are complex and raise a number of difficult questions. Because the Commission believes that imput from the potential participants in this program is very important, an additional period for preparing comments will bendfit both the Commisssion and the parties.

3. Accordingly, in consideration of the factors noted above, the request for extension of time is granted in part, and it is ordered that the time for filing comments related to part B of the notice of inquiry in this proceeding is extended by 23 days to permit filing of comments by December 1, 1978. This action is taken pursuant to the authority delegated to me in § 0.251(b) of the Commission's rules, 47 C.F.R. 0.251(b).

FEDERAL COMMUICATIONS COMMISSION,
ROBERT R. BRUCE,
General Counsel.

[FR Doc. 78-32202 Filed 11-15-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-364; RM-2936; RM-2968; RM-2988]

FM BROADCAST STATIONS IN GRAND RAPIDS AND HIBBING, MINN.

Proposed Table of Assignments and Order To Show Cause

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking and order to show cause.

SUMMARY: FCC proposes four alternative plans for making FM assignments to two Minnesota communities. The first proposal would assign channels 228A and 269A to Grand Rapids and Hibbing Minn., respectively. The second proposal would assign channels 252A and 269A to Grand Rapids and Hibbing, respectively. The third proposal would assign channels 245 and 282 to Grand Rapids and channels 230 and 271 to Hibbing; while the last proposal would assign channel 252A to Grand Rapids and channels 230 and 281 to Hibbing. All four proposals could bring a second FM station to either or both Grand Rapids and Hibbing, Minn. These proposals result from separate petitions filed by Itasca Broadcasting Co., Jerry J. Collins and Grand Rapids Radio, Inc.

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Dow, Lohnes & Albertson on November 3, 1978.

DATES: Comments must be received on or before January 2, 1979, and reply comments must be received on or before January 22, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 3, 1978.

Released: November 9, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast stations (Grand Rapids and Hibbing, Minn.), BC Docket No. 78-364, RM-2936, RM-2968, RM-2988.

The Commission, by the Chief, Broadcast Bureau, has before it for consideration three petitions which propose amending § 73.202(b) of the rules, the FM table of assignments. The first petition (RM-2936), filed by Itasca Broadcasting Co. ("Itasca"), proposes the assignment of a second FM channel,[1] 228A, 252A, or 282, to Grand Rapids, Minn. The second petition (RM-2968), submitted by Jerry J. Collins ("Collins"), proposes the assignment of a second FM channel, 230, to Hibbing, Minn.; and the last petition (RM-2988), filed by Grand Rapids Radio, Inc., requests the substitution of channel 245 for channel 244A in Grand Rapids, Minn. Only one opposition has been submitted in this proceeding, that being Collins' opposition to the proposal to assign channel 228A to Grand Rapids.

2. Since the three proposals made herein conflict with one another, they are being considered jointly. The size and location of the communities with which we are concerned are as follows: Grand Rapids (pop. 7,247),[2] seat of Itasca County (pop. 35,530) is located 256 kilometers (160 miles) north of Minneapolis, while Hibbing (pop. 16,104), located in St. Louis County (pop. 220,693) is 48 kilometers (30 miles) northeast of Grand Rapids and 96 kilometers (60 miles) northwest of Duluth, Minn.

3. Itasca argues that in spite of Grand Rapids' two aural services (station KXGR (channel 244A) licensed to Grand Rapids Radio, Inc., and fulltime AM Station KOZY), Grand Rapids warrants an additional FM assignment. Itasca states that the county has no other commercial broadcast stations than those located at Grand Rapids and that the proposed FM station, regardless of class, will provide an additional local service to a large rural area. Further, petitioner notes that Grand Rapids has a newspaper that is published only twice a week. In describing the area, Itasca indicates that tourism is an important industry in the county during the winter as well as the summer. Recreational facilities include fishing, swimming beaches, tennis courts, golf courses, and a hockey rink. Also noted by petitioner is that Grand Rapids is the trading center of a large area which has industries such as paper making and iron mining. According to Itasca, the Minnesota Department of Employment Services has reported that the labor force or total employment in the county has increased approximately 30 percent during the past 4 years.

4. As to the other proposal concerning Grand Rapids, Grand Rapids Radio, Inc. ("GRR"), licensee of the class A station (KXGR) located in that city, requests the substitution of channel 245 for channel 244A in order to provide service to the outlying areas. GRR submits that its proposed facility will provide first FM service to an area of 3,046 square miles with a population of 26,992 persons and first nighttime aural service to an area of 3,775 square miles with a population of 30,154 persons. Petitioner further submits various letters from residents of the area surrounding Grand Rapids indicating, among other things, that school authorities need wide area broadcast coverage to provide information on school events, news and emergency closings. Also, the Minnesota Power & Light Co. noted in its correspondence that some of its service area that would be covered by a class C station does not presently receive normal nighttime or daytime coverage. Nighttime coverage in particular was thought to be most valuable in terms of emergency situations. Petitioner also provided demographic data on the city and its county as did Itasca Broadcasting Co., the petitioner seeking a second FM channel at Grand Rapids.

5. In regard to the proposal to assign FM channel 230 to Hibbing, Minn., although that city presently has three aural services (station WMFG-FM (channel 292A), fulltime AM Station WMFG and daytime-only AM Station WKKQ licensed to petitioner) the proponent argues that a high powered class C FM facility is needed to provide service to the community and the area north of it. Petitioner, Collins, notes that a class C FM station located at Hibbing can be expected, employing *Roanoke Rapids-Anamosa* criteria,[3] to

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[1] In addition, class C channel 219 has been reserved for noncommercial educational use at Grand Rapids. Station KAXE operates on that frequency.

[2] All population figures are taken from the 1970 U.S. Census.

[3] To fully explore this aspect of the proceeding, we need showings from the parties of the areas and populations which would receive first and second FM (*Roanoke*

Footnotes continued on next page

bring significant first FM service to an area of 2,439 square miles with a population of 35,702 persons and a second FM service to a "grey" area of 958 square miles with a population of 55,491 persons. Petitioner also submits that Hibbing presently has very limited nighttime facilities since its only FM station is a class A and neither its power nor antenna height approach the maximum allowed even for a class A channel and its only fulltime AM station is a class IV with the usual limited coverage provided by 250 watts power at night.

6. In describing the Hibbing area, Collins asserts that since 1970, there has been a substantial growth in population (from 16,104 in 1970 to 18,560 in 1976) as well as a substantial growth in retail and wholesale sales. Petitioner notes that the U.S. Business Census reports a growth in retail trade from $31,174,000 in 1967, to $47,932,000 in 1972. Similarly, wholesale trade increased from $43,159,000 in 1969 to $52,061,000 in 1972. Hibbing is also described as the largest Minnesota Iron Range community, the center of the supply of taconite, a material refined into high-grade iron-bearing taconite pellets used for industry's blast furnaces.

7. We believe for the reasons indicated by petitioners that each proposal merits consideration in a rulemaking proceeding. However, spacing requirements prohibit the granting of one of the three assignments as originally requested.[4] In fact, Collins in proposing the allocation of channel 230 to Hibbing notes that such an assignment would be precluded if channel 228A were assigned to Grand Rapids as initially proposed by Itasca since the distance between the two cities is only 48 kilometers (30 miles), not the required separation of 104 kilometers (65 miles). In view of this situation, Collins proposes that channel 288A be used in lieu of channel 228A at Grand Rapids. However, Itasca states in a supplemental pleading that channel 252A would be preferable to channel 288A. Although the requests for channel 230 at Hibbing and channel 245 at Grand Rapids can be resolved independently of one another,[5] the resolution of these requests will dictate which channel, if any, is assigned as a second FM allocation to Grand Rapids.

8. In considering the proposals made by petitioners, observance must be given not only to spacing requirements but also to intermixture strictures. The Commission's policy in this regard is to avoid intermixing classes of FM channels in the same community.[6] Although the Commission has departed from the intermixture policy in cases where a party finding no other available channel seeks a class A channel even though the others already in the community are class B or C, that situation does not occur in this proceeding. Rather, there are an adequate number of class A and class C channels available to Grand Rapids and Hibbing so that intermixture of FM frequencies in either community is not necessary. Grand Rapids presently has an operating class A station (KXGR on channel 244A). Other class A channels available for assignment to that city are channels 228A, 252A, and 288A. However, if the Commission finds that GRR's request for a class C station on channel 245 in lieu of its class A facility on channel 244A is warranted, another class C frequency (282) can be allocated to Grand Rapids. Also, if the Commission concludes that Hibbing, which also presently has a class A facility (WMFG on channel 292A) warrants a second FM assignment, either another class A frequency (269A) or a class C channel (230, 271, or 281) can be allocated to it. If, as requested, class C channel 230 is assigned to Hibbing, then the presently operating Hibbing class A station should be given an opportunity to apply for a class C facility (channel 271 or 281).[7]

9. Each of the channel assignments proposed by petitioners will preclude the use of the particular frequency to a number of communities of over 1,000 populations as follows: channel 230 at Hibbing will cause preclusion to 12 communities; channel 245 at Grand Rapids will cause preclusion to 18 communities; channel 228A at Grand Rapids will cause preclusion to 13 communities; channel 252A at Grand Rapids will cause preclusion to 3 communities; and channel 282 at Grand Rapids will cause preclusion to 19 communities.[8] In its pleadings requesting the assignment of channel 228A or channel 282 to Grand Rapids, Itasca states that channels are available as follows for several of the precluded communities: channel 240A for Aurora, channel 252A for Bagley, channel 237A for Baudette, channel 228A for Cass Lake and channel 296A for Warroad. In this connection, Itasca and the other petitioners should submit information concerning the availability of channels to the other communities (tabulated in footnote 8, supra) precluded by their respective requests.

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Rapids) and first and second nighttime aural (*Anamosa*) service as a consequence of the assignment of a particular channel to a particular city. See *Roanoke Rapids*, 9 FCC 2d 672 (1967); and *Anamosa and Iowa City, Iowa*, 46 FCC 2d 520 (1974).

[4] Itasca initially proposed the assignment of channel 228A to Grand Rapids. After noting that Collins' request for the allocation of channel 230 at Hibbing would preclude the channel 228A allocation, Itasca proposed that channel 252A be assigned to Grand Rapids. Later when Grand Rapids Radio, Inc., requested the substitution of channel 245 for channel 244A, Itasca proposed that class C channel 282 be assigned to Grand Rapids as a second FM allocation.

[5] In compliance with *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945), if interest is expressed in a channel 245 assignment at Grand Rapids by someone other than GRR, we cannot grant the proposed modification of its license from operation on a class A to class C (channel 245) channel. Rather, if the public interest warrants, that channel will be allocated to Grand Rapids subject to application by all interested parties.

[6] In addition to the matter of assigning a particular class of station to a community of a given size, this policy has as one of its underlying purposes a system of assignments which makes it possible for all local stations to have the opportunity to obtain comparable facilities for service and competition.

[7] Of the two channels, a channel 281 assignment is preferable as it would permit the transmitter to be located in a larger area 3.2 kilometers (2 miles) north of Hibbing; whereas, a channel 271 allocation would require the transmitter site to be located in a more limited area 16 kilometers (10 miles) north of the city.

[8] Tabulated below are those precluded communities without current FM channel assignments along with their populations and the proposals which would cause them to sustain preclusions.

Community	Population	230 to Hibbing	245 to Grand Rapids	228A to Grand Rapids	252A to Grand Rapids	282 to Grand Rapids
Minnesota:						
Bagley	1,314	X				X
Coleraine	1,086	X		X	X	X
Aurora	2,431	X	X	X		
Silver Bay	3,504	X	X			
Chisholm	5,913	X		X		X
Keewatin	1,382	X		X		X
Gilbert	2,187	X	X	X		X
Two Harbors	4,437	X	X			
Cass Lake	1,317			X	X	X
*Walker	1,073			X		X
Crosby	2,241			X		X
Buhl	1,303		X			X
Baudette	1,547					X
Nashwauk	1,341					X
*Roseau	2,552					X
Warroad	1,086					X
Mora	2,582		X			
Proctor	3,123		X			
Wisconsin:						
Washburn	1,957		X			
Mellen	1,168		X			
Hurley	2,418		X			
Michigan:						
Bessemer	2,805		X			

*Have AM stations.

10. Petitioners should also submit *Roanoke Rapids-Anamosa* showings (see footnote 3. *supra*) for their respective proposals. Although Collins and GRR provided some information on first or second service areas,their showings did not meet the Commission's requirements. For instance, Collins fails to provide data on any first or second AM nighttime service (the *Anamosa* standard) which will result from the proposal. Further, while providing figures for first and second FM service (*Roanoke Rapids*), Collins fails to indicate whether these are based on the assumption of existing or "reasonable" facilities. Collins should provide this information since, when "reasonable" facilities in a community are greater than existing ones, proponents are expected to use the former in preparing their *Roanoke Rapids-Anamosa* showing. In its study, GRR incorrectly used existing rather than "reasonable" facilities in making its calculations where the latter are greater and therefore should have been employed. Although providing figures for first FM and first AM nighttime service, GRR's showing is further deficient in that no data on second service is furnished.

11. In commenting on the notice, the parties should indicate why Grand Rapids and/or Hibbing warrant class C allocations rather than class A assignments as is presently the case. Since their respective sizes suggest either class of channel might be appropriate, the choice between them will need to be made based on the importance of the additional coverage a class C station would have particularly a first or second service. The parties should also address themselves to the desirability of particular channel allocations from the viewpoint of transmitter site locations. In addition, Hibbing Broadcasting Co., licensee of the class A station, WMFG, at Hibbing, should indicate whether it desires a class C facility and if not, why. We are directing an appropriate order to show cause to Hibbing Broadcasting in the event that either plan III or IV is adopted. In so doing we are aware of the not insubstantial expense it would have to bear in the power increase aspect of converting from a class A to a class C operation. We therefore stress that if the licensee opposes such modification, its views will receive careful consideration.

12. Since we believe that it is appropriate to explore the assignment possibilities described above in a rulemaking proceeding, we propose to consider the following plans as revisions in the FM table of assignments (§ 73.202(b) of the Commission's rules) with respect to the cities listed below:

PLAN I

City	Channel No.	
	Present	Proposed
Grand Rapids, Minn	244A	228A, 244A
Hibbing, Minn	292A	269A, 292A

PLAN II

Grand Rapids, Minn	244A	244A, 252A
Hibbing, Minn	292A	269A, 292A

PLAN III

Grand Rapids, Minn	244A	245, 282
Hibbing, Minn	292A	230, 271

PLAN IV

Grand Rapids, Minn	244A	244A, 252A
Hibbing, Minn	292A	230, 281

13. *It is ordered,* That, pursuant to section 316 of the Communications Act of 1934, as amended, Hibbing Broadcasting Co., licensee of radio station WMFG-FM, Hibbing, Minn., shall show cause why its license for station WMFG-FM (channel 292A) should not be modified to specify operation on channel 271 or channel 281 in lieu of channel 292A at Hibbing, Minn.

14. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of station WMFG-FM may, not later than January 2, 1979, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f) if the right to request a hearing is waived, Hibbing Broadcasting Co. may, not later than January 2, 1979, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the order to show cause. In this case, the Commission may call on Hibbing Broadcasting Co. to furnish additional information, designate the matter for hearing, or issue without further proceeding an order modifying the license as provided in the order to show cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Hibbing Broadcasting Co. is deemed to consent to the modification as proposed in the order to show cause and a final order will be issued by the Commission if the channel changes referred to in this notice are found to be in the public interest.

15. *It is further ordered,* That the Secretary of the Commission shall send a copy of this order by certified mail, return receipt requested, to Hibbing Broadcasting Co., Radio Station WMFG-FM, 807 West 37th Street, Hibbing, Minn. 55746, the party to whom the order to show cause is directed.

16. Authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE: A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

17. Interested parties may file comments on or before January 2, 1979, and reply comments on or before January 22, 1979.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponents(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignemnt is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later

than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-32203 Filed 11-15-78; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 572]

[Docket No. 78-09; Notice 2]

ANTHROPOMORPHIC TEST DUMMIES REPRESENTING 3-YEAR-OLD CHILDREN

Proposed Specifications and Performance Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice amends some of the specifications and performance requirements for anthropomorphic test dummies representing 3-year-old children proposed in May 1978. The dummies are intended to be used in testing the performance of child seating systems. The amendments were formulated on the basis of results of tests conducted after issuance of the May 1978 notice. The amendments would have the effect of improving the 3-year-old dummy as a tool for measuring child restraint performance.

DATES: Comments on this notice must be received on or before December 15, 1978.

PROPOSED EFFECTIVE DATE: Date of publication of the final rule on test dummies in the FEDERAL REGISTER.

ADDRESS: 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:

Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION: This notice amends certain of the proposed Specifications and Performance Requirements for Part 572, Anthropomorphic Test Dummies, Subpart C—3-Year-Old Child, published on May 18, 1978 (43 FR 21490). The May 18 proposal emphasized that the proposed calibrations for the 3-year-old dummy set forth in the notice were still tentative, and noted that agency testing would continue following issuance of the notice in anticipation of narrowing the response range of the dummy. The notice also advised interested persons that the refined calibrations would be placed in the docket when completed. A copy of the refinements was placed in the docket on September 27, 1978. The amended specifications and performance requirements set forth in this notice have been formulated as a result of such further testing. As anticipated, test results indicated the feasibility of modifying portions of the calibrations proposed in the May notice so as to narrow the dummy's response ranges. The effect of the amendments, therefore, is to improve the dummy as a tool for measuring the performance of child restraint systems in simulated crashes, pursuant to the recently proposed amendment to Motor Vehicle Safety Standard No. 213, *Child Seating Systems* (43 FR 21470, May 18, 1978). The agency will not make further amendments to the proposed calibrations for the 3-year-old dummy prior to final rulemaking action.

One amendment set forth in this notice is a modification of the drawings and specifications for SA 103C 030 Torso Assembly, incorporated by reference to § 572.15 (*General Description*). It consists of the addition of a sternum support to the rib cage. This modification is shown in the drawings ATD-6000 (Sheets 1 and 2), ATD-6045, ATD-6061 and ATD-6096. These modified drawings have been placed in the docket. The other amendments are slight changes in some of the performance requirements proposed in the May 18 notice. The texts of these amendments are set forth below. A diagram of the cylinder described in the amendment to proposed § 572.19(c)(2) is also available for examination in the docket (See Diagram SK 9-13).

Interested persons are invited to submit comments on this notice. 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 released 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 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 agency has reviewed the impacts of these amendments and determined that they are not a significant regulation within the meaning of Executive Order 12044.

The principal authors of this notice are Mr. Vladislav Radovich, Office of Vehicle Safety Standards, and Ms. Nancy Eager, Office of the Chief Counsel.

In consideration of the foregoing, the proposal to add Subpart C—3-Year-Old Child, to 49 CFR Part 572, Anthropomorphic Test Dummies (43 FR 21490; May 18, 1978), is amended as follows:

Subpart C—3-Year-Old Child

1. The first sentence of § 572.16(b) is amended to read:

§ 572.16 Head.

* * * * *

(b) When the head is impacted in accordance with paragraph (c) of this section by a test probe conforming to § 572.21(a) at 7 fps., the peak resultant accelerations measured at the location of the accelerometers mounted in the headform in accordance with § 572.21(b) shall be not less than 95g, and not more than 112g. * * *

* * * * *

2. Section 572.17 (c)(3)(iii) and (c)(3)(iv) are amended as follows:

§ 572.17 Neck.

* * * * *

(C) * * *

(3) * * *

(iii) t_2-t_1, shall be not more than 4 milliseconds.

(vi) The measured deceleration between t_2 and t_3 shall be not less than 20g and not more than 34g.

* * * * *

3. Paragraphs (c) and (d)(2) of § 572.18 are revised as follows:

§ 572.18 Thorax.

* * * * *

(c) When impacted by a test probe conforming to § 572.21(a) at 13 fps. in accordance with paragraph (d) of this section, the peak resultant acceleration at the location of the accelerometers mounted in the chest cavity in accordance with § 572.21(c) shall be not less than 50g and not more than 70g. The acceleration-time curve for the test shall be unimodal and shall lie at or above the 30g level for an interval not less than 2.5 milliseconds and not more than 4.0 milliseconds. The lateral acceleration vector shall not exceed 5g.

(d) *Test Procedure.* * * *

(2) Place the longitudinal centerline of the test probe at the chest midsaggital plane so that it is 1.5 inches below the longitudinal centerline of the bolt that attaches the top of the ribcage sternum to the thoracic spine box.

* * * * *

4. In § 572.19, paragraph (b) is amended, and sentences are added to the end of paragraphs (c)(2) and (c)(4) as set forth below:

§ 572.19 Lumbar spine, abdomen and pelvis.

(b) When subjected to continuously applied force in accordance with paragraph (c) of this section, the lumbar spine assembly shall flex by an amount that permits the rigid thoracic spine to rotate from its initial position in accordance with Figure 18 of this subpart by 40 degrees at a force level of not less than 34 pounds and not more than 47 pounds, and straighten upon removal of the force to within 5 degrees of its initial position.

(c) *Test Procedure.* * * *

(2) * * * Remove the head and the neck and install a cylindrical aluminum adapter 2.0 inches in diameter and 2.80 inches long in place of the neck.

* * * * *

(4) * * * Apply a forward force in the midsaggital plane at the top of the adapter, so that at 40 degrees of the lumbar spine flexion the applied force is perpendicular to the thoracic spine box.

(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 13, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32302 Filed 11-15-78; 8:45 am]

[4910-59-M]

[49 CFR Part 576]

[Docket No. 74-31; Notice 5]

RECORD RETENTION

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment of Part 576, Record Retention, that would extend the record retention period from 5 to 8 years. The existing interim rule requires the retention of certain records pertaining to safety-related defects for 5 years. This notice is being issued in response to comments received on an earlier notice of proposed rulemaking in this subject area. The extension would aid implementation of the agency's existing statutory defect and noncompliance enforcement authority.

DATES: Comments must be received on or before February 12, 1979. Proposed effective date: 180 days after publication of the final rule in the FEDERAL REGISTER.

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:

Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20950, 202-426-2992.

SUPPLEMENTARY INFORMATION: This notice proposes an amendment to Part 576, Record Retention, which would increase the length of the retention period from 5 to 8 years. The existing interim rule requires the retention of certain information pertaining to safety-related defects for 5 years. The interim rule on record retention was published on August 20, 1974 (39 FR 30045). Contemporaneously, a proposal was published that solicited comments on the interim rule (39 FR 30048). One feature of the interim rule was a 5-year record retention period.

The Center for Auto Safety's comments on the proposal questioned the advisability of a 5-year retention period when the agency's defect and noncompliance jurisdiction extends for a longer time. Section 154 of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. § 1381 et seq.) requires a motor vehicle manufacturer to remedy without charge a defect or noncompliance that is determined to exist under section 151 or 152 of the Act within 8 years after the first purchase of the motor vehicle. Need for information, suggested the Center, could extend beyond the 5 years in which the information would be available under the existing proposal. In other words, a 5-year retention period might not be sufficient for the purposes of enforcing actions that extended beyond 5 years. If this were the case, the agency enforcement of the Act might be impeded.

The NHTSA tentatively concludes that the Center's arguments have merit. A 5-year retention requirement given the Act's 8-year enforcement authority might be unnecessarily short and might result in frustrating enforcement of defect or noncompliance actions on an older vehicle. According-

ly, to aid in enforcing section 154, the agency proposes to extend the retention requirement to 8 years.

The agency has reviewed the costs and other impacts associated with this proposal and concludes that this proposal if adopted would not result in any significant increase in costs of record retention. Any minimal cost increases would be offset by the increased benefits resulting from the retention of sufficient information for a long enough time to aid enforcement of the Act. Enforcement will be particularly improved in the discovery and remedy of latent defects and noncompliances.

In consideration of the foregoing, it is proposed that Part 576, Record Retention, of Volume 49 of the Code of Federal Regulations be amended by revising Part 576.5 to read as follows:

§ 576.5 Basic requirements.

Each manufacturer of motor vehicles shall retain as specified in § 576.7 all records described in § 576.6 for a period of 8 years from the date on which they were generated or acquired by the manufacturer.

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 released 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 consideration in regard to the acton 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 its is recommended that interested persons continue to examine the docket for new material.

The principal author of this proposal is Roger Tilton of the Office of Chief Counsel.

(Secs. 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1401, 1407); Secs. 108, 152, 158, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392, 1412, 1418); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 7, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32016 Filed 11-15-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

GOSPEL-HUMP ADVISORY COMMITTEE

Meeting

The Gospel-Hump Advisory Committee will meet at 7 p.m., December 14, 1978 in the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The purpose of this meeting is to review a study plan for the Forest Integrated Land Management Plan, as required by the National Forest Management Act of 1976 (Pub. L. 94-588).

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; telephone 208-983-1950. Written statements may be filed with the committee before or after the meeting.

DON BIDDISON,
Forest Supervisor.

NOVEMBER 3, 1978.

[FR Doc. 78-32252 Filed 11-15-78; 8:45 am]

[3410-11-M]

NATIONAL GRASSLANDS GRAZING FEE REVIEW

Meetings and Request for Comments

Notice is hereby given that the Forest Service, Department of Agriculture, is scheduling public meetings and requesting comments relative to the review of fees charged on National Grasslands. The comments received by the Forest Service will be used to assist in the development of the National Grasslands grazing fee system that will be put into effect on March 1, 1979.

A Forest Service task force recently completed the first phase of the review. Public responses were received during June and July, 1978. These responses were considered in arriving at the proposed National Grasslands fee system.

The proposed fee system utilizes the section of the Public Rangelands Improvement Act of 1978 (Pub. L. 95-514) that established an economic value grazing fee formula. Although the Act does not apply to the National Grasslands, it does provide a concept of fair market value for public land grazing fees. This concept was used in the development of the proposed National Grasslands grazing fee system and results in a proposed fair market value for 1978 that would vary from approximately $1.55 per animal month in Oregon and Idaho to $2.65 per animal month in the remaining National Grasslands States.

Annual increases or dereases in the fee for any given year will be limited to not more than plus or minus 25 percent of the previous year's fee. Data needed to calculate what the fee for 1978 would have been or the projected 1979 fee is not available. Under the proposed fee system, and utilizing available data, the 1978 fee for Oregon and Idaho would have been $1.55 and would have varied from $2.42 to $2.65 per animal month in the remaining National Grasslands States. The fees acutally charged during 1978 range from $1.57 to $3.51.

An information package containing evaluation of alternatives and explanation of the proposed fee system may be obtained by writing to:

Forest Supervisor, Custer National Forest, Box 2556, Billings, Mont. 59103.
Forest Supervisor, Cibola National Forest, 10308 Candelaria NE., Albuquerque, N. Mex. 87112.
Forest Supervisor, Ochoco National Forest, Federal Building, Prineville, Oreg. 97754.
Regional Forester, 11177 West Eighth Avenue, Box 25127, Lakewood, Colo. 80225.
Forest Supervisor, Caribou National Forest, 250 South 4th Avenue, Pocatello, Idaho 83201.
Forest Supervisor, National Forests in Texas, Federal Building, Box 969, Lufkin, Tex. 75901

Written statements may be submitted to the above addresses until December 31, 1978.

Public meetings to explain the proposed fee system, answer questions, and receive public comments are scheduled as follows:

Dickinson, North Dakota, Crown Room, 1st National Bank Building., 143 West Villard. November 27, 1978, 7 p.m. mountain standard time.
Boise City, Oklahoma, Exhibit Building, Fairgrounds, North edge of town on Highway 385. November 27, 1978, 7 p.m. mountain standard time (8 p.m. central standard time).
Malad, Idaho, Conference Room, Forest Service Office. November 27, 1978, 7 p.m. pacific standard time.
Madras, Oregon, State Savings & Loan Building, 235 5th Street. November 27, 1978, 7 p.m. pacific standard time.
Rapid City, South Dakota, Howard Johnson Motor Lodge, 2211 La Crosse Street. November 28, 1978, 7 p.m. mountain standard time.
Bonham, Texas, Fannin County Courthouse, Meeting Room, Third Floor. November 28, 1978, 7 p.m. central standard time.
Cheyenne, Wyoming, Hitching Post Motel, West 16th Street. November 29, 1978, 7 p.m. mountain standard time.
Decatur, Texas, Womans Building, Rodeo Grounds. November 29, 1978, 7 p.m. central standard time.

This notice is being published on behalf of all the Regions and National Forests involved in the National Grasslands grazing fee review by the Regional Forester in Region 2 of the Forest Service.

Dated: November 9, 1978.

CRAIG W. RUPP,
Regional Forester.

[FR Doc. 78-32208 Filed 11-15-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-11-15; Dockets 32711 and 33091]

DALLAS/FORT WORTH-FLORIDA SERVICE INVESTIGATION AND FLORIDA SERVICE CASE

Order on Reconsideration

DALLAS/FORT WORTH-NEW ORLEANS-FLORIDA

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the second day of November 1978.

In the matter of Dallas/Fort Worth-Florida service investigation (formerly Dallas/Fort Worth-New Orleans-Florida Service Investigation) (Docket 32711) and Florida Service Case (Docket 33091).

By Order 78-5-129 (May 19, 1978) the Board instituted this case to determine whether the public convenience and necessity require new nonstop authority in the following nine markets: Dallas/Fort Worth-Tampa/Miama/Fort Lauderdale, New Orleans-Tampa/Miami/Fort Lauderdale, Tampa-Miami/Fort Lauderdale and Miami-Fort Lauderdale. We included the three intra-Florida markets to give applicants some additional routing flexibility, but we emphasized that the

focus should be on the six New Orleans/Dallas/Fort Worth markets.

Petitions for reconsideration have been filed by Continental Air Lines, American Airlines, Braniff Airways and Western Air Lines. Answers have been filed by Continental, Braniff, Southwest Airlines, Texas International Airlines, National Airlines, Delta Air Lines, Frontier Airlines,[1] the Jacksonville Port Authority and the Bureau of Pricing & Domestic Aviation (BPDA).[2]

In their petitions, both Continental and American argue that the Dallas/Fort Worth-New Orleans market should not be excluded from this proceeding; Braniff asks that the case be expanded to embrace the Dallas/Fort Worth/New Orleans-Orlando/Jacksonville/West Palm Beach markets; and Western wants to include the Denver-Dallas/Fort Worth/New Orleans markets.

National and BPDA support inclusion of the Dallas/Fort Worth-New Orleans market, but TXI, Southwest, Delta, Braniff oppose it; Jacksonville and BPDA would include additional Florida points, which Delta opposes; and, finally, BPDA and Frontier support expansion to include Denver while Braniff, Continental and TXI oppose. Frontier also contended in its answer that, should the Board place the Denver-Dallas/Fort Worth market in issue, it should include the Denver-Houston and Houston-New Orleans-Tampa/Miami/Fort Lauderdale markets as well.

Air Florida has filed a petition for clarification, asking that we not preclude service to Dallas/Fort Worth through Love Field instead of, or in addition to, DFW Regional Airport. Answers were filed by American and the DFW Parties (the Cities of Dallas and Fort Worth, the Dallas Chamber of Commerce, the Fort Worth Chamber of Commerce, the North Texas Commission and the Dallas/Fort Worth Regional Airport Board.)[3] The opponents argue essentially that all interstate operations should be performed through DFW Regional Airport as contemplated by the Board in the *Dallas-Fort Worth Regional Airport Investigation*, Order E-21341 (Sept. 30, 1964).

On September 6, Administrative Law Judge Katherine A. Kent submitted a certification to the Board. She pointed out that six markets in issue in her case had subsequently been placed in issue in the *Florida Service Case*, Order 78-7-128 (July 25, 1978).[4] She asks the Board to clarify whether, in fact, we intended to have identical issues heard in two concurrent cases. Pending our response to her certification, she has suspended procedural steps in Docket 32711.

Florida Service

We instituted this case in Order 78-7-128 (July 25, 1978) in response to applications by Southern Airways for authority between Atlanta and a number of points in Florida (Docket 31680) and by Coastal Airlines for authority between New Orleans and Jacksonville via Mobile, Pensacola, Panama City, Tallahassee and Gainesville (Docket 31917). Although we placed in issue authority between and among all cities in both applications, we said that the focus of the case is new Florida authority.[5]

Petitions for reconsideration were filed by Air Florida, American Airlines, Delta Air Lines,[6] Southern Airways, the Gulfport-Biloxi Regional Airport Authority,[7] the Sarasota-Manatee Airport Authority and the County of Volusia (Daytona Beach). All except Air Florida want us to expand the scope of the case. Air Florida argues that we should eliminate those markets that have no demonstrable need for additional service, which, in Air Florida's view, are the markets it serves or will soon begin to develop under intrastate authority from the Florida Public Service Commission. Delta asks us to add Fort Myers, Southern wants to include Fort Myers, Sarasota and Daytona Beach, and each of the three civic petitioners wants its community included. American would add not only Sarasota and Fort Myers, but also Dallas/Fort Worth, Houston, Nashville, Memphis and St. Louis. It argues that those five cities could serve as alternative gateways for Florida passengers who now must rely principally on connections at Atlanta to get to and from other parts of the country.

Answers supporting inclusion of some or all of the four Florida/Mississippi points were filed by Braniff Airways, the Bureau of Pricing and Domestic Aviation (BPDA), the Fort Myers Parties and the Tallahassee Parties. Braniff also supports American's request to add Dallas/Fort Worth, and the St. Louis Parties endorse the addition of St. Louis. Continental Air Lines, Delta, Southern, TWA and BPDA vigorously oppose American's petition insofar as it asks for five other gateways. They cite the existing size of the case (91 markets) and the absence of any relationship between those five gateways and the markets already in issue. Southern, Southeast Airlines and BPDA oppose Air Florida's petition to contract the scope on the grounds that the Board should not predetermine Florida's service requirements and that the Board historically has declined to protect services of intrastate carriers from competition by federally certificated carriers. Northwest Airlines' answer is in the same vein as Delta's petition: that is, Northwest does not oppose including Fort Myers as long as its pending exemption application in Docket 30132 will not be delayed or denied. Finally, Eastern Air Lines opposes any expansion because of the size and complexity of the case. Eastern also argues that we should consolidate this case for decision with the *Florida-Atlanta Competitive Nonstop Service Case*, Docket 30679, because there are closely related economic and environmental issues.

Disposition of Petitions

Partly in response to petitions and partly on our own initiative, we have decided to make adjustments in the scopes of these two cases. Our objectives are the same: to consider Florida's service needs, to accommodate the desires of some carriers to expand their systems in Florida and to examine the need for additional service between Florida and the major Southern Tier hubs of New Orleans and Dallas/Fort Worth. But there are competing considerations that we cannot ignore. Six markets in issue in *Florida Service* had previously been placed in issue in *Dallas/Fort Worth-New Orleans-Florida*, one market (Atlanta-Tallahassee) is in issue in *Florida-Atlanta*, and one market is in issue in the *Houston-Tampa/Orlando and New Orleans-Orlando Investigation* (Order 78-3-113). This duplication is undesirable because it ties up the resources of parties and the Board unnecessarily, it can lead to conflicting decisions by different administrative law judges, and it can slow the trial of cases as well as delay their final disposition at the

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[1] In its motion for leave to file its answer late, Frontier states that it did not receive Western's petition until after the date for filing answers. We will grant its motion.

[2] American and Delta have applied for exemptions to serve markets in issue in this proceeding. So as not to delay disposition of the pending petitions for reconsideration and clarification, we will deal with the exemption applications in a separate order.

[3] These answers were accompanied by motions for leave to file the otherwise unauthorized documents, which we will grant. Also, in their answers to petitions for reconsideration, BPDA supported Air Florida's request and Delta opposed it.

[4] New Orleans-Tampa/Miami/Ft. Lauderdale, Tampa-Miami/Ft. Lauderdale and Miami-Ft. Lauderdale.

[5] At note 4, we said: "We recognize that this puts in issue more authority than Southern and Coastal are seeking, as well as some authority at issue in other cases, and will result in a very large proceeding; but, we wish to take a broad look at Florida's service needs.

[6] Delta's pleading is styled a "contingent" petition, the contingency being the Board's failure to act on a Delta application in another proceeding. We will treat the petition as though it were not contingent.

[7] Gulfport-Biloxi filed a motion for leave to file its petition late. We will grant the motion.

Board level. Some applicants may decide to choose one forum or another, but those that do not will be put to the expense of participating in two cases simultaneously for the same authority. We have tried to avoid duplication as much as possible, and we believe that it makes sense to do so here.[8]

In *Dallas/Fort Worth-New Orleans-Florida*, we will deny the petitions of American, Continental and Western and grant the petition of Braniff, in part, by adding the Dallas/Fort Worth-Orlando / Jacksonville / West Palm Beach markets. They are not in issue in any other proceeding, they are related geographically to the markets already in issue, and their inclusion will enable us to examine the need for service between Dallas/Fort Worth and Florida's six largest cities.[9] At the same time, we will remove the three New Orleans-Florida markets and the three intra-Florida markets which are in issue for new turnaround authority in *Florida Service*. We will, however, allow applicants to propose local air transportation between and among the six Florida cities on flights that also serve Dallas/Fort Worth. This will give sufficient latitude for applicants to construct viable service patterns between Dallas/Fort Worth and Florida.[10]

As to Air Florida's airport question, the instituting order did not designate the airport through which Dallas is to be served, and we have decided to leave the question open for now rather than to impose a pretrial restriction. The parties should address this issue in their exhibits and testimony, and the judge should deal with it in the initial decision.

In the *Florida Service Case*, we have decided to grant petitions for reconsideration insofar as they seek to add Fort Myers, Sarasota-Manatee, Daytona Beach, and Gulfport-Biloxi, to deny them in all other respects and to narrow the focus of the proceeding by eliminating duplication and extraneous markets.

The *Florida-Atlanta Competitive Nonstop Case* and the *Houston-Tampa/Orlando and New Orleans-Orlando Investigation* are now before administrative law judges for decision. In issue in the former is new turnaround authority in the Atlanta-Tallahassee/Sarasota/Daytona Beach markets, while turnaround New Orleans-Orlando authority is in issue in the latter. If we place these four markets in issue for new unrestricted authority in *Florida Service*, we are liable to have conflicting decisions from different judges. It would, therefore, be prudent to wait until all three cases are before us for decision so we can take a consistent, rational approach. But that would mean delaying service improvements to the public because *Florida Service* is already about six months behind the other two cases. We believe that the best course is to remove the identical issue—unrestricted turnaround authority—from *Florida Service* and consider only new authority that is tied to service in other markets in the case. In that way, we can avoid tying up *Florida-Atlanta* and *Houston-Tampa/Orlando pending an initial decision in Florida Service*. Carriers that now want turnaround authority in these four markets, but did not apply in the two earlier cases, can apply for the more limited authority here and pursue unrestricted authority at a later date. We will require that nonstop flights between Atlanta and Tallahassee, Daytona Beach or Sarasota and nonstop flights between New Orleans and Orlando serve a point beyond Atlanta or New Orleans or a beyond point in Florida.

We have also decided to exclude new nonstop authority between Atlanta and Mobile, Gulfport-Biloxi or New Orleans. These markets have no relationship to improvements in *Florida Service*, either from Atlanta and points north or from New Orleans and points west. In the same vein, we will deny American's request to add Dallas/Ft. Worth, Houston, Nashville, Memphis, and St. Louis as alternative gateways to Atlanta and New Orleans for Florida passengers. We realize that American wants access to Florida and that its lack of authority at Atlanta or New Orleans places it at a disadvantage compared to applicants having authority at those two hubs. That will be a problem as long as entry is not universally open to everyone and as long as the Act requires administrative hearings. We have observed many times that each carrier participates in each route case with both the advantages and the liabilities of its preexisting route system. We cannot equalize all these advantages and disadvantages in each case, nor do we try to do so. This proceeding was instituted in response to applications for new Atlanta/New Orleans-Florida and Intra-Florida authority; it was not designed to consider new service between Florida and the rest of the United States. American is free to file for separate examination of its desire for access to Florida.

Next, we will deny Air Florida's petition to eliminate the intra-Florida markets it serves. We are aware of Air Florida's high-quality services within the State, but we certainly are not prepared at this point to conclude that the public convenience and necessity do not require additional authorizations. Air Florida will have an opportunity to present evidence supporting its position to the judge and the Board. Also, since we have not discouraged or prevented Air Florida from seeking to expand into interstate markets served by federally certificated carriers, it would certainly be inequitable to protect Air Florida from competition by interstate carriers.

Turning to Delta's petition and Northwest's answer, their attempt to link this proceeding to their Fort Myers exemption applications is not persuasive. They present different issues and seek different types of relief from that which is available in this proceeding. As a matter of fact, we have recently ruled on those applications in Order 78-10-107 (October 20, 1978) on their own merits.

Finally, we will deny at this time Eastern's request that we consolidate *Florida-Atlanta* and *Florida Service* for decision. Eastern does raise a couple of difficult issues, but it is premature to decide them based on the allegations in Eastern's pleading. Eastern may raise them again in *Florida-Atlanta*, where it is a party, or later in this case. If they are raised, we will consider Eastern's arguments when we have an initial decision and a record formally before us.

Accordingly, the Board:

1. Grants the petition of Braniff Airways for reconsideration of Order 78-5-129 to the extent indicated in paragraph 3 below;

2. Renames the *Dallas/Ft. Worth-New Orleans-Florida Service Investigation*, Docket 32711, the *Dallas/Ft. Worth-Florida Service Investigation;*

3. Modifies ordering paragraph 4 of Order 78-5-129 to read as follows:

4. The investigation instituted in paragraph 3, above, shall consider whether it is consistent with the public convenience and necessity to grant new or improved authority between and among Dallas/Ft. Worth, Tex., and Tampa, Miami, Ft. Lauderdale, Orlando, Jacksonville and West Palm Beach, Fla., provided that any authority

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[8] See *St. Louis-Denver-Las Vegas/Reno Route Investigation*, Order 78-8-90 (August 17, 1978). We also reaffirm our decision in Order 78-5-129 to exclude the Dallas/Fort Worth-New Orleans market from this case. That market is the subject of a separate, recently instituted Subpart M case in Docket 32315.

[9] There is absolutely no geographical relationship between Denver and these markets as far as we can see, and we will not include Denver authority in the case. With respect to Frontier's request to add Houston markets to the case, it is improper to seek expansion of the scope of a proceeding in an answer to a petition for reconsideration. Such a request must be made in a petition itself so that other interested persons have an opportunity to respond. Therefore, we decline to consider Frontier's proposal for adding Houston markets.

[10] We are renaming the case the *Dallas/Fort Worth-Florida Service Investigation*. We will delegate to the administrative law judge authority to consolidate new applications and to dismiss applications of parties who are not interested in the case now that New Orleans is removed.

awarded shall be subject to the condition that all flights must serve Dallas/Ft. Worth;[11]

4. Directs applicants interested in the Dallas/Fort Worth-Orlando/Jacksonville/West Palm Beach markets to file their applications and environmental evaluations under 14 CFR Part 312 within 14 days of the service date of this order;

5. Delegates to the presiding administrative law judge authority to consolidate conforming applications and to dismiss applications of parties who no longer want to participate in the proceeding in Docket 32711 in light of its revised scope;

6. Grants the motion of Frontier Airlines for leave to file a late answer in Docket 32711;

7. Denies the motion of Continental Air Lines for leave to file an otherwise unauthorized document in Docket 32711;

8. Grants the motions of American Airlines and the DFW Parties for leave to file otherwise unauthorized documents in Docket 32711;

9. Grants the petition of Air Florida in Docket 32711 for clarification to the extent indicated in this order;

10. Denies, except to the extent granted, all petitions, motions and other requests for reconsideration or clarification of Order 78-5-129.

11. Grants the petitions of American Airlines, Delta Air Lines, Southern Airways, the Gulfport-Biloxi Regional Airport Authority, the Sarasota-Manatee Airport Authority and the County of Volusia for reconsideration of Order 78-7-128 to the extent indicated in paragraph 12, below;

12. Modifies ordering paragraph 2 of Order 78-7-128 to read as follows:

2. This proceeding shall consider whether it is consistent with the public convenience and necessity to grant new or improved authority between and among Mobile, Ala., Atlanta, Ga., New Orleans, La., Gulfport-Biloxi, Miss., Daytona Beach, Ft. Lauderdale, Fort Myers, Gainesville, Jacksonville, Melbourne, Miami, Orlando, Panama City, Pensacola, Sarasota-Manatee, Tallahassee, Tampa-St. Petersburg-Clearwater and West Palm Beach, Fla., with the following exceptions: (a) new authority between Atlanta and New Orleans, Mobile or Gulfport-Biloxi is not in issue, and (b) new nonstop authority between New Orleans and Orlando and between Atlanta and Tallahassee, Daytona Beach or Sarasota-Manatee shall be conditioned to require that all flights serve a point beyond New Orleans or Atlanta or another point in Florida; * * *.[12]

13. Directs applicants interested in the Gulfport-Biloxi/Daytona Beach/Fort Myers/Sarasota-Manatee markets added by this order to file their applications and environmental evaluations under 14 CFR Part 312 within 14 days of the service date of this order;

14. Delegates to the presiding administrative law judge authority to consolidate conforming applications and to dismiss applications of parties who no longer want to participate in the proceeding in Docket 33091 in light of its revised scope;

15. Grants the motion of the Gulfport-Biloxi Regional Airport Authority for leave to file its petition late;

16. Makes the Gulfport-Biloxi Regional Airport Authority, the Sarasota-Manatee Airport Authority and the County of Volusia parties to the proceeding in Docket 33091; and

17. Denies, except to the extent granted, all petitions for reconsideration of Order 78-5-129.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[13]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32286 Filed 11-15-78; 8:45 am]

[11] Carriers may apply for, and the judge may award, the authority as one segment, as six separate segments, or as any combination betwen the two. We have changed the language in this paragraph to conform with the change made in seciton 401(d)(1) of the Act by the Airline Deregulation Act of 1978, Pub. L. 95-504 (Oct. 24, 1978). Since this case is in an early procedural stage, we expect the judge and the parties to address and to apply the substantive provisions, including the declaration of policy, of the new law.

[12] See note 11, which applies to Docket 33091 as well.

[13] All Members concurred.

[6320-01-M]

[Docket 30699]

OAKLAND SERVICE CASE (FITNESS PHASE)

Prehearing Conference

Notice is hereby given that a prehearing conference in the fitness phase of the *Oakland Service Case*, Docket 30699, is assigned to be held on December 5, 1978, at 9:30 a.m. (local time), in room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conduct of the conference, parties are instructed to submit, on or before November 28, 1978, one copy to each party, two copies to the Board's Docket Section, and four copies to the judge of (1) proposed statements of issues, taking into account the amendment of the Federal Aviation Act of 1958 by the Airline Deregulation Act of 1978, (2) proposed stipulations, and (3) statements of position.

The submissions should also address two other matters. First, they should contain any proposed addition to or modification or deletion of the evidence to be presented by new entrants set forth in Attachment I to Order 78-4-121, April 19, 1978. Second, if there is any objection to the procedural dates listed below, such objection should be noted and the suggested change indicated. The proposed procedural dates are as follows:

Direct Exhibits—December 20, 1978.
Rebuttal Exhibits—January 3, 1979.
Hearing—January 9, 1979.
Briefs—Ten days after hearing ends.

Dated at Washington, D.C., November 9, 1978.

ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc. 78-32287 Filed 11-15-78; 8:45 am]

[6320-01-M]

[Docket 30699]

OAKLAND SERVICE CASE (ECONOMIC PHASE)

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be convened on December 12, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned. (43 FR 51118), Nov. 2, 1978.)

There is attached a statement of issues, a request for information, a request for evidence and a procedural schedule which will be discussed at the prehearing conference. Any party or interested person who wishes to comment on, or amend, revise, or modify the statement of issues, the requests for information and evidence and the procedural schedule must do so on, or before, December 4, 1978.[1]

Interested persons are reminded that applications for the route authority at issue must be filed with the Board's Docket Section prior to the prehearing conference in the economic phase of the case.

At the prehearing conference, all applicants will serve the presiding administrative law judge with a docketed copy of any application(s) for route authority and a docketed copy of any motion(s) to consolidate such application(s) with this proceeding.

Dated at Washington, D.C., November 9, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

ATTACHMENT A—STATEMENT OF ISSUES

A. Is the authorization of new or additional multiple, permissive, subsidy-ineligible nonstop air transportation between Oakland, Calif., on the one hand, and Albuquerque, N. Mex.; Atlanta, Ga.; Boston, Mass.;

[1] Two copies of the comments should be filed with the Board's Docket Section and two copies should be sent directly to the administrative law judge.

Chicago, Ill.; Dallas/Ft. Worth, Tex.; Denver, Colo.; Detroit, Mich.; Houston, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Minneapolis/St. Paul, Minn.;, Philadelphia, Pa.; Phoenix, Ariz.; Portland, Oreg.;[b] Salt Lake City, Utah; and Seattle/Tacoma, Wash.[b], consistent with the public convenience and necessity?

B. Is each of the above-named markets capable of supporting a daily nonstop round trip service with suitable aircraft on a profitable basis?

ATTACHMENT B—REQUEST FOR EVIDENCE

BPDA ONLY

I. Provide service-segment data by month for calendar year 1977 and for the 11-month period ended November 30, 1978, for nonstop operations in the markets at issue by flight, direction and carrier, showing the following information:

(a) Departures scheduled and operated;

(b) On-board passengers transported; and

(c) On-board passenger load factor.

II. Furnish a schedule of fares applicable in the markets at issue in effect on November 30, 1978. The schedule should show the following fare categories:

(a) First class

(b) Coach

(c) Economy

(d) Deluxe night coach

(e) Night coach

(f) Other—specify

III. Furnish single-plane schedules operated by the incumbent carriers in the markets at issue during the mid-month in each quarter for CY 1977 and for the 11-month period ended November 30, 1978.

IV. Submit a list of all markets at issue in this proceeding wherein applications for nonstop authority have been filed pursuant to section 10 of the Airline Deregulation Act of 1978. Pub. L. 95-104, 49 U.S.C. 1371(d). This schedule is to be kept current by BPDA until a final Board decision is entered in this proceeding.

ATTACHMENT C—REQUEST FOR EVIDENCE

CARRIER APPLICANTS ONLY

I. Submit a proposed schedule for the forecast year 1980 showing the type of equipment to be operated, aircraft seating capacity by class of service, and gate-to-gate flight time (block hours).

II. Submit proposed point-to-point fares in each market including, but not limited to, first class, coach, economy, deluxe night coach and night coach fares. Indicate the discount and promotional fares that will be available, and the terms and conditions applicable to this category of fares.

III. Submit an estimated yield per revenue passenger mile for each market.

IV. Submit a traffic forecast for each market showing:

(a) The traffic estimated for each fare category; and

(b) The traffic needed to generate sufficient revenues for a profitable operation including a return in investment element for a one daily round trip operation.

V. Submit an estimate of revenues and expenses for each market assuming a one daily round trip operation, using the current Subpart K methodology "with appropriate adjustments to reflect innovative features of the service proposal." All such adjustments must be clearly noted.

ATTACHMENT D—PROCEDURAL SCHEDULE

Information responses, December 29, 1978.

Direct exhibits and related testimony, January 22, 1979.

Rebuttal exhibits and related testimony, February 12, 1979.

Hearing, February 20, 1979.

[FR Doc. 78-32288 Filed 11-15-78; 8:45 am]

[b] Applicants may seek to have Portland and Seattle/Tacoma designated as coterminals. Order 78-9-96.

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COLLEGE OF MEDICINE AND DENTISTY, NEW JERSEY, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidation decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00305. Applicant: College of Medicine and Dentistry of New Jersey, P.O. Box 10146, Newark, N.J. 07101. Article: LKB 2128-010 Ultratome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used to cut sections for electron microscopy of biological material including plant, animal and fungal specimens. Normal and disease biological tissues will be embedded in hardened epoxy resins, and other resins and embedding materials for sectioning. Investigations will include chiefly ultrastructural studies of morphology of normal and diseased plant and animal tissues, and electron cytochemical studies aimed at detecting and localizing certain proteins in diseased tissue. The major cytochemical studies proposed are designed to: (a) Detect vascular damage and (b) precisely localize immunoglobulins in natural and experimental autoimmune disorders of the kidney and central nervous system using the immuno-peroxide technique. The article will also be used in the courses Ultrastructure and Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various cellular organelles and the employment of cytochemical staining methods to localize various enzymes. The objectives of these courses will be to train students in the use and application of electron microscopy and to use the electron microscope in solving individual research problems. Application received by Commission of Customs: Advice submitted by the department of health, education, and welfare on: October 10, 1978.

Docket No. 78-00308. Applicant: University of Washington, Department of Opthalmology RJ-10, RR 735 HSB, Seattle, Wash. 98195. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare brain, nerve and eye specimens for ultrastructural studies on normal physiological tissues, developmental studies on animal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, morphology, interfaces, and subcellular changes in cells induced by changes in the biochemical and physical environments. The article will also be used in courses to train students in the use and application of electron microscopy and to use the electron microscope in solving individual research problems. Application received by Commissioner of Customs: June 29, 1978. Advice submitted by the Departent of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00309. Applicant: Indiana University, Department of Biology, Bloomington, Ind. 47401. Article: Ultramicrotome, Model LKB 2128-010 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural studies on normal and pathologic plant tissues, developmental studies on laticifier cell systems, cyto and histochemical studies on enzyme and subcellular organelle localization in laticifer cells and gland tissues, membrane interactions at organelle-cytoplasm interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. This research will be conducted to further basic knowledge on cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and distribution of alkaloids and terpenoids in cells and tissues developing under normal and pathological conditions. In addition, the article will be used in the courses Cell Ultrastrucure and Cell Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to lo-

calize various enzymes and other cellular compounds. Application received by Commissioner of Customs: June 29, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00315. Applicant: Yale University, Biology Department, Kline Biology Tower, New Haven, Conn. 06520. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section specimens of plant and animal tissues which have been frozen in liquid freon. Investigations to be conducted will include studies of cell ultrastructure and intracellular localization of elements in: (a) Plant cells that undergo large rhythmic and light-regulated changes in turgor; (b) protoplasts isolated from cereals and regenerating new walls; (c) cells of plants subjected to environmental pollutants; (d) cells of plants subjected to gravitational stimulation; and (e) pathological and normal tissue from animals and plants. The article will also be used in a course entitled Cell Biology in which students will be taught standard electron microscopy. Application received by Commissioner of Customs: July 5, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00316. Applicant: The Medical College of Wisconsin, 561 North 15th Street, Milwaukee, Wis. 53233. Article: LKB 2128-010 Ultrotome IV Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the development of sets of slides of a variety of animal and human tissues for class use in histology. Studies will be conducted to learn about cell structure and function. Students will be trained in the use and application of electron microscopy and learn light and electron microscopy of human tissue in courses entitled Histology and Ultrastructure Technique. Application received by Commissioner of Customs: July 5, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00317. Applicant: Ellis Fischel State Cancer Hospital, 115 Business Loop 70 West, Columbia, Mo. 65201. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare tissue specimens for the study of cellular structure of various cancer tumors. Application received by Commissioner of Customs: July 5, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00324. Applicant: University of California, Facility for Advanced Instrumentation, Hutchinson Hall, Room 9, Davis, Calif. 95616. Article: LKB 2128-010/Ultrotome IV Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in conducting ultrastructural studies of the myxobacteria *Chondromyces crocatus* and *Stigmatella aurantica*, a species of gliding bacteria which form tree-shaped fruiting bodies as part of their life cycle. The article will also be used to train students in the use and application of electron microscopy and to use the transmission electron microscope in solving individual research problems. Application received by Commissioner of Customs: July 7, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00330. Applicant: University of California, Department of Botany, Robbins Hall, Davis, Calif. 95616. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used as a primary tool in several major projects which involve plants or plant-like materials (blue-green and green algae, fungi, and higher plants). The various taxa to be used are the blue-green alga *Starria zimbabweensis;* the green algae *Dysmorphococcus globosus* and *Pyrobotrys stellatra;* the basidiomycete fungus *Pholiota terrestris;* and the tree *Ginkgo biloba*. In addition, the article will be used in a course in biological electron microscopy laboratory (Botony 231L, 3 units) which involves an introduction to techniques of plant and animal specimen preparation and TEM operation. Application received by Commissioner of Customs: July 12, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00338. Applicant: Slippery Rock State College, Slippery Rock, Pa. 16057. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the investigation of specimens from various living and fossil subjects. These investigations will include ultrastructural studies on developmental morphogenesis in flowering plants myxomycetes, small mammals, and fossil animals. Augmentive to such studies will be cyto- and histochemical investigations of enzymes, organelles, and other subcellular constituents that contribute to the genesis of form in various living systems. The article will also be used in the course, Introduction to Electron Microscopy to Train Students in the basic theory and techniques attendant to various electron procedures. Application received by Commissioner of Customs: July 20, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00339. Applicant: University of Florida, Department of Microbiology and Cell Science, Gainesville, Fla. 32611. Article: 2 LKB 8800A Ultrotome III Ultramicrotomes and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended us of article. The articles will be used for thin and thick sectioning for both light and electron microscopy of plant and animal tissue cultured cells. Flat embediments will be examined. Specimens will be examined to pursue the following objectives: (1) To study the cytology of somatic diploid plant cells created by fusion of protoplasts in vitro. (2) To follow the process by which a nitrogen-fixing bacterium infects plant roots, and find the extent to which invasion occurs. (3) To study cytological effects of *Heliminthosporium maydis* toxin on various strains of susceptible and resistant corn. The articles will also be used in the course Biological Techniques in Electron Microscopy to train biology graduate students to the level where they can use the elecron microscope in their Master's and Ph. D. research problems. Application received by Commissioner of Customs: July 17, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00340. Applicant: Children's Hospital Medical Center, Department of Pathology Research, 320 Longwood Avenue, Boston, Mass. 02115. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal materials from various organs embedded in hardened apoxy resins. Investigations will include ultrastructural studies on normal and pathologic human and animal tissues, cyto- and histochemical studies on enzymes and subcellular organelle localization in cells and tissues, localization in cells and tissues, localization of radioactive amino acid and carbohydrate precursors to subcellular organelles, and subcellular changes in cells induced by alteration in the biochemical and physical environments. In addition, the article will also be used for educational purposes in the courses: Lung Structure—Normal and in Disease, Pulmonary Hypertension—Its Ultrastructural Appearance; and Pediatric Pathology. These courses will involve a study of general principles on electron microscope techniques and the use of the electron microscope to study the fine

structure of cells and various methods to localize enzymes and radioactive percursors. Application received by Commissioner of Customs: July 17, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00351. Applicant: Mount Sinai School of Medicine, Fifth Avenue and 100th Street, New York, N.Y. 10029. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of brain tissues from experimental monkeys in research to further basic knowledge on brain ultrastructure and to reveal, at the ultrastructural level, the changes occurring during growth and development. Investigations will be conducted to understand early postnatal development and to correlate ultrastructural changes with behavorial maturation. By understanding these correlations, preventive measures for human diseases can be established. Application received by Commissioner of Customs: July 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 19, 1978.

Docket No. 78-00352. Applicant: Lutheran General Hospital, 1775 West Dempster Street, Park Ridge, Ill. 60068. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in cutting sections of tissues. (tumor biopsies, renal biopsies, muscle tissues) for electron microscopic examination in the following clinical research projects:

(a) Typing and identification of neoplastic conditions essential for patient's treatment and prognosis.

(b) Diagnosis of renal diseases, particularly identification of types of various glomerulonephritis.

(c) Muscle biopsy tissues in clinical research of primary degenerative myopathies.

The electron microscopic material is also used for a pathology resident-training program as well as for training resident physicians in othe disciplines, especially those in internal medicine. Application received by Commissioner of Customs: July 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 19, 1978.

Docket No. 78-00372. Applicant: The Roosevelt Hospital, Department of Pathology, 428 West 59th Street, New York, N.Y. 10019. Article: LKB 8800A III Ultramicrotome and accessories. Manufacturer: LKB Produktor AB, Sweden. Intended use of article: The article is intended to be used for sectioning pathological materials including renal biopsy specimens, tumor of various kinds, metabolic diseases for study in order to further basic knowledge on human cell and tissue ultrastructure and to proper classification of tumor. Application received by Commissioner of Customs: August 3, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 19, 1978.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 20 millimeters or more per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-00665-33-46500), which relates to the duty-free entry of an article meeting the cutting speed specification described above, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article meeting the cutting speed specification described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-32259 Filed 11-15-78; 8:45 am]

[3510-25-M]

DUKE UNIVERSITY MEDICAL CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No: 78-00275. Applicant: Duke University Medical Center, Department of Anatomy, Box 3011, Durham, N.C. 27710. Article: Cryostat and accessories. Manufacturer: Meric, France. Intended use of article: The article is intended to be used to freeze and maintain at low temperature biological membrane specimens for X-ray diffraction studies. Experiments will be conducted to evaluate the structural effects of freezing biological tissue by comparing X-ray structure before freezing to that after freezing.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a temperature range of —190 to 20° centigrade. The Department of

Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32260 Filed 11-15-78; 8:45 am]

[3510-25-M]

IDAHO STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket number: 78-00257.

Applicant: Idaho State University, 921 South Eighth Avenue, Attention: Purchasing Box 8219, Pocatello, Idaho 83209.

Article: 200 (each) Longworth small mammal traps, complete units with trap and nest box and accessories.

Manufacturer: Penlon Ltd., United Kingdom.

Intended use of article: The article is intended to be used to capture and release rodents to obtain a description of the seasonal and yearly changes in population size, birth and death rates in natural populations of the rodents in high desert habitat.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article traps small mammals as well as juveniles weighing 10 grams or less and provides a coldweather nesting box. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32261 Filed 11-15-78; 8:45 am]

[3510-25-M]

LOVELACE BIOMEDICAL AND ENVIRONMENTAL RESEARCH INSTITUTE, INC.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket number: 78-00262.

Applicant: Lovelace Biomedical and environmental Research Institute, Inc., P.O. Box 5890, Albuquerque, N. Mex. 87115.

Article: Vibrating Bed Aerosol Generator.

Manufacturer: Fraunhofer Gesellschaft, West Germany.

Intended use of article: The article is intended to be used for research to generate useful, reproducible, and undamaged dry aerosols consisting of different fibrous insulation materials. As part of a research project entitled "Insulation—Carcinogenic and Fibrogenic Materials," two different aerosol generation systems will be tested. One of these makes use of a shearing action to separate the fibers from the bulk supply and can be fabricated locally. The other makes use of a unique bed that vibrates at low frequencies under exact electronic control.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign ariticle, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for reducing dry materials to aerosol size (about 0.4 micrometers) by using vibrating bed aerosol generation. The National Bureau of Standards advises in its memorandum dated October 10, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32262 Filed 11-15-78; 8:45 am]

[3510-25-M]

NORTH CAROLINA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00276.

Applicant: North Carolina State University/Raleigh, N.C., School of Agriculture and Life Sciences, Department of Crop Science, Box 5155, Raleigh, N.C. 27650.

Article: Particulate Matter Prediction Metering Equipment.

Manufacturer: WD and HO Wills, United Kingdom.

Intended use of article: The article is intended to be used for studies of the tar content of tobacco. Experiments will be conducted to reduce tar levels in flue-cured tobacco with the objective of reducing health hazards associated with tobacco. The article paralyzes ground tobacco so that rapid determination can be made on a large number of samples.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for determining the very specialized particulate matter index as "tars" in tobacco. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32263 Filed 11-15-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA, SAN DIEGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00286. Applicant: University of California, San Diego, Gilman Drive and La Jolla Village Drive, La Jolla, Calif. 92093. Article: Multiple sample replicator and accessories. Manufacturer: Biotech, Switzerland. Intended use of ariticle: The article is intended to be used to meter out replicate aliquots of lymphoid cell culture supernatents which may be added to fresh cultures or may be assayed for the presence of antibody. Its purpose is to make possible accurate limiting dilution assays of the frequency of responding lymphoid cells during research into the basic mechanisms of the immune response.

Comments: No comments have been received with respect to this application.

Decesion: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to simultaneously take samples from 60 wells and release them on an assay plate. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32264 Filed 11-15-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF UTAH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00260. Applicant: University of Utah, Salt Lake City, Utah 84112. Article: H-33 Centrifuge with pneumatic motor, Model CS-33, Mix-1-2L Mixer Unit and accessories. Manufacturer: MEAB Metallextraktion AB, Sweden. Intended use of article: The article is intended to be used to investigate the recovery of metal values (such as copper, nickel, uranium, and other important metals) from electrolyte solutions using liquid-liquid (solvent) extraction. The article will also be used to expand the already well-recognized hydrometallurgy program at the university. Laboratory experiments involving the use of the article will be incorporated into regular undergraduate and graduate level courses Met. E. 570L: Hydrometallurgical Laboratory and Met. E. 674: Advanced mineral processing.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability of rapidly separating two immiscible phases within 99.9 percent. The National Bureau of Standards advises in its memorandum dated October 10, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32265 Filed 11-15-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF VIRGINIA ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scien-

tific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument of apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before December 6, 1978. Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00455. Applicant: University of Virginia, School of Medicine, Rehabilitation Engineering Center, P.O. Box 3368, University Station, Charlottesville, Va. 22903. Article: Wheelchair Manipulator and accessories. Manufacturer: Spar Aerospace Products Ltd., Canada. Intended use of article: The article is a unique manipulator arm intended to be used for testing and evaluating purposes. The experiments to be conducted are of two basic types:

(1) Interface experiments conducted to establish the best ways of "connecting" the patient with the manipulator arm controls;

(2) Extensive testing with severely handicapped patients in order to establish what kind, and to what degree, microcomputer-assisted control is required.

Application received by Commissioner of Customs: October 24, 1978.

Docket No. 79-00031. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87545. Article: Image Converter Camera. Manufacturer: John Hadland, United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10^8 cm/sec) plasma stream emerging from a coaxial plasma gun. The article will also be used to diagnose a planned liner implosion plasma experiment. The specific experiments to be conducted include the following:

A. Studies of the initial gas breakdown in the gun;

B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle;

C. The injection of this plasma into a magnetic field;

D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy;

E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Application received by Commissioner of Customs: October 24, 1978.

Docket No. 79-00034. Applicant: New York University Medical Center, 550 First Avenue, New York, N.Y. 10016. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of cultured cells of the animal nervous system and clonal cell lines, as well as their isolated subcellular components. Various types of cells from animal tumors will be studied as will biopsy specimens from the human and animal nervous system. Experiments to be conducted will involve studying the organization of subcellular fibrous organelles and their alterations during the development and aging process as well as the changes which they might undergo in neoplastic transformation. Attempts will be made to experimentally alter the distributions and connections of these organelles. Other studies will be done to monitor the subcellular fractionation and purification of both fibrous organelles and membrane from tissues as a correlate to biochemical studies. The article will also be used to instruct graduate students, students in M.D.-Ph. D. program and postdoctoral fellows in the basic techniques of ultramicrotomy, in its application to the science of electron microscopy. Application received by Commissioner of Customs: October 26, 1978.

Docket No. 79-00036. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, N.Y. 14853. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural studies of plant and animal specimens to determine elemental distribution in normal and pathologic states. The localization of diffusible ions (Na^+, K^+, Mg^+, Mn^{++}, Cl^-, P^-) in cells and tissues will also be evaluated and a comparison made between conventional and cryotechniques to determine the optimum preparative procedures. Application received by Commissioner of Customs: October 30, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32257 Filed 11-15-78; 8:45 am]

[3510-25-M]

WAYNE STATE UNIVERSITY SCHOOL OF MEDICINE ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before December 6, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number: 79-00024.

Applicant: Wayne State University School of Medicine, Department of Pathology, 9374 Scott Hall, 540 East Canfield, Detroit, Mich. 48201.

Article: Balzers BAF 301 High Vacuum Freeze-Etch System and accessories.

Manufacturer: Balzers High Vacuum Corp. Subsidiary of Balzers Ltd., Switzerland.

Intended use of article: The article is intended to be used for varied projects in a research program in morphology. Among the research interests are the following:

(1) Investigation of the relative contributions that elevated wall stress and vasopathogenesis of the microvascular lesions in severe hypertension.

Examination of the characteristics and distribution of the different types of junctions that are located within the complex intercellular space between cardiac muscle cells and to study the effects induced by angiotensin II and renal hypertension.

(3) Study of freeze-fracture and etching changes induced by renal hypertension on the arteriosclerosis prone intercostal orifices of the aorta in man.

(4) Examination of the modifications induced at the level of the tight endothelial junctions by amgiotension II and renal hypertension.

(5) Investigation of the role of increased vascular permeability in the development of the cardiomyopathic process.

The article will also be used in a course in experimental cardiovascular pathology to introduce students to the area of experimental pathology and teach them how the investigation of animal models of human disease can lead to a better understanding and improved therapy of disease in man.

Application received by Commissioner of Customs: October 16, 1978.

Docket number: 79-00026.

Applicant: The Public Schools of Brookline, Mass., 333 Washington Street, Brookline, Mass. 02146.

Article: Elementary School Computer Systems.

Manufacturer: Societe Generale Tortue Ltee, Canada.

Intended use of article: The article is intended to be used for the analysis of the LOGO activities of a group of 16 sixth-grade students, representing a full spectrum of ability, which are being documented with a view to developing ways of capturing the learning possibilities of such an environment.

Application received by Commissioner of Customs: October 18, 1978.

Docket number: 79-00027.

Applicant: Smithsonian Institution Astrophysical Observatory, 60 Garden Street, Cambridge, Mass. 02138.

Article: Image Intensifier Tube.

Manufacturer: Robert Bosch GmbH, Germany.

Intended use of article: The article is intended to be used for observations of a variety of astronomical objects using high-efficiency spectrographs attached to large telescopes. These observations will include studies of galactic and extragalatic phenomena such as quasars, galaxy redshifts, cosmological evolution, interstellar absorption, and stellar or galactic chemical composition. The article will be used as an input stage for a high-gain image intensifier chain, which will in turn feed a photodiode detector array, allowing detection and location of individual photoelectron events.

Application received by Commissioner of Customs: October 18, 1978.

Docket number: 79-00029.

Applicant: University of Illinois at Chicago Circle, Department of Physics, P.O. Box 4348, Chicago, Ill. 60680.

Article: Multigas Laser.

Manufacturer: Lambda Physik, West Germany.

Intended use of article: The article is intended to be used for studies of atomic and molecular gases, particularly small molecular systems such as the H_2, N_2, CO and OCS. Optical and collisional properties are to be measured (e.g., photoionization of existed states and collisional deactivation). A variety of experiments involving laser excitation, often by two quanta, enabling the determination of system properties will be conducted. The objective of these experiments is to determine the basic material properties under the influence of intense ultraviolet radiation.

Application received by Commissioner of Customs: October 24, 1978.

Docket number: 79-00030.

Applicant: University of Illinois at Chicago Circle, P.O. Box 4348, Chicago, Ill. 60680.

Article: Pulse CO_2 Laser Kit and accessories.

Manufacturer: Lumonics Research Ltd., Canada.

Intended use of article: The article is intended to be use to study organic reactions initiated by infrared radiation. A specific example is the reaction of butadiene to form vinyl cyclohexene. The molecules to be studied absorb radiation produced by a CO_2 laser and undergo reactions in the gas phase. Mixtures of reactants such as butadiene will be prepared in cells; the cell will be irradiated with the laser; and a product analysis will be undertaken.

Application received by Commissioner of Customs: October 24, 1978.

Docket number: 79-00032.

Applicant: Howard University, 415 College Street NW., Washington, D.C. 20059.

Article: Electron Microscope, Model EM 10A with Coolwell recirculating cooling system and accessories.

Manufacturer: Carl Zeiss, West Germany.

Intended use of article: The article is intended to be used for studies of biological materials related to human diseases, particularly heart disease and stroke and cancer with focus on studies on the molecular and subcellular alteration of organelles. Investigations will be conducted to:

(a) To determine the changes in myofibril structure and function in cardiac cells and endothelia in normal and heart diseased animals.

(b) Determine the ultrastructural changes that occur during the transformation of a normal mammary gland cell into a tumor cell.

(c) Localize the sites of protein hormone binding on the plasma membrane of cells in hormone responsive tissues.

(d) Localize sites of tumor specific antigens on cultured cell surfaces.

Application received by Commissioner of Customs: October 24, 1978.

Docket No. 79-00033. Applicant: University of North Carolina, Department of Environmental Sciences and Engineering, School of Public Health 201H, Chapel Hill, N.C. 27514. Article: Gas Chromatograph/Mass Spectrometer Data System, Model 70/70F and accessories. Manufacturer: VG-Micromass, United Kingdom. Intended use of article: The article is intended to be used for the study and application of gas phase ion chemistry to problems in environmental sciences and engineering. The particular phenomena to be studied include: unimolecular gas phase reactions of excited ions and gas phase ion-molecule reactions with particular emphasis on developing an understanding of chemical ionization mass spectrometry and studying novel ion-molecule reactions which might have utility for the analysis of materials of interest to environmental scientists and engineers. These materials include polycyclic aromatic hydrocarbons, their phenolic derivatives, chlorinated and brominated aromatic compounds, chlorinated phenols, plasticizers, metabolites, conjugates and transformation products of the above, soil or water extracts and so forth. Experiments will be conducted with the following objectives:

1. To identify the water borne effluents resulting from various coal gasification technologies.

2. To identify the biodegradation products of various coal gasification effluents.

3. To identify physical/chemical treatment products of coal gasification effluents.

4. To monitor the time-course of the biodegradation of compounds in coal gasification effluents.

5. To identify the chemical degradation products of aquatic humic acid.

6. To identify the chlorination products of humic acid model compounds.

7. To identify the volatile compounds resulting from the chlorination of humic acid.

Application received by Commissioner of Customs: October 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32258 Filed 11-15-78; 8:45 am]

[3510-25-M]

WILLIAM MARSH RICE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00282. Applicant: William Marsh Rice University, P.O. Box 1892, Houston, Tex. 77001. Article: Automatic Recording Circular Dichroism Spectrometer, Model J500C with Model MCD 1BS Electromagnet Accessory. Manufacturer: JASCO Ltd., Japan. Intended use of article: The article is intended to be used for studies of proteins, synthetic organic compounds, natural products and coordination compounds. Experiments to be conducted will consist of recording the wavelength dependence of the natural and magnetically induced circular dichroism at a variety of temperatures and sample concentration. The spectra will be utilized to establish the three-dimensional relationships of the molecular groups in their characteristic geometry and how such interactions determine the nature of the biological functionality of these molecules.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides capabilities for circular dichroism (CD) spectra, rapid switching between right and left polarized light (50,000 times/second) and specialized magnet to propogate CD light. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32266 Filed 11-15-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Foreign fishing permit applications; (2) review of possible scallop management strategies; (3) groundfish trip limitations and vessel class closures; (4) report of Chairmen's meeting, legal status report, and DOC Audit Report; and (5) other business.

DATES: The meeting will convene on Wednesday, November 29, 1978, at approximately 10 a.m. and adjourn on Thursday, November 30, 1978, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, junction of Routes 1 and 128, Peabody, Mass.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, telephone: 617-535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: November 9, 1978.

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

[FR Doc. 78-32235 Filed 11-15-78; 8:45 am]

[3510-11-M]

United States Travel Service

AIRLINE SEMINAR

Meeting

Notice is hereby given that the United States Travel Service (USTS), an agency of the Department of Commerce, will be holding a seminar on November 28, 1978, beginning at 10 a.m. in Room 4830 of the Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Given that the U.S.A. is currently one of the best buys in the tourism marketplace, an open forum is planned to enable USTS to exchange ideas with executives in the airline industry. At the meeting USTS will present its Fiscal Year 1979 marketing program.

A limited number of seats will be available to observers from the public and the press. Mr. Gordon McCoun, Room 1508, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-3196, will respond to public requests for information about the meeting.

FABIAN CHAVEZ, Jr.,
Assistant Secretary of Commerce for Tourism.

[FR Doc. 78-32267 Filed 11-15-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

CAP INCENTIVE PROJECTS

Waiver of Non-Federal Share Requirement

1. *Purpose.* This notice is issued to inform the public of a waiver of the non-Federal share requirement for the CAP incentive projects and the criteria on which that waiver is based.

2. *Background.* Each CAP incentive project will be a partnership between a community action agency and a private nonprofit organization or group, composed of residents of the community, which is working to alleviate poverty conditions or to deal with poverty-related issues in the community at large or at the neighborhood level. These partneships will identify structural or functional causes of poverty within their community structure that contribute to the continued impoverishment of local residents. They then will be responsible for developing and implementing a strategy designed to eliminate the particular cause which has been identified.

3. *Waiver criteria.* Under the authority provided in section 225(c) of the Economic Opportunity Act of 1964, as amended, the Director is waiving the non-Federal share requirement. These are not the types of pro-

jects that can generate non-Federal share since they are process-oriented and not designed to deliver services.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc. 78-32073 Filed 11-15-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 7, 1978.

The USAF Scientific Advisory Board Aeronautics Panel Subcommittee on Engine Comparison Study will meet on December 4 and 5, 1978 at Wright-Patterson Air Force Base, Ohio. The purpose of the meeting is to review the results of the Joint Air Force/Navy Funded Engine Comparison Study. The Committee will meet from 9 a.m. to 4:30 p.m. each day.

The meeting 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 202-697-8845.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-32209 Filed 11-15-78; 8:45 am]

[3710-08-M]

Department of the Army

INTERIM STATIONING OF THE 2D BATTALION, 9TH INFANTRY, 2D INFANTRY DIVISION AT FORT RILEY, KANS.

Negative Declaration

The Department of the Army, U.S. Department of Defense, gives notice that an environmental impact statement is not being prepared for the interim stationing at Fort Riley, Kans., of the 2d Battalion, 9th Infantry, 2d Infantry Division.

The environmental assessment indicates that the interim stationing will not create significant local, regional, or national impacts on the environment and that no significant environmental controversy will be associated with the interim stationing. As a result of these findings, it has been determined that an environmental impact statement is not required.

The 2d Battalion, 9th Infantry, 2d Infantry Division, will be temporarily stationed at Fort Riley, Kans., upon its redeployment to the United States from the Republic of Korea in December 1978. The battalion will redeploy initially as an infantry battalion consisting of approximately 500 officers and enlisted personnel. Upon its return it is expected that it will be converted to a mechanized infantry battalion and will increase its strength to approximately 850 officers and enlisted personnel. The addition of one battalion of approximately 850 military with 1,000 dependents will be within both post and regional historical population fluctuations and will not appreciably alter population densities. There will be a slight increase in frequency of use of training areas but no new training areas or changes in type of training.

The environmental assessment file is available for inspection during regular working hours at the following locations:

Director of Facilities and Engineering, Engineer Plans and Service Division, Room 202, Building 187, Fort Riley, Kans. 66442, telephone: 913-239-2718 or

Headquarters, Department of the Army, Office of the Assistant Chief of Engineers, Environmental Office, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: 202-694-1163.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

NOVEMBER 8, 1978.

[FR Doc. 78-32178 Filed 11-15-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 6-7 December 1978. The meeting on 6 December will be held at the Institute for Defense Analyses, 400 Army Navy Drive, Arlington, Va. 22202, in conjunction with Working Group C. The meeting on 7 December will be held at the Naval Air Systems Command, Washington, D.C. 20360.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with tactical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs that the Military Departments propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include details of classified program details throughout.

In accordance with section 10(d) of appendix I, Title 5, United States Code, it has been determined that this advisory Group meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

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

NOVEMBER 9, 1978.

[FR Doc. 78-32206 Filed 11-15-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

DRAFT REPORT TO THE PRESIDENT BY THE INTERAGENCY REVIEW GROUP ON NUCLEAR WASTE MANAGEMENT

Extension of Period for Public Comment

Notice is hereby given that the period during which public comment on this report will be solicited and considered has been extended through December 4, 1978. This extension beyond the original deadline of November 18, 1978, set forth in the FEDERAL REGISTER notice dated October 19, 1978, is in recognition of problems of distribution and the need to permit sufficient time for meaningful public review and comment.

The Interagency Review Group (IRG) was established by President Carter on March 15, 1978 to develop recommendations for establishing an Administration policy on long-term management of the Nation's nuclear waste. This includes waste from commercial nuclear power operations, and existing low-level, transuranic, and high-level defense waste.

All interested agencies, organizations, or persons desiring to submit comments on the Draft Report are invited to do so. Copies are available for public inspection at the DOE public document room, located in the Library, Room 1223, Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545. Copies are also available at the DOE Regional Offices in: Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Atlanta, Ga.; Chicago, Ill.; Dallas, Tex.; Kansas City, Mo.; Denver, Colo.; San Francisco, Calif.; and Seattle, Wash.

Requests for copies of the report and written comments may be sent to: Interagency Review Group on Nuclear Waste Management, Department of Energy, 20 Massachusetts Avenue, NW., Room 8137, Washington, D.C. 20545, telephone: 202-376-4036.

Following consideration of comments submitted, the report will be revised as appropriate and submitted to the President.

Dated as Washington, D.C., this 13th day of November, 1978.

For the Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-32256 Filed 11-15-78; 8:45 am]

[3128-01-M]

Office of Energy Research

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel will meet on Monday, December 4, 1978, from 9 a.m. to 10 p.m. and Tuesday, December 5, 1978, from 9 a.m. to 5 p.m., in the Comitium of the Central Laboratory at the Fermi National Accelerator Laboratory, Batavia, Ill.

The Panel was established to provide advice and guidance on a continuing basis to the Secretary of Energy through the Director, Office of Energy Research, with respect to the high energy physics research program.

The tentative agenda for the meeting is as follows:

- Review of the research program and developmental activities at Fermi National Accelerator Laboratory, including construction activities.
- Presentations and discussion of FY 1979 high energy physics program, problems, and plans at Stanford Linear Accelerator Center (SLAC), at Brookhaven National Laboratory (BNL), at Lawrence Berkeley Laboratory (LBL), at the Cornell Synchrotron, and at Argonne National Laboratory (ANL).
- Present status of Japan-U.S. collaborations and People's Republic of China-U.S. collaborations.
- Formation of an Accelerator Research and Development Subpanel of the High Energy Physics Advisory Panel.

The meetings are open to the public. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5935, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts of the meetings will be available for the public review at the Freedon of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on November 13, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-32255 Filed 11-15-78; 8:45 am]

[3128-01-M]

Office of the Secretary

MATERIAL CRITERIA AND INSTALLATION PRACTICES FOR INSULATION AND OTHER WEATHERIZATION MATERIALS

Solicitation of Views

AGENCY: Department of Energy.

ACTION: Opportunity to present written views on a draft of material criteria and installation practices for several kinds of insulation and other weatherization materials.

SUMMARY: The Office of Conservation and Solar Applications, Department of Energy, has prepared a draft Technical Report entitled "Material Criteria and Installation Practices for the Retrofit Application of Insulation and Other Weatherization Materials" (November 1978).

The draft Technical Report contains material criteria and installation practices intended to assist manufacturers, installers, and consumers regarding effective and safe retrofitting of residential buildings to improve energy efficiency. The materials covered by the draft Technical Report are thermal insulation, vapor barriers, caulking and weatherstripping, clock thermostats, water heater insulation, storm windows and doors, thermal windows, and multi-glazing.

DATES: Comments by December 22, 1978. (Procedures on filing comments are given elsewhere in this notice.)

ADDRESSES: Comments to Public Hearing Management, Room 2313, Box WB, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461. (Procedures on filing comments are given elsewhere in this notice.) Requests for the draft Technical Report should be made to Ms. Gloria Purnell, Department of Energy, 20 Massachusetts Avenue, NW., Room 2252C, Washington, D.C. 20545, 202-376-1964.

FOR FURTHER INFORMATION CONTACT:

Dr. Ervin Bales (Material Criteria), Division of Buildings and Community Systems, Department of Energy, Room 2250, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, 202-376-4888.

Ms. Shelley Launey (Installation Guidelines), Division of Buildings and Community Systems, Department of Energy, Room 2251, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, 202-376-4708.

SUPPLEMENTARY INFORMATION:

A. ISSUES OF PARTICULAR INTEREST

While the Department of Energy (DOE) is interested in comments regarding any aspect of or issue raised by the draft Technical Report, the DOE is particularly interested in responses to the following questions:

- Are the technical elements of all of the material criteria and installation practices as good as they reasonably could be?
- Are any of the material criteria or installation practices inconsistent with any requirements imposed by a Federal agency or other entity? Are they inconsistent with any guidance of less than a mandatory nature by a Federal agency or other entity?
- With respect to the installation practices:
- How will these installation practices affect the time spent to complete the installation of a specific measure?
- Are the majority of the provisions included in these practices currently being followed?
- What criteria would you recommend to define good installation practice? Would it be beneficial to institute state certification of installers to ensure the quality of installations?
- Are all of the provisions contained in these installation practices workable?

The DOE would appreciate comments addressing these questions to contain as much specific information as reasonably possible.

B. COMMENT PROCEDURES

Interested persons are invited to submit written data, views, or arguments with respect to the draft Technical Report. The DOE is particularly interested in comments addressing the questions set forth above. Comments should be submitted to the address and by the date indicated above and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "material/installation standards." If

possible, fifteen copies should be submitted.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information and to treat it according to its determination.

Issued in Washington, D.C., November 9, 1978.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 78-32225 Filed 11-15-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1007-5]

DISPOSAL FACILITIES IN WETLANDS

Public Meeting

The Environmental Protection Agency (EPA) will hold a public meeting on December 11, 1978, to provide opportunity for discussion of draft policy guidance regarding permits under sections 402 and 404 of the Clean Water Act (Pub. L. 95-217) for solid waste disposal facilities located in wetlands.

EPA has developed a draft policy guidance memorandum dated August 23, 1978, which provides policy guidance on the applicability of the National Pollutant Discharge Elimination System (NPDES) program to facility operators who dispose of solid waste in wetlands and other waters of the United States. Although the discharge of any solid waste into waters of the United States requires an NPDES permit, this guidance is limited to solid waste disposal facilities located in wetlands or other waters of the United States which receive wastes from sources such as trucks, barges, or other transportation vehicles. The guidance applies principally to wetlands and tidal areas, including unvegetated coastal mud flats, that may be or have been converted to solid waste disposal facilities.

The thrust of the policy expressed in the draft guidance is that the discharge of solid wastes into such waters is subject to the NPDES requirements of section 402 of the Clean Water Act and should not be permitted where there are practicable alternatives which: (1) Do not involve a discharge into water; or (2) could be conducted in a manner less damaging to the affected aquatic ecosystem. In addition to receiving comments on the draft guidance, the Agency is also soliciting suggestions for alternative approaches such as consolidating the section 402 permits with permits issued under section 404 of the Act or deferring entirely to either the section 402 or section 404 permits.

The draft policy guidance is consistent with the principles contained in EPA's Wetlands Policy (38 FR 10834, May 2, 1973), Executive Order 11990 providing for the protection of wetlands (42 FR 26901, May 24, 1977), and EPA's proposed classification criteria for solid waste disposal facilities under section 4004 of the Resource Conservation and Recovery Act and section 405 of the Clean Water Act (43 FR 4953, February 6, 1978).

It is likely that the policy guidance will later, through the Agency's normal rulemaking procedure, be developed into regulations under section 402 or 404 of the Clean Water Act. This action would be taken to provide for application of the policy guidance through States which are designated to operate the permit programs.

The meeting on December 11, 1978, will begin at 1 p.m., with registration at 12:30 p.m., and will end before 5 p.m. It will be held at: EPA, Waterside Mall, Room 2117, 401 M Street SW., Washington, D.C.

Statements may be presented orally at the meeting, but should not exceed ten (10) minutes in length. Written comments on the draft policy guidance memorandum should be submitted no later than December 22, 1978, to: Scott L. Slesinger, Permits Division (EN-336), Office of Water Enforcement, 401 M Street SW., Washington, D.C. 20460.

For further information on this meeting, contact: Geraldine Wyer, Public Participation Officer, U.S. EPA, Office of Solid Waste (WH-562) 401 M Street SW., Washington, D.C. 20460, 202-755-9157.

Copies of the draft policy guidance memorandum may be obtained on request after November 10, 1978, from: Solid Waste Information, U.S. EPA, 26 West St. Clair, Cincinnati, Ohio 45268; or by calling 513-684-8491.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

NOVEMBER 9, 1978.

[FR Doc. 78-32168 Filed 11-15-78; 8:45 am]

[6560-01-M]

[FRL 1006-8]

MANAGEMENT ADVISORY GROUP TO THE MUNICIPAL CONSTRUCTION DIVISION

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division will be held at Waterside Mall, Room 3906-08, 401 M Street SW., Washington, D.C. on December 7-8, 1978. The meeting will begin at 9 a.m.

The purpose of the meeting is to discuss and review the following: Needs survey, State delegation, minority business enterprises, EPA prequalifications guidelines, Corps of Engineers agreements, status of ICR study, alternative and innovative technology, marine discharge secondary treatment modifications (301h), EPA/State agreements, operation and maintenance strategy and Buy American.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Executive Secretary, Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is 202-426-8986.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

NOVEMBER 9, 1978.

[FR Doc. 78-32167 Filed 11-15-78; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[No. AC-51]

PAN AMERICAN FEDERAL SAVINGS & LOAN ASSOCIATION, SAN FRANCISCO, CALIF.

Approval of Conversion Application, Final Action

NOVEMBER 9, 1978.

Notice is hereby given that on November 9, 1978, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corp., by Resolution No. 78-611 approved the plan of conversion, as amended in accordance with Resolution No. 78-149 which approved the conversion application of Pan American Federal Savings and Loan Association, San Francisco, Calif., to convert to a California stock association. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, Calif. 94120.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-32279 Filed 11-15-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

CARROLL COUNTY BANCSHARES, INC.

Formation of Bank Holding Company

Carroll Bounty Bancshares, Inc., Carroll, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Carroll County State Bank, Carroll, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 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 8, 1978.

JOHN M. WALLACE
Assistant Secretary of the Board.

[FR Doc. 78-32268 Filed 11-15-78; 8:45 am]

[6210-01-M]

FINANCIAL GENERAL BANKSHARES, INC.

Proposed Retention of National Mortgage Corp.

Financial General Bankshares, Inc., Washington, D.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4 (b)(2)), for permission to retain voting shares of National Mortgage Corp., Washington, D.C. Notice of the application was published on October 3, 1978, in The Washington Post, a newspaper circulated in Washington, D.C.

Applicant states that the subsidiary would continue to engage in the activity of general mortgage banking, primarily engaging in originating mortgage loans, selling mortgage loans to permanent investors and servicing these loans. 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 Richmond.

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 December 7, 1978.

Board of Governors of the Federal Reserve System, November 7, 1978.

JOHN M. WALLACE,
Assistant Secretary of the Board.

[FR Doc. 78-32269 Filed 11-15-78; 8:45 am]

[6210-01-M]

FIRST APACHE BANCSHARES, INC.

Formation of Bank Holding Company

First Apache Bancshares, Inc., Apache, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of The First National Bank of Apache, Apache, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Apache Bancshares, Inc., Apache, Okla., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Apache Business Trust, Apache, Okla. Notice of the application was published on August 17, 1978 in The Apache News, a newspaper circulated in Apache, Caddo County, Okla.

Applicant states that the proposed subsidiary would engage in the activities of offering credit life insurance and credit accident and health insurance in connection with extensions of credit by its proposed subsidiary. 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 Kansas City.

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 30, 1978.

Board of Governors of the Federal Reserve System; November 7, 1978.

JOHN M. WALLACE,
Assistant Secretary of the Board.

[FR Doc. 78-32270 Filed 11-15-78; 8:45 am]

[1505-01-M]

FEDERAL TRADE COMMISSION

PREEMPTIVE EFFECT OF SECTION 111(c)(1) OF MAGNUSON-MOSS WARRANTY ACT

Wisconsin Mobile Home Warranty Law

Correction

In FR Doc. 78-30772 appearing at page 50737 in the issue for Tuesday, October 31, 1978, make the following corrections:

(1) In the third column of page 50737, the last line of footnote four, "* * * and other Federal law." should have read "* * * any other Federal law."

(2) In the first column of page 30738, in the sixth line of the first complete paragraph, "* * * scheme or warranty rights * * *" should have read "* * * scheme of warranty rights * * *".

(3) In the middle column of page 50739, in the last paragraph in the

portion of text discussing § 218.14(1)(d), in the second line, "* * * the effect of the Warranty on those * * *" should have read "* * * the effect of the Warranty Act on those * * *".

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on November 8, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 4, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests an extension without change clearance for Form NRC-354, Data Report on Spouse. This form is used to obtain information vital to NRC's security program, specifically, to determine whether or not certain individuals may become or continue to be eligible for NRC security clearance or access authorizations. The NRC estimates respondents will number approximately 24 annually and that burden will average 15 minutes per application.

NORMAN F. HEYL,
Regulatory Reports, Review Staff.

[FR Doc. 78-32207 Filed 11-15-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

INSTITUTIONAL PATENT AGREEMENTS

Observance of New Effective Date

NOTE.—This notice originally was published in the FEDERAL REGISTER (43 FR 32463, July 27, 1978) at the request of the Office of Federal Procurement Policy (OFPP). OFPP now has requested that the notice be republished to include a statement regarding the resolution of Government Patent Policy desired by the Monopoly and Anticompetitive Activities Subcommittee Staff of the Senate Small Business Committee. The notice is as follows:

The use of Institutional Patent Agreements was prescribed in Federal Procurement Regulations (FPR) Amendment 187, January 20, 1978 (43 FR 4424, Feb. 2, 1978).

At the request of the Office of Federal Procurement Policy, the effective date of the amendment was changed from March 20, 1978, to July 18, 1978 (43 FR 16979, Apr. 21, 1978). The change permitted further review of the amendment by Members of Congress and others.

FPR Amendment 187 is effective on July 18, 1978, as previously announced. However, the referenced review will be continued in conjunction with the examination of Government patent policy which is in progress. The amendment is subject to change when there is a resolution of Federal Patent Policy.

Dated: November 3, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 78-32236 Filed 11-15-78; 8:45 am]

[6820-34-M]

PRIVACY ACT OF 1974

Revocation and Transfer of Systems of Records

AGENCY: General Services Administration.

ACTION: Revocation and transfer of three systems of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of the revocation of three systems of records which had been maintained by the National Center for Productivity and Quality of Working Life and the disposition of the records.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, 202-566-0673.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, the National Center for Productivity and Quality of Working Life published in the FEDERAL REGISTER (42 FR 57442 and 57443) a notice of the existence of the following systems of records; Payroll Records GSA-3/1, system identification number 31-32-0001; General Financial Records GSA-3/2, system identification number 31-32-0002; and General Informal Personnel Files GSA-3/3, system identification number 31-32-0003. The National Center for Productivity and Quality of Working Life terminated operations on September 30, 1978. As the General Services Administration (GSA) has reponsibility for concluding the administrative operations of the Center, GSA hereby publishes notice that the above systems of records are revoked. The following is a summary of the disposition of the Center's systems of records subsequent to the termination date:

a. Payroll Records GSA-3/1 and General Financial Records GSA-3/2: Retained by GSA for use in concluding administrative operations of the National Center for Productivity and Quality of Working Life as part of the GSA system of records, Defunct Agency Records GSA/OAD-36.

b. General Informal Personnel Files GSA-3/3: The records in this system were copies of personnel actions and other employment records which were maintained at the National Center for Productivity and Quality of Working Life and were disposed of by the Center upon its termination.

Dated: October 26, 1978.

JANICE K. MENDENHALL,
Controller-Director of Administration.

[FR Doc. 78-32309 Filed 11-15-78; 8:45 am]

[6820-23-M]

REPORT ON ENVIRONMENTAL ACTIONS

Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.). and § 1500.6(e) of the Council on Environmental Quality Guidelines for the Preparation of Environmental Impact Statements (38 FR 20550) the following is a list of administrative actions for which environmental impact statements were under preparation by the General Services Administration from June 1, 1978, through August 31, 1978, for real property disposal actions and for facility planning actions. Also listed are administrative actions for

which environmental impact statements are planned in the future and actions for which environmental assessments were completed with negative declarations.

Dated: October 24, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

REAL PROPERTY DISPOSAL ACTIONS

REGION 1.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:*

Charlestown, R.I.—Draft EIS regarding disposal of approximately 604 acres of the former Naval Auxiliary Landing Field, published April 28, 1978; public comment and review period through June 27, 1978.

Newport, North Kingstown, Middletown, and Portsmouth, R.I.—Draft EIS regarding disposal of approximately 3,200 acres of the former Quonset Point Naval Air Station, Construction Battalion Center, and U.S. Naval Base, published April 28, 1978; public comment and review period through June 27, 1978.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declarations:*

Vernon, Conn.—Public sale of former Rockville Carrier Station by competitive sealed bid.

Stoughton, Mass.—Negotiated sale of former post office to the town of Stoughton for municipal uses.

Waterville, Maine—Public sale of former post office by competitive sealed bid.

REGION 2.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental Assessments completed with negative declarations:*

Pemberton, N.J.—Public sale of 0.98 of an acre of McGuire Air Force Base by competitive bid.

St. Thomas, Virgin Islands.—Negotiated sale of the U.S. Court and Custom House to the Government of the Virgin Island for municipal uses.

Kearny, N.J.—Negotiated sale of 8.5 acres of the Army Reserve Center to the Kearny Industrial Commission for municipal uses.

Hempstead, N.Y.—Negotiated exchange of 1.73 acres of Navy-owned property at Mitchel Field with the county of Nassau.

REGION 3.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* none.

B. *EIS's planned:* none.

C. *Environmental assessment completed with negative declarations:*

Prince Georges County, Md.— Proposed assignment of Woodrow Wilson Memorial to the Department of Transportation for Maryland State Highway Administration. Transfer of the remaining portion to the Department of Interior (NPS) for open space.

Curwensville, Pa.—Negotiated sale of the former Naval Reserve Center to the Borough of Curwensville.

Marshall County, W.Va.—Public sale of portion, Hannibal Lock and Dam by competitive bid.

Talbot County, Md.—Proposed acquisition of Ashford farm to Department of National Resources, Maryland Wildlife Administration for wildlife conservation purposes.

Mountaintop, Pa.—Negotiated sale of ten items of industrial equipment, King Fifth Wheel Co. for industrial purposes.

Alexandria, Va.—Public sale of Quartermaster Market Center by competitive bid.

Lewes, Del.—Proposed assignment of the former Harbor Defense Unit to the Hertiage Conservation and Recreation Service for conveyance to State of Delaware for public park use.

Point Pleasant, W.Va.—Negotiated sale of West Virginia National Guard training facility to county commission for county fairground and farm museum.

REGION 4.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* none.

B. *EIS's planned:*

Key West, Fla.—Draft EIS regarding the disposal of approximately 122 acres of the Naval Air Station.

C. *Environmental assessments completed with negative declarations:*

Oak Ridge, Tenn.—Negotiated sale of 10.61 acres of buffer lands at the Federal Building to city of Oak Ridge, Tenn. for controlled local development.

REGION 5.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* none.

B. *EIS's planned:* none

C. *Environmental assessments completed with negative declaration:*

Wausau, Wis.—Federal Building, 317 First Street. Property consists of 0.8 acre located on the west side of the contral business district of Wausau. Property is improved with a two-story and partial three-story brick Federal building with a floor area of 27,530 square feet. Proposed disposal by sale to Marathon County.

Steubenville, Ohio.—Former Naval and Marine Corps Reserve Center, Cherry Avenue and Pico Street. Property consists of two parcels. Parcel 1, covering 1.48 acres, is improved with a parking lot. Parcel 2, covering 1.43 acres, is improved with a Naval Reserve Center building and two garages. Proposed disposal by sealed bid sale.

Battle Creek, Mich.—Portion, Veteran's administration Hospital Reservation. Property consists of 38.46 acres of land improved with towers and radar apparatus in very poor condition. Proposed disposal by sealed bid sale as one unit.

Battle Creek, Mich.—Portion, Veteran's Administration Hospital Reservation. Property consists of two noncontiguous parcels of unimproved land. Parcel 1 is 79.7 acres and Parcel 2 is 75.5 acres. Proposed disposal by conveyance of Parcel 2 to the State of Michigan for conservation of wildlife.

Algoma, Wis.—Algoma Pierhead Light Station, 78 Vernon Street. Property consists of .4 acre of land on a bluff overlooking Lake Michigan. Improvements include one house and two storage buildings. Proposed disposal by sealed bid sale.

Romulus, Mich.—Former U.S. Post Office site, Wayne Road. Property consists of 2.66 acres of unimproved land. Proposed disposal by sealed bid sale.

Evansville, Ind.—Former Naval and Marine Corps Reserve Center, 2700 West Illinois Street. Property consists of 10.175 acres of land improved with nine structures. Proposed disposal by negotiated sale to the city of Evansville for various purposes such as a public park, a headquarters for the city's civil defense department and an office and morgue for the county coroner.

REGION 6.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declarations:*

Shawnee County, Kans.—Public sale of 7.7 acres of land improved with a frame warehouse-type building by competitive bid.

Wichita, Kans.—Negotiated sale of 572.77 acres of land improved with 69 buildings including 7,000 items of equipment and personal property items to the contractor operator, the Boeing Co.

REGION 7.—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declarations:*

Albuquerque, N. Mex.—Negotiated sale of Air Force Plant No. 83 to the General Electric Co. for continued use for production of jet engine parts.

El Paso County, Tex.—Negotiated sale of 1.607 acres unimproved land in western section El Paso, El Paso County, Tex. to the University of Texas at El Paso. The land will be used to expand student parking facilities.

Chavez County, N. Mex.—Negotiated sale of 6.88 acres improved with fence in Chavez County, N. Mex. to the County of Chavez for public use programs for the community.

Jonesboro, Ark.—Negotiated sale of 0.6 acre of land with Federal building and Courthouse located thereon to city of Jonesboro and County of Craighead, Ark., to be used as office space for parks department, building inspector's department, police department, and courtrooms.

Fort Bliss, Tex.—Negotiated sale of 0.594 acre of land will be conveyed to city of El Paso Public Service Board for expansion of existing lift station. Sealed bid sale of 3.887 acres to public. Conveyance of 0.0823 of an acre to city of El Paso for use as traffic control area or for inclusion in sealed bid sale.

Former Chennault AFB, Tex.—Sealed bid sale of 28.34 acres of land.

San Antonio, Tex.—Sealed bid sale of 18.36 acres of land and 76 houses at Brooks Family Housing Annex.

Big Spring, Tex.—Sealed bid sale of 119.16 acres of fee land, 1.58 acres associated easements, and 263 family housing units at former Webb Air Force Base, Tex.

Santa Rosa, N. Mex.—Assign 20.51 acres of land to Heritage Conservation and Recreation Service for conveyance to city of Santa Rosa for park and recreation. Negotiated sale of 0.23 acre to adjacent owner. Assignment of 11.0 acres to Department of Health, Education, and Welfare for conveyance to

Eastern New Mexico Rehabilitative Services for the Handicapped, Inc. for educational use.

Houston, Tex.—Assign golf course at Ellington Air Force Base to Heritage Conservation and Recreation Service for Conveyance to city of Pasadena, Tex.

REGION 8—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declarations:*

Del Norte, Colo.—Public sale of the former Forest Service unimproved lot consisting of 0.24-acre by competitive bid.

Harlowton, Mont.—Negotiated sale of a portion of the Forest Service Administrative Site to the State of Montana for National Guard use.

Glacier National Park, Mont.—Public sale of the former National Park Service log buildings by competitive bid.

Glasgo, Mont.—Conveyance of Glasgo Air Force Base to Valley County, Mont., for airport purposes.

REGION 9—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* Negative.

B. *EIS's planned:*

Novato, Calif.—Draft EIS regarding disposal of approximately 1,475 acres of the former Hamilton Air Force Base.

C. *Environmental assessments completed with negative declarations:*

Madera County, Calif.—Negotiated sale of 55 acres improved with 68 buildings of the Madera Training Center to the County of Madera for use as a training center for the unemployed.

San Pedro, Calif.—Negotiated sale of 44.41 acres fee, 0.379 acre permit and 49 buildings of the property known as the Lower Reservation, Fort MacArthur to the City of Los Angeles for continued use of the property for harbor purposes.

Pomona, Calif.—Public sale of approximately 4.54 acres encumbered with a 3.57 acre easement identified as a portion of the Naval Industrial Reserve Ordnance Plant.

South Gate, Calif.—Negotiated sale of 18 items of Government owned, contractor operated machinery and equipment installed in the Magna Mills Products Plant to the Contractor/Operator, Magna Mills Products for continued use in Government production programs.

San Diego, Calif.—Public sale for off-site removal of approximately 550,000 cubic yards of gravel under the surface of 34.2 acres of land at Miramar Naval Air Station.

Battle Mountain, Nev.—Transfer to the Department of the Interior, Bureau of Land Mangement 0.83 acre of land improved with 5 houses known as the Federal Aviation Administration Housing Area to be utilized as housing for employees engaged in managing programs to preserve and develolp the recreation, watershed, wildlife, and range potential of the surrounding public lands.

REGION 10—ENVIRONMENTAL IMPACT STATEMENTS/NEGATIVE DECLARATIONS

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declarations:*

Lane County, Oreg.—Public sale of approximately 1.7 acres fee-owned land and negotiated sale of approximately 1 acre easement to the underlying landowners. The property is a portion of the Goshen-Roseburg Transmission Line located near the city of Goshen.

Tillamook County, Oreg.—Negotiated sale of the old Trask Substation Site consisting of approximately 34.96 acres to the Port of Tillamook Bay. The property is located near the city of Tillamook.

Lane County, Oreg.—Negotiated sale of the Coburg Microwave Station consisting of 1.15 acres to the underlying landowners. The property is located near the city of Eugene.

Harney County, Oreg.—Negotiated sale of the electrical distribution line to C.P. National Corporation and public sale of approximately 27.58 acres, bearing a portion of the Burns Air Force Station located near the city of Burns.

Bannock County, Idaho.—Public sale of approximately 0.58 acre improved with one building located in the city of Pocatello.

FACILITY PLANNING ACTIONS

REGION 1

A. *EIS's in preparation:*

Providence, R.I.—Final EIS for leased construction of a new Federal Office Building.

Springfield, Mass.—Final EIS for construction of a new Courthouse-Federal Office Building and Parking Facility.

Boston, Mass.—Final EIS for construction of a new Federal Office Building.

B. *EIS's planned:*

Boston, Mass.—Preliminary draft EIS for lease costruction of a new Veterans' Administration Clinic Building (temporarily deferred).

Houlton, Maine.—Preliminary draft EIS for construction of new Border Station (temporarily deferred).

C. *Environmental assessments completed with negative declaration:* None.

REGION 2

A. *EIS's in preparation:* None.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declaration:* None.

REGION 3

A. *EIS's in preparation:*

Suitland, Md.—Draft EIS for the Suitland Federal Center Master Plan—Southern Portion including Smithsonian Institution Museum Support Center (temporarily deferred).

Wilkes-Barre, Pa.—Draft EIS for lease construction of Federal Building (temporarily deferred).

Washington, D.C.—Draft EIS for relocation and consolidation, and construction of a building for the Nuclear Regulatory Commission.

Washington, D.C.—Final EIS for new construction for the University of the District of Columbia.

Washington, D.C.—Final EIS for leasehold 1900 Half Street, SW., (Buzzard Point).

B. *EIS's planned:*

Washington, D.C.—Draft EIS for lease construction, Bureau of Labor Statistics.

C. *Environmental assessments completed with negative declaration:* None.

REGION 4

A. *EIS's in preparation:*

Birmingham, Ala.—Draft EIS for new construction of Federal Building-U.S. Courthouse and parking facility (temporarily deferred).

Mobile, Ala.—Draft EIS for leasing action of historic structure of Battle House Hotel for Federal office space.

Nashville, Tenn.—Draft EIS for renovation of Union Station.

B. *EIS's planned:*

Montgomery, Ala.—Draft EIS for renovation of Union Station.

Jackson, Miss.—Amended EIS for parking provision for new Federal Building.

C. *Environmental assessments completed with negative declaration:*

Aiken, S.C.—New construction of leased Federal Building.

Montgomery, Ala.—New construction of leased laboratory facility for the Environmental Protection Agency.

Florence, Ky.—New construction for extension to leased facility for Internal Revenue Service.

REGION 5

A. *EIS's in preparation:*

Detroit, Mich.—Final EIS for construction of U.S. Federal Courthouse Annex.

Detroit, Mich.—Final EIS for acquisition, repair and alteration of a Secondary Truck Inspection Facility for the U.S. Customs Service.

Milwaukee, Wis.—Draft EIS for lease construction of a Federal Building and Parking Facility.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declaration:* None.

REGION 6

A. *EIS's in preparation:*

Omaha, Nebr.—Draft EIS for construction of a Federal Office Building.

Kansas City, Mo.—Draft EIS for the repair and alteration of Union Station.

B. *EIS's planned:*

Kansas City, Kansas/Kansas City, Mo. (standard metropolitan statistical areas).—Preliminary draft EIS for Internal Revenue Service-Midwest Service Center.

C. *Environmental assessments completed with negative declaration:* None.

REGION 7

A. *EIS's in preparation:*

El Paso, Tex.—Final EIS for construction of Federal Building and Parking Facility and the repair and alteration of Courthouse Federal Building Conversion.

Roma, Tex.—Draft EIS for lease of a Border Station (temporarily deferred).

B. *EIS's planned:*

Brownsville, Tex.—Draft EIS for lease construction of a Border Station.

C. *Environmental assessments completed with negative declaration:*

Oklahoma City, Okla.—Repair and alteration of Post Office-Courthouse.

Ysleta (El Paso), Tex.—Federal construction of a Border Station.

REGION 8

A. *EIS's in preparation:*

Denver Federal Center, Jefferson County, Colo.—Draft Master Plan/Draft Environmental Impact Statement.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declaration:* None.

REGION 9

A. *EIS's in preparation:*

West Los Angeles, Calif.—Draft EIS for construction of a Federal Bureau of Investigation Parking Facility.

B. *EIS's planned:*

San Francisco, Calif.—Preliminary draft EIS for construction of Federal Building.

C. *Environmental assessments completed with negative declaration:* None.

REGION 10

A. *EIS's in preparation:*

Anchorage, Alaska—Federal Building.—Supplement to the final EIS.

B. *EIS's planned:* None.

C. *Environmental assessments completed with negative declaration:* None.

[FR Doc. 78-32189 Filed 11-15-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DIRECT, DISCRETIONARY GRANT PROGRAMS; CORRRECTION

In the Notice announcing closing dates for transmittal of applications for fiscal year 1979 published in the FEDERAL REGISTER on August 23, 1978, pages 37618-37659, several technical corrections need to be made. The notice is corrected as follows:

(1) On page 37619, in the list of closing dates, CFDA No. 13.433D should be changed to 13.443D;

(2) On page 37619, in the list of closing dates, the closing date for CFDA No. 13.435B should be changed to January 8, 1979;

(3) On page 37620, third column, second paragraph, third line, $3,000,000 should be changed to $250,000;

(4) On page 37632, third column, fifteenth line, citation should be changed to (20 U.S.C. 1021, 1031, and 1034); and

(5) The closing date for transmittal of applications for the Gifted and Talented—Model Projects Program (13.562c), on page 37638 of the Notice, is being retracted. The request for proposals for that program will be published in the Commerce Business Daily at a later date. On page 37619, CFDA No. 13.562c, program title, and date should be dropped from the list.

Dated: October 31, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-32237 Filed 11-15-78; 8:45 am]

[4110-02-M]

DIRECT DISCRETIONARY GRANT PROGRAMS

Closing Dates for Transmittal of Applications for Fiscal Year 1979; Correction

In FR Doc. 78-23550 appearing at page 37618 in the issue for Wednesday, August 23, 1978, make the following corrections:

(1) On page 37619, in the table of closing dates, in the entry for No. 13.563, under the heading, "Closing date", the date given should be "Jan. 5, 1979" instead of "Jan. 5, 1978".

(2) On page 37628, in the third column, in the 4th full paragraph, in the 6th line, insert the word "not" between the words "will" and "be".

(3) On page 37657, in the third column, in the heading, "13.577—COMMUNITY SERVICE AND CONTINUING EDUCATION—SPECIAL PROJECTS PROGRAM", the number "13.577" should be changed to read "13.557".

(4) On page 37658, in the first column, the number "13.577" in the heading, "13.577—COMMUNITY SERVICE AND CONTINUING EDUCATION—SPECIAL PROJECTS PROGRAM", should be changed to read "13.557".

[4110-02-M]

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS SUBCOMMITTEE ON FEDERAL AND STATE INSURED PROGRAMS

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 463), that the next meeting of the Advisory Council on Financial Aid to Students Subcommittee on Federal and State Insured Programs will be held at the O'Hare Hilton Hotel, O'Hare International Airport, Chicago, Ill. on Tuesday, December 5 and Wednesday, December 6, 1978. The meeting on Tuesday will begin at 7 p.m. and the meeting the following day will begin at 9 a.m., continuing until 4:30 p.m.

The Advisory Council on Financial Aid to Students is established under section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

All meetings shall be open to the public. The agenda of this subcommittee shall include discussion of two issues in the current reauthorization planning—options in the loans programs and their relationship to the single application process.

Records shall be kept of all Council proceedings and will be available for public inspection at the Council's Office, located in room 3661, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed in Washington, D.C., on November 13, 1978.

WARREN T. TROUTMAN,
Office of Education Delegate.

[FR Doc. 78-32204 Filed 11-15-78; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COMMITTEE ON BLACK HIGHER EDUCATION AND BLACK COLLEGES AND UNIVERSITIES

Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the eighth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 1). This document is intended to notify the general public of their opportunity to attend.

DATE: December 4 and 5, 1978, 9 a.m. to 5 p.m.

ADDRESS: The Harambee House Hotel, 2225 Georgia Avenue NW., Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT:

Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Room 4913, ROB-3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-2825 or 245-2352.

The National Advisory Committee on Black Higher Education and Black Colleges and universities is governed by the provisions of Part D of the

General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Commitee Act (Pub. L. 92-463; 5 U.S.C. app. I) which set forth standards for the formation and use of advisory committees.

The Committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commissioner of Education. The Committee shall examine all approaches to higher education of black Americans as well as the needs of historically black colleges and universities.

The meeting on December 4 and 5, 1978, will be open to the public beginning at 9 a.m. and ending 5 p.m. each day. The meeting will be held at the Harambee House Hotel, 2225 Georgia Avenue NW., Washington, D.C. 20001.

The proposed agenda includes a review of the drafts of three reports developed for the Committee on Access, Institutional Diversity, and Quality Improvements; plans for carrying out priorities in the Committee's plan of action, and discussion of reauthorization of higher education legislation.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Unviersities located at 7th and D Streets SW., Room 4913, ROB-3, Washington, D.C.

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

CAROL J. SMITH,
Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc. 78-32205 Filed 11-15-78; 8:45 am]

[4110-02-M]

STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new programs under the Strengthening Developing Institutions program.

Authority for this program is contained in section 301-306 of title III of the Higher Education Act of 1965, as amended. (20 U.S.C. 1051 to 1056.)

This program assists selected higher education institutions, called developing institutions, to strengthen their academic quality, administrative capacity, and student services.

Closing date for transmittal of applications: Applications for grants must be mailed (postmarked) or hand delivered by February 2, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention 13.454, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that late applications will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR pt. 100a), and

(b) Regulations governing the Strengthening Developing Institutions program (45 CFR pt. 169). Proposed regulations for the Strengthening Developing Institutions program were published November 2, 1978. The proposed rules list the criteria which the U.S. Commissioner of Education will use for designating a developing institution. The new rules also list funding criteria for the program, set forth program priorities, and describe the procedure for selecting grantees.

Applicants should base their proposals on the proposed rules published in the FEDERAL REGISTER on November 2, 1978. If there is any change between the proposed and final criteria, applicants will be given an opportunity to make corresponding corrections in their applications.

Program information: In the past, two distinct programs with separate priorities were administered under Title III—the Basic Institutional Development program and the Advanced Institutional Development program. The proposed regulations combine these programs into one. The single program concept recognizes the infinite variety of strengths and weaknesses of institutions. Thus each applicant may request funds based on its respective needs. The focus of the activities for which an applicant seeks Federal assistance determines the size and duration of the grant for which the Commissioner may consider that applicant.

Other than an assisting agency or institution, each institution participating as an applicant in a consortium under this program must be a developing institution as defined in the regulations.

Available funds: In fiscal year 1979 an appropriation of $120 million is available for grants.

Application forms: Application forms and information packages are expected to be ready for mailing by December 1, 1978. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Further information: For further information contact Dr. Anita F. Allen, Division of Institutional Development (Room 3058, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone, 202-245-9754.

(20 U.S.C. 1051-1056)

(Catalog of Federal Domestic Assistance No. 13.454, Strengthening Developing Institutions.)

Dated: November 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-32238 Filed 11-15-78; 8:45 am]

[4110-85-M]

Office of the Assistant Secretary for Health

HEALTH MAINTENANCE ORGANIZATIONS

AGENCY: Public Health Service, HEW.

ACTION: Notice, September list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the name, address, service area, and date of qualification of an entity determined by the Secretary to be a qualified health maintenance organization. In addition, the service area of a previously qualified HMO has been revised and it has been added following the listing of this month's qualified HMO.

FOR FURTHER INFORMATION CONTACT:

Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Md. 20857, 301-443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that all newly qualified HMO's be published on a monthly basis in the FEDERAL REGISTER. The following entity has been determined to be a qualified HMO under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Name, address, service area, and date of qualification

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Los Padres Group Health, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), P.O. Box 1767, San Luis Obispo, Calif. 93406. Service area: San Luis Obispo County, Calif. Date of qualification: September 21, 1978.

REVISED SERVICE AREA

A service area listed in the annual cumulative list of qualified HMO's and published on April 7, 1978, in the FEDERAL REGISTER (43 FR 14908-13) is revised as follows:

1. Maxi-Care, 4455 West 117th Street, Suite 502, Hawthorne, California 90250. Service area:

Change from:

South Bay and Southwest portion of the Los Angeles metropolitan area. The zip codes included in the area are as follows:

90001	90045	90230	90278	90505
90002	90047	90245	90291	90710
90003	90056	90247	90301	90717
90007	90058	90248	90302	90731
90008	90059	90249	90303	90732
90011	90061	90250	90304	90744
90016	90062	90254	90305	90745
90018	90066	90260	90501	90746
90037	90220	90266	90502	90747
90043	90221	90274	90503	
90044	90222	90277	90504	

Change to:

South Bay and Southwest portion of the Los Angeles metropolitan area including the following zip codes:

90001	90002	90003	90005*	90006*	90007	90008
90011	90013*	90014*	90015*	90016	90017*	90018
90019*	90024*	90025*	90026*	90034*	90035*	90037
90043	90044	90045	90047	90049*	90056	90057*
90058	90059	90061	90062	90064*	90066	90067*
90071*	90210*	90211*	90212*	90220	90221	90222
90230	90241*	90242*	90245	90247	90248	90249
90250	90254	90255*	90260	90262*	90266	90272*
90274	90277	90278	90280*	90290*	90291	90301
90302	90303	90304	90305	90401*	90402*	90403*
90404*	90405*	90501	90502	90503	90504	90505
90706*	90710	90712*	90713*	90715*	90716*	90717
90723*	90731	90732	90744	90745	90746	90747
90802*	90803*	90804*	90805*	90806*	90807*	90808*
90810*	90813*	90814*	90815*	90840*	91020*	91040*
91042*	91201*	91202*	91203*	91204*	91205*	91206*
91207*	91208*	91214*	91301*	91302*	91303*	91304*
91306*	91307*	91311*	91316*	91324*	91325*	91326*
91331*	91335*	91340*	91342*	91343*	91344*	91345*
91352*	91356*	91364*	91367*	91401*	91402*	91403*
91405*	91406*	91411*	91423*	91436*	91501*	91502*
91504*	91505*	91506*	91601*	91602*	91604*	91605*
91606*	91607*	91608*	93063*	93065*		

*added zip codes - date revised service area approved, September 26, 1978.

Date of qualification: Transitionally qualified - March 25, 1976.

Files containing detailed information regarding qualified HMO's will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3d Floor, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified HMO's should be sent to the same office.

Dated: November 6, 1978.

HOWARD R. VEIT,
Director, Office of Health Maintenance Organizations.

[FR Doc. 78-32210 Filed 11-15-78; 8:45 am]

[4110-07-M]

Office of the Secretary

SOCIAL SECURITY BENEFITS

AGENCY: Social Security Administration.

ACTION: Notice of contribution and benefit base, quarter of coverage amount, retirement test exempt amounts, and extended table of benefit amounts for 1979.

SUMMARY: The Secretary has determined—

(1) The social security contribution and benefit base to be $22,900 for remuneration paid in 1979 and self-employment income earned in taxable years beginning in 1979;

(2) The amount of earnings a person must have to be credited with a quarter of coverage of 1979 to be $260; and

(3) The monthly exempt amount under the social security retirement test for taxable years ending in calendar year 1979 to be $375 for beneficiaries aged 65 and over and $290 for beneficiaries under age 65.

A table reflecting the new higher average monthly wage and related benefit amounts made possible by the higher average contribution and benefit base is also published. The table will be used to primarily compute the retirement benefits of workers who reach age 62 before 1979. Benefits based on earnings of workers who reach age 62, or who die or become disabled before reaching age 62, in 1979 or later will generally be determined by a new benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95-216).

FOR FURTHER INFORMATION CONTACT:

Harry Ballantyne, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-2466.

SUPPLEMENTARY INFORMATION: Sections 203(f)(8), 213(d) and 230(a) of the Social Security Act (42 U.S.C. 403(f)(8), 413(d) and 430(a)) require the Secretary of Health, Education, and Welfare to publish in the FEDERAL REGISTER on or before November 1, 1978, the contribution and benefit base, the quarter of coverage amount, and the retirement test exempt amount for calendar year 1979.

CONTRIBUTION AND BENEFIT BASE

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which social security taxes are paid.

(2) It is the maximum annual amount used in figuring a person's social security benefits.

Section 230(c) of the Social Security Act specifies that the amount of the contribution and benefit base for 1979 is $22,900.

QUARTER OF COVERAGE AMOUNT

Computation. The 1979 amount for a quarter of coverage is $260. A quarter of coverage is the basic unit for determining whether a worker is insured under the social security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or for which $100 or more of self-employment income were credited, to the individual. Beginning in 1978, wages generally are no longer reported quarterly; annual reports will be made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Social Security Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Section 213(d) also provides that this $250 amount shall be redetermined each year and any change published in the FEDERAL REGISTER no later than November 1 of each year. Under the prescribed formula, the quarter of coverage amount for 1979 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of the wages of all employees reported under the program for calendar year 1977 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average wages. Average wages for calendar years 1976 and 1977 are determined by using the average wages in reports received by the Social Security Administration for the first calendar quarter of each year. The earnings in the first quarter are considered to give the most accurate results, because many wage earners reach the ceiling for reported earnings before the end of the year while relatively few reach the ceiling in the first quarter.

For each quarter before 1978, taxable wages paid to employees by their employers were posted to the record of earnings of each individual employee. (Beginning in 1978, wages are reported on an annual basis.) These records are referred to as Summary Earnings Records. As the wages were posted to the Summary Earnings Records, the data were tabulated on a 100 percent basis to obtain the total amount of reported taxable wages and the total number of employees for whom the wages were reported. The tabulated data on taxable wages reported for the first calendar quarter of each year 1976 and 1977 were limited to those wages that were reported and posted to the Summary Earnings Records by the end of the quarterly updating operations completed in September of the same year.

About 72.8 million employees had taxable wages reported for the first calendar quarter of 1976 that were posted to the Summary Earnings Records by the end of the September 1976, and the average amount of their taxable wages was $2,306.62 per employee. The corresponding number of employees and average amount of taxable wages for the first calendar quarter of 1977 were 75.1 million and $2,444.86 respectively. The ratio of average taxable wages reported for the first quarter of 1977 to average taxable wages reported for the first quarter of 1976 is therefore 1.0599318.

Amount. Multiplying in 1978 quarter of coverage amount of $250 by the ratio of 1.0599318 produces the amount of $264.98, which must then be rounded to $260. Accordingly, the quarter of coverage amount for 1979 is $260.

RETIREMENT TEST EXEMPT AMOUNT

Computation. The 1979 amount of $375 for the retirement test monthly exempt amount for beneficiaries aged 65 through 71 is stated in the law. The corresponding annual retirement test exempt amount for those individuals is $4,500. Section 301 of the Social Security Amendments of 1977 amended section 203 of the Social Security Act to provide a higher retirement test exempt amount for beneficiaries aged 65 through 71 than for those beneficiaries under age 65.

The monthly exempt amount of $290 for beneficiaries under age 65 is determined according to a formula specified in the law, which automatically produces a mathematical result based upon reported statistics. Section 203(f)(8) of the Social Security Act provides that the retirement test monthly exempt amount for 1979 shall be equal to the 1978 amount of $270 multiplied by the ratio of (1) the average amount, per employee, of the wages of all employees reported under the program for calendar year 1977 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

There is no limit on the amount an individual aged 72 or over may earn and still receive social security benefits. (Beginning in 1982, the age at which the retirement test no longer applies will be reduced from age 72 to age 70.)

Average wages. Average wages for this purpose is determined in the same way as for a quarter of coverage. Therefore, the ratio of the average wages for 1977 compared to 1976 is 1.0599318.

Exempt amount for persons under age 65. Multiplying the 1978 retirement test monthly exempt amount of $270 by the ratio of 1.0599318 produces the amount of $286.18. This must then be rounded to $290. Accordingly, the retirement test monthly exempt amount for persons under age 65 is determined to be $290 for 1979. The corresponding annual exempt amount for 1979 is $3,480.

Extension of Benefit Table Effective January 1979

The following is an extension of the table for determining primary insurance amount and maximum family benefits which appeared in section 215(a) of the Social Security Act before the Social Security Amendments of 1977. This extension reflects the higher average monthly wage and related benefit amounts now possible under the increased contribution and benefit base published by this notice effective with January 1979 in accordance with section 215(i) of the Social Security Act. The extended portion of the benefit table shown here will apply primarily to benefits based on earnings of workers who reach age 62 before 1979. Benefits based on earnings of workers who reach age 62, or who die or become disabled before age 62, in 1979 or later will generally be based on a new benefit formula specified in the Social Security Amendments of 1977.

Table for Determining Primary Insurance Amount and Maximum Family Benefits Beginning January 1979

I	II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)	(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—	Or his primary insurance amount as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least— But not more than—		At least—	But not more than—		
		$1,476	$1,480	$696.40	$1,218.70
		1,481	1,485	697.40	1,220.50
		1,486	1,490	698.40	1,222.20
		1,491	1,495	699.40	1,224.00
		1,496	1,500	700.40	1,225.70
		1,501	1,505	701.40	1,227.50
		1,506	1,510	702.40	1,229.20
		1,511	1,515	703.40	1,231.00
		1,516	1,520	704.40	1,232.70
		1,521	1,525	705.40	1,234.50
		1,526	1,530	706.40	1,236.20
		1,531	1,535	707.40	1,238.00
		1,536	1,540	708.40	1,239.70
		1,541	1,545	709.40	1,241.50
		1,546	1,550	710.40	1,243.20
		1,551	1,555	711.40	1,245.00
		1,556	1,560	712.40	1,246.70
		1,561	1,565	713.40	1,248.50
		1,566	1,570	714.40	1,250.20
		1,571	1,575	715.40	1,252.00
		1,576	1,580	716.40	1,253.70
		1,581	1,585	717.40	1,255.50
		1,586	1,590	718.40	1,257.20
		1,591	1,595	719.40	1,259.00
		1,596	1,600	720.40	1,260.70
		1,601	1,605	721.40	1,262.50
		1,606	1,610	722.40	1,264.20
		1,611	1,615	723.40	1,266.00
		1,616	1,620	724.40	1,267.70
		1,621	1,625	725.40	1,269.50
		1,626	1,630	726.40	1,271.20
		1,631	1,635	727.40	1,273.00
		1,636	1,640	728.40	1,274.70
		1,641	1,645	729.40	1,276.50
		1,646	1,650	730.40	1,278.20
		1,651	1,655	731.40	1,280.00
		1,656	1,660	732.40	1,281.70
		1,661	1,665	733.40	1,283.50
		1,666	1,670	734.40	1,285.20
		1,671	1,675	735.40	1,287.00
		1,676	1,680	736.40	1,288.70
		1,681	1,685	737.40	1,290.50
		1,686	1,690	738.40	1,292.20
		1,691	1,695	739.40	1,294.00
		1,696	1,700	740.40	1,295.70
		1,701	1,705	741.40	1,297.50

Table for Determining Primary Insurance Amount and Maximum Family Benefits Beginning January 1979—Continued

I	II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)	(Primary insurance amount effective for June 1977)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—	Or his primary insurance amount as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—		
		$1,706	$1,710	$742.40	$1,299.20
		1,711	1,715	743.40	1,301.00
		1,716	1,720	744.40	1,302.70
		1,721	1,725	745.40	1,304.50
		1,726	1,730	746.40	1,306.20
		1,731	1,735	747.40	1,308.00
		1,736	1,740	748.40	1,309.70
		1,741	1,745	749.40	1,311.50
		1,746	1,750	750.40	1,313.20
		1,751	1,755	751.40	1,315.00
		1,756	1,760	752.40	1,316.70
		1,761	1,765	753.40	1,318.50
		1,766	1,770	754.40	1,320.20
		1,771	1,775	755.40	1,322.00
		1,776	1,780	756.40	1,323.70
		1,781	1,785	757.40	1,325.50
		1,786	1,790	758.40	1,327.20
		1,791	1,795	759.40	1,329.00
		1,796	1,800	760.40	1,330.70
		1,801	1,805	761.40	1,332.50
		1,806	1,810	762.40	1,334.20
		1,811	1,815	763.40	1,336.00
		1,816	1,820	764.40	1,337.70
		1,821	1,825	765.40	1,339.50
		1,826	1,830	766.40	1,341.20
		1,831	1,835	767.40	1,343.00
		1,836	1,840	768.40	1,344.70
		1,841	1,845	769.40	1,346.50
		1,846	1,850	770.40	1,348.20
		1,851	1,855	771.40	1,350.00
		1,856	1,860	772.40	1,351.70
		1,861	1,865	773.40	1,353.50
		1,866	1,870	774.40	1,355.20
		1,871	1,875	775.40	1,357.00
		1,876	1,880	776.40	1,358.70
		1,881	1,885	777.40	1,360.50
		1,886	1,890	778.40	1,362.20
		1,891	1,895	779.40	1,364.00
		1,896	1,900	780.40	1,365.70
		1,901	1,905	781.40	1,367.50
		1,906	1,910	782.40	1,369.20

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-5, and 13.807 Social Security Programs.)

Dated: November 6, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-31805 Filed 11-15-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-060]

DESOLATION AND GRAY RIVER MANAGEMENT PLAN, UTAH

Announcement of Public Meetings; Extension of Comment Period

The Moab District will hold three public meetings for the purpose of receiving public comment concerning the draft management plan for Desolation and Gray Canyons of the Green River in Utah. Meetings will be held as follows: Monday, December 4, 1978 at 7:30 p.m., Utah State Office, University Club Building, Conference Room, 14th Floor, 136 East South Temple, Salt Lake City, Utah; Tuesday, December 5, 1978 at 7 p.m., Denver Public Library, Weyer Auditorium, 1357 Broadway, Denver, Colo.; and Wednesday, December 6, 1978 at 7:30 p.m., Court

Room, Grand County Courthouse, Center Street, Moab, Utah.

Because these meetings are being held past the stated comment deadline, of November 7, 1978, comments concerning the draft plan will be accepted until December 23, 1978.

Comments or questions shall be directed to: District Manager, Moab District, P.O. Box 970. Moab, Utah 84532, phone, 801-259-6111.

SUPPLEMENTAL INFORMATION

A synopsis of the recommendations contained in the plan is available from the Moab District Office upon request.

The plan primarily provides for the management of floatboating recreation resource on the river from Sand Wash (3 miles north of the Carbon County line) to Swasey's rapids (12 miles north of the town of Green River, Utah).

Comments will be used in the preparation of the environmental assessment and in developing the final plan.

S. GENE DAY,
Moab District Manager.

NOVEMBER 8, 1978.

[FR Doc. 78-32222 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 35247, 35249 and 35251]

NEW MEXICO

Applications

NOVEMBER 8, 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 three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 9 W.,
Sec. 25, lots 9, 10 and 16.
T. 31 N., R. 9 W.,
Sec. 19, lot 7.
T. 30 N., R. 10 W.,
Sec. 9, lots 15 and 16.

These pipelines will convey natural gas across 0.370 of a mile of public lands 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 applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N.Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32215 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 35200]

NEW MEXICO

Application

NOVEMBER 8,1978.

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), Northwest Pipeline Corp. 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. 5 W.,
Sec. 23, SE¼SE¼;
Sec. 24, SW¼SW¼.

This pipeline will convey natural gas across 0.434 of a mile of public land in Rio Arriba 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.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32216 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 35246]

NEW MEXICO

Application

NOVEMBER 8, 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), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 12 W.,
Sec. 3, E½SE¼.

This pipeline will convey natural gas across 0.179 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.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32217 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 35252 and 35254]

NEW MEXICO

Applications

NOVEMBER 9, 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 two 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 7 W.,
Sec. 21, N½NW¼.
T. 32 N., R. 12 W.,
Sec. 34, E½NW¼.

These pipelines will convey natural gas across 0.238 of a mile of public lands in Rio Arriba and San Juan Counties, N.Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N.Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32218 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 31869]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands—Amendment

NOVEMBER 7, 1978.

Notice of proposed withdrawal and reservation of lands, appearing in the FEDERAL REGISTER of January 12, 1978 at page 1843, Doc. No. 78-842, is hereby amended to add the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 N., R. 4 W.,
Sec. 15: NW¼.
T. 19 N., R. 4 W.,
Sec. 7: Lots 3, 4.
T. 20 N., R. 4 W.,
Sec. 18: N½NE¼, SW¼NE¼, N½SE¼NE¼, and N½SE¼SE¼NE¼.
T. 21 N., R. 5 W.,
Sec. 7: Lots 1, 2, and E½NW¼.
T. 17 N., R. 6 W.,
Sec. 16: SE¼;
Sec. 21: NE¼;
Sec. 23: NW¼.
T. 22 N., R. 6 W.,
Sec. 7: Lots 1, 2, and E½NW¼.
T. 19 N., R. 7 W.,
Sec. 6: Lots 1, 2, and S½NE¼;
Sec. 7: Lots 3, 4;
Sec. 12: W½NE¼.
T. 21 N., R. 7 W.,
Sec. 1: SE¼.
T. 22 N., R. 7 W.,
Sec. 7: NE¼.
T. 20 N., R. 8 W.,
Sec. 10: SE¼.
T. 13 N., R. 9 W.,
Sec. 18: SE¼.
T. 22 N., R. 9 W.,
Sec. 8: SW¼.
T. 24 N., R. 9 W.,
Sec. 4: SE¼.
T 13 N., R. 10 W.,
Sec. 12: Lots 1, 2, 3, 4.
T. 22 N., R. 10 W.,
Sec. 16: N½, and SW¼;
Sec. 26: NE¼;
Sec. 27: E½.
T. 23 N., R. 10 W.,
Sec. 6: Lots 3, 4, 5, and SE¼NW¼.
T. 15 N., R., 11 W.,
Sec. 6: SE¼.
T. 13 N., R. 12 W.,
Sec. 22: NW¼;
Sec. 24: NW¼.
T. 16 N., R. 12 W.,
Sec. 26: SE¼.
T. 25 N., R. 12 W.,
Sec. 13: SW¼.
T. 23 N., R. 13 W.,
Sec. 3: SE¼.
T. 28 N., R. 13 W.,
Sec. 7: Lots 1, 2, 3, 4, 5.
T. 16 N., R. 14 W.,
Sec. 20: S½.
T. 16 N., R. 15 W.,
Sec. 14: SE¼;
Sec. 24: SE¼.
T. 16 N., R. 16 W.,
Sec. 18: N½NE¼, and SE¼;
Sec. 26: SW¼.
T. 16 N., R. 17 W.,
Sec. 14: NE¼.
T. 14 N., R. 18 W.,
Sec. 24: SW¼;
Sec. 26: E½.
T. 11 N., R. 20 W.,
Sec. 2: N½SE¼.
T. 15 N., R. 20 W.,
Sec. 16: SE¼SE¼.
T. 16 N., R. 20 W.,
Sec. 6: Lots 16, 17, 18, 19, 20, 21, 22, 23.
T. 16 N., R. 21 W.,
Sec. 10: Lots 5, 6, 7, 8.

Containing 7,057.42 acres.

The period for filing requests for a public hearing and for filing of comments provided in the original notice is extended to December 18, 1979.

MICHAEL T. SOLAN,
Acting State Director.

[FR Doc. 78-32253 Filed 11-15-78; 8:45 am]

[4310-84-M]

[NM 35054 and 35204]

NEW MEXICO

Applications

NOVEMBER 7, 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 Company has applied for three 4½-inch natural gas pipeline rights-of-way and related facilities across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,
sec. 1, E½SE¼;
sec. 12, N½NE¼, SW¼NE¼, SE¼NW¼ and NE¼SW¼.
T. 21 S., R. 23 E.,
sec. 5, lot 4;
sec. 6, lots 1, 6, 7, S½NE¼, SE¼NW¼ and NE¼SW¼.
T. 20 S., R. 24 E.,
sec. 30, SE¼NE¼ and E½SE¼;
sec. 31, NE¼NE¼and W½E½.
T. 19 S., R. 27 E.,
sec. 36, S½NE¼.
T. 19 S., R. 28 E.,
sec. 31, lot 2.

These pipelines will convey natural gas across 4.730 miles of public lands in Eddy County, N.Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N.Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32254 Filed 11-15-78; 8:45 am]

[4310-84-M]

[Colorado 26176e]

NORTHWEST PIPELINE CORP. PIPELINE APPLICATION;

Correction

In FR Doc. 78-31631 appearing on page 52293 in the issue of Thursday November 9, 1978, the Colorado serial number was stated as 27176 e and the county as Rio Blanco. It should have read serial number 26176 e and Moffat County instead of Rio Blanco County.

JOHN R. BERNICK
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-32211 Filed 11-15-78; 8:45 am]

[4310-84-M]

[Colorado 24402 n]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

NOVEMBER 6, 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 the East Douglas Creek Gathering System of approximately 8.617 miles on the following Public Land:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 2 S., R. 101 W.
Sec. 35: SW¼NW¼, W½SW¼.
T. 3 S., R. 100 W.
Sec. 7: W½SE¼, SE¼SW¼;
Sec. 18: E½NW¼, SW¼NW¼, W½SW¼.
T. 3 S., R. 101 W.
Sec. 1: NE¼, N½SW¼;
Sec. 2: W½W½;
Sec. 3: NE¼NE¼NE¼, SE¼SE¼;
Sec. 10: N½NE¼, NW¼SE¼, SW¼, SW¼NE¼;
Sec. 13: SE¼SE¼;
Sec. 24: N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼;
Sec. 25: NW¼NW¼;
Sec. 26: E½NE¼, SE¼;
Sec. 34: E½SE¼;
sec. 35: NW¼NE¼, E½NW¼, SW¼NW¼, NW¼SW¼.

The above-named gathering system will enable the applicant to collect natural gas and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the applications; (3) to allow any party

asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

JOHN R. BERNICK,
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-32212 Filed 11-15-78; 8:45 am]

[4310-84-M]

[Colorado 22617- b and c]

NORTHWEST PIPELINE CORP.

Pipeline Application

NOVEMBER 7, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch o.d. natural gas pipeline, approximately 3.64 miles long, across the following public lands in Garfield County:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 8 S., R. 104 W.,
Sec. 7, 8, 9, and 18.
T. 8 S., R. 105 W.,
Sec. 12

The proposed lateral pipelines will enable the applicant to convey natural gas from the Texas Gas-Federal 7-8-104, the Palmer Oil & Gas-Federal 12-16 and the Walter Fees-Federal No. 2-3-8-104 wells in the Bar X Field to an existing Rocky Mountain Natural Gas Gathering System.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team Branch of Adjudication.

[FR Doc. 78-32213 Filed 11-15-78; 8:45 am]

[4310-84-M]

[W-65085]

WYOMING

Application

NOVEMBER 7, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado, filed an application for a right-of-way to construct a pipeline gathering system consisting of 4, 6, 8, and 10 inch pipelines and related facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 96 W.,
Sec. 5, 6, 7, 8, and 18.
T. 24 N., R., 96 W.,
Sec. 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32.
T. 23 N., R. 97 W.,
Sec. 1, 3, 11, 12, 13, 14, and 23.
T. 24 N., R. 97 W.,
Sec. 3, 4, 8, 9, 10, 11, 13, 14, 15, 16, and 24.
T. 25 N., R. 97 W.,
Sec. 34 and 35.

The proposed natural gas pipeline gathering system will transport natural gas from the Davis Hay Reservoir No. 12, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 wells; the Forest Hay Reservoir No. 13 well; the Cities Services Federal No. B-1 well; the Davis Bastard Buttes No. 1 and 2 wells; and the Davis Bush Lake No. 1 well, all located within 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, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32219 Filed 11-15-78; 8:45 am]

[4310-84-M]

[W-65796]

WYOMING

Application

NOVEMBER 8, 1978.

Notice is hereby given that pursuant to sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Co. of Brighton, Colo. filed an application of a right-of-way to construct a 4 inch pipeline as an addition to their gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING.

T. 24 N., R. 97 W.,
Sec. 14, SE¼NW¼.

The proposed pipeline will transport natural gas from the Davis Hay Reservoir No. 10 well to a point of connection with Panhandle Eastern's 6 inch pipeline all located within the SE¼NW¼ of section 14, T. 24 N., R. 97 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, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32220 Filed 11-15-78; 8:45 am]

[4310-84-M]

WYOMING

Commencement of Wilderness Inventory and Availability of Handbook

This Notice announces the commencement of wilderness inventory of public lands in Wyoming administered by the Bureau of Land Management, and the availability of the "Wilderness Inventory Handbook" to guide the wilderness inventory process. This announcement is a followup to the Notice appearing in the FR, Vol. 43, No. 188, dated Wednesday, September

27, 1978, which announced the commencement of the Bureauwide inventory. The "Wilderness Inventory Handbook" is available on request from all BLM offices in Wyoming as listed below. These offices are also available for contact regarding input to the wilderness inventory.

State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001.
Worland, District Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyo. 82401.
Grass Creek Resource Area, Area Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyo. 82401.
Washakie Resource Area, Area Manager, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyo. 82401.
Cody Resource Area, Area Manager, P.O. Box 528, Federal Building, 1131 13th, Cody, Wyo. 82414.
Rawlins, District Manager, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.
Divide Resource Area, Area Manager, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.
Medicine Bow Resource Area, Area Manager, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.
Lander Resource Area, Area Manager, P.O. Box 589, Lander, Wyo. 82520.
Rock Springs, District Manager, P.O. Box 1869, Highway 187 N, Rock Springs, Wyo. 82901.
Green River Resource Area, Area Manager, P.O. Box 1869, Highway 187 N, Rock Springs, Wyo. 82901.
Salt Wells Resource Area, Area Manager, P.O. Box 1869, Highway 187 N, Rock Springs, Wyo. 82901.
Pinedale Resource Area, Area Manager, P.O. Box 768, Molyneux Building, Pinedale, Wyo. 82941.
Kemmerer Resource Area, Area Manager, P.O. Box 632, Kemmerer, Wyo. 83101.
Casper, District Manager, 951 Union Boulevard, Casper, Wyo. 82601.
Platte River Resource Area, Area Manager, 951 Union Boulevard, Casper, Wyo. 82601.
Buffalo Resource Area, Area Manager, P.O. Box 979, Buffalo, Wyo. 82834.
Newcastle Resource Area, Area Manager, Highway 16 Bypass, Newcastle, Wyo. 82701.

DANIEL P. BAKER,
State Director.

[FR Doc. 78-32221 Filed 11-15-78; 8:45 am]

[4310-10-M]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

REQUEST FOR COMMENTS ON 5-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM

Request for Comments; Corrections

AGENCY: Office of Outer Continental Shelf Program Coordination.

ACTION: Correction to notice of request for comments on 5-Year Outer Continental Shelf Oil and Gas Leasing Program.

SUMMARY: On October 26, 1978 (43 FR 50055), a notice of a request for comments on the 5-Year Outer Continental Shelf Oil and Gas Leasing Program was published in the FEDERAL REGISTER. The Southern California and Santa Barbara Channel areas were incorrectly described in that notice and a correction is being issued today.

FOR FURTHER INFORMATION CONTACT:

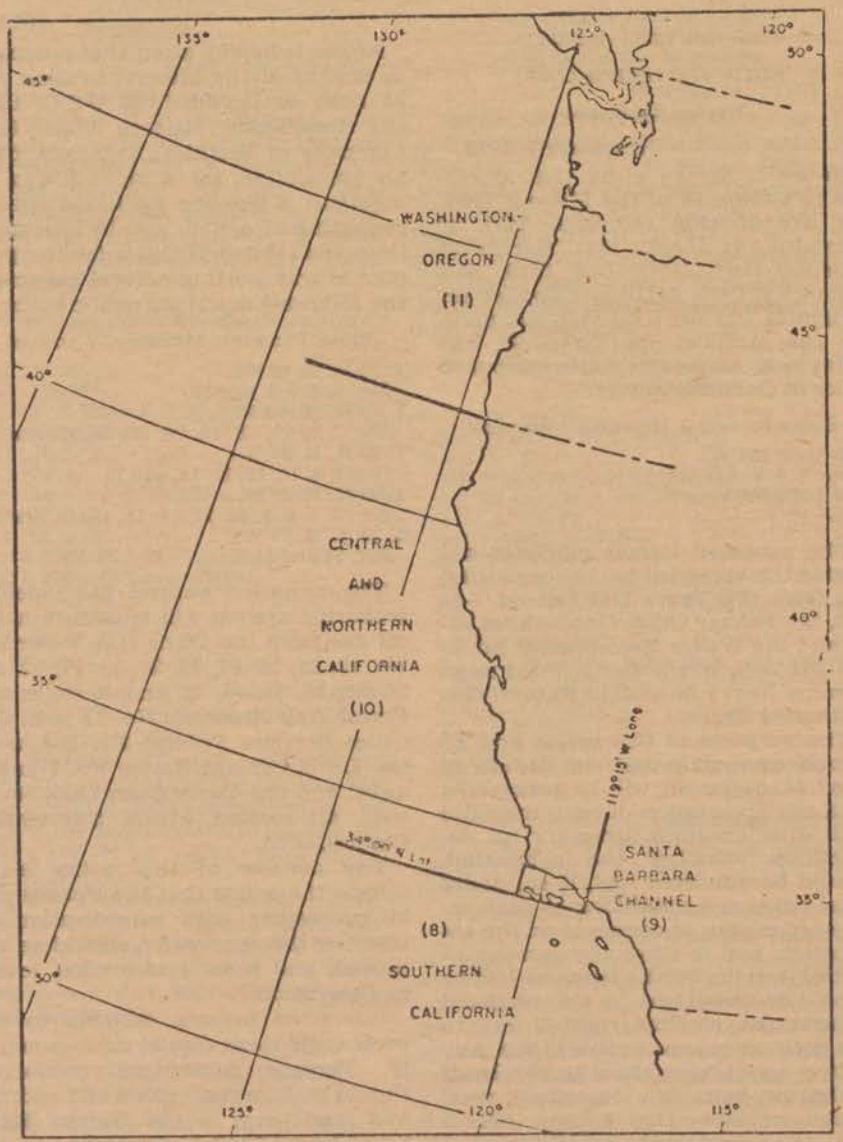
Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, 202-343-9314.

AUTHOR: Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, 202-343-9314.

SUPPLEMENTARY INFORMATION: A notice of a request for comment on the 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program was published on October 26, 1978, in the FEDERAL REGISTER. Comments were requested on 22 OCS areas. The approximate location provided for area 8, Southern California and area 9 Santa Barbara Channel and the accompanying map, provided incorrect descriptions of the area. The approximate locations should be as follows:

Area	Approximate location
8. Southern California.....	South of 34° N latitude and that portion north of 34° N latitude east of 119° 15' west longitude.
9. Santa Barbara.....	Santa Barbara Channel north of 34° N latitude, west of 119° 15' W longitude and east of 120° 30' W longitude.

A revised map is shown below.



[4310-10-M]

Dated: November 9, 1978.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

[FR Doc. 78-32191 Filed 11-15-78; 8:45 am]

[4310-10-M]

OUTER CONTINENTAL SHELF ADVISORY BOARD

Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Advisory Board will meet during the period 8 a.m. to 5 p.m., December 14, 1978, and 8 a.m. to 11:30 a.m., December 15, 1978, at the Doubletree Inn, No. 2 Portola Plaza, Fisherman's Wharf, Monterey, Calif.

The meeting will cover the following principal subjects:

December 14, 1978:

(1) OCS Lands Act Amendments of 1978:
(a) Preparation of regulations;
(b) Offshore oil spill pollution fund;
(c) Fisherman's contingency fund;
(d) 5-year leasing program;
(e) OCS administrative grants; and
(f) Oil and gas information program.
(2) Revision of the national oil spill contingency plan.
(3) Impact of natural gas deregulation on OCS development.
(4) Funding of Coast Guard activities.
(5) Report on Coast Guard OCS missions.
(6) Status report on environmental studies program.

December 15, 1978:

(1) Patterns in OCS bidding and ownership.
(2) Bidding systems.

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made no later than November 28 to:

Alan D. Powers, Office of OCS Program Coordination, Department of the Interior, Room 4126, Washington, D.C. 20240, 202-343-9311.

Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying 3 weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets NW., Washington, D.C.

MICHELE TETLEY,
Acting Director, Office of OCS Program Coordination.

NOVEMBER 13, 1978.

[FR Doc. 78-32192 Filed 11-15-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-37]

CERTAIN SKATEBOARDS AND PLATFORMS THEREFOR

Notice and Order Concerning Commission Determination

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission (Chairman Parker dissenting and Commissioner Stern not participating) hereby orders the termination of investigation No. 337-TA-37, Certain Skateboards and Platforms Therefor, on the basis of a determination that no violation of section 337 of the Tariff Act of 1930, as amended, exists.

Copies of the Commissioners opinions in support of their determinations are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Notice of the institution of the investigation was published in the FEDERAL REGISTER on November 11, 1977 (42 FR 58792).

By order of the Commission.

Issued: November 13, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-32298 Filed 11-15-78; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

ADMINISTRATIVE APPEAL OF THE CONNECTICUT JUSTICE COMMISSION

Hearing

Notice is hereby given that the Administrative Appeal of the Connecticut Justice Commission on the denial of the Connecticut Department of Adult Probation's Application for Funding will be heard on November 20, 1978, commencing at 9 a.m. The location of the hearing will be Superior Court Hearing Room No. 2, 75 Elm Street, Hartford, Conn. The hearing will be presided over by Ernest S. Milner of the Office of Criminal Justice Programs at the Law Enforcement Assistance Administration and will be open to the public.

For further information call William P. Joyce, Office of General Counsel, LEAA at 202-376-3691.

CHARLES A. LAUER,
Deputy General Counsel.

[FR Doc. 78-32177 Filed 11-15-78; 8:45 am]

[6820-49-M]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

MEETING

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. App. I), announcement is made of the following National Commission meetings scheduled to assemble on November 30 and December 1, 1978.

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

November 30, 1978—10 a.m. to 12 noon; 1 p.m. to 5 p.m.

December 1, 1978—9 a.m. to 12 noon; 1 p.m. to 3:30 p.m.

New Executive Office Building, Room 2008, 726 Jackson Place NW., Washington, D.C. 20506.

OPEN MEETING

Contact: Benedict J. Latteri, Administrative Officer, National Commission on the International Year of the Child, Room 6001, 726 Jackson Place NW., Washington, D.C. 20506.

Purpose. The National Commission serves as the focal point for the observance of all International Year of the Child activities in the country, and for all U.S. cooperation on International Year of the Child observances with other countries. It will provide a forum for examining the fundamental needs of children; it will create a better understanding of the needs of children, both in the United States and abroad; it will encourage and/or coordinate Federal, State, and local programs to meet these needs; and it will write a report to the President on its activities and findings, including recommendations of future actions relating to the well-being of children.

The Commission will assess and identify programs which could be endorsed or replicated nationally; receive and disseminate information, ideas, and proposals for improving the well-being of the Nation's children; encourage local citizen support for meeting the basic human needs of children; such as health, nutrition, legal rights, education, and physical development; and foster the creation of new programs and the improvement of existing programs directed at permanently improving the status of children.

Agenda. The Commissioners will specifically address the following issues: Child nurturing, health, education, juvenile justice, individual development, impact of discrimination/alienation, and impact of the media.

Attendance by the public will be limited to space available.

Dated: November 9, 1978.

BENEDICT J. LATTERI,
Administrative Officer, National Commission on the International Year of the Child.

[FR Doc. 78-32172 Filed 11-15-78; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

PUBLIC MEETING

In accordance with Executive Order 12,022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter Commission), will hold a public meeting on Thursday, November 30, 1978, beginning at 9:30 a.m. in Room 4232, Dirksen Senate Office Building, First and Constitution Avenue NE., Washington, D.C. The purpose of the meeting is to consider matters relating to the Commission's final report to the President and the Attorney General.

Dated: November 13, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-32272 Filed 11-15-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

NOVEMBER 8, 1978.

Pursuant to the provisions of the Federal Adivsory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

1. Date: December 5, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 1130.
   Purpose: to review Summer Stipend applications in Anthropology submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
2. Date: December 7, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 314.
   Purpose: to review Summer Stipend applications in Early Modern European History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
3. Date: December 7-8, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 807.
   Purpose: to review Elementary and Secondary Education Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.
4. Date: December 8, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 314.
   Purpose: to review Summer Stipend applications in Recent U.S. History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
5. Date: December 11, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 1130.
   Purpose: to review applications in Literature and the Fine Arts that have been submitted to the General Research Program of the National Endowment for the Humanities, for projects beginning March 1, 1979.
6. Date: December 11-12, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 807.
   Purpose: to review Elementary and Secondary Education Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.
7. Date: December 12, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 1025.
   Purpose: to review Summer Stipend applications in Early English Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
8. Date: December 12, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 1130.
   Purpose: to review Summer Stipend applications in French and Italian submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
9. Date: December 14, 1978.
   Time: 9 a.m. to 5:30 p.m.
   Room: 314.
   Purpose: to review Summer Stipend applications in Ancient, Medieval and Renaissance History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
10. Date: December 14, 1978.
    Time: 9 a.m. to 5:30 p.m.
    Room: 1025.
    Purpose: to review Summer Stipend applications in American Studies submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
11. Date: December 15, 1978.
    Time: 9 a.m. to 5:30 p.m.
    Room: 1025.
    Purpose: to review History applications submitted to the General Research Program of the National Endowment for the Humanities, for projects beginning March 1, 1979.
12. Date: December 15, 1978.
    Time: 9 a.m. to 5:30 p.m.
    Room: 314.
    Purpose: to review Summer Stipend applications in Early U.S. History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
13. Date: December 19, 1978.
    Time: 9 a.m. to 5:30 p.m.
    Room: 807.
    Purpose: to review Summer Stipend applications in Art History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-32227 Filed 11-15-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

This amendment revises the technical specifications relating to the leak rate testing requirements for systems which penetrate the containment boundary and are connected to the reactor coolant pressure boundary.

The applications for the amendment complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated February 23, 1976, as supplemented July 5, 1978 (date of NRC receipt), and application dated August 1, 1978, (2) Amendment No. 40 to License No. DPR-59, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 9th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-32193 Filed 11-15-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.136, Rivision 1, "Materials for Concrete Containments," describes some bases acceptable to the NRC staff for implementing the Commission's regulations with regard to materials for concrete containments. This guide, the first in a series that presents the NRC staff position on the acceptability of the ASME/ACI "Code for Concrete Reactor Vessels and Containments," for licensing purposes, endorses, with certain exceptions, Article CC-2000 of the code, which discusses materials for concrete containments. The guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to repoduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 8th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-32195 Filed 11-15-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-566, 50-567]

TENNESSEE VALLEY AUTHORITY (YELLOW CREEK NUCLEAR PLANT, UNITS 1 AND 2)

Order Regarding Oral Argument

NOVEMBER 9, 1978.

Oral argument on the appeal of the NRC staff from the February 3, 1978 partial initial decision of the Licensing Board [1] in this construction permit proceeding will be heard at 10 a.m. on Wednesday, December 6, 1978, in the Commission's public hearing room on the 5th floor of the East West Towers Building, 4350 East-West Highway, Bethesda, Md. The argument will be confined to the single question presented by that appeal and briefed by the parties, [2] viz., whether the Licensing Board correctly held that this Commission lacks the authority to impose a condition on a limited work authorization or construction permit requiring the utility to submit a water quality monitoring program to the staff for its approval. [3]

One hour is allotted to each side for the presentation of its argument. As the appellant, the staff will have the right to open and to close.

Each party shall notify the Secretary to this Board, by letter no later than November 28, of the name of the counsel who will present argument on its behalf. [4]

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-32194 Filed 11-15-78; 8:45 am]

[1] LBP-778-7, 7 NRC 215.

[2] The only parties to the appeal are the staff and the applicant, Tennessee Valley Authority.

[3] See discussion, LBP-7-78-7, supra, 7 NRC at 229-31.

[4] This Board withheld the calendaring of oral argument on the staff's appeal until this time because of its desire to abide the event of the Licensing Board's ultimate decision on the construction permit application. Given the limited scope and non-urgency of that appeal, we thought it would be preferable to consolidate its hearing and determination with any appeal which might be taken from the ultimate decision. Because, however, the rendition of that decision is apparently being delayed because of the radon issue recently remanded by us to the Licensing Board, we have now decided to move forward with the consideration and disposition of the pending appeal. Should the ultimate decision itself produce an appeal by one of the parties, that appeal will be heard and decided separately.

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-46]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Marine Accident Report and Safety Recommendations.—The National Transportation Safety Board on November 8 released its formal investigation report concerning the collision of the Liberian tankship M/V *Stolt Viking* and the U.S. crewboat *Candy Bar* which occurred last January 7 some 110 miles south of Lake Charles, La.

The report, No. NTSB-MAR-78-9, shows that the 565-foot tankship collided with the 95-foot crewboat as it was servicing oil rigs. The crewboat was cut into two pieces; the tankship was not damaged. Two crewmen escaped from the *Candy Bar* and were rescued 4 hours after the accident, but the other two crewmen are missing and are presumed dead. The bow section of the *Candy Bar* sank soon after the accident, the stern section remaining afloat until the morning of January 8.

The Safety Board has determined that the probable cause of this accident was the failure of the *Stolt Viking* and the *Candy Bar* to keep an adequate lookout both visually and on radar. Contributing to the accident was the failure of the *Stolt Viking* and the *Candy Bar* to sound fog signals. Contributing to the loss of life was the lack of lifejackets in the wheelhouse of the *Candy Bar.*

This accident was investigated jointly by the Safety Board and the U.S. Coast Guard. A Coast Guard formal board of investigation was convened in New Orleans, La., on January 11, 1978. The Safety Board's report is based on the factual information developed by this investigation. The Safety Board has considered all facts pertinent to its statutory responsibility to determine the cause or probable cause of this accident and to make recommendations.

As a result of this investigation, on October 25 the Safety Board issued five recommendations to the Coast Guard. These recommendations, made independently of any recommendations proposed by the Coast Guard, are:

Require vessels carrying more than six passengers for hire and engaged in the offshore oil industry to have electronic navigational equipment including radar, LORAN, and a fathometer. (M-78-74)

Require that a person applying for an operator's license for vessels carrying more than six passengers for hire and engaged in the offshore oil industry be examined in the use of electronic navigational equipment such as radar, LORAN, and fathometers. (M-78-75)

Require that the operator of every radar-equipped vessel carrying more than six passengers for hire and engaged in the offshore oil industry be qualified as a "radar observer." (M-78-76)

Require that the operators of vessels carrying more than six passengers for hire and engaged in the offshore oil industry, when operating for more than 12 hours: (1) Establish standardized watch schedules to minimize fatigue from prolonged duty hours, and (2) appoint one operator to be in charge to establish responsibility of command and to avoid confusion in an emergency. (M-78-77)

Require that an additional number of life preservers be provided for the personnel on watch in the engineroom and pilothouse and at the bow lookout station for all vessels carrying more than six passengers for hire and engaged in the offshore oil industry, and require that these additional life preservers be stowed where they are readily accessible to the personnel on watch. (M-78-78)

Each of the above recommendations is designated "Class II, Priority Action." If any of these recommendations is not accepted, the Coast Guard is required to detail the reasons for such refusal. This is one of the means by which the Safety Board exercises its responsibility for assessing the safety operating and regulatory practices of the Coast Guard. Notice of recommendation responses will be published in the FEDERAL REGISTER.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-78-63 through A-78-65.—Letter of October 20 from the Federal Aviation Administration is in response to recommendations issued following investigation of the accident last May 19 at Martinsville, Va., involving a Piper PA-31 Navajo Chieftan which was substantially damaged when it ran off the end of the runway and over an embankment after an aborted takeoff. An elevator cable became caught on the edge of a fuselage bulkhead lightening hole during the takeoff roll and prevented the pilot from moving the elevators and rotating the airplane for liftoff.

The recommendations called for FAA to issue an airworthiness directive applicable to Piper PA-31 Navajo Chieftan aircraft requiring corrective action, such as a plastic guard around the lightening hole at fuselage station 87.50, to prevent elevator control cable interference (A-78-63); to evaluate the adequacy of current Piper PA-31 Navajo Chieftan service information and maintenance procedures for rigging and adjustment of elevator controls and to include necessary data on elevator cable tension-temperature compensation in the Navajo Chieftan Service Manual (A-78-64); and to evaluate the engineering feasibility on these aircraft of increasing the elevator control cable tension and the size of the lightening hole at fuselage station 87.50 and of covering or relocating the elevator control cable turnbuckles (A-76-68).

In response, FAA stated that it expected to issue by the end of October an airworthiness directive to require compliance with a Piper service bulletin. This bulletin will specify installation of a plastic guard around the lightening hole at fuselage station 87.50 and will contain procedures for setting and checking cable tension and provide temperature-tension compensation curves. The compensation curves will be incorporated into the next revision of the Navajo Chieftan Service Manual. In view of these actions, FAA does not believe that further evaluation is necessary.

Highway

H-78-40 and H-78-41.—Letter of October 30 from the Federal Highway Administration is in response to recommendations dealing with procedures for identifying and informing interstate commercial carriers and drivers of their responsibilities under the Federal Motor Carrier Safety Regulations. The recommendations were issued last May 17 in connection with the highway accident which occurred on a long, steep grade on U.S. Highway 221, north of Marion, N.C., on May 12, 1977.

In response, FHWA states there is already a procedure to identify carriers who are under the jurisdiction of the Federal Motor Carrier Safety Regulations (FMCSR). According to FHWA, given the magnitude of the commercial interstate motor carrier transportation and its national scope, the varied types of operations and the dynamic nature of these commercial entities, the identification procedure is not absolute and there is no guarantee that it, or any other procedure, would identify each one of the 150,000 business entities actively operating at any given time. FHWA believes that only a few small carriers engaged in continuous operations are not known to the Bureau of Motor Carrier Safety (BMCS).

FHWA notes that at present there are 149,336 carriers actively engaged in interstate commerce that are listed in the census identification records maintained by BMCS, and this number is subject to constant change as carriers enter and depart the field. FHWA says there are now procedures for identifying these carriers and that a description of the laws, regulations, and practices of entry and departure in the field of commercial highway transportation is essential to an understanding of this identification procedure. Also, FHWA cites the potential duplication of State efforts and the opposition to further regulation of commercial entities, stating, "The benefits that would be obtained by the relatively few additional carriers is not considered justification for the additional funding resources required to administer such a registration program, nor is it likely that the added reporting burden imposed on these business entities would be considered favorably within the executive or legislative spheres of the Federal Government."

According to FHWA, identification of commercial drivers and vehicles is even more difficult. There is no Federal licensing or permit requirement. This is an area exclusively under State jurisdiction, and each State has its in-

dividual requirements. FHWA says that the optimum course of action in the Motor Carrier Safety Program is active attention to identifying carriers and informing them of their responsibility. In this regard, FHWA expects to issue in about 30 days a notice advising Regional Administrators to review the entry and registration requirements of each State within their region and to assure that an exchange of information about commercial carriers' identity is part of standard operating procedure. The assistance of the Governor's Highway Safety Representative is being solicited.

As for informing all carriers and drivers under FHWA jurisdiction of their responsibilities in regard to the FMCSR, FHWA explains that such a procedure under Federal law is in existence. It involves an initial informational "service of the regulations," as well as safety educational and promotional opportunities continuously undertaken as a regular feature of the Federal Motor Carrier Safety Program. As part of the activities directly conducted by Federal personnel in the program, information about the requirements of the FMCSR and the responsibilities of those operating in interstate commercial highway operation is provided. Meetings with motor carrier oriented audiences, such as trade associations or unions, are continuously held, and planned presentations, speeches, nighttime radio shows, and participation panels where motor carrier safety is the primary subject are provided.

Further, FHWA notes that inquiries are continuously received from motor carriers and drivers relating to interpretation and application of the FMCSR on a daily basis. In excess of 42,000 such inquiries were responded to in fiscal year 1977, FHWA reports. Numerous publications are released by FHWA/BMCS, including "Accidents of Large Motor Carriers of Property and Passengers," "Analysis of Motor Carrier Accidents Involving Vehicle Defects or Mechanical Failure," and "Analysis of Accidents Involving Fire." These publications present annual information about reportable accidents involving commercial motor vehicles engaged in interstate commerce. The data is derived from motor carrier reports filed with FHWA/BMCS and serves to remind and instruct of accident reporting responsibilities.

The Interstate Truck Driver's Handbook is designed to help commercial drivers understand their responsibilities regarding the FMCSR. FHWA notes that over 200,000 such booklets were distributed in English and Spanish versions. Also, the FHWA/BMCS has initiated arrangements with the Department of Transportation's Transportation Safety Institute, Oklahoma City, Okla., by which training classes are conducted for carriers and other industry personnel on a regular basis at which the FMCSR are the principal subject matter. Seven such classes are scheduled for fiscal year 1979.

Within the limits of available resources, FHWA considers that the present procedures utilized to inform carriers and drivers under FHWA jurisdiction are responsive and effective.

Marine

M-78-16 through M-78-30.—Letter of October 12 from the U.S. Coast Guard is in response to recommendations issued following investigation of the sinking of the Great Lakes bulk cargo vessel SS *Emund Fitzgerald* in eastern Lake Superior on November 10, 1975. The ship, with 29 crewmen and a full load of taconite pellets, was enroute from Superior, Wis., to Detroit, Mich., and was proceeding at a reduced speed in a severe storm when it sank approximately 17 miles from the entrance to Whitefish Bay, Mich. No distress call was heard and no survivors or bodies were located, although the vessel's two inflatable liferafts, several personal flotation devices, and other debris were found.

Recommendation M-78-16 asked Coast Guard to determine if reduction in the minimum freeboard requirements for Great Lakes vessels permitted by the 1969, 1971, and 1973 amendments to 46 CFR Part 45 increases the potential for vessel flooding because the designs of weathertight closures are not adequate and to report the findings. Coast Guard reports that reduction in minimum freeboard will increase potential for vessel flooding through inadequate hatch covers; however, this problem should be resolved by insuring adequacy of closure devices. The determination of inadequacy of presently used weathertight closures will be made at the conclusion of the current research project on Great Lakes hatch covers.

In answer to M-78-17, which asked Coast Guard to initiate a design study to improve the current weathertight hatchcover and clamp designs used on Great Lakes bulk vessels with a view toward requiring a more effective means of closure of such fittings, Coast Guard says a study is now being contracted to evaluate hatch cover designs and clamps, and that results of this study are expected by summer 1979.

Recommendation M-78-18 asked Coast Guard to insure that the masters of Great Lakes bulk cargo vessels have the loading information required by 46 CFR 45.105, including the proper sequences for simultaneous loading and deballasting or unloading and ballasting. Coast Guard reports that the 1973 Great Lakes Load Line regulations requiring loading information were put into effect during 1973 and 1974; every Great Lakes bulk cargo ship was required to produce a loading manual that includes information on proper sequencing. the ship rider program instituted in 1976 has been used to insure that these manuals are on board each vessel and that they are used. During the annual inspection of a Great Lakes bulk carrier there is an additional check on the availability of these manuals. Also, there is a joint effort with the American Bureau of shipping to update and improve the format of the manuals.

Recommendation M-78-19 called for Coast Guard to require that masters of all Great Lakes cargo vessels who are not required by 46 CFR 45.105 to have loading information be provided with such information, including the proper sequence for simultaneous loading and deballasting or unloading and ballasting. Coast Guard states that current regulations allow ships built prior to 1973 the option of retaining old freeboards and of not meeting all of the new requirements, including a loading manual. Inasmuch as there are less than 15 existing cargo vessels over 150 gross tons and not in bulk cargo, and none of these ships requires special ballasting, Coast Guard does not concur that a loading manual for these vessels would materially increase the level of safety.

In response to M-78-20, recommending a requirement that a Great Lakes cargo vessel meet a minimum level of subdivision and damage stability to prevent the foundering of the vessel because of flooding through one hatch or flooding because of damage in a limited area of the vessel, Coast Guard says it has evaluated comments on an advance notice of proposed rulemaking and is waiting for results of a Maritime Administration research study on subdivision, expected this fall, before evaluating alternative levels of subdivision for regulatory purposes.

Coast Guard agrees with the intent of recommendation M-78-21, which recommended a means of detecting water in the cargo holds a Great Lakes vessel so that her master will have an early indication of flooding and can take any necessary corrective action. However, Coast Guard does not agree that the requirement can be met with existing equipment. Solid bulk cargoes, particularly ores, present several problems: providing adequate mechanical protection and providing migration and access to the device for liquid level indication, and the prevention of plugging caused by the mud-like matter at the access to the devices. Because of the limited success of indicators in grain-like cargoes and

widespread use in liquid cargoes, Coast Guard will continue to monitor equipment development for application responsive to this recommendation.

Commenting on M-78-22, which asked Coast Guard to amend 46 CFR 56.50-50 to require an effective bilge pumping system in Great Lakes bulk vessels so that if the vessel has trim by the bow and is listing, water can be removed from any portion of the cargo hold, Coast Guard states that the combination of longitudinal stability of the typical Great Lakes vessel and the nature of ore cargoes effect on bilge suction openings removes bilge pumping as a viable survival factor on these ships. Coast Guard believes that 46 CFR 56.50-50 application to these vessels and their hull arrangement provides adequate capacity for removal of water from the cargo compartment.

In response to M-78-23, which asked Coast Guard to require instruments in the wheelhouse to detect changes in both trim and heel on Great Lakes bulk cargo vessels so that changes in trim and heel caused by the presence of water or a change in cargo configuration can be detected, Coast Guard says that since an inclinometer is a standard piece of vessel equipment used to measure heel angle, still another instrument is not considered appropriate. Such instrumentation will give an indication of heel if there is off center flooding or cargo shifts. Coast Guard believes that a trimming inclinometer is practically useless, stating, "The longitudinal metracentric height of these vessels is such that the weight shift or addition that is necessary to become manifest in trim or in pitching would be discernible by visual means. The magnitude of these weights are such as to be out of the realm of practical realism."

Recommendation M-78-24 asked that Coast Guard require that the information supplied to the master of Great Lakes cargo vessels on loading and stability also include information on the vessel's ability to survive flooding (e.g., trim and heel results after assumed damage) so that the master can take appropriate corrective action or formulate timely plans to effect crew evacuation. Coast Guard concurs with the recommendation and such information requirements will be a part of the regulation package concerning subdivision noted in reponse to M-78-20.

Responding to M-78-25, which recommended that Coast Guard require Great Lakes vessels to have emergency position indicating radio beacons (EPIRB's) so that vessels lost or in serious danger can be located rapidly and accurately, Coast Guard reports that on August 9 the Federal Communications Commission published proposed rules for Class C Emergency Position Indicating Radio Beacons (43 FR 35343). These rules were based on development work done by the Coast Guard and the Transportation System Center in cooperation with the FCC. The proposed rules would apply to voluntary users in coastal waters. The Coast Guard is now working with the FCC on the next step of the project—developing requirements for EPIRB's with the same technical characteristics for Great Lakes vessels.

Recommendation M-78-26 asked Coast Guard to determine, in conjunction with the American Bureau of Shipping, the limiting sea state applicable to the design of Great Lakes bulk cargo vessels including freeboard and longitudinal strength and report the findings. Coast Guard, in responding to this recommendation in view of its sole legislated responsibility for marine safety, notes that the American Bureau of Shipping has developed rules for longitudinal strength of Great Lakes vessels and that Coast Guard has reviewed and accepted these rules as a structural standard. The wave conditions used for this standard were "families of wave spectrums, which represent a 'state of the art' effort to describe sea conditions." Coast Guard states:

> The analyst's desire to create more accurate numerical descriptions of sea and weather phenomena while laudable is perhaps misleading. It is a dangerous deception to claim that any known methodology to describe the sea is anything more than an approximation, mainly useful to make comparative analysis of one hull shape and structure with another rather than predicting nature's forces in an absolute sense. It follows that it is not feasible to relate direct observation of the sea, by eyeball or instruments, to a "go" or "no go" sailing criterion in anything other than a gross sense.
>
> Expressed another way, the vulnerability of a vessel to damage at any given time is the product of an infinite variety of forces produced by various combinations of wind, wave, and vessel motion. It is here that we must still depend primarily on the master of the vessel to exercise his expertise. He may find for example that the "feel" of his vessel tells him he should slow or change course in relative moderate sea conditions on one leg of his voyage when on another leg or on another day differently loaded he might proceed at higher speed with perfect safety in more adverse conditions.

Further, Coast states that selection of a maximum sea state for freeboard purposes is not a practical approach to safety since it implies that the ship designer knows precisely how much water will come on deck in a given sea state. Freeboard alone can neither provide a dry deck nor provide a consistent estimate of how wet the deck will be in a given sea state. Coast Guard believes that there is merit in advancing the means of wave prediction so that masters can be better informed through more accurate wind, wave and weather reporting and, to this end, has encouraged agencies to increase their efforts in instrumentation for measurement of waves.

In response to recommendation M-78-27, which asked Coast Guard to prohibit the navigation of Great Lakes vessels in wind and wave conditions which exceed the limiting sea state used for vessel design, Coast Guard says, as in response to recommendation M-78-26, that there is no limiting sea state that can be identified either for structural strength or freeboard considerations. Accordingly, Coast Guard cannot use this as a means for prohibiting ships from sailing the Great Lakes.

Recommendation M-78-28 asked Coast Guard to determine, in conjunction with the American Bureau of Shipping, the design criteria used to determine the structural adequacy of hatch covers and report the findings, and to evaluate the design criteria and impose more stringent standards if indicated. Coast Guard reports that it has reviewed the existing hatch cover designs for structural adequacy against current criteria as published in 46 CFR 45.145 and finds no hatch cover that fails to meet the criteria. Decisions as to changes in the criteria will be made at the conclusion of the hatch cover research mentioned in response to M-78-17.

Commenting on M-78-29, recommending that all Great Lakes bulk cargo vessels have a fathometer, Coast Guard notes that 33 CFR 164.35(h) and (i) as promulgated on January 31, 1977, now requires a fathometer and recording device on all self-propelled Great Lakes vessels of 1,600 gross tons and over. This equipment is being installed at the time of the next drydocking of each vessel, but in no case later than June 1, 1982.

Recommendation M-78-30 called for Coast Guard to increase the surface search and rescue (SAR) capability on the Great Lakes during severe weather periods. Coast Guard reports that since the loss of the *Fitzgerald*, the following changes have been made to increase SAR capability:

1. Older 36' motor lifeboats have been replaced by newer, more capable 44' motor lifeboats at Stations Marquette and Grand Marais.

2. Three SAR Stations have been commissioned: Station Portage (1976) primary boat, 21' UTL; Station Bayfield (1977) primary boat, 41' UTB; and Station North Superior (1977) primary boat, 44' MLB.

3. Vessel employment schedules have been adjusted so that none of the buoy tenders (WLB), harbor tugs (WYTM) nor the MACKINAW (WAGB) have scheduled maintenance periods during November. All cutters are kept in Bravo status during that month of historically severe storms.

4. Plans are approved for the first of the new 140' ice-breaking tugs to be homeported

at Sault Ste. Marie. This vessel is scheduled to be operating this winter (1978-79).

Coast Guard's October 12 letter includes response statistics for Lake Superior stations and cutters, including those added following the *Fitzgerald* tragedy. The nationwide average in fiscal year 1977 was 366 responses per SAR Station. Based on that data, Coast Guard says that the number and type of resources available on the Great Lakes compare favorably with those committed to other areas of similar activity. During the winter season, major shipping is curtailed due to severe weather conditions and historically SAR activity is relatively low. Coupled with the establishment of three new stations in the past 2 years, the improvement of vessel readiness schedules and the recent modernization of equipment, this represents a measurable increase of SAR coverage on the Great Lakes.

Pipeline

P-74-19.—The American Society of Mechanical Engineers (ASME) on October 19 responded to the Safety Board's letter of September 29 concerning comments forwarded by ASME on July 17 (43 FR 42828, September 21, 1978). The recommendation resulted from investigation of the gas pipeline leak, explosion, and fire which occurred December 9, 1972, in the Missouri Public Service Co. system at Clinton, Mo., and called for guidelines for use of telemetering on gas distribution systems so that system failures can be promptly detected.

The Safety Board expressed agreement that the use of telemetry as an early warning agent is only one of a number of applications for this device and that its use to detect malfunction of the system is not its primary function. The Board maintains its position that guidelines for installation of telemetry for malfunction detection are necessary and finds that the parameters listed in the "Conclusions" of ASME's July 17 response are reasonable and should be used in developing guidelines for publication to be used by small gas companies. The Board concurs with the suggestion that actual test work is needed to substantiate ASME's hypothetical analysis. The Board stated that it will tabulate from its records the instances in which existing telemetering has in fact resulted in, or has had the potential of resulting in, earlier onsite time by gas company personnel as mentioned in ASME's comments.

In response, ASME said it would welcome a meeting, as offered by the Safety Board, of its Gas Standards Committee representatives with the Board's staff to discuss the conduct of telemetry tests, the development of guidelines, and the use of Safety Board information on using telemetry for failure detection. Also, ASME might wish to work with the Board in developing design/parameters/criteria of a telemetry test program in order to come to grips with the realities of what state-of-the-art telemetry systems can and cannot do.

Railroad

R-77-19.—The Chicago Transit Authority (CTA) on October 30 acknowledged the Safety Board's September 13 reply to CTA's response of July 21 (43 FR 36535, August 17, 1978). The recommendation asked CTA to provide a safe passageway between rapid transit cars when passengers are moving from one car to another, and was issued following investigation of the April 19, 1977, accident in Clinton, Ill.

The Safety Board's September 13 letter notes that certain rail rapid transit carriers, including CTA, have a unique mechanical problem with end-of-car floor and side closures due to extreme curvature of track and agrees that sliding floor plates and accordion or roller-type side curtains could present very serious pinching hazards, assuming design inadequacies. Nevertheless, the Board believes that the curved end casting and safety chains have demonstrably fallen short of the mark in affording a hazard-free passageway. Warning signs and public address system announcements function only as passive restraints; if passengers are permitted to move from car to car, their movements must be given positive protection, the Board stated. If remedial retrofitting of passageways cannot be effected, the carrier should lock or otherwise barricade the passageway to all but emergency use.

CTA's response states that the Safety Board's point is understood and that response has been delayed in the hope, unsuccessful up to now, of identifying an alternative which would not itself introduce an unaccepable potential new hazard. CTA will continue to search for a better solution and will advise the Board when one is found.

NOTE: The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of accident reports, the Board's recommendation letters, and responses in their entirety are available without charge. Copies of accident reports are in limited supply.

All requests to the Board for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register
Liaison Officer.

NOVEMBER 13, 1978.

[FR Doc. 78-32249 Filed 11-15-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 8, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Survey of consumer interest in solar hot water heaters
Single-time
Electric homeowners in Northern Alabama, 1,600 responses; 400 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of census
Quarterly return of withheld Federal income tax IRS 941 E
Annually
Tax exempt organizations and pension and annuities, 100,000 responses; 10,000 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Sharing business success
OE-580
Annually
School districts, 200 responses; 1,680 hours
Laverne V. Collins, 395-3214

National Institutes of Health
U.S.A./U.S.S.R.—Joint breast cancer rehabilitation project
Quarterly
Women with single mastectomies, 1,920 responses; 1,440 hours
Richard Eisinger, 395-3214

National Institutes of Health
Milis study forms (Multicenter investigation for limitation of infart size)
Single-time
Patients who have suffered a myocardial infarction, 428 responses; 121 hours
Richard Eisinger, 395-3214

Health Resources Administration
Survey of chiropractic graduates and practitioners
Single-time
Chiropractic graduates and practitiones, 3,375 responses; 1,875 hours
Office of Federal Statistical Policy and Standard
Richard Eisinger, 673-7956

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration
Field test of: Application for disaster recovery
Assistance
On occasion
Disaster victims, 1,000 responses; 3,000 hours
Strasser, A., 395-6132

REVISIONS

WATER RESOURCES COUNCIL

Title III annual report
Annually
St. Agen. Design. to Admin. & Coordi. St. Comp. Wa. & Rlr, 54 responses; 2,160 hours
Budget Review Division
Clarke, Edward H., 395-4775

VETERANS ADMINISTRATION

Application for educational assistance by a spouse or surviving spouse
22-5490W
On occasion
Spouse or surviving spouse, 6,000 responses; 2,000 hours
Caywood, D. P., 395-3443

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Annual report of packers
P & S-125
Annually
Livestock slaughterers in U.S., 900 responses; 2,700 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Computers and office and accounting machines
MA-35R
Annually
Manufacturing establishments, 389 responses; 584 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of education
Financial status and performance report, Pub. L. 94-142 and Pub. L. 89-313
OE-9039-1, 2
Annually
State educational agencies, 228 responses; 1,026 hours
Laverne V. Collins, 395-3214

Office of Education
Basic grant program student validation roster
OE-255-4
Annually
Institutions participting in the beog program, 5,000 responses; 25,000 hours
Laverne V. Collins, 395-3214

Office of Education
Application for basic educational opportunity grant
OE-255
Annually
"Postsecondary" students, 1,000,000 responses; 2,000,000 hours
Laverne V. Collins, 395-3214

Office of Education
Beog student eligibility report
OE-255-1
On occasion
Stu. and postsec. instit. in which beog students enroll, 3,000,000 responses; 1,500,000 hours
Laverne V. Collins, 395-3214

Office of Education
Report on handicapped children ADA in State operated or supported schools
OE-9052
Annually
State agencies, 160 responses; 160 hours
Laverne V. Collins, 395-3214

Office of Education
Beog supplemental form for 1979-80 award period
OE-255-2
On occasion
Beog applications, 200,000 responses; 100,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF LABOR

Bureau of Labor Statistics
New York City stabilized apartment house price index of operating costs collection forms
BLS 3112-A, B, C
Monthly
Businesses servicing stabilized New York City apartment house operators, 1,360 responses; 340 hours
Strasser, A., 395-6132

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Highway safety improvement program
Annually
State and Territorial Highway Agencies, 55 responses; 19,250 hours
Geiger, Susan B., 395-5867

EXTENSIONS

RAILROAD RETIREMENT BOARD

Request for payment by qualified organizations
G-740B
On occasion
Railroad Hospital Associations and Physicians, 40,000 responses; 6,666 hours
Reese, B. F., 395-3211

Pay rate report
UI-1E
On occasion
Applicants for RUIA benefits, 7,000 responses; 600 hours
Reese, B. F., 395-3211

TENNEESSEE VALLEY AUTHORITY

TVA fishing census
Serviors
TVA 5587
On occasion
Fishermen, 24,000 responses; 2,400 hours
Ellett, C. A., 395-6132

FEDERAL RESERVE SYSTEM

Dealer report of condition
FR 2002, 2003
Annually
Primary dealers in U.S. Government securities, 34 responses; 2,040 hours
Geiger, Susan B., 395-5867

EXTENSIONS

RAILROAD RETIREMENT BOARD

Letter and questionnaire regarding survivors of deceased employee
RL-94-F
On occasion
Survivor of deceased employee, 24,000 responses; 8,000 hours
Reese, B. F., 395-3211

Request for information regarding residual (payment)
RL-113
On occasion
Potential beneficiaries, 2,500 responses; 1,250 hours
Reese, B. F., 395-3211

Medical insurance premium due and payment summary (third party)
G-805
Monthly
Medical insurance intermediaries, 216 responses; 36 hours
Reese, B. F., 395-3211

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service
Farm real estate taxes levied (Land and buildings)
Annually
Local tax officials, 3,060 responses; 1,530 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Construction project report, multi-family residential
C-700(R)
Monthly
Owners of multi-family residential buildings, 36,000 responses; 12,000 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration
Record of State and local action under section 1122 of the Social Security Act
HRABHPRDO22
On occasion
One design, planning agency in each State or territory, 5,250 responses; 2,100 hours
Richard Eisinger, 395-3214

Office of Education
Financial status and performance reports
Title I, ESEA of 1965
OE 380-1, OE 380-2.
Annually
Sea's, 57 responses; 1,112 hours
Laverne V. Collins, 395-3214

Office of Education
Guaranteee Agency request for claims paid
OE 1189-1, 2, 3,
Annually
Guarantee Agencies; 312 responses; 624 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary)
Supporting schedules for Federal housing Administration 2742
FHA-2744 A through E
On occasion
FHA approved mortgagees, 300 responses; 300 hours
Strasser, A., 395-6132

Administration (Office of Assistant Secretary)
Lender's request for termination of home mortgage insurance
FHA-2344
On occasion
Mortgage lenders, 450,000 responses; 112,500 hours
Strasser, A., 395-6132

DEPARTMENT OF INTERIOR

Bureau of Mines
Mine production of bauxite
6-1010-QA
Quarterly
Producers of bauxite, 80 responses; 44 hours
Office of Federal Statistical Policy and Standard
Ellett, C. A., 673-7956

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Immigration bond
I-352A
On occasion
Bond obligor, 10,000 responses; 83 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF THE TREASURY

Bureau of Customs
Petition for remission or mitigation of forfeitures and penalties incurred
CF 4609
On occasion
Individuals violating U.S. law, 5,500 responses; 184 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc 78-32224 Filed 11-15-78; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on November 3, 1978, the President received a report from the United States International Trade Commission (USITC) on the case of Bolts, Nuts and Large Screws of Iron or Steel (Investigation No. TA-201-37). The Commission submitted a report containing an affirmative determination 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, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission finds and recommends that, to prevent or remedy such injury to the domestic industry, 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 0.24 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—

[Percent ad valorem]

1st year	2d year	3d year	4th year	5th year
20	20	15	10	10

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-37).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Thursday, November 30, 1978.

WILLIAM B. KELLY, Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-32271 Filed 11-15-78; 8:45 am]

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

DOMESTIC, AGRICULTURE POLICY, CONSUMER AND NUTRITION SUBCOMMITTEE

Meetings

Subcommittees of the Presidential Commission on World Hunger have scheduled meetings as follows:

The Domestic, Agriculture Policy, Consumer and Nutrition Subcommittee will meet on November 18, 1978, at 10 a.m., at 736 Jackson Place NW., Washington, D.C. The Public Participation and Communication Subcommittee will meet on December 6, 1978; and the International Policy Subcommittee will meet on December 7, 1978.

The meetings will be open to observation by the public. Details as to locations and times of the latter two subcommittees are being developed and may be obtained by calling area code 202-395-3505. Persons interested in attending such meetings should address a letter to the Commission or visit in person the Presidential Commission on World Hunger offices at 734 Jackson Place NW., Washington, D.C. 20006. Admission of observers will be on the basis of earliest postmark date or date of visit and to the extent space is available.

Please refer to FEDERAL REGISTER Vol. 43, No. 208, for objectives and membership of the Presidential Commission on World Hunger.

DANIEL E. SHAUGHNESSY,
Deputy Executive Director, Presidential Commission on World Hunger.

[FR Doc. 78-32223 Filed 11-15-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10466; 811-34]

ANCHOR INCOME FUND, INC.

Application for an Order Declaring That Applicant Has Ceased To Be An Investment Company

NOVEMBER 1, 1978.

Notice is hereby given that Anchor Income Fund, Inc. ("Applicant"), Westminster at Parker, Elizabeth, New Jersey 07207, a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management 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 asserts that it registered under the Act (under the name "New York Stocks, Inc.") on October 24, 1940, and later filed a registration statement pursuant to the Securities Act of 1933 (under the name "Diversified Funds, Inc.") with respect to 1,000,000 shares of capital stock. Such registration statement, as amended, was declared effective on April 1, 1954, and an initial public offering was commenced thereafter (under the name "Diversified Investment Fund, Inc."). Applicant states that on July 31, 1978, it merged with The Income Fund of America, Inc. ("Fund"), a registered, open-end investment company incorporated under the laws of Delaware. Applicant further states that the merger was approved by the holders of more than a majority of the outstanding shares of Applicant, in accordance with Delaware law. Under the laws of the State of Delaware, Applicant's separate existence ceased upon effectiveness of the merger.

Applicant represents that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs. According to the application, title to all of Applicant's portfolio securities and other assets was vested in the Fund upon effectiveness of the merger. Applicant submits that the only consideration from the Fund consisted of shares of its capital stock equal in value to the value of Applicant's net assets.

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 mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-32190 Filed 11-15-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0280]

A B SBIC, INC.

Filing of Application for Approval Conflict of Interest Transaction Between Associates

Notice is hereby given that A B Small Business Investment Co., Inc. (A B), Schoolhouse Road, Chesire, Conn. 06410, a Federal licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1978)), for approval of a conflict of interest transaction.

A B desires to provide financing in the amount of $30,000 to Mr. Brent Thompson for the purpose of enabling that individual to purchase a grocery store known as E-Z Reach Market, located at 1389 North Main Street, Waterbury, Conn.

Mr. Thompson has been an employee of Buzzutos', Inc., the parent of A B since June 24, 1973, and upon approval of this financing, he will resign from Buzzutos', Inc. In accordance with the term "Associate of a Licensee" set forth under § 107.103 of the Small Business Administration's regulations, he is an associate of A B. Pursuant to the provisions of § 107.1004(b)(1) of SBA's regulations, this affiliation requires A B to obtain an exemption from the SBA in order to provide the proposed financing to Mr. Thompson.

Notice is hereby given that any person may, not later than December 1, 1978, submit written comments to SBA on the proposed financing. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by A B in a newspaper of general circulation in Waterbury, Conn.

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

Dated: November 9, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-32176 Filed 11-15-78; 8:45 am]

[8025-01-M]

REGION IV ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Birmingham, Ala., will hold a public meeting at 9 a.m., on Thursday, December 7, 1978, in the Birmingham Hilton Inn, 260 Goodwin Crest Drive, Birmingham, Ala., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, Small Business Administration, 908 South 20th Street, Birmingham, Ala. 35205, 205-254-1341.

Dated: November 9, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-32175 Filed 11-15-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1544]

COMMONWEALTH OF PUERTO RICO

Declaration of Disaster Loan Area

The municipalities of Ponce, Coamo, Juana Diaz, Lajas, Santa Isabel, Humacao, Patillas, San German, Naguabo, Yabucoa, Fajardo, Guanica, Arroyo, Maunabo, Guayanilla, Salinas, Cidra, Gurabo, Las Piedras, Utuado, Ceiba, Juncos, Toa Baja, Canovanas, Aibonito, Guayama, Yauco, Trujillo Alto, Cabo Rojo, and adjacent municipalities within the Commonwealth of Puerto Rico constitute a disaster area because of physical damage resulting from heavy rains, severe flooding, and landslides which occurred on October 22 through October 28, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on January 8, 1979 and for economic injury until August 8, 1979, at: Small Business Administration, District Office, U.S. Courthouse and Federal Office Building, Sixth Floor, Room 691, Carlos Chardon Avenue, Hato Rey, P.R. 00919, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 8, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-32174 Filed 11-15-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-162]

COAST GUARD AND PYROTECHNICS SIGNAL MANUFACTURERS ASSOCIATION, INC.

Open Meeting

Notice is hereby given that a meeting between the Coast Guard and the Pyrotechnics Signal Manufacturers Association, Inc., will be held at 9:30 a.m. on November 28, 1978, at Nassif Building, Room 8334, 400 Seventh Street SW., Washington, D.C. 20590.

This meeting is being held at the request of the Pyrotechnics Signals Manufacturers Association, Inc., to allow them to present their comments on the changes to specifications for distress signalling equipment proposed in the FEDERAL REGISTER of Monday, October 23, 1978 (43 FR 49440) and the proposed carriage requirement for visual distress signals on boats published in the FEDERAL REGISTER on Monday, April 10, 1978 (43 FR 15118).

This meeting is open to the public. Anyone wishing to attend should contact Mr. David R. Gauthier, U.S. Coast Guard Office of Boating Safety, Transpoint Building, Room 4308, 2100 Second Street SW., Washington, D.C. 20590, telephone number 202-426-4176.

Dated: November 8, 1978.

E. A. DELANEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Boating Safety.

[FR Doc. 78-32280 Filed 11-15-78; 8:45 am]

[4910-14-M]

[CGD 78-155]

PROPOSED RAILROAD BRIDGE ACROSS THE NIANTIC RIVER, MILE 0.0, BETWEEN EAST LYME AND WATERFORD, CONN.

Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Third Coast Guard District in conjunction with the Federal Railroad Administration (FRA). The hearing will be held at East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, Conn., on Thursday, December 14, 1978, from 1 to 4:30 p.m. and from 7 to 10 p.m. The purpose of the hearing is to hear testimony on the effects the proposed action will have on the quality of the human environment pursuant to the National Environmental Policy Act of 1969 (NEPA) and on navigation pursuant to Section 9 of the Rivers and Harbors Act of 1899 and other bridge statutes.

A draft Environmental Impact Statement (EIS) on the proposed action was filed with the Environmental Protection Agency on October 5, 1978 in compliance with NEPA. Copies of the draft EIS and Coast Guard Public Notice number 3-357 are available for review at the following locations:

Connecticut State Library, Hartford, Conn.; East Lyme Public Library, Niantic, Conn.; Waterford Public Library, Waterford, Conn.; East Lyme Town Hall, Niantic, Conn. and Waterford Town Hall, Waterford, Conn.

The proposed action is the replacement of a bascule bridge across the Niantic River, mile 0.0, and its approaches between East Lyme and Waterford, Conn. The existing bridge provides a horizontal clearance of 45 feet between fenders, normal to the axis of the channel and a vertical clearance of 11 feet above normal high water in the closed position (unlimited in the open position). The proposed bridge will provide a horizontal clearance of 100 feet between fenders, normal to the axis of the channel and a vertical clearance of 13 feet above normal high water in the closed position (unlimited in the open position). The total project length between existing track tie-in points is approximately 0.7 miles. The project cost, estimated to be $5,352,000, is to be funded 100 percent by the Federal Government as part of the Northeast Corridor Improvement Project under authorization of the Railroad Revitalization and Regulatory Reform Act of 1976.

The hearing will be informal. Both the Coast Guard and FRA representatives will preside at the hearing, make brief opening statements, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004 or the Director, Northeast Corridor Project, Federal Railroad Administration, 2100 Second Street, SW, Washington, D.C. 20590 prior to the hearing date. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to

provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, to the Commander (oan), Third Coast Guard District or the Director, Northeast Corridor Project, Federal Railroad Administration through January 20, 1979. All comments received will be considered. A transcript of the hearing, as well as written comments received outside the hearing, will be available for public review in the Third Coast Guard District and FRA Northeast Corridor Project offices approximately 30 days after the hearing date.

(Sec. 502, 60 Stat. 847, as amended; (33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C)); 49 CFR 1.46(c)(10))

Dated: November 9, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of the Marine Environment and Systems.

[FR Doc. 32281 Filed 11-15-78; 8:45 am]

[4910-13-M]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 134—GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 134 on General Purpose Electronic Test Equipment to be held December 7 and 8, 1978, Conference Room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Va. commencing at 9 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fifth Meeting held October 19 and 20, 1978; (3) Briefing on MIL-T-28800 and its Impact on DOD Acquisition of Off-The-Shelf Electronic Test Equipment; (4) Report by Procurement Working Group and Review of Warranty Shortfall Issue Paper; (5) Report by Logistics Working Group and Review of Wasteful Cost of Obsolescence Issue Paper; (6) Report by Requirements Working Group and Review of Specification Confusion Issue Paper; (7) Establish a List of Other Issues and Assign Tasks; (8) Discussion of Service Credits for Maintenance; and (9) Other Business

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

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

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-32233 Filed 11-15-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP77-19; Notice No. 2]

BMW OF NORTH AMERICA, INC.

Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by BMW of North America, Inc., of Montvale, N.J., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.105-75, Motor Vehicle Safety Standard No. 105-75, Hydraulic Brake Systems. The basis of the petition was that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 12, 1977, and an opportunity afforded for comment (42 FR 62435).

Paragraph § 5.3.5 of Standard No. 105-75 requires a passenger car to be equipped with a brake system indicator lamp, whose lens is labeled "BRAKE." The letters and lens must be of contrasting colors, one of which is red. The primary purpose of the lamp is to indicate a gross loss of pressure such as is caused by rupture of a brake line or a drop of level of brake fluid in the master cylinder reservoir compartment. A NHTSA compliance investigation (File CIR 1765) discovered that the word "BRAKE" had been moulded into the red lens so that there was no color contrast per se. BMW argued that this is inconsequential because "* * * even though, strictly speaking, there is no contrast in color, as such * * * there are differences both in brightness and visual texture between the raised letters and the lens * * * making the word "BRAKE" clearly discernible in contrast to its background." BMW submitted photographs of the lens in support of this contention, which have been available for examination in the docket. The condition exists on approximately 9500 model 2002s manufactured from January 1, 1976, the effective date of the requirement, through June 1976.

Two comments were received on the petition, from private citizens, both of whom supported BMW.

The NHTSA, after review of all the data available to it, has concluded that the lens meets the intent of the requirement, which is to provide a warning to the vehicle operator. Although the agency does not believe, on the basis of BMW's photographs, that there is a readily discernible "contrast in brightness and visual texture between the raised letters and lens," the lens itself is of sufficient size that the illumination of the lamp should be easily perceived by the vehicle operator, alerting him to a potentially unsafe driving situation. The word "brake" will appear on the lighted lens though there is no great contrast between it and its background. The noncompliance then appears inconsequential as it relates to motor vehicle safety and the petition of BMW of North America, Inc. is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 7, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32009 Filed 11-15-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

FINANCIAL ASSISTANCE TO PARTICIPANTS IN RULEMAKING PROCEEDINGS

Selection of Proceedings To Be Funded

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Announcement of funding priorities.

SUMMARY: This notice announces NHTSA's priorities for the allocation of funds available for fiscal year 1979 to reimburse participants in NHTSA rulemaking proceedings under the agency's public participation program. The notice informs the public of the availability of funding and invites comment on the agency's selection of proceedings.

DATES: Comments must be received on or before December 4, 1978.

ADDRESSES: Comments should be submitted to: Ms. Jeannette Feldman, Office of Consumer Participation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Jeannette Feldman, Office of Consumer Participation, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-0670.

SUPPLEMENTARY INFORMATION: On January 11, 1977, the Department of Transportation (DOT) initiated a 1-year pilot program for providing financial assistance to certain participants in DOT administrative proceedings (42 FR 2863; January 13, 1977). The goal of the program was to encourage participation by groups and individuals capable of making a substantial contribution to the decisionmaking process, but unable to present their views due to limited financial resources. The pilot program was administered jointly by DOT and NHTSA. The program was extended on an interim basis on March 3, 1978 (43 FR 10918; March 16, 1978).

Congress has now appropriated fiscal year 1979 funds to conduct and report to Congress on a 1-year demonstration project of public participation in rulemaking building upon the experience gained in past financial assistance program undertakings. The report made to Congress at the close of fiscal year 1979 will assist in a judgment as to the value of funding public participation in future years and the level of funding required. DOT intends to issue revised regulations in the near future under which NHTSA will operate this fiscal year 1979 demonstration project.

NHTSA is presently establishing priorities for the allocation of its authorized financial assistance funds for fiscal year 1979. This notice represents a listing of those contemplated rulemaking proceedings in which NHTSA plans to make available public participation funding. NHTSA is announcing its tentative selection of proceedings in order to invite public comment on the choice of proceedings and to provide advance notice to interested parties to allow them to begin planning for participation.

During fiscal year 1979, NHTSA plans to make available public participation funds in the following proceedings:

1. Light Truck and Van Fuel Economy Rulemaking to set average fuel economy standards for model years 1982-84 light trucks and vans.

2. Seat Belt Assemblies Rulemaking proposing to improve seat belt comfort, convenience, reliability and effectiveness by prescribing parameters for performance of seat belt assemblies.

3. Pedestrian Protection Rulemaking proposing standards for vehicle bumpers and exterior surfaces which would reduce the severity of pedestrian injuries.

4. Truck Rear Underride Protection Rulemaking proposing to require protection devices to eliminate penetration under the rear ends of heavy trucks and trailers and to dissipate crash force.

5. Low Tire-Pressure Warning Indicator Rulemaking proposing to require a low tire-pressure warning indicator on all vehicles or tires to show a specified drop from recommended pressure.

6. Brake System Inspectability Proceeding proposing to establish test procedures and criteria for measurement of brake system degradation.

7. Hydraulic Brake Systems Rulemaking proposing to extend coverage of the hydraulic brake standard (49 CFR 571.105) to multipurpose vehicles, buses, and all trucks.

8. Rulemaking to assure unobstructed fields of view for drivers by proposal of standards governing direct fields of view and by upgrading of the rearview mirror standard (49 CFR 571.111-76). (NPRM's issued Oct. 31, 1978).

9. Occupant Protection Rulemaking proposing to extend the interior protection standard (49 CFR 571.201) to trucks, buses, and multipurpose vehicles and to extend the driver impact protection (49 CFR 571.203) and steering control rearward displacement (49 CFR 571.204) standards to light trucks. (NPRM issued November 1, 1978).

NHTSA's plans to fund these proceedings are subject to the availability of funds. The priorities established are intended merely as guidelines and may change depending on the number and quality of proposals received in funded proceedings and the progress of the agency's rulemaking plan. NHTSA may fund additional rulemakings as circumstances dictate. The agency will attempt to provide as much advance notice as possible of changes in plans for public participation.

Interested persons are invited to submit comments on NHTSA's selection of proceedings. A public file of these comments will be available in the Office of Consumer Participation for review.

In order to permit NHTSA to begin implementation of its program as early in the fiscal year as possible, the comment period for this notice has been limited to 30 days.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; Secs. 102, 201, 408, 501, et. seq. Pub. L. 92-513, 86 Stat. 949 (15 U.S.C. 1912, 1941, 1988, 2001, et. seq) Pub. L. 95-335, 92 Stat. 435)

Issued on: November 3, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-32296 Filed 11-15-78; 8:45 am]

[4910-59-M]

[Docket No. IP77-21; Notice 2]

VESPA OF AMERICA CORP.

Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by Vespa of America Corp. of San Francisco, Calif., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, *Motorcycle Controls and Displays.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 2, 1978 (43 FR 8610) and an opportunity afforded for comments.

Petitioner is an importer of motor scooters which are defined as "motorcycles" under the Federal motor vehicle safety standards. Pursuant to table 2 of Standard No. 123 if a motorcycle is equipped with a neutral gear indicator, it shall be in the form of a green display lamp that illuminates when the gear selector is in neutral position. Since March 1975 Vespa has imported approximately 7,367 motor-driven cycles equipped with a neutral gear indicator that differ from the specifications of Standard No. 123. Vespa's motorscooters incorporate a hand rotating shift system "by which the operator can visually determine what gear he is in by alignment of [an indicator dot on the handlebar] with the gear indicator numeral on the rotating shift arm". A dot between "1" and "2" indicates neutral though it is not otherwise identified. Petitioner believes that the noncompliance is inconsequential because "correct operation of gear selection and the neutral position is adequately explained through (the) Vehicle Owners Manual which is supplied to the retail buyer."

No comments were received on the petition.

The intent of the indicator requirement in table 2 is to aid the motorcycle operator to find "neutral" when its selection is desired, and to avoid it when it is not. With respect to foot operated gear changes, the green light also denotes the midpoint between higher and lower gears, enabling the operator to avoid inadvertent selection of the improper gear in emergency as well as ordinary driving situations. The intent of this requirement is fulfilled visually by the Vespa system in which the alignment of two dots, one on the handlebar and one on the shift arm, indicate positively that the gears are in neutral. Therefore, it has been determined that the noncompliance with Standard No. 123 is inconsequential as it relates to motor vehicle safety, and the petition of Vespa of America Corp. is hereby granted.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on November 7, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-32010 Filed 11-15-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA (TAIWAN)

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Government of the Republic of China (Taiwan) has not given benefits considered to be bounties or grants on the manufacture or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "preliminary countervailing duty determination" was published in the FEDERAL REGISTER (43 FR 23785). The notice stated that it had been determined preliminarily that benefits had been bestowed by the Government of the Republic of China on the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the above-cited FEDERAL REGISTER notice.

Programs preliminarily determined not to be bounties or grants within the meaning of section 303 of the Act included the following:

(1) Reduction in the stamp tax on export documents.

(2) Customs duty drawback on imported raw materials and semifinished products used to manufacture exports.

(3) Reduction in income tax on dividends or partnership profits for nonresident aliens or foreign companies.

(4) Rebate of Taiwanese business tax upon export. The Department has consistently held that the nonexcessive rebate or remission of indirect taxes, directly related to the exported product, does not constitute a bounty or grant within the meaning of the Act. No evidence received since the preliminary determination shows that the rebate or remission of this tax exceeds the rate of the tax.

The preliminary determination indicated that the following programs might constitute bounties or grants within the meaning of the Act. Information developed since the preliminary determination is indicated for each particular program:

(1) Income tax holidays or accelerated depreciation of fixed assets used for exportation for newly created firms or firms expanding their production facilities under the statute for encouragement of investment (SEI). Accelerated depreciation was not used by any of the investigated companies. The income tax holidays of 4 and 5 years are considered bounties or grants. The tax savings resulting from these holidays made up this benefit.

(2) Preferential export financing. The Central Bank supports an export loan program by standing ready to purchase from commercial banks a set value of export loans made at a low rate of interest if the commercial bank is forced to assume the risk of the borrower. The difference between this rate and commercial rates formed the basis of this benefit. This benefit is considered a bounty or grant.

(3) Benefits for firms located in export processing zones, including exemption from import duties and taxes on machinery. These benefits were received and are considered bounties or grants. They were calculated by spreading the value of the taxes exempted over the life of the equipment.

(4) Exemptions for exporting firms from import duties on capital items. Except for firms located in the export processing zones, there is no exemption from such import duties. However, other companies can pay their import duty liabilities on an installment basis. This program is considered to be a bounty or grant.

(5) A tax incentive for operating expenses incurred on overseas sales promotion activities. This benefit is considered a bounty or grant, equal to the tax savings for the company involved.

(6) Export risk insurance. As stated in the preliminary determination, such a program is considered to be a bounty or grant only to the extent that premiums are subsidized by the government. The Government of the Republic of China has not subsidized the export insurance fund for several years.

Another program has come to the attention of the Department since the preliminary determination which is considered a bounty or grant. It is a provision of the SEI (article 10) which reduces the income tax liability of selected firms from 35 to 24 percent. The benefit is equal to a company's tax savings due to the reduced rate.

After consideration of all information received subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of the Republic of China on the manufacture, production, or exportation of certain textiles and textile products in the form of tax holidays, preferential export financing, exemption of duties on capital equipment used in production for export, deferred payment of import duties on capital equipment used in production for export, tax incentives for operating expenses incurred in promoting sales abroad, and reduced income taxes. These benefits will be reduced after the 1978 tax year since many firms will then become ineligible for the tax holiday.

It has further been determined that these bounties involve an aggregate amount of less than 0.21 percent of the value of the total Taiwanese exports to the United States of the textile products in question, and are thus considered to be de minimis in size. Therefore, it has been determined that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of men's and boys' wearing apparel and textile mill products from the Republic of China (Taiwan).

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to reorganization plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order 165, revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing determination by the

Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

[FR Doc. 78-32187 Filed 11-15-78; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM COLOMBIA

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Colombia has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain leather wearing apparel from Colombia. All merchandise found to be benefitting from the bestowal of bounties or grants enter the United States duty free and are being referred to the U.S. International Trade Commission for an injury determination. It has further been determined that all other merchandise covered by this investigation, dutiable and nondutiable, does not receive benefits considered to be a bounty or grant within the meaning of the countervailing duty law.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8256.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "preliminary countervailing duty determination" was published in the FEDERAL REGISTER (43 FR 23786). The notice stated that it had been preliminarily determined that benefits had been received by Colombian manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills and certified handloomed and folklore products, made of cotton, wool, and manmade fibers as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the above-cited FEDERAL REGISTER notice.

The products from Colombia which are classified under items 307.60, 705.30, and 791.76 are free of duty.

In that preliminary determination, the exemption from Customs duties for raw materials used in export production under the Plan Vallejo and export credit financing were found not to be bounties or grants within the meaning of the Act. The Plan Vallejo is a program designed to permit import duty remission under certain circumstances. Additionally, it was preliminarily determined that two programs were not utilized by manufacturers in sectors covered by this investigation or were not applicable. They were: (1) A program of export credit insurance, which was not utilized by this industry, and (2) alleged maritime transportation subsidies, which were found not to exist. Based upon the information supplied subsequent to the preliminary determination, the Treasury Department has found no reason to alter the preliminary determination with respect to these programs in this final determination.

Four programs were identified as preliminarily bestowing benefits which would be considered bounties or grants within the meaning of the Act. Since that determination, further information has been supplied by the Government of Colombia with respect to each of the four programs. On the basis of that information, it has been determined that no benefits have been received by manufacturers/exporters of the products under investigation under the following programs:

(1) Governmental activity in the area of international trade through the activities of PROEXPO. It has been determined that the activities of this organization are in fact related to the general development of international trade with Colombia, imports as well as exports—with functions identical to those carried out by commercial offices attached to the embassies of all countries. Based upon the very limited nature of the activities, as well as the very general orientation of those activities, it has been concluded that the PROEXPO operations in the United States do not operate in such a way as to be considered bounties or grants within the meaning of the Act.

(2) Concessions for firms located in free trade zones. The Government of Colombia has established six free trade zones and firms within those zones receive the remission of import duties on raw materials, component parts, and capital equipment. The latter is only available if the manufacturer certifies that the equipment will be used solely to produce goods for export. The Treasury does not consider the remission of duties on raw materials or component parts a bounty or grant, but the remission of import duties on capital equipment is conceptually considered a bounty or grant. Of the companies located in the six free trade zones, only one exported product subject to this investigation and at any time took advantage of the duty remission scheme for capital equipment. The benefit received was calculated as the amount of duty exempted on the value of imported equipment, spread over the useful life of that equipment and divided by the total exports of the firm. The ad valorem benefit received as a result of this program for this firm was 0.05 percent, an amount clearly de minimis particularly given the fact that less than 0.1 percent of total Colombian exports of products covered by the investigation were produced by this firm.

On the basis of evidence collected, it has been determined that benefits have been bestowed to Colombian manufacturers on products covered by this investigation under two programs administered by the Government of Colombia. They are:

(1) Customs duty exemptions on equipment used in production for export under the Plan Vallejo. As indicated above, the Treasury Department does not consider the exemption from customs duties for imported capital equipment as allowable under the countervailing duty law. The ad valorem benefit conferred under such a scheme would be equal to the value of customs duties exempted on the imported equipment spread across its useful life, divided by the exports of those products for the most recent period. An ad valorem benefit was calculated for three major product areas—yarn, fabric, and men's and boys' wearing apparel. Based upon the calculation described above, an ad valorem benefit for the Colombian industry of 0.1 percent was found in the case of yarns, 0.08 percent in the case of those products in which a 9 percent negotiable tax credit certificate (CAT) is paid and 0.01 percent in the case of those products in which a 12-percent CAT is paid.

(2) Payment of negotiable tax credit certificates (CAT's) at a fixed percentage of the value of the export transactions. The products covered by this investigation receive three different levels of CAT certificates, 5, 9, and 12 percent generally based upon type of product involved.

The Government of Colombia has asserted that a number of deductions should be made to the CAT rates in determining whether a "net" bounty is, in fact, conferred under this program. The Treasury has accepted a number of these offsets including the payment of a number of local sales taxes, customs duties, cotton taxes and other indirect taxes borne by the products under investigation but which are not otherwise rebated upon export.

An offset was also granted for the nonrebate of the national sales tax on machinery, consistent with the position established by the Treasury Department in its determination published in the FEDERAL REGISTER of June 15, 1978 (43 FR 25812-25814) with respect to countervailing duties being imposed on unwrought zinc, bottled green olives, and nonrubber footwear from Spain. However, it should be noted that the Treasury Department on August 29, 1978, published in the FEDERAL REGISTER its intention to review the bases upon which the countervailing duties in those cases were revised (43 FR 38658). If that review leads to any change in the policies enunciated in that June 15, 1978, notice which affect the conclusion drawn in this case, our analysis in this case will be adjusted to reflect those changes.

A further adjustment was made for the fact that the CAT is calculated only on the domestic value added component in the final product rather than the total f.o.b. value. This reduces the actual ad valorem benefit received by the firm through CAT's.

An additional adjustment was made for the value of the CAT lost to the firm as a result of Government regulations which prevent the firm from receiving its CAT certificate until at least 90 days after application for the CAT has been filed. The value lost was calculated using the prevailing time deposit rate in Colombia.

Offsets were not granted for: (1) Payroll and social security taxes incurred by the firm which are not considered by the Treasury to be directly related to the product, (2) the discount incurred on the sale of CAT's on the stock exchange, (3) a bonding charge assessed on goods imported duty free under Plan Vellejo, (4) Customs duties not otherwise exempted under Plan Vallejo, and (5) the lost value in the rebate of the national sales tax due to the delay in its payment.

As a result of analysis based upon the above, it has been determined that the entire 5 percent CAT on yarn products plus the 0.1 percent benefit under the Customs duty exemption program is more than offset by the deductions allowed and therefore no "net" bounty or grant has been found to exist with respect to this product. With respect to those items upon which a 9-percent CAT is paid the "net" bounty or grant has been determined to be 1.81 percent and with respect to those items receiving a 12-percent CAT a "net" bounty of 2.15 percent has been calculated. However, Colombian manufacturers of these products have certified that they will renounce the "net" bounties of 1.81 and 2.15 percent voluntarily relinquishing CAT certificates valued in those amounts on fabric and apparel exports to the United States. The Government of Colombia and its Central Bank have stated that they will monitor this agreement and report any violations to the U.S. Treasury Department. Based upon these circumstances, it is determined that with respect to fabric and men's and boys' apparel, no "net" bounty or grant exists.

It has been determined that with respect to certain leather wearing apparel exported to the United States from Colombia, upon which a 12-percent CAT is paid net benefits amounting to 5.94 percent are being received. No renumciation of these benefits has been filed and, therefore, after consideration of all information received, it is hereby determined that exports of men's and boys' leather wearing apparel from Colombia benefit from bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in this form of tax certificates (CAT's) paid as a fixed percentage of the value of the export.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been estimated to be 5.94 percent of the value of the merchandise.

The merchandise found to benefit from the bounty or grant enters the United States under item No. 791.76 of the Tariff Schedules of the United States Annotated. This merchandise is duty free. In accordance with section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that 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 article or merchandise into the United States. Accordingly, the International Trade Commission is being advised of this determination, and the liquidation of entries, or of withdrawals from warehouse, for comsumption of the duty-free apparel in question will be suspended pending the determination of the commission. Accordingly, effective on or after the date of publication of this notice in the FEDERAL REGISTER, and until further notice, upon the entry, or withdrawal from warehouse, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

This determination is published pursuant to section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to reorganization plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order 165, revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 7, 1978.

[FR Doc. 78-32185 Filed 11-15-78; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM INDIA

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of India has not given benefits considered to be bounties or grants withing the meaning of the countervailing duty law on the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 1, 1978, an affirmative "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23788). That notice stated that it had been preliminarily determined that benefits had been bestowed by the Government of India to manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) hereinafter referred to as "the Act").

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the above-cited FEDERAL REGISTER notice.

The following programs were preliminarily found not to constitute bounties or grants within the meaning of section 303 of the Act:

(1) The nonexcessive drawback of customs duties and rebates of excise taxes upon export.

(2) Export risk insurance laws provided by the Export Credit and Guarantee Corporation (ECGC).

In addition, a number of other programs were preliminarily determined as not applicable to, or utilized by, Indian textile and textile product manufacturers subject to this investigation. They include:

(1) Tax Credit Certificates; (2) Income Tax Offsets for Overseas Expenses; (3) Export Promotion Grants by the Market Development Fund; (4) Export Financing through the Industrial Development Bank; (5) Benefits by virtue of location in Kandla Free Trade Zone.

No information has been submitted subsequent to the preliminary determination to alter the Treasury Department's position with respect to these programs.

Three programs were identified in the preliminary determination as bestowing benefits constituting "bounties or grants" within the meaning of the Act. It was also indicated that further information was to be collected and analyzed before a final determination in the case would be issued. This information, and the results of subsequent analyses, are discussed below.

(1) Cash Rebates Upon Export—Exporters of textiles and textile products subject to this investigation receive cash rebates upon export varying from 6.5 percent to 15 percent of the f.o.b. value of the exported products. The Government of India has certified information submitted regarding the incidence of indirect taxes which are not otherwise rebated upon export and which are borne by the various products under investigation. These taxes include national sales taxes, municipal taxes and excise taxes assessed on the product or its component parts. Offsets have been granted consistent with the position established by the Treasury in the determination published in the FEDERAL REGISTER on June 15, 1978 (43 FR 25812-25814) with respect to the countervailing duties being imposed on unwrought zinc, bottled green olives and, nonrubber footwear from Spain. However, it should be noted that the Treasury Department on August 29, 1978 published in the FEDERAL REGISTER its intention to review the bases upon which the countervailing duties in those cases were revised (43 FR 38658). If that review leads to any change in the policies enunciated in that June 15, 1978 notice which affect the conclusions drawn in this case, our analysis in this case will be adjusted to reflect those changes.

Based upon the information submitted, it has been determined that with respect to the products covered by this investigation, the indirect taxes borne by the products exceed the cash rebates received upon export and that therefore this program does not operate to confer a "bounty or grant" within the meaning of the Act.

(2) Export Financing—The Government of India allows commercial banks to provide short term export financing at rates which are considered to be preferential compared to commercial interest rates presently charged in India. Information has been supplied regarding the utilization of the lower rate available on export financing for the larger textile manufacturers/exporters in India. Based upon the experience of these firms, it has been determined that the ad valorem benefit received by the textile industry by virtue of the availability of credit at preferential terms is 0.19 percent.

(3) Import Permits—Indian exporters involved in this investigation are eligible to receive permits to import goods used to manufacture their products, either component parts or raw materials, up to a fixed percentage of the f.o.b. value of their exports. These permits are negotiable and in the preliminary determination it was stated that pending information regarding the extent to which the permits are bought and sold, they would be considerede a "bounty or grant." Such information has been received and the ad valorem benefit bestowed has been calculated to be 0.001 percent. The very low benefit was due to the general lack of demand for these permits since a significant liberalization of Indian import restrictions was put into effect in April 1978.

On the basis of information provided subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of India on the manufacture/exportation of men's and boys' apparel and textile mill products made of cotton, wool and manmade fibers in the form of preferential export financing and the sale of import permits. It has further been determined that these benefits involve an aggregate amount of 0.191 percent, considered to be de minimus in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool or manmade fibers from India.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 7, 1978.

[FR Doc. 78-32184 Filed 11-15-78; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Government of Korea has not given benefits which are considered to be bounties or grants on the manufacture or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 1, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23791). The notice stated that cer-

tain practices of the Government of the Republic of Korea provided benefits to manufacturers, but that such benefits did not constitute bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), since the amount of the total benefits, 0.25 percent of the value of the merchandise exported, was considered to be de minimis. The programs involved are:

1. Short term financing at preferential interest rates.

2. Interest savings resulting from delayed payment in customs duties on imports of machinery and equipment.

3. Tax benefits under a provision for accelerated depreciation in connection with fixed assets used directly for exportation of goods.

4. Interest savings resulting from the deferrals by inclusion in loss accounts of reserve funds in connection with losses accruing from export activities.

The preliminary determination also stated that certain other practices of the Government of the Republic of Korea did not on their face constitute bounties or grants. These practices are:

1. Exemption from commodity and textile taxes, which are indirect taxes, levied on the exported product. These taxes were substituted for a value added tax on July 1, 1977.

2. Remission, upon exportation, of customs duties on imported raw materials, reflecting internationally accepted principles of "drawback" on such items.

3. Benefits from export industrial estates. Under the Export Industrial Estate Development Law, manufacturers allegedly were given benefits for locating in areas outside of traditional population centers. No benefits, but rather certain disincentives have been imposed on factories in high population areas to encourage their location in the industrial estates.

4. Long term and special raw material purchase loans. There is no evidence to show that the terms of these loans are more favorable than those commercially available.

In addition, certain other practices were not considered to constitute bounties or grants because they were either not applicable to, or were not utilized by, the Korean textile industry. These practices are:

1. Benefits to exporters of the "link system" which allegedly provides exporters the right to import certain luxury items that are ordinarily carefully controlled. None of the textile firms utilized this system in 1977 and the program was abolished on December 31, 1977.

2. Benefits from locating in Masan and IRI Free Export Zones. No textile facilities are located in these zones.

3. Deferred payment export financing, which is not utilized by the textile industry.

4. Deferred payment of commodity and textile taxes. Prior to abolition of these taxes, the textile industry was not eligible for any extension of payments on these taxes.

Interested parties were invited to submit relevant data, views or arguments in writing with respect to the preliminary determination. However, no additional information has been received. In view of the foregoing, the conclusions reached in the preliminary determination remain unchanged and it is determined that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of textile mill products or men's and boys' wearing apparel from the Republic of Korea.

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, miscellansous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in the U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the abovecited FEDERAL REGISTER notice.

This notice is published pursuant to section 303(a), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order 165, revised November 2, 1954 and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 7, 1978.

[FR Doc. 78-32186 Filed 11-15-78; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE PHILIPPINES

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of the Philippines has not given benefits considered to be bounties or grants within the meaning of the Countervailing Duty Law on the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Nyschot, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 1, 1978, an affirmative "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23793). That notice stated that it had been preliminarily determined that benefits had been bestowed by the Government of the Philippines upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers which constituted bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as the Act).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the abovecited FEDERAL REGISTER notice.

A. The following programs were preliminarily determined to be not applicable to or utilized by the textile industry in the Philippines; no information has been submitted to the Treasury since then which modifies that determination:

1. Various incentives under the Investment Incentives Act. No textile company receives benefits under that law.

2. Tax credit on purchase of domestic capital equipment. Such equipment is not purchased by the textile industry.

B. The following programs were preliminarily determined not to be bounties or grants within the meaning of section 303 of the Act; no information has been submitted to the Treasury since then which modifies that determination:

1. Various tax incentives under the Export Incentives Act (R.A. 6135), including:

a. Customs duty exemption for imported components used in the production of articles to be exported (drawback).

b. Exemption from sales taxes on export sales.

c. Exemption from specific taxes (i.e., special excise tax) and compensating taxes (i.e., border tax adjustments) on raw materials used in articles to be exported.

The Department has consistently held that the nonexcessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law. There is no evidence before the Department that the rebate of this tax operates to confer bounties or grants on exports of the merchandise in question from the Philippines. Information received since the preliminary determination shows that the rebate or remission of this tax does not exceed the rate of tax.

2. Incentives granted to companies located in the Bataan Export Processing Zone, including:

a. The exemption of taxes and duties on imports of raw materials and supplies used in the production of articles to be exported. These are not treated as bounties by Treasury.

b. Exemption from municipal and provincial sales taxes. The policy of the Treasury regarding the rebate or remission of indirect taxes has been stated above.

c. Reduced utility and water rates. According to the Government, these rates are identical to ordinary rates assessed outside the zone.

d. Manpower training in market promotion. According to the Government, no such assistance exists.

The preliminary determination indicated that the following programs might constitute bounties or grants within the meaning of the Act. Information developed since the preliminary determination is indicated for each particular program:

1. Various tax incentives under the Export Incentives Act (R.A. 6135) including:

A. Exemption from import duties on imported machinery or equipment. Companies may qualify for either full of partial duty exemption on capital equipment imported within 5 years after registration for use in the manufacture of goods for export. Such exemptions were given, and are considered to be a bounty or grant. Their value is calculated by spreading the value of the exemption for each company over the life of the equipment.

B. Tax credits on domestic capital equipment purchased equal to the amount of taxes and duties that would have been paid had the equipment been imported. No textile company received benefits under this program, since such equipment was not manufactured in the Philippines.

C. Reduced income tax for 5 years. During the first 5 years of a firm's registration under this Act, it may deduct an amount equal to the sum of the direct labor costs and local raw materials used in the production process from its taxable income in computing income tax liability. This benefit was received, and is considered a bounty or grant. It is quantified by calculating the tax savings obtained annually by the firm.

D. Income tax benefits resulting from a 50 percent deduction from taxable income for training purposes. No textile company received benefits under this program.

E. Tax benefits resulting from the deduction of undistributed profit reinvested in capital stock for procurement or expansion of machinery and equipment used. This provision was not utilized by any of the textile companies.

2. Possible preferential financing benefits resulting from the Central Bank's relaxed cash deposit requirements on letters of credit opened by Philippine importers resulting in lower costs to exporters of imported components and raw materials. The Central Bank normally requires a 50 percent cash deposit on letters of credit opened by importers for a period of 30 days. However, this acts as a Government-imposed surcharge on the issuance of letters of credit opened with commercial banks; it does not operate as a preferential financing arrangement. The 50 percent requirement is reduced to 25 percent for firms receiving benefits under the Export Incentives Act and other exporters and is completely eliminated for firms located in the Bataan Export Processing Zone. This provision is considered a bounty or grant since it confers benefits on selected firms equal to the potential interest related to holding funds for the 30-day period which other importers must deposit with the Central Bank.

3. Special incentives granted to companies located in the Bataan Export Processing Zone, including:

A. Accelerated depreciation rates for fixed assets. This program was not utilized by any of the textile firms.

B. The carryover of deductions from taxable income for losses incurred during the first 5 years of operation. This benefit was received, and is considered a bounty or grant because it is not universally available to manufacturers in the Philippines. It is measured by the tax savings earned by firms due to the provision.

C. The exemption of duties on imports of machinery and equipment used in the production of articles to be exported. Such exemptions were given, and are considered to be a bounty or grant. Their value is calculated by spreading the value of the exemption for each company over the life of the equipment.

D. Reduced income taxes. This reduction was available only under the Export Incentives Act. There is no provision for reduced income taxes under the Export Processing Zone Authority.

E. Government guaranteed loans. These were not given to any of the textile firms.

F. Special financial assistance for factory construction. No such assistance was given to any of the firms in the Export Processing Zone.

4. Priority status of exporters in the issuance of import licenses and foreign exchange allocations. The Government states that no such program exists, since the Central Bank does not issue import licenses and does not have any allocation scheme for foreign exchange.

After consideration of all information received subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of the Philippines on the manufacture, production or exportation of certain textiles and textile products in the form of reduced income taxes, exemption of duties on capital equipment used in production for export, loss carryovers for firms in the export processing zone, and relaxed cash deposit requirements on letters of credit for importing capital equipment or raw materials used in production for export. These benefits will be greatly reduced after tax year 1978, since the majority of the firms will then become ineligible for the reduced income tax, which accounts for a large part of these benefits.

It has further been determined that these benefits involve an aggregate amount of less than 0.22 percent of the value of the total of Philippine exports to the United States of the textile products in question, and are thus considered to be de minimis in size. Therefore, it has been determined that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of certain

textiles and textile products from the Philippines.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order 165, revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-32188 Filed 11-15-78; 8:45 am]

[4810-22-M]

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM FRANCE

Antidumping; Withholding of Appraisement and Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement and determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that viscose rayon staple fiber from France is being sold at less than fair value under the Antidumping Act, 1921. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries). Appraisements of entries of this merchandise will be suspended for 3 months. This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, a petition in proper form was received from counsel on behalf of Avtex Fibers, Inc., Valley Forge, Pa., alleging that viscose rayon staple fiber from France is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of May 5, 1978 (43 FR 19489).

For purposes of this investigation, the term "viscose rayon staple fiber" refers to fibers in noncontinuous form, not carded or combed and not otherwise processed, wholly of filaments, except laminated filaments and plexiform filaments, made by the viscose process, of rayon. These fibers are classified under items 309.4320 and 309.4325, Tariff Schedules of the United States, Annotated (TSUSA).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, I hereby determine that viscose rayon staple fiber from France is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* Rhone Pulenc Textiles exported virtually all of the viscose rayon staple fiber which was sold to the United States during the period of investigation. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States were made to an unrelated customer. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for fair value.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales during the period November 1, 1977, through April 30, 1978.

c. *Purchase price.* For the purposes of this determination, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c&f price. Adjustments were made for ocean freight and French inland freight.

d. *Home market price.* For the purpose of this determination of sales at less than fair value, the home market price has been calculated on the basis of the f.o.b. price with an adjustment for French inland freight.

Adjustment was claimed for certain selling expenses incurred in the home market. A claim for adjustment for advertising expenses in the home market was denied, since such expenses were not shown to be directly related to the sales under consideration and were not incurred for the benefit of purchasers in later sales of the merchandise. A claim for adjustment for expenses incurred in relation to merchandise returned by home market purchasers for failure to meet quality standards was granted, since such expenses were determined to be directly related to the particular sales under consideration.

e. *Cost of producing.* Information received from petitioner indicated the possibility that sales of French viscose rayon staple fiber were occurring in the home market at prices less than the cost of producing the merchandise, within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)). Therefore, cost information was requested from respondent with reference to the period January 1, 1977, through March 31, 1978. A comparison of the actual cost of producing the merchandise with home market prices during the investigatory period revealed that 7.21 percent of home market sales of viscose rayon staple fiber were at prices not less than the cost of producing the merchandise, within the meaning of § 153.5, Customs Regulations (19 CFR 153.5). It has been determined that these sales at or above the cost of producing the merchandise are adequate as a basis for the determination of the foreign market value of the merchandise. Therefore, petitioner's claim that such sales be disregarded, as inadequate in number to establish foreign market value, in favor of the use of the constructed value for this purpose, has been rejected.

Petitioner claimed that expenses incurred in connection with the production of merchandise which is not sold, or which is sold at greatly reduced prices, because it is of an inferior quality, should be deducted from revenue received from home market sales of rayon staple fiber, for purposes of comparison of those sales prices to the cost of production of the merchandise.

Information relevant to this expense was requested from respondent. Such information not having been received, an adjustment to home market prices has been made, for purposes of comparison of those prices to the cost of production, based upon evidence of such expenses incurred by an Austrian producer. This latter information was verified during the conduct of a previous antidumping investigation involving Viscose Rayon Staple Fiber from Austria (1978). Should information regarding this expense be received from respondent in a timely fashion appropriate revisions will be made and the U.S. International Trade Commission will be notified of the extent to which the results of this Final Determination are materially affected thereby.

Petitioner has claimed that certain general and selling expenses attributable to the production and sale of this merchandise by Rhone Poulenc Textiles were incurred by that producer's parent company, Rhone Poulenc S.A., and should be included within the cost of production of this merchandise for purposes of determination whether sales at less than the cost of production have occurred within the meaning of section 205(b) of the Act (19 U.S.C. 164(b). There is evidence that the expenses in question, for example, expenses for financial management, research and development, planning, and bad debt reserve, were not included in the information presented to the Customs Service. Therefore, Rhone Poulenc S.A. has been requested to provide immediately information on such expenses as they relate to the production and sale of this merchandise by Rhone Poulenc Textiles. Revisions in the Final Determination may be necessary as a result of these inquiries. To the extent that the results of this Final Determination are materially affected thereby, appropriate revisions will be made and the U.S. International Trade Commission will be notified.

f. *Results of comparison.* Using the above criteria, comparisons were made on 100 percent of the viscose rayon staple fiber sales to the United States during the representative period. Those comparisons indicate that the purchase price was less than the home market price of such or similar merchandise. A margin of approximately 14.6 percent was found on 100 percent of the sales compared.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons noted above, Customs Officers are being directed to withhold appraisement of viscose rayon staple fiber from France in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), shall become effective November 16, 1978. It shall cease to be effective at the expiration of 3 months from the date of this publication (February 16, 1979) unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-32245 Filed 11-15-78; 8:45 am]

[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM FINLAND

Antidumping; Withholding of Appraisement and Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement and determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that viscose rayon staple fiber from Finland is being sold at less than fair value under the Antidumping Act, 1921. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries). Appraisements of entries of this merchandise will be suspended for 3 months. This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, a petition in proper form was received from counsel on behalf of Avtex Fibers, Inc., Valley Forge, Pa., alleging that viscose rayon staple fiber from Finland is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of May 5, 1978 (43 FR 19490).

For purposes of this investigation, the term "viscose rayon staple fiber" refers to rayon staple fiber in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, I hereby determine that viscose rayon staple fiber from Finland is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determinations are as follows:

a. *Scope of the investigation.* All of the imports of the subject merchandise from Finland are manufactured by the Kemira Oy Sateri, Valkeakoski, Finland. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States were made to nonrelated customers. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for fair value.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales during the period November 1, 1977 through April 30, 1978.

c. *Purchase price.* For the purposes of this determination, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been

calculated on the basis of the C.I.F. duty paid price. Adjustments were allowed for ocean freight, U.S. inland freight, insurance, duty, sales commission, and inland freight in Finland.

d. *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the f.o.b. factory price with adjustments for cash discount, selling expenses and moisture content.

The selling expenses claimed are not a circumstance of sale but they are general selling expenses and are deducted as an offset, not to exceed the amount of commission paid in the United States. This is in accordance with § 153.10(b) of the Customs Regulations (19 CFR 153.10(b)).

Respondent also made claims for adjustments based on expenses incurred for technical assistance provided customers in the home market. Information submitted by the manufacturer failed to show that the claim for technical assistance was directly related to the sales under consideration, as required by § 153.10, Customs Regulations (19 CFR 153.10). The service provided appears to promote future sales of the merchandise. Also, the information showed an allocation for technical assistance which applied to an extended period of time. Therefore, an adjustment was disallowed.

The respondent also claims that the exchange rate used by Customs to convert Finnmarks to U.S. dollars does not accurately reflect the value of the Finnmark with respect to the particular sales. The exchange rates used in this case were published by the Federal Reserve Bank in New York. During the first quarter of 1978, a currency variance of 5 percent or more occurred only on 2 days. With respect to the sales under consideration, no sales were made on either of these 2 days. Therefore, the currency rate issued for the first quarter of 1978 was used for currency conversion in accordance with § 153.52, Customs Regulations (19 CFR 153.52).

A claim was made for an adjustment for home market availability of the subject merchandise as a circumstance of sale. No evidence has been submitted to justify such an adjustment. The claim has been found to be not quantifiable and not directly related to the sales under consideration as required for such an adjustment by § 153.10, Customs Regulations.

e. *Cost of producing.* Since the petition contained an allegation of sales at less than the cost of production, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), information was obtained concerning the production costs of viscose rayon staple fiber from Finland. The cost of producing the merchandise was determined from the response of Kemira Oy Sateri and the verification report of the Assistant Customs Attaché. This information reflects Sateri's production costs, including the cost of materials, fabrication and general expenses. In order to determine whether sales below the cost of production are being made pursuant to § 153.5, Customs Regulations (19 CFR 153.5), cost information was obtained and analyzed for the period May 1, 1977 through April 30, 1978. The cost of producing the merchandise was compared to the home market price, less a cash discount. Using these criteria, it has been determined that 60 percent of Sateri's home market sales of viscose rayon staple fiber are not being made at prices less than the cost of producing the merchandise pursuant to § 153.5, Customs Regulations (19 CFR 153.5).

The petitioner stated that costs incurred on behalf of Sateri by its parent company, Kemira Oy, attributable to the production of rayon staple fiber should be included in the cost of production calculation. As a result of the verification, no costs were found that would be attributable to the production of rayon staple fiber by the parent company.

The petitioner also stated that cost incurred as a result of the production of "waste" and "off-quality" fiber in the course of the manufacturing process should be included in the cost of production calculation. For purposes of the comparison of home market prices to the cost to produce, the home market prices were reduced. This reduction was based on a similar calculation made regarding rayon staple fiber from Austria. The amount represents the loss of revenue in the sale of the off-quality fiber. This adjustment did not affect the comparisons by placing any additional sale into the below cost range. Further information has been requested from counsel for Sateri and an appropriate adjustment will be made if it becomes apparent that it will change results of the comparisons.

f. *Results of comparison.* Using the above criteria, comparisons were made on 100 percent of the viscose rayon staple fiber sales to the United States during the representative period. Those comparisons indicate that the purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from approximately 8.8 to 13.1 percent on 100 percent of the sales compared. The weighted average margin of those sales on which comparisons were made amounted to 11.77 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons noted above, Customs Officers are being directed to withhold appraisement of viscose rayon staple fiber from Finland in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a), shall become effective November 16, 1978. It shall cease to be effective at the expiration of 3 months from the date of this publication (February 16, 1979), unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-32246 Filed 11-15-78; 8:45 am]

[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM ITALY

Antidumping; Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a tentative determination that viscose rayon fiber from Italy is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.7, Customs Regula-

tions (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Italy is being or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (hereinafter referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19491). For purposes of this investigation, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), I hereby determine that there are reasonable grounds to believe or suspect that the exporter's sales price of viscose rayon staple fiber from Italy is less, or is likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

A. *Scope of the Investigation.* It appears that 100 percent of imports of the subject merchandise from Italy were exported to the United States by Italviscosa. The investigation was therefore limited to sales by Italviscosa.

B. *Basis of Comparison.* For purposes of this notice, considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales by Italviscosa were made to a related importer in the United States, Snia Viscosa, Inc., (U.S.A.). Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period November 1, 1977, through April 30, 1978.

C. *Exporter's Sales Price.* For purposes of this tentative determination, the exporter's sales price was calculated on the basis of the resale price of imported merchandise in accordance with section 204 of the Act. Adjustments were made for lading, ocean freight, factoring costs, brokerage, duty, warehouse costs, inland freight in both the home market and the United States, pier usage charges, selling and administrative expenses incurred in the U.S., and a duty rebate, as applicable. Adjustments for lading, ocean freight, factoring, brokerage, duty, warehousing, inland freight, and pier usage were made since these costs and charges are incident to bringing the merchandise from the point of shipment in Italy to point of delivery in United States. The selling and administrative expenses incurred in the United States were deducted as charges incurred in the resale of the merchandise. The adjustment for duty rebate reflected duties refunded to the manufacturerer upon exportation of the merchandise to the United States and the adjustment consisted of an addition to the exporter's sales price.

D. *Home Market Price.* For purposes of this determination, the home market price has been calculated on basis of the weighted average price in the home market to unrelated purchasers during the investigative period. Deductions were made for a discount, inland freight, a commission, and as an offset for selling expenses claimed on the U.S. sales pursuant to § 153.10, Customs Regulations (19 CFR 153.10). This offset for selling expenses and commission was below the amount claimed on exporter's sales price and the actual amount claimed was allowed. No other adjustments were claimed or made.

E. *Cost of Production.* The petition contained a sufficient allegation of sales at less than the cost of production, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)). Therefore, information was obtained concerning the production costs of viscose rayon staple fiber in Italy. The cost of production was calculated on the basis of the cost of materials, cost of labor, and general expenses incurred in the manufacture and sale of the merchandise, as provided for in § 153.5, Customs Regulations (19 CFR 153.5).

The petitioner has raised several issues relative to similar investigations on France and Finland, concerning the possible exclusion of certain cost data by the respondents. Further information is currently being obtained and, if an adjustment is appropriate, it will be made prior to the final determination.

On the basis of the information submitted, it has been tentatively determined that Italviscosa is not selling viscose rayon staple fiber in the home market at less than the cost of producing the merchandise.

F. *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on virtually all sales of the subject merchandise to the United States during the period of investigation. These comparisons indicated that the exporter's sales price of viscose rayon staple fiber from Italy was less, or likely to be less, than the home market price of such or similar merchandise. Margins were found on all of the sales compared, ranging from 17.5 to 19.7 percent. A weighted average margin of approximately 18.6 percent was found on all sales compared.

Accordingly, Customs officers are being directed to withhold appraisement of viscose rayon staple fiber from Italy in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than December 1, 1978. Such request must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than December 18, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are requested to serve all written submissions on all other counsel and to file 10 copies of their submissions with the Commissioner of Customs.

This notice, which is published pursuant to § 153.35(b) of Customs Regulations (19 CFR 153.35(b)), shall become effective November 16, 1978. It shall cease to be effective at the expiration of 6 months from the date of publication (May 16, 1979) unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-52247 Filed 11-15-78; 8:45 am]

[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM SWEDEN

Antidumping: Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a tentative determination that viscose rayon staple fiber from Sweden is being sold at less than fair value within the meaning of the antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisements for purposes of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action not later than December 18, 1978.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Ave., NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Sweden is being or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). (Hereafter referred to in this notice as "the Act"). The "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19492).

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of viscose rayon staple fiber from Sweden is less, or is likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

A. *Scope of Investigation.* It appears that virtually 100 percent of the exports of the subject merchandise from Sweden were exported to the United States by Svenska Rayon AB. The investigation was therefore limited to sales by Svenska.

B. *Basis of Comparisons.* For purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the third country price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales by Svenska were made prior to the date of exportation to an unrelated United States purchaser. Third country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise was not sold in the home market.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and to third countries during the period November 1, 1977, through April 30, 1978.

C. *Purchase price.* For purposes of this tentative determination, the purchase price was calculated on the basis of the selling price to the unrelated United States purchaser in accordance with section 203 of the Act. Adjustments were made for ocean freight, insurance, U.S. Customs duties, and inland freight. These adjustments were made since these costs and charges were incident to bringing the merchandise from the point of shipment in Sweden to the point of delivery in the United States and the charges were included in the selling price.

D. *Third Country Price.* For purposes of this determination, the third country price has been calculated on the basis of the weighted average price to unrelated purchasers in a third country, France, during the investigatory period. Deductions were made for cash discounts, freight, and insurance, and for differences in sales commissions in the two relevant markets. The adjustment for differences in sales commissions was made in accordance with § 153.10(b), Customs Regulations (19 CFR 153.10(b)). No other adjustments were claimed or made.

E. *Cost of Production.* Information received from petitioner indicated the possibility that sales of Swedish viscose rayon staple fiber were occurring in third countries at prices less that the cost of producing the merchandise, within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)). Therefore, cost information was requested from respondent with reference to the period May 1, 1977, through April 30, 1978. A comparison of the actual cost of producing the merchandise with prices to Iranian purchasers during the investigatory period revealed that those sales were at prices less than the cost of producing the merchandise pursuant to § 153.5, Customs Regulations (19 CFR 153.5). Therefore, those sales were disregarded in establishing the foreign market value for this merchandise, pursuant to section 205(b) of the Act. A comparison of the actual cost of producing the merchandise with prices to French purchasers during the investigatory period revealed that those sales were at prices not less than the cost of producing the merchandise pursuant to § 153.5, Customs Regulations. Therefore, sales to France were used for purposes of determining the foreign market value of the merchandise.

Repondent has urged that general and selling expenses should not be included within the "cost of producing" this merchandise, under section 205(b) of the Act. In prior Treasury decisions applying section 205(b) of the Act, the cost of producing has been construed as including all elements of cost pertaining to the manufacture and marketing of the merchandise. The individual home market or third country prices, as appropriate, with which the cost of producing is compared, also include these cost factors. Consequently, it is determined that the term "cost of producing" in section 205(b) encompasses all cost elements, including costs of manufacture and of marketing, which are included in the prices with which the cost of producing is being compared. Additional information has been requested from Svenska in connection with the specific costs included within the various fixed costs allocated to the cost of producing this merchandise. This information will be considered prior to the Final Determination in this case.

F. *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on virtually all the sales of the subject merchandise to the United States during the period of investigation. These comparisons indicated that the purchase price of viscose rayon staple fiber from Sweden was less, or likely to be less, than the third country price of such or similar merchandise. Margins were found on all the sales compared, ranging from 1.4 to 3.6 percent. A weighted average margin of approximately 2.3 percent was found on all sales compared.

Accordingly, Customs officers are being directed to withhold appraisement of viscose rayon staple fiber from Sweden in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views. These requests should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than December 1, 1978. Such requests must be accompanied by a statement outlining the issues to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than December 18, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are requested to serve all written submissions on all other counsel and to file 10 copies of their submissions with the Commissioner of Customs.

This notice, which is published pursuant to § 153.35(b) of the Customs Regulations (19 CFR 153.35(b)), shall become effective November 16, 1978. It shall cease to be effective at the expiration of 6 months from the date of publication. (May 16, 1979) unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

NOVEMBER 8, 1978.

[FR Doc. 78-32248 Filed 11-15-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 46]

DECISION—NOTICE

Decided: November 3, 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 of notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, on or before December 18, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute 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, and 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. 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 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission which is hereby expressly reserved to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-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.

Applicants must comply with all specific conditions set forth within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied. By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Secretary.

MC 200 (Sub-312F), filed September 29, 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, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kenova, WV, and Cincinnati, OH, over U.S. Hwy 52, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, and (2) between Kenova, WV, and Louisville, KY, over Interstate Hwy 64, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO.)

MC 2253 (Sub-85F), filed September 18, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe and cast iron fittings*, from Charlotte, NC, to points in AL, DE, IL, IN, KY, MD, MI, MS, NJ, NY, PA, TN, VA, WV, and WI; and (2) *plastic pipe and plastic fittings*, from Bakers, NC, to points in AL, DE, IL, IN, KY, MD, MI, MS, NJ, NY, PA, TN, VA, WV, and WI. (Hearing site: Charlotte, NC.)

MC 2253 (Sub-86F), filed September 18, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caulking compound and roofing cement*, from Ocala, FL, to Selinsgrove, PA. (Hearing site: Charlotte, NC, or Gainesville, FL.)

MC 2876 (Sub-1F), filed August 25, 1978. Applicant: W. J. BEITLER CO.,

a corporation, 3379 Stafford Street, Pittsburgh, PA 15204. Representative: William J. Lavell, 2310 Grant Building, Pittsburgh, PA 15219. 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 W. J. Beitler Co., at or near Pittsburgh, PA, on the one hand, and, on the other, Anmoore, WV, those points in WV on and north of U.S. Hwy 50, and those in OH on and east of Interstate Hwy 77. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Tacking is authorized at the facilities of W. J. Beitler Co., at or near Pittsburgh, PA, with carrier's authority in MC 2876, issued January 14, 1943. The following service is authorized: *General commodities*, with the exceptions noted above, from Anmoore, WV, those points in WV on and north of U.S. Hwy 50, and those in OH on and east of Interstate Hwy 77, to Youngstown and Warren, OH, and those points in PA within 75 miles of Pittsburgh, PA.

MC 3500 (Sub-3F), filed June 15, 1978, previously noticed in the FEDERAL REGISTER issue of September 5, 1978. Applicant: PACIFIC STORAGE CO., a corporation, 517 North Hunter Street, Stockton, CA 95201. Representative: Edward J. Hegarty, 100 Bush Street, 21st floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers, between points in Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Inyo, Kern, Kings, Lake, Madera, Marin, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba Counties, CA, 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 the packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: San Francisco, CA.)

NOTE.—This republication shows additional CA counties.

MC 5470 (Sub-160F), filed October 2, 1978. Applicant: TAJON, INC., a Deleware corporation, R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry coffee gounds*, in dump vehicles, from Freehold, NJ, to Gonvick, MN. (Hearing site: Washington, DC, or Newark, NJ.)

MC 7156 (Sub-9F), filed August 28, 1978. Applicant: WILLIAMS TRANSFER CO., a corporation, P.O. Box 706, 2995 Prairie Road, Eugene, OR 97401. 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 Lane 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 delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: Portland or Eugene, OR.)

MC 8472 (Sub-7F), filed August 14, 1978. Applicant: SOUTH END CARTAGE, a corporation, 4222 South Knox Avenue, Chicago, IL 60632. Representative: Abraham A. Diamond, 29 South LaSalle Street, Suite 454 Barristers Building, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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), in containers; and* (2) *empty containers*, or *trailers* for the movement of the containers, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, and WI, restricted to the transportation of traffic having a prior or subsequent movement by rail or by water. (Hearing site: Chicago, IL.)

MC 13250 (Sub-142F), filed September 28, 1978. Applicant: J. H. ROSE TRUCK LINE, INC. 4101 Fulton, P.O. Box 16190, Houston, TX 77022. Representative: Robert J. Birnbaum, 500 W. 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water pollution control equipment*, (2) *irrigation equipment*, (3) *parts and accessories* for the commodities named in (1) and (2) above, and (4) *such commodities* as are used in the installation of the commodities named in (1), (2), and (3) above, from the facilities of Davco-Defiance Division of Davis Water & Waste Industries, Inc., at or near Thomasville, GA, to points in the United States (except AK and HI); and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1), (2), (3), and (4) above, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 16903 (Sub-57F), filed September 14, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, marble, and granite* (except in dump vehicles), (1) from the facilities of The Stone Center, at or near St. Louis, MO, to points in CO, and those in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) from points in Washington County, AR, Forest and Lemar Counties, MS, and Bourbon County, KS, to points in IL, KY, and MO. (Hearing site: St. Louis, MO.)

MC 21259 (Sub-2F), filed October 6, 1978. Applicant: GERTSEN CARTAGE CO., INC., 3000 Hirsch Street, Melrose Park, IL 60160. Representative: Anthony C. Vance, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and Classes A and B explosives), in containers, between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, NE, OH, TN, and WI, restricted to the transportation of traffic having an immediate prior or subsequent movement by rail or water. (Hearing site: Chicago, IL.)

MC 28060 (Sub-45F), filed October 4, 1978. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, P.O. Box 944, Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of John Morrell & Co., at or near Sioux Falls, SD, to points in AZ, IN, NM, WY, and those in CA in and south of San Luis Obispo, Kern, and San Bernardino Counties, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 29910 (Sub-194F), filed October 2, 1978. Applicant: ARKANSAS-BEST

FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Georgetown County, SC, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 35706 (Sub-13F), filed August 22, 1978. Applicant: ATSL, INC., Building A, 10 Oregon Avenue, Philadelphia, PA 19148. Representative: Steven M. Tannenbaum, 135 North Fourth Street, Philadelphia, PA 19106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel and store supplies*, (except commodities in bulk), from the facilities of The Miller-Wohl Co., Inc., (1) at Secaucus, NJ, to the facilities used by the Miller-Wohl Co., Inc., at or near Cleveland, OH and Detroit, MI, and (2) at or near Cleveland, OH, to the facilities used by the Miller-Wohl Co., Inc., at or near Detroit, MI. (Hearing site: Camden, NJ, or Philadelphia, PA.)

MC 47583 (Sub-76F), filed September 18, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Borate* (except in bulk), from Trona, Boron, and Dunn, CA, to points in OK and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 51146 (Sub-632F), filed August 28, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard and pulpboard products*, from Otsego, MI, to Buffalo, Rochester, and Syracuse, NY, Austin and Minneapolis, MN, Louisville, KY, and points in OH, IN, and IL; and (2) *waste paper*, from Kansas City, MO, to those points in IA on and east of U.S. Hwy 65, and those points in IL on and north of Interstate Hwy 70. (Hearing site: Chicago, IL.)

MC 52704 (Sub-180F), filed August 24, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid cleaning compounds and liquid bleaching compounds*, (except commodities in bulk), from the facilities of National Marketing Associates, Inc., at or near New Orleans, LA, to points in AL, FL, GA, MS, and TN, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 61396 (Sub-357F), filed August 22, 1978. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II (same address as applicant). 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. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 63562 (Sub-58F), filed August 25, 1978. Applicant: BN TRANSPORT INC., 6775 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, CO 80224. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in ID, MN, MT, ND, OR, SD, WA, and WY. (Hearing site: Peoria or Chicago, IL.)

MC 69116 (Sub-203), filed August 24, 1978. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, zinc articles, lead articles, and springs*, (2) *construction materials, construction supplies, and construction equipment*, from the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO, Albuquerque, NM, Jackson, MS, Columbus and Toledo, OH, and Newton, KS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins, and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 69833 (Sub-136F), filed September 18, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW, Sixth Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). 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), serving the facilities of Ford Motor Co., at or near Milan, MI, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Detroit or Lansing, MI.)

MC 95540 (Sub-1044F), 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 turnover meat pies and frozen fruit pies*, from Union City, CA, to Phoenix, AZ, Albuquerque, NM, St. Louis, MO, and points in TX. (Hearing site: San Francisco or Los Angeles, CA.)

MC 107496 (Sub-1162F), filed August 22, 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: (1) *Propellants*, in bulk, from East Chicago, IN, to Franklin, KY, and Butler, PA; and (2) *liquid fertilizer*, in bulk, in tank vehicles, from the facilities of Texas Sulphur Products Co., at or near Ottawa, IL, to points in IA, IL, KY, MI, MO, MN, ND, NE, OH, PA, SD, and WI. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 108053 (Sub-147F), filed September 15, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Schuyler, NE, to points in

ID, OR, UT, and WA. (Hearing site: Chicago, IL.)

MC 108676 (Sub-127F), filed August 22, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products*, from Bristol, TN, to points in KY, NC, SC, VA, and WV. (Hearing site: Knoxville, TN.)

MC 108676 (Sub-128F), filed August 22, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37919. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the construction and maintenance of dams, locks, steam plants, roads, buildings, and bridges, (except contractors' machinery and equipment, and commodities in bulk), between points in AL, GA, KY, MS, NC, SC, TN, and VA, restricted to the transportation of traffic moving from, to, or between facilities of Tennessee Valley Authority. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC 108676 (Sub-14). (Hearing site: Nashville or Knoxville, TN.)

MC 108676 (Sub-131F), filed August 28, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Richland County, SC, to points in the United States (except AK, HI, and SC). (Hearing site: Atlanta, GA.)

MC 109172 (Sub-12F), filed August 21, 1978. Applicant: NATIONAL TRANSFER, INC., d.b.a. NATIONAL MOTOR FREIGHT, 5265 Utah Avenue South, Seattle, WA 98134. Representative: Lawrence V. Smart Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between points in Multnomah, Clackamas, and Washington Counties, OR, and Clark and Cowlitz Counties, WA, on the one hand, and, on the other, points in OR and WA. (Hearing site: Portland, OR.)

MC 110525 (Sub-1263F), filed September 29, 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, over irregular routes, transporting: *Fuel oil additives*, in bulk, in tank vehicles, from Bridgeport, CT, to points in ME and NH. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 111310 (Sub-34F), filed August 29, 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. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and malt beverage dispensing equipment*, from New Ulm, MN, to points in IL, IN, IA, MO, and WI. (Hearing site: New Ulm, MN, or Madison, WI.)

MC 111545 (Sub-256F), filed October 2, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric precipitator panels, and iron and steel*, from Independence, OH, to points in CA and those in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

MC 114939 (Sub-51F), filed October 13, 1978. Applicant: BULK CARRIERS LTD., P.O. Box 10, Cooksville Post Office, Mississauga, Ontario, Canada L59 2W7. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood preservative*, in bulk, in tank vehicles, from Memphis, TN, to the ports of entry on the International boundary line between the United States and Canada in MI, restricted to the transporation of traffic moving in foreign commerce to points in the Provinces of Ontario and Quebec, Canada. (Hearing site: Memphis, TN, or Washington, DC.)

MC 115311 (Sub-303F), filed September 5, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* and *ploystyrene products*, from the facilities of U. C. Industries, at or near, Tallmadge, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Cincinnati, OH.)

MC 115322 (Sub-145F), filed August 22, 1978. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of M&M/MARS, at or near Cleveland, TN, to points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, SC, PA, RI, VT, and VA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 115826 (Sub-346F), filed August 28, 1978. Applicant: W. J. DIGBY, INC., a Nevada corporation, 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horse meat*, from Redmond, OR, to points in CA, CT, MA, NY, TX, and WA. (Hearing site: Denver, CO.)

MC 116130 (Sub-1F), filed June 16, 1978. Applicant: MY-OWN TRUCKING CO., INC., P.O. Box 21, Westbury, NY 11757. Representative: Jack Schiller, 1 Lefrak City Plaza, Flushing, NY 11368. 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, and commodities requiring special equipment), (1) between New York, NY, on the one hand, and on the other, points in Suffolk County, NY, and (2) from points in Nassau County, NY, to points in Suffolk County, NY. (Hearing site: New York, NY.)

MC 117344 (Sub-278F), filed August 24, 1978. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, OH 45215. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur trioxide*, in bulk, in tank vehicles, from the facilities of E. I. duPont de Nemours & Co., at or near (1) East Chicago, IN, to Alsip, Chicago, Lemont, and Millsdale, IL, Cincinnati and Columbia Park, OH, Denver, CO, El Dorado, AR, Geismar, LA, Greensville and Mauldin, SC, Houston, TX, Kansas City and St. Louis, MO, Midland, Muskegon, and St. Louis, MI, and Newport, TN, and

(2) Columbia Park, OH, to St. Louis, MO. (Hearing site: Washington, DC.)

MC 117416 (Sub-59F), filed August 28, 1978. Applicant: NEWMAN AND PEMBERTON CORP., 2007 University Avenue, NW., Knoxville, TN 37921. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I) *Charcoal, charcoal briquettes, fire place logs, charcoal lighter fluid, and hickory chips*, and (II) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (I) above, (except commodities in bulk, in tank vehicles), (1) between the facilities of the Kingsford Co., at Burnside, KY, and Crossville, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, MI, NC, OH, SC, and TN; and (2) from Dothan, AL, to Atlanta, GA. (Hearing site: Washington, DC.)

MC 117416 (Sub-60F), filed August 24, 1978. Applicant: NEWMAN AND PEMBERTON CORP., 2007 University Avenue, NW., Knoxville, TN 37921. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal powders and ferrite powders*, and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of metal powders and ferrite powders (except commodities in bulk, in tank vehicles), between the facilities of Greenback Industries, at or near Greenback, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, KY, MI, OH, and SC. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of the certificate in MC 117416 (Sub-54). (Hearing site: Washington, DC.)

MC 117823 (Sub-57F), filed September 15, 1978. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, UT 84104. Representative: Jeffrey A. Knoll, 5565 East 52d Avenue, Commerce City, CO 80022. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in WA, OR, and ID, to points in WA, OR, ID, CA, NV, and AZ. Condition: The person or persons who it appears may 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. (Hearing site: Portland, OR, or Seattle, WA.)

MC 117940 (Sub-281F), filed June 15, 1978, previously noticed in the FEDERAL REGISTER issue of August 17, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple M Plain, MN 55359. Representative: Allan Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail stores* (except in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Montgomery Ward & Co., Inc. Condition: The certificate to be issued herein shall be limited in point of time to a period of 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: Chicago, IL.)

NOTE.—The purpose of this republication is to change the origin and destination points.

MC 118130 (Sub-90F), filed September 25, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from points in Jefferson County, CO, to points in TX. (Hearing site: Dallas, TX, or Denver, CO.)

MC 118959 (Sub-179F,) filed October 3, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Hazel Seabaugh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products*, and *cloth*, and (2) *materials, equipment and supplies* used in connection with the commodities in (1) above, (except commodities in bulk), between Mobile, AL, Marinette, Green Bay, and Oconto Falls, WI, and Rogers, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Louis or Cape Girardeau, MO.)

MC 119422 (Sub-64F), filed August 21, 1978. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, IL 62204. 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: *Compounding asphalt*, in bulk, in tank vehicles equipped with heating devices, from the facilities of Mobile Oil Corp., at Augusta, KS, to points in MO, IL, OH, and MN. (Hearing site: St. Louis, MO, or Dallas, TX.)

MC 121654 (Sub-15F), filed August 24, 1978. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 458, Forest Park, GA 30050. Representative: Richard M. Tettelbaum, 3390 Peachtree Road, 5th Floor—Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Gypsum and Gypsum Products*, and (2) *Materials, Equipment, and Supplies* used in the manufacture, distribution, or installation of gypsum and gypsum products (except commodities in bulk), from the facilities of Georgia-Pacific Corp., at or near Brunswick, GA, to points in FL, NC, and SC. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

NOTE.—Dual operations are involved in this proceeding.

MC 123054 (Sub-20F), filed August 25, 1978. Applicant: R & H CORP., a Delaware corporation, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures for glass containers, plastic articles, and fiberboard boxes*, (1) from Marienville, Parker, and points in Clarion County, PA, to points in PA, and (2) from Du Bois, PA, to points in AL, CT, DE, FL, GA, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, and DC. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 123056 (Sub-8F), filed August 24, 1978. Applicant: FREDONIA TRUCK LINE, INC., Highway 96 and Jackson Street, Fredonia, KS 66736. Representative: Laurel D. McClellan, 401 North Sixth, P.O. Box 478, Fredonia, KS 66736. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheat middlings*, from Coffeyville, KS, to points in AR, MO (except St. Louis), and OK, under a continuing contract with Independent Mills, Inc., of Kansas City, MO. (Hearing site: Wichita, KS, or Springfield, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124025 (Sub-11F), filed September 29, 1978. Applicant: GLASS TRUCKING CO., a corporation, 200 Chestnut Street, P.O. Box 276, Newkirk, OK 74647. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 N. Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Baler*

wire, fencing, nails, welded wire panels, fence posts, and reinforcing bar, (except commodities which because of size or weight require the use of special equipment), (1) from Pueblo, CO, to points in AZ, CA, NV, UT, MO, AR, and LA, and (2) from Kansas City, MO, to points in AR, LA, TX, OK, KS, NE, and CO, under a continuing contract with Glass Wholesale, Inc., of Newkirk, OK. (Hearing site: Oklahoma City, OK.)

MC 124411 (Sub-19F), filed September 1, 1978. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. 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. (Hearing site: Minneapolis, MN.)

MC 124692 (Sub-240F), filed August 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from Dallas, TX, to points in AZ, AR, CA, CO, GA, IL, KS, LA, NM, and OK. (Hearing site: Dallas, TX.)

MC 124896 (Sub-68F), filed August 28, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), between Rocky Mount, NC, Oneida, NY, Mason City, IA, Independence, MO, La Grange, GA, Calhoun, GA, and Quakertown, PA. (Hearing site: Raleigh, NC, or Kansas City, MO.)

MC 124973 (Sub-11F), filed September 18, 1978. Applicant: ROY S. SARGEANT, INC., P.O. Box 95, Vienna, NJ 07880. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (A)(1) *Frozen prepared dough, hors-d'oeuvres* and *bakery products,* and (2) *portion-controlled seafood,* when moving in mixed loads with the commodities named in (A)(1) above, (a) between the facilities of Durkee Foods, Inc., at Thorofare, Mullica Hills, and Swedesboro, NJ, on the one hand, and, on the other, the facilities of Durkee Foods, Inc., at Pittston, PA, (b) from the facilities of Durkee Foods, Inc., at Thorofare, Mullica Hills, and Swedesboro, NJ, to points in NH, VT, NY, CT, RI, MA, VA, WV, MD, IL, IN, MI, OH, and DC; (B) *bakery products,* from Hudsonville, MI, to the facilities of Durkee Foods, Inc., at Thorofare, Mullica Hills, and Swedesboro, NJ; and (C) *baking materials,* from Joliet, IL, and Louisville, KY, to the facilities of Durkee Foods, Inc., at Thorofare and North Bergen, NJ, under a continuing contract with Durkee Foods, Inc., a division of SCM Corp., of Cleveland, OH. (Hearing site: New York, NY, or Newark, NJ.)

MC 125335 (Sub-32F), filed October 2, 1978. Applicant: GOOD-WAY, INC., a Maryland corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by grocery, drug, and food business houses (except frozen, and commodities in bulk), from the facilities of Gulf Atlantic Distribution Services, at or near Forest Park, GA, to points in FL. (Hearing site: Houston, TX, or Harrisburg, PA.)

MC 128030 (Sub-118F), filed September 27, 1978. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison Street., Room 718, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal feed, animal feed ingredients, and materials and supplies used in the manufacture and distribution of animal feed* (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 128220 (Sub-25F), filed September 27, 1978. Applicant: RALPH LATHAM, d.b.a., LATHAM TRUCKING CO., P.O. Box 596, Burnside, KY 42519. Representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, vermiculite, and spices and sauces used in outdoor cooding* (except commodities in bulk), from the facilities of Kingsford Co., at or near (1) Louisville, KY, to points in IL, IN, IA, MI, MN, OH, PA, and WI, (2) Belle, MO, to points in CO, IL, IA, KS, MN, NE, ND, OK, SD, and WI, (3) Jackonsville, TX, to points in AL, AZ, AR, CA, CO, LA, MS, NV, NM, and OK, (4) Chicago, IL, to points in MN and WI, and (5) East St. Louis, IL, to points in IL, IN, IA, KY, MI, MN, OH, and WI. (Hearing site: Lexington or Louisville, KY.)

MC 128905 (Sub-6F), filed September 11, 1978. Applicant: ZERKLE TRUCKING CO., an Ohio corporation, 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and plastic pipe fittings,* and *materials* used in the installation of plastic pipe, from Wilton, IA, to points in KY, OH, VA, and WV, (2) *building materials and asbestos fibre cement pipe,* from Waukegan, IL, to points in KY, OH, VA, and WV, and (3) *insulation board,* from Alexandria, IN, and Rockdale, IL, to points in KY, OH, VA, and WV, under a continuing contract in (1), (2), and (3) above, with Johns-Manville Sales Corp. and Johns-Manville Perlite Corp., of Oak Brook, IL. (Hearing site: Charleston, WV.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 133095 (Sub-199F), filed September 26, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas TX 75201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by farm supply stores and farm equipment stores, from points in the United States (except AK and HI), to points in Red River County, TX. (Hearing site: Dallas, TX.)

MC 133095 (Sub-200F), filed September 29,1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities,* as are dealt in and used by manufacturers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 133095 (Sub-201F), filed October 2, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Hair care products, toilet preparations, hair dryers, and beauty salon supplies,* from the facilities of Helene Curtis Industries, Inc., at or near Franklin

Park, IL, to points in TX. (Hearing site: Chicago, IL.)

MC 133095 (Sub-203F), filed October 2, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk), from Detroit, MI, to points in AZ, NM, CA, and NV. (Hearing site: Dallas, TX.)

MC 133326 (Sub-2F), filed August 28, 1978. Applicant: DIVERSIFIED AUTO FREIGHT, INC., P.O. Box 3045, Lake Charles, LA 70601. Representative: Gordon I. Herzog, 314 North Broadway, St. Louis, MO 63102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and automobile parts*, when moving in mixed loads with automobiles, in secondary movements, in truck-away service, (1) from Argentine, KS, and Houston, TX, to points in AR, IA, KS, MO, and NE, and (2) between points in AR, IA, KS, MO, and NE, under continuing contracts in (1) and (2) above, with (a) Volkswagen Mid-America, Inc., of St. Louis, MO, and (b) Volkswagen of America, Inc., of Englewood Cliffs, NJ. (Hearing site: St. Louis or Kansas City, MO.)

MC 133735 (Sub-7F), filed October 2, 1978. Applicant: AUDUBON TRANSPORT, INC., Wever, IA 52658. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corn products*, in bulk, from the facilities of Hubinger Co., at or near Koekuk, IA, to points in IL, MO, KS, NE, SD, MN, WI, IN, and PA, (2) *corn products and soybean meal*, in bulk, from points in Macon County, IL, to the facilities of Hubinger Co., at or near Koekuk, IA, and (3) *corn products, fertilizers, and calcium chloride*, in bulk, from the facilities of Naples Terminal Co., at or near Naples, IL, to points in IA. (Hearing site: Des Moines, IA or Kansas City, MO.)

MC 134645 (Sub-25F), filed September 26, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. To operate as a *common 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 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 John Morrell & Co., at or near St. Paul, MN, to points in AL, FL, GA, KY, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 134755 (Sub-156F), filed September 26, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 2773, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products and cough drops* (except commodities in bulk), from the facilities of Luden's, Inc., at Reading, PA, to points in LA, TX, AR, OK, MO, KS, and CO. (Hearing site: Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 134922 (Sub-272F), filed August 14, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives* (except in bulk), from La Mirada and Compton, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: Pursuant to the decision in MC 134922 (Sub-95 et al.), served September 7, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made. (Hearing site: Los Angeles, CA or Washington, DC.)

MC 134922 (Sub-273F), filed August 16, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products, plastic powders, plastic granules, and plastic pellets* (except commodities in bulk), from Kobuta, PA, to points in KS, OK, TX, MO, AR, LA, TN, MS, AL, GA, and FL. Condition: Pursuant to the decision in MC 134922 (Sub-95 et al.), served September 7, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 134922 (Sub-274F), filed August 21, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in bags, from Sandersville and Macon, GA, to Hillsdale, MI, (2) *chemicals, adhesives, and plastic articles* (except commodities in bulk), from Hillsdale, MI, to points in CA, WA, OR, ID, NV, UT, AZ, CO, NM, OK, and TX, (3) *adhesives and plastic articles* (except commodities in bulk), from Orange, CT, Jamestown, NY, and points in NJ, to points in CA, WA, OR, ID, NV, UT, AZ, CO, NM, OK, and TX, and (4) *chemicals* (except in bulk), from Orange, CT, Jamestown, NY, and points in NJ, to points in WA, ID, CO, and NM. Condition: Pursuant to the decision in MC 134922 (Sub-95 et al.), served September 7, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 135185 (Sub-36F), filed September 26, 1978. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, cleaning compounds, disinfectants, deodorants, drug and toilet preparations, household cleaning supplies, hydraulic cement, sand, adhesive tape, plastic synthetics, rubber cement, caulking and brazing compounds* (except commodities in bulk), from the facilities of Lehn & Fink Products Co., a division of Sterling Drug, Inc., at on near Lincoln and Decatur, IL, to points in LA and MS, and (2) *drugs*, from the facilities of sterling drug, Inc., at or near Gulfport, MS, to the facilities of Sterling Drug, Inc., at or near Des Plaines, IL, and Secaucus, NJ, under a continuing contract in (1) and (2) above, with Sterling Drug, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 136315 (Sub-40F), filed September 27, 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. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dump trailers and platform trailers*, from the facilities of Dorsey Trailers, Inc., at Hummels Wharf, PA, to points in AR, LA, MS, and TX. (Hearing site: Jackson, MS or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136605 (Sub-72F), filed September 26, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P.

Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furnaces, and parts, components, and accessories*, used in the installation of furnaces, from the facilities of Lear Siegler, Mamoth Division, at or near Minneapolis, MN, to points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Minneapolis, MN.)

MC 138505 (Sub-9F), filed September 14, 1978. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 9225 Katy Freeway, Suite 110, Houston, TX 77024. Representative: John W. McWhirter, Jr., P.O. Box 2150, Tampa, FL 33601. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by retail department stores, between the facilities of Montgomery Ward & Co., Inc., in Pasco, Pinellas, Hillsborough, and Polk Counties, FL, under a continuing contract with Montgomery Ward & Co., Inc., of Chicago, IL. (Hearing site: Houston, TX.)

MC 138875 (Sub-108F), filed September 25, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tile and tile products*, and (2) *materials and supplies*, used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), from Minerva, OH, to points in AZ, CA, CO, ID, MT, NV, OR, WA, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Cleveland OH or Washington, DC.)

MC 138882 (Sub-136F), filed August 16, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard containers and pulpboard containers*, between the facilities of Sonoco Products Co., at Charleston, SC, Henderson, TN, Henderson, KY, Alpha, OH, Chicago, IL, St. Louis, MO, and Houston, TX, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL or Charleston, SC.)

MC 139323 (Sub-5F), filed August 28, 1978. Applicant: KARS TRANSPORT, INC., 3333 Northwest 116 Street, Miami, FL 33167. Representative: Richard B. Austin, Suite 214, Palm Coast II Building, 5255 Northwest 87th Avenue, Miami, FL 33178. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except cement, 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 those points in FL in and south of Brevard, Orange, Polk, Hillsborough, and Pinellas Counties (except points in Monroe County). (Hearing site: Miami, FL.)

MC 139482 (Sub-66F), filed August 21, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap rubber*, from the facilities of Eastern Products Corp., at Andover and Boston, MA, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, VA, WA, WV, WI, and WY. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 139495 (Sub-388F), filed September 26, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, in vehicles equipped with mechanical refrigeration, from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in AR, AZ, CA, CO, CT, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, OR, RI, SD, TN, TX, WA, WI, and WY. (Hearing site: Washington, DC.)

MC 139495 (Sub-390F), filed September 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the facilities of Thomasville Furniture Industries, Inc., at or near (a) Appomattox and Brookneal, VA, and (b) Thomasville, Pleasant Garden, Lenoir, Hickory, and Winston-Salem, NC, to points in AZ, AR, CA, CO, CT, ID, IL, IA, KS, LA, ME, MA, MN, MO, MT, NE, NV, NH, NM, NC, ND, OK, OR, RI, SD, TX, UT, VT, VA, WA, WI, and WY. (Hearing site: Washington, DC.)

MC 139615 (Sub-19F), filed September 29, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. 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) *Pipe, pipe fittings, valves, and hydrants*, and (2) *materials and supplies*, used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of Clow Corp. in Talladega County, AL, and at or near Birmingham, AL, to points in the United States (except AL, AK, and HI). (Hearing site: Chicago, IL.)

MC 139615 (Sub-20F), filed September 29, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. 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) *Pipe, pipe fittings, valves, and hydrants*, and (2) *materials and supplies*, used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of Clow Corp., at or near Columbia, MO, to points in the United States (except AK, MO, and HI). (Hearing site: Chicago, IL.)

MC 139906 (Sub-17F), filed August 16, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware corporation, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Beveridge Paper Co., Inc., at Indianapolis, IN, to points in AZ, CA, CO, NM, OR, UT, and WA, restricted to the transportation of traffic originating at the named origins. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of permit in MC 134599 (Sub-125), issued January 30, 1978. (Hearing site: Lincoln, NE or Salt Lake City, UT.)

NOTE.—Dual operations are at issue in this proceeding. The purpose of this application is to convert contract carrier authority to common carrier authority.

MC 139973 (Sub-51F), filed September 15, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except those which because of size or weight require the use of special equipment), from the facilities of Keystone Consolidated Industries, Inc., at or near (1) Greenville, MS, to points in AZ and

NM, and (2) Santa Clara, CA, to points in AZ, NM, and TX. (Hearing site: Chicago, IL or Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 139973 (Sub-52F), filed September 15, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Sterling and Rock Falls, IL, to points in TX, OK, AR, LA, and MS. (Hearing site: Chicago, IL, or Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140024 (Sub-128F), filed August 23, 1978. Applicant: J. B. MONTGOMERY, INC., a Delaware corporation, 5565 East 52d Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from the facilities of C-E Industrial Products Division, Combustion Engineering, Inc., at Siloam, KY, to points in MI, OH, IN, IL, and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 140033 (Sub-67F), filed September 15, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, 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) (a) *Foodstuffs, fats, oils*, (except in bulk, in tank vehicles), *restaurant supplies, restaurant furniture, and restaurant fixtures*, and (b) *agricultural commodities, fish, and poultry* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle with the commodities named in (1)(a) above, between Carpinteria, CA, and Florence, KY, restricted to the transportation of traffic originating at or destined to the facilities of Sambo's Restaurants, Inc., and (2) *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Friona, Amarillo, Plainview, and Hereford, TX, to Carpinteria, CA. (Hearing site: Dallas, TX, or San Francisco, CA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140389 (Sub-37F), filed October 16, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux City, IA, and St. Paul, MN, to points in AL, FL, GA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 140389 (Sub-38F), filed October 16, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near (1) Memphis, TN, and Shreveport, LA, to points in AL, FL, GA, NC, SC, and TN, and (2) Shreveport, LA, to points in MS, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

MC 140484 (Sub-34F), filed August 23, 1978. Applicant: LESTER COGGINS TRUCKING, INC., 2671 East Edison Avenue, P.O. Box 69, Fort Meyers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Co., at Rochelle, St. Charles, and Bradley, IL, to points in OH, and those points in NY and PA on and west of Interstate Hwy 81. (Hearing site: Chicago, IL.)

MC 140601 (Sub-8F), filed September 29, 1978. Applicant: BILLY FRANK, d.b.a., FRANK BROS., 349 Abbott Avenue, Hillsboro, TX 76645. Representative: Charles E. Munson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos cement pipe and fittings, and accessories for asbestos cement pipe*, from the facilities of CertainTeed Corp., at Hillsboro, TX, to points in the United States (except AK, AZ, AR, CA, CO, HI, KS, LA, MS, MO, NE, NM, OK, TX, and TN); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, under a continuing contract with CertainTeed Corp., of Valley Forge, PA. (Hearing site: Dallas, TX.)

MC 141046 (Sub-11F), filed August 28, 1978. Applicant: MASON O. MITCHELL, d.b.a. M. MITCHELL TRUCKING, 1911 I Street, LaPorte, IN 46350. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood products, plastic products, toothpick dispensers, sporting goods, and accessories for sporting goods*, from the facilities of Forster Mfg. Co., at or near Wilton, ME, to points in CO, under continuing contracts with Forster Mfg, Co., Inc., of Wilton, ME. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 142413 (Sub-6F), filed September 15, 1978. Applicant: ROBERT STEVEN IRWIN, an individual, Route 1, Box 86-A, Jennings, FL 32060. Representative: John H. Wilbur, P.O. Box 58, Jacksonville, FL 32201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roof and floor joists*, and (2) *materials, accessories, and equipment* used in the manufacture of roof and floor joists, from the facilities of Trus Joist Corp. at Valdosta, GA, to points in DE, NJ, PA, NY, OK, CT, RI, MI, WI, IA, IL, IN, and MO, under a continuing contract with Trus Joist Corp. of Valdosta, GA. (Hearing site: Jacksonville, FL, or Valdosta, GA.)

MC 142559 (Sub-63F), filed October 12, 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: *Knocked down buildings, building materials, building parts, and building supplies* (except commodities in bulk), between Niles, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142792 (Sub-2F), filed August 21, 1978. Applicant: DENNIS I. OLSON, d.b.a. TWO WAY TRUCKING, 4 Ginger Cove Road, Valley, NE 68064. 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: *Cheese*, from the facilities of Newman Grove Creamery Co., at Newman Grove, NE, to points in MN, WI, IL, IN, MI, OH, PA, DE, NJ, NY, and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 142920 (Sub-1F), filed September 27, 1978. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturers and distributors of sound, communications, educational, and entertainment commodities* (except commodities in bulk), from Danbury and West Haven, CT, Bellmawr, Burlington, Cherry Hill, East Brunswick, Flemington, and Pitman, NJ, New York, NY, and points in CA, to Terre Haute and Indianapolis, IN, under a continuing contract with CBS Inc., of New York, NY. (Hearing site: New York, NY.)

MC 142941 (Sub-18F), filed August 29, 1978. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, and *dessert preparations* in vehicles equipped with mechanical refrigeration, and (2) *coin-operated vending machines*, from Chicago, IL, to points in AR, IA, KS, LA, MO, NE, OK, and TX. (Hearing site: Chicago, IL.)

MC 143691 (Sub-13F), filed August 28, 1978. Applicant: PONY EXPRESS COURIER CORP., a Delaware corporation, P.O Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commerical papers, documents, written instruments, business records, accounting processing media and data processing media*, (1) between Memphis International Airport, at Memphis, TN, Knoxville Downtown Airport, at Knoxville, TN, Nashville Metropolitan Airport, at Nashville, TN, and Lovell Field, at Chattanooga, TN, on the one hand, and, on the other, points in TN, (2) Between Memphis International Airport, at Memphis, TN, on the one hand, and, on the other points in AR and MO, (3) between Greater Cincinnatic Airport, at Florence, KY, Port Columbus International Airport, at Columbus, OH, Cleveland-Hopkins International Airport, at Cleveland, OH, Dayton Airport, at Dayton, OH, and Toledo Airport, at Toledo, OH, on the one hand, and, and on the other, points in OH, (4) between Louisville, KY, on the one hand, and, on the other, points in TN and OH, restricted in (1), (2), and (3) above to the transporation of traffic having an immediate prior or subsequent movement by air, under a continuing contract in (1), (2), (3) and (4) above with Federal Intermediate Credit Bank, of Louisville, KY. (Hearing site: Louisville, KY.)

MC 144041 (Sub-19F), filed August 31, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2750 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, Post Office Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Paper articles*, and *plastic articles* (except commodities in bulk), between those points in the United States on and east of U.S. Hwy 85. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144259 (Sub-4F), filed October 10, 1978. Applicant: Jennaro Lines, Inc., 2332 South Peck Road, Whittier, CA 90601. Representative: MILTON W. FLACK, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Quality Pac, at or near Chicago, IL, to points in CA, OR, and WA, under a continuing contract with Gold Seal Co., of Summit, NJ. (Hearing site: Los Angeles, CA.)

MC 144330 (Sub-41F), filed September 28, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84110: Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in WY to points in AR, KY, LA, MS, and TN. (Hearing site: Salt Lake City, UT, or Cheyenne, WY.)

MC 144440 (Sub-2F), filed October 4, 1978. Applicant: RICHARD D. DOMBACH, 58 South Duke Street, Millersville, PA 17551. Representative: John W. Metzger, 49 North Duke Street, Lancaster, PA 17602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt sealing coating* (except in bulk), from the facilities of Chevron U.S.A., Inc., at or near Baltimore, MD, to the facilities of Henry S. Breneman, at Lancaster, PA, under a continuing contract with Henry S. Breneman, of Lancaster, PA. (Hearing site: Lancaster or Harrisburg, PA.)

MC 144756 (Sub-1F), filed July 10, 1978. Applicant: DEDICATED TRUCKING CORP., 183 Highway 508, Chehalis, WA 98532. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: I.(A) *Petroleum and petroleum products, emulsified petroleum sizing, and gasoline additives, in containers, in mixed loads with such commodities as are dealt in by suppliers, marketers, or distributors of petroleum products;* and (B) *Such commodities as are dealt in by suppliers, marketers, or distributors of petroleum products, in mixed loads with petroleum and petroleum products, emulsified petroleum sizing, and gasoline additives, in containers,* (1) from Seattle, WA, to points in CA, ID, MT, OR and WY, and (2) from Wilmington, CA, to points in AZ, CO, NV, NM, UT and WA, under continuing contracts in I(A) and (B) above, with Texaco, Inc., of Houston TX: and II.(A) *charcoal, vermiculite, and hickory chips, in bags, charcoal ligher fluid and fireplace logs,* from Elk Grove, CA, and Springfield, OR, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY; and (B) *materials and supplies used in the manufacture and distribution of charcoal, vermiculite, hickory chips, charcoal ligher fluid, and fireplace logs,* (except commodities in bulk, in tank vehicles), from points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, to Elk Grove, CA, and Springfield, OR; and (C) *fireplace logs,* from Stockton, CA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY: and (D) *materials and supplies used in the manufacture and distribution of fireplace logs,* from points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY to Stockton, CA, under continuing contracts in II(A), (B), (C) and (D) above, with Kingsford Co., of Louisville, KY. (Hearing site: Portland, OR, or Seattle, WA.)

MC 144953 (Sub-1F), filed September 15, 1978. Applicant: MULLEN TRUCKING, LTD., 6204-A Burbank Road SE., Calgary, AB, Canada T2H 2C2. 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, trans-

porting: *Bentonite, barite, lignite, and drilling mud additives,* (except commodities in bulk), from points in MT, NV, ND, SD, and WY, to the ports of entry on the International Boundary line between the United States and Canada in WA, ID, and MT, restricted to the transportation of traffic in foreign commerce. (Hearing site: Denver, CO, or Great Falls, MT).

MC 145106F, filed July 31, 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: (1) *Glass products, metal products, plastic products, clay and clay products, feldspar, and talc,* (except commodities in bulk); (2) *molds and machinery* used in the manufacture of glass products, (except commodities in bulk); (3) *bottle coating systems* (except commodities in bulk); (4) *parts and accessories* for the commodities named in (2) and (3) above, (except commodities in bulk), and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1), (2), (3), and (4) above, (except commodities in bulk), between the facilities of Flat River Glass Co., at or near Flat River, MO, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Flat River Glass Company, of Flat River, MO. (Hearing site: Washington, DC.)

MC 145180 (Sub-1F), filed September 29, 1978. Applicant: THREE TRANSPORTATION, DIVISION OF POLK WELDING AND ERECTION CO., INC., 1909 Hemlock Avenue, P.O. Box 2698, Tampa, FL 33619. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fiberglass and plastic gasoline storage tanks, preconditioners, ducts, and industrial ventilating commodities,* from the facilities of the Fiberglass Equipment Division of Dart Environmental Services, Co., at Bartow, FL, to points in AL, AR, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Tampa, FL.)

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 145182 (Sub-1F), filed August 21, 1978. Applicant: M & M DELIVERY SERVICE, INC., 116 Chestnut Street, Mount Sterling, OH 43143. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, between Washington Court House, OH, on the one hand, and, on the other, points in OH, under continuing contracts with Spiegel, Inc. and Aldens, Inc., of Chicago, IL. (Hearing site: Columbus, OH.)

MC 145204F, filed August 4, 1978, and previously noticed in the FEDERAL REGISTER issue of October 12, 1978. Applicant: TVF SECURITY CO., INC., P.O. Box 815, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are sold in vending machines, (2) *materials, equipment, and supplies* for vending machines, from St. Louis, MO, and points in IL, OH, MI, KY, IN, and WI, to the facilities of Bertsch Vending Co., Inc., at Warsaw, Marion, Goshen, Elkhart, Lebanon, and Bloomington, IN, and Owensboro, KY; and (3) *potato chips, potato twists, potato puffs, fried pork skins,* and *pretzels,* from Beloit, WI, Louisville, KY, St. Louis, MO, and Allen Park, MI, to Warsaw, IN, under continuing contracts in parts (1) and (2) above with Bertsch Vending Co., Inc., of Warsaw, IN, and in part (3) above with Frito-Lay, Inc., of Dallas, TX. (Hearing site: Indianapolis, IN, or Chicago, IL.)

NOTE.—This republication adds part (3) of the commodity description and Frito-Lay as a contracting shipper.

MC 145232F, filed August 14, 1978. Applicant: PETER C. LANEGRAN, doing business as, PMW TRUCKING SERVICE, 359 5th Avenue North, South St. Paul, MN 55075. Representative: Elmer B. Trousdale, 1700 First National Bank Building, St. Paul, MN 55101. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, petroleum, and cement, in bulk), from points in MN, to points in ND, SD, and WI, under a continuing contract with Knox Lumber Co., of St. Paul, MN. (Hearing site: St. Paul or Minneapolis, MN.)

MC 145299F, filed August 31, 1978, previously published in the FEDERAL REGISTER issue of October 3, 1978. Applicant: KEY LEASING, INC., 1423 Jefferson, Naperville, IL 60068. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Appliances,* from the facilities of Amana Refrigeration, Inc., at Franklin Park, IL, to points in IN and OH, and (2) *damaged appliances,* in the reverse direction, under contract with Amana Refrigeration, Inc., of Franklin Park, IL. (Hearing site: Chicago, IL.)

NOTE.—This republication shows the inclusion of part (2).

MC 145304F, filed August 25, 1978. Applicant: LAMPTON-LOVE, INC., 134 South Lamar Street, Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, Jackson, MS 39205. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas,* in bulk, in tank vehicles, from Hattiesburg and Pascagoula, MS, to points in AL, AR, FL, GA, LA, and TN. (Hearing site: Jackson, MS.)

NOTE.—(1) The certificate to be issued in this proceeding shall be limited in point of time to period expiring 5 years from the effective date thereof. (2) 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 145305F, filed August 30, 1978. Applicant: BEVTRANS, INC., a California corporation, P.O. Box 778, Hartford, CT 06101. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and distributors of alcoholic beverages, between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Heublein, Inc., of Hartford, CT. (Hearing site: New York, NY, or Washingtonton, DC.)

MC 145356F, filed August 28, 1978. Applicant: L. E. MARKLAND, 655 Lion Court, Casper, WY 82601. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Cement,* in bulk, (a) from Lyons, CO, to points in NE, UT, and WY, and (b) from Trident and Montana City, MT, to points in UT and WY; (2) *fly ash,* in bulk, from the Dave Johnston Power Plant, at Glenrock, WY, to points in CO, MT, UT, WY, and those in NE on and west of NE Hwy 61; and (3) *sand,* in bulk, from Pueblo, CO, Brady, TX, and Houck, AZ, to points in CO, UT, and WY, under continuing contracts with Halliburton Services, of Duncan, OK. (Hearing site: Cheyenne or Casper, WY.)

MC 145363F, filed September 13, 1978. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials and construction supplies*, between points in AL, AR, LA, MS, OK, TN, and TX, under a continuing contract with Powell Lumber Co., of Lake Charles, LA. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 14533F, filed September 15, 1978. Applicant: COLORADO STEEL & WIRE TRANSPORATION CO., INC., Route 1, Box 161C, Eaton, CO 80615. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel fence posts, rebars, barbed bailing wire, angles, smooth bars, t-bar stock, fence, nails, and welded fabric*, from the facilities of Colorado Steel & Wire Co., at or near Loveland, CO, to points in AZ, ID, IA, IL, KS, MT, MN, ME, NM, ND, SD, TX, OK, UT, WI, and WY, and (2) *materials*, used in the manufacture of the commodities named in (1) above, in the reverse direction, under a continuing contract with Colorado Steel & Wire Co., of Loveland, CO. (Hearing site: Denver, CO.)

MC 145436F, filed September 15, 1978. Applicant: RONALD A. KOTTKE, doing business as KOTTKE TRUCKING, 520 Second Street NW., Ortonville, MN 56278. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Arlington and Ortonville, MN, and Bloomer, WI, to points in CA, CO, MT, ND, OR, SD, UT, and WA, under a continuing contract with Big Stone Inc., of Chaska, MN. (Hearing site: Minneapolis, MN.)

MC 145480F, filed August 31, 1978. Applicant: ED WOLFE TRUCKING, INC., 20425 Ahha Lane, Bend, OR 97701. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime sludge*, in bulk, from points in Yakima County, WA, to points in OR; (2) *volcanic aggregate*, in bulk, from points in Deschutes County, OR, to points in WA; (3) *crushed agri gypsum rock*, in bulk, from points in Washoe and Pershing Counties, NV, to points in OR; (4) *dry fertilizer*, in bulk, from points in Benton County, WA, to points in Wasco, Jefferson, Crook, Deschutes, Wheeler, Harney, Lake, and Klamath Counties, OR; and (5) *clay*, in bulk, from points in Placer County, CA, to Klamath Falls, OR. (Hearing site: Bend, OR.)

NOTE.—(a) Dual operations may be at issue in this proceeding; (b) one purpose of this application is to convert existing contract authority to common. That portion of this application which seeks to extend authority is as follows: In (2) above, carrier presently holds contract authority only to serve points in Yakima and Benton Counties, WA, as destination points; in (3) above, carrier presently holds contract authority only to serve the facilities of Midstate Fertilizer Co., at or near Empire, NV, as an origin point, and to serve points in Crook, Deschutes, and Jefferson Counties, OR, as destination points; and in (4) and (5) above, all authority constitutes an extension.

PASSENGER AUTHORITY

MC 74761 (Sub-21F), filed August 23, 1978. Applicant: TAMIAMI TRAIL TOURS, INC. d.b.a., TRAILWAYS, 200 Spring Street NW., Atlanta, GA 30303. Representative: Robert C. Boozer, 1400 Candler Building, 127 Peachtree Street NE., Atlanta, GA. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers*, in the same vehicle with passengers, (1) between Atlanta, GA, and Orlando, FL, from Atlanta, GA over Interstate Hwy 75 to junction GA Hwy 257, then over Ga Hwy 257 to Cordele, GA, then over U.S. Hwy 280 to junction Interstate Hwy 75, then over Interstate U.S. Hwy 75 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Lake City, FL then over FL Hwy 47 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction FL Hwy 26, then over FL Hwy 26 to Gainesville, FL, then over U.S. Hwy 441 to junction FL Hwy 331, then over FL Hwy 331 to junction FL Hwy 121, then over FL Hwy 121 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction U.S. Hwy 27 near Ocala, FL, then over U.S. Hwy 27 to junction FL Hwy 50 at Clermont, FL, then over FL Hwy 50 to Orlando, FL, and return over the same route, serving the intermediate points of Macon, Cordele, Tifton, and Valdosta, GA, and Lake City and Gainesville, FL, and all intermediate points between Gainsville, FL, and Orlando, FL, and (2) between Statenville, GA, and Lake City, FL, from Statenville, GA over U.S. Hwy 129 to Jasper, FL, then over U.S. Hwy 41 to Lake City, and return over the same route, serving all intermediate points. (Hearing sites: Atlanta and Valdosta, GA and Gainesville and Orlando, FL.)

MC 126430 (Sub-1F), filed September 26, 1978. Applicant: TRENTWAY BUS LINES, LTD., P.O. Box 1017, Peterborough, ON, Canada K9J7A5. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, and extending to points in the United States (except HI), restricted to the transportation of traffic originating at or destined to points in Canada. (Hearing site: Syracuse, NY.)

NOTE.—(1) 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. (2) 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 officials of the Provinces of Alberta, Saskatchewan, and Manitoba 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.

BROKER AUTHORITY

MC 130112 (Sub-1F), filed August 17, 1978. Applicant: ATA, INC., AMERICA INTERSTATE TRAVEL, 698 High Street, Worthington, OH 43085. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. To engage in operations, in interstate or foreign commerce, as a *broker*, at Worthington, OH, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage in the same vehicle with passengers*, in round-trip special and charter operations, beginning and ending at points in Pickaway, Union, Madison, Fairfield, Licking, Delaware, Fayette, and Franklin Counties, OH, and extending to points in the United States (including AK and HI). (Hearing site: Columbus, OH or Washington, DC.)

MC 130302 (Sub-2F), filed August 14, 1978. Applicant: EASTERN SKI TOURS, INC., 1700 Walnut Street, Philadelphia, PA 19103. Representative: Harris T. Bock, 1620 Locust Street, Philadelphia, PA 19103. To engage in operations, in interstate or foreign commerce, as a *broker*, at Philadelphia, PA, in arranging for the

transportation by motor vehicle, of: *Passengers and their baggage in the same vehicle with passengers,* in roundtrip special and charter operations, beginning and ending at points in PA, NJ, DE, MD, VA, and DC, and extending to points in PA, NJ, NY, MA, VT, NH, CT, ME, WV, and VA. (Hearing site: Philadelphia, PA.)

MC 130501F, filed September 1, 1978. Applicant: OHIO MOTORISTS ASSOCIATION, a corporation, 6000 South Marginal Road, Cleveland, OH 44103. Representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, OH 43215. To engage in operations, in interstate or foreign commerce, as a *broker,* at Cleveland, Lyndhurst, Parma Heights, Rocky River, Maple Heights, Chesterland, Ravenna, Painesville, Lorain, Wellington, Conneaut, Warren, Girard, and Oberlin, OH, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Ashtabula, Cuyahoga, Lorain, Lake, Geauga, Portage, and Trumbull Counties, OH, and extending to points in the United States (including AK but excluding HI). (Hearing site: Cleveland, OH.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY,* 54 MCC 291 (1952).

[FR Doc. 78-32111 Filed 11-15-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 13, 1978.

This application for long- and short-haul relief has been filed with the ICC.

Protests are due to the ICC within 15 days from the date of publication of this notice.

FSA No. 43628, Sea-land Service, Inc., No. 102, intermodal rates on general commodities in containers, between ports in the Far East, on the one hand, and rail carrier's terminal at Savannah, Ga., on the other, by way of California ports, in its Tariff No. 201-A, ICC No. 93 and eight other individual and agency tariffs, effective December 8, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-32275 Filed 11-15-78; 8:45 am]

[7035-01-M]

[Notice No. 128]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before December 18, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77769, filed July 20, 1978. Transferee: Larry R. Billings, d.b.a. K & B FREIGHT LINE, 740 North 11th Street, P.O. Box 371, Salina, KS 67401. Transferor: Kenneth F. Shade, d.b.a. K & B Freight Line, 740 North 11th Street, P.O. Box 371, Salina, KS 67401. Representative: Paul V. Kugan, 2707 West Douglas, Wichita, KS 67213. Authority sought for purchase by transferee of the operating rights set forth in Certificates of Registration MC 120099 (Sub-1) and MC 120099 (Sub-2) issued May 18, 1964, and February 16, 1973, respectively: Transportation of general commodities, except those of unusual value and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over regular routes from Salina to Lindsborg, thence via U.S. Hwy 81 to Salina with operations authorized in the reverse direction along said route, serving all intermediate points, provided, however, that no service is to be offered or performed between Salina proper, on the one hand, and, Lindsborg proper, on the other; and between Salina, KS and Salina, KS, from Salina over regular routes to Lindsborg, KS, thence north via U.S. Hwy 81 to Salina, KS, serving all intermediate points and the off-route points of Kanopolis, the commercial locations at the intersection of Interstate Hwy 70 and U.S. Hwy 156, Claflin, Lorraine, Kanopolis Reservoir, Salemburg, Smolan, Ralun, Mentor, and the Roxbury and Lindsborg commercial intersection on Interstate Hwy 35, also as an alternate route for operating convenience only, between Ellsworth, KS, and the intersection of KS Hwy 14 and KS Hwy 4 approximately 2 miles west of Genesco, KS, via KS Hwy 14. Transferee presently holds no Commission authority and does not seek section 210a(b) authority.

MC-FC-77834, filed August 28, 1978. Transferee: PLYMOUTH TRANSPORT, INC., 2290 Butler Pike, Plymouth Meeting, PA 19462. Transferor: Danella Bros., Inc., 2280 Butler Pike, Plymouth Meeting, PA 19462. Representative: Bernard V. DiGiacomo, 29 East Marshall Street, Norristown, PA 19401. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates MC 93944, MC 93944 (Sub-3), MC 93944 (Sub-8), and MC 93944 (Sub-9), issued August 3, 1970, February 15, 1967, November 25, 1974, and September 7, 1978, respectively, as follows: *Such commodities* as are ordinarily transported in dump trucks, in bulk, in dump vehicles, from Morrisville, PA and points in Falls Township, Bucks County, PA to points in NJ; *such bulk commodities* as are usually transported in dump trucks, between points in Bucks County, PA on the one hand, and, on the other, Lambertville, NJ and points in NJ within 40 miles of Lambertville, from Morrisville, PA to a specified portion of NJ; *sand and gravel,* from points in Northampton County, PA to points in DE, MD, NJ (except to points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, NJ), NY, NC, VA, WV, and DC; *sand, gravel, slag, slag products and bituminous concrete,* between points in Falls Township, PA on the one hand, and, on the other, points in NJ; *alloys, ores, and refractory* products, (except in bulk), and similar commodities, from, to and between specified points in DE,

PA, NJ, and MD; and *slag* (except in tank vehicles), from points in Bucks County, PA to points in the United States (except those in NJ, MD, OH, WV, HI, DE, AK, and DC). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77902, filed October 24, 1978. Transferee: SWEENEY BROS., INC., 280 New Ludlow Road., Chicopee, MA 01020. Transferor: Commercial Freightways, Inc., 449 Silver Street, Agawam, MA 01001. Representative: David M. Marshall, Attorney at Law, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 134398, issued May 18, 1977, as follows: *General commodities* (with exceptions) as restricted, between points in Berkshire, Hampshire, Franklin, Hampden, and Worcester Counties, MA, on the one hand, and, on the other, Springfield, MA, and Hartford, New Haven, and Bridgeport, CT. Between Springfield, MA, on the one hand, and, on the other, Worcester, MA, and Hartford, New Haven, and Bridgeport, CT. Transferee is presently authorized to operate as a *common carrier* under Certificate MC 134398 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77916, filed October 27, 1978. Transferee: GALLREIN TRUCKING CO., INC., Route 5, Russellville, KY 42276. Transferor: A.L. Johnson and A.R. Johnson, a partnership d.b.a. A.L. & A.R. Johnson, Route 1, Adairville, KY 42202. Representative: Robert L. Baker, Attorney, 618 United American Bank Building, Nashville, TN 37219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit MC 136344, issued May 7, 1973, as follows: *Dry fertilizer and dry fertilizer materials, and agricultural chemicals*, in containers in mixed loads, from Nashville and Clarksville, TN and Cherokee, AL to points in Simpson and Logan Counties, KY, under a continuing contract or contracts with U.S. Steel Corp. Agri-Chemical Division. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Secretary.

[FR Doc 78-32276 Filed 11-15-78; 8:45 am]

[7035-01-M]

[Notice No. 209]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 3, 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 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 22311 (Sub-9TA), filed September 21, 1978. Applicant: WEST SHORE TRANSFER, INC., P.O. Box 765, 215 Marble Street, Hammond, IN 46320. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Northwestern Steel and Wire Co., at or near Sterling and Rock Falls, IL, to those points in the United States in and east of WI, IA, NE, KS, OK, and TX; and (2) *Materials, supplies, and equipment* used in the manufacture and distribution of commodities named in (1) above, from the destinations named in (1) above, to the facilities named in (1) above, restricted in (1) and (2) above to the transportation of traffic originating at and destined to the named origins and named destinations except traffic moving in foreign commerce, for 180 days. Supporting shipper: North Western Steel and Wire Co., Lanny J. Munz, Assistant Manager, Transportation, 121 Wallace Street, Sterling, IL 61081. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 28088 (Sub-40TA) filed September 22, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Representative: John R. Smms, Jr., 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: *Frozen foods*, from Chambersburg, PA, to points in AL, GA, MS and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pet, Inc., St. Louis, MO. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 51146 (Sub-644TA), filed September 22, 1978. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Ft. Lauderdale, FL 33308. Authority sought 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 commodities in bulk), from Secaucus, NJ, to the facilities of P. A. Bergner & Co., located in Peoria, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: P. A. Bergner & Co., 200 Southwest Adams, Peoria, IL 61602. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U. S. Federal Building, & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 63417 (Sub-172TA), filed September 22, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, hot water tanks and heating boilers (except those the transportation of which because of size or weight require the use of special equipment)*, from

Kankakee, IL, to points in FL, for 180 days. Supporting shipper: A. O. Smith Corp., Kankakee, IL. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 105566 (Sub-184TA), filed September 21, 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: *Chemicals*, (except in bulk), from Calvert City, KY, Cleveland, OH; Datton, NJ; Pace, FL, and Elkton, MD, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Air Products & Chemicals, Inc., P.O. Box 538, Allentown, PA 18105. Send protests to: P. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 106074 (Sub-67TA), filed September 21, 1978. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Shiloh Road and U.S. Hwy 221 South, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Recycled boxboard*, from Taylors, SC, to Texarkans, AR-TX, Quincy, IL; Coffeyville, KS; Kansas City, KS-MO, and Poplar Bluff and St. Joseph, MO; and (2) *waste paper*, for recycling, from the destination points in (1), to Taylors, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carotell Paper Board Corp., P.O. Box 655, Taylors, SC 29687. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 106674 (Sub-338TA), filed September 22, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, (except in bulk), from Price Brothers Co. at Dayton, OH, to points in IN, IL, MI, KY, PA, NY, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Price Brothers Co., P.O. Box 825, Dayton, OH 45401. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107496 (Sub-1163TA), filed September 22, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Building, Des Moines, IA 50309. Representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ureau and blends containing urea*, (in bulk), from Port Neal, IA, to points in TX and NM, for 180 days. Supporting shipper: Terra Chemical, P.O. Box 1828, Sioux City, IA 51102. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107515 (Sub-1176TA), filed September 21, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers, 3390 Peachtree Road, NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses, (except in bulk, in tank vehicles), in mechanically refrigerated equipment, from the facilities of Kraft, Inc., Taylor, MI, to Ashland, KY, Cincinnati, OH; and Daniels, WV, for 180 days. (R-650 granted Effective September 12, 1978, Board Call ETA). Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 108460 (Sub-67TA), filed September 21, 1978. Applicant: PETROLEUM CARRIERS CO., 5104 West 14th Street, P.O. Box 762, Sioux Falls, SD 57101. Representative: Gary Mundhenke, P.O. Box 762, Sioux Falls, SD 57101. 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. Supporting shipper(s): Land O'Lakes Agricultural Services Division, 2827 8th Avenue, South, Fort Dodge, IA 50501. (Sue Johnson, Distribution Control Specialist) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 108676 (Sub-134TA), filed September 21, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in CA, OR, and WA, to the plantsite of Altec Sound Products Division, Oklahoma City, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Altec Sound Products Division, Oklahoma City, OK. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 111214 (Sub-13TA), filed September 22, 1978. Applicant: GREENWOOD STORAGE & TRUCKING CO., INC., P.O. Box 943, Old Sidon Road, Greenwood,. MS 38930. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the facilities of Penn-Dixie Steel Corp., at or near Jackson, MS, and points in AL, AR, FL, GA, LA, TN, and TX, under a continuing contract, or contracts, with Penn-Dixie Steel Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Penn-Dixie Corp., P.O. Box 5049, Kokomo, IN 46901. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 111302 (Sub-137TA), filed September 22, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins*, (in bulk, in tank vehicles), from the facilities of Cargill, Inc., in Forest Park, GA, to points in MD, NJ, NY, PA, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., 71

Barnett Road, Forest Park, GA 30050. Send protests to: Joe Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 113434 (Sub-114TA), filed September 21, 1978. Applicant: GRABELL TRUCK LINE, INC., P.O. Box 511, 679 Lincoln Avenue, Holland, MI 49423. Representative: Richard C. Marsh, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from Port Clinton, OH, to Allegan, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Aim Packaging, Inc., P.O. Box 278, Port Clinton, OH 43452. Send protests to: C. R. Fleming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 113908 (Sub-451TA), filed September 22, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice*, (in bulk), from Grandview, WA, to Northeast, PA, and Lawton, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Welch Foods, Inc., Westfield, NY. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 115322 (Sub-149TA), filed September 22, 1978. Applicant: RED WING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Allentown and Chambersburg, PA, to points in FL and Chattanooga, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pet, Inc., P.O. Box 392, St. Louis, MO 63166. 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 115924 (Sub-34TA), filed September 22, 1978. Applicant: SUGAR TRANSPORT, INC., P.O. Box 4063, Port Wentworth, GA 31407. Representative: F. G. Williams, Jr., 1 Grange Road, Port Wentworth, GA 31407. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sweeteners*, (in bulk, in tank vehicles), from Decatur, AL, to all points in GA, under a continuing contract, or contracts, with Savannah Foods & Industries, Inc., for 180 days. Supporting shipper: Savannah Foods & Industries, Inc., P.O. Box 339, Savannah, GA 31402. 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 116175 (Sub-10TA), filed September 21, 1978. Applicant: WILLIAM E. (BILLY) ONEY, d.b.a. WILLIAM E. ONEY, Route 7, Box 37, Kingsport, TN 37660. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed blocks*, from Park City, KY, to all points in the States of VA and WV, for 180 days. Supporting shipper: Southern States Cooperative, Inc., P.O. Box 26234, Richmond, VA 23260. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 117686 (Sub-219TA), filed September 21, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Jefferson County, CO, to points in IA and MO; and (2) *Empty beverage containers and materials for recycling*, from points in IA and MO, to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lou Bonner, Director of Transportation, Adolph Coors Co., Jefferson County, CO 80401. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 117940 (Sub-290TA), filed September 21, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the facilities of Franchise Mailing Systems at Montgomery, MN, to points in the commercial zones of Huntsville, AL; Little Rock, AR; Decatur, Marietta, and Rome, GA; Bloomington, Kokomo, Lafayette, and Peru, IN; Bowling Green, KY; Boston, MA; Springfield, MO; Charlotte, NC; Zanesville, OH; Oklahoma City and Tulsa, OK; Chattanooga, Nashville, and Jackson, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Franchise Mailing Systems, 306 Second Street, Northwest, Montgomery, MN 56069. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 118726 (Sub-143TA), filed September 21, 1978. Applicant: N. A. B. TRUCKING CO., INC., 1644 Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 East Washington Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co. at or near Terre Haute, IN, to Martinsville, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., P.O. Box 557, Cliffwood, NJ. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 118989 (Sub-203TA), filed September 22, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pails*, from facilities of Central Can Co., in Chicago, IL, to Midland, MI, for 180 days. Supporting shipper: Central Can Co., 3200 South Kilbourn, Chicago, IL 60623. 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 119789 (Sub-519TA), filed September 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey, P.O. Box 226188, Dallas, TX 75266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs* (except in bulk), from the facilities of American Home Foods at Laporte, IN, to points in AR, LA and MS, for 180 days. Supporting shipper: American Home Foods Division, American Home

Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 123314 (Sub-22TA), filed September 21, 1978. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. 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: *Tomato paste*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Toledo, OH, to the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Fremont, OH, 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, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 124078 (Sub-872TA), filed September 21, 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: *Cement*, (in bulk), from Universal, Pa., to Pleasant Prairie, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wisconsin Associates, P.O. Box 74, Pleasant Prairie, WI 53158. 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 129862 (Sub-21TA), filed September 22, 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: *Fireplaces and chimneys*, from Lynwood, CA, to points in and east of MN, IA, KS, OK, and TX, for 180 days. Supporting shipper: Marco Manufacturing, Inc., 2520 Industry Way, Lynwood, CA 90262. Send protests to: Joe Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 133937 (Sub-27TA), filed September 21, 1978. Applicant: CAROLINA CARTAGE CO., INC., 1486 Willingham Drive, East Point, GA 30320. Representative: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Office supplies, machines, equipment, paper articles, printed advertising and display fixtures, shoe polish, laces, related articles, and leather goods*, between points and places in GA, FL, AL, MS, TN, NC, SC, Los Angeles and Ontario, CA, and Chicago, IL, for 180 days. Supporting shipper: Butler Shoe, Inc., Northeast Expressway, Atlanta, GA. Send protests to: Sara R. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 135215 (Sub-3TA), filed September 21, 1978. Applicant: BULK TRANSPORTATION, 415 Lemon Avenue, Walnut, CA 91789. Representative: Melvin G. Thurman, 415 Lemon Avenue, Walnut, CA 91789. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed preparations, supplements and additives*, liquid (in bulk, in tank vehicles), from points in CA, to points in AZ, under a continuing contract or contracts, with Snow Commodities Co., Inc., Baker Commodities, Inc., and Pacific Kenyon Corp., for 180 days. Supporting shippers: (1) Snow Commodities Co., Inc., P.O. Box D, South Pasadena, CA 91030. (2) Baker Commodities, Inc., 4020 Bandini Boulevard, Los Angeles, CA 90023, and (3) Pacific Kenyon Corp., 1301 West 12th Street, Long Beach, CA 90813. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 136511 (Sub-27TA), filed September 22, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Richmond and Kenbridge, VA, to points in NV and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lea Industries, Inc., High Point, NC. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 136818 (Sub-42TA), filed September 21, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 84030. Representative: Donald Fernaays, 4040 East McDowell, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, (except in bulk), from Searcy, AR, to points in CO, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Land O'Frost, Inc., 16850 Chicago Avenue, Lansing, IL 60438. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 136818 (Sub-43TA), filed September 21, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Los Angeles County, CA, to points in CO, restricted to service for Triangle Steel and Supply Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Triangle Steel & Supply Co., 1000 West Francisco Street, Torrance, CA 90502. Send protests to: Andrew V. Bayor, District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 141511 (Sub-7TA), filed September 21, 1978. Applicant: ROBERT W. RETTIG, d.b.a. PROTEIN EXPRESS, Route 2, Hartford, WI 53207. Representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs*, and (2) *commodities* other exempt from economic regulation when moving in mixed shipments with the commodities in (1) from the facilities of Moore's Food Products, Inc., Fort Atkinson, WI, to points in the States of IL, IN, MI, and OH, restricted to shipments originating at the above origin and destined to the above destinations and further restricted to service in vehicles equipped with mechanical refrigeration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Moore's Food Products, Inc., Box 128, Fort Atkinson, WI 53538. 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 141511 (Sub-8TA), filed September 21, 1978. Applicant: ROBERT W. RETTIG, d.b.a. PROTEIN EXPRESS, Route 2, Hartford, WI 53207. Representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour and other milling products* (except in bulk), from the facilities of Krause Milling Co. at or near Paxton, IL, to points in the states of CA, NV, OR, and WA, restricted to shipments originating at the above origin and destined to the above destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Krause Milling Co., P.O. Box 1156, Milwaukee, WI 53201. 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 141511 (Sub-9TA), filed September 21, 1978. Applicant: ROBERT W. RETTIG, d.b.a. PROTEIN EXPRESS, Route 2, Hartford, WI 53207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, and (2) *Foodstuffs*, when shipped in mixed loads with the commodities in (1) above, from, to or between the plantsite and or storage facilities utilized by Jones Dairy Farm at or near Fort Atkinson and Jefferson, WI, to points in the States of AZ and CA, restricted to shipments originating at and destined to the above named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jones Dairy Farm, Jones Avenue, Fort Atkinson, WI 53538. 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 143267 (Sub-34TA), filed September 21, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from the facilities of Freeport Brick Co. at or near Freeport, Reesedale, and Creighton, PA, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Freeport Brick Co., Drawer F, Freeport, PA 16229. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 144026 (Sub-2TA), filed September 21, 1978. Applicant: WILLIAMS CARTAGE CO., INC., P.O. Box 897, Hartsville, S.C. 29950. Representative: Galland, Kharasch, Calkins & Short, R. L. McGeorge, 1054 31st Street NW., Washington, DC 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, aluminum and container ends, aluminum*, from Winston-Salem, NC, to Cheraw, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corp., 727 South Wolfe Street, Baltimore, MD 21231. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 144282 (Sub-3TA), filed September 22, 1978. Applicant: JAMES RECK, d.b.a., JAMES RECK TRUCKING, 4029 West McDowell, No. 4, Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement roofing tile and related accessories*, from the plantsite of Staco Roof Tile Co., Inc., in Phoenix, AZ, to West Orange, NJ, under a continuing contract, or contracts, with Staco Roof Tile, Co., for 180 days. Supporting shipper: Staco Roof Tile Co., 3530 East Elwood, Phoenix, AZ 85040. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 145054 (Sub-4TA), filed September 22, 1978. Applicant: COORS TRANSPORTATION CO., 5105 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baker's yeast*, from Bakersfield, CA, to Salt Lake City, UT and Denver, CO, for 180 days. Supporting shipper: Annheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145054 (Sub-5TA), filed September 22, 1978. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Cheese and cheese products, including synthetic cheeses*, from Logan, UT, to CO, for 180 days. Supporting shipper: L. D., Schreiber Cheese Co., 425 Pine Street, Green Bay, WI 54305. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145315 (Sub-1TA), filed September 21, 1978. Applicant: CHARLES LINCOLN VICKERS, d.b.a. C. L. VICKERS TRANSFER, Route 2, Albemarle, NC 28001. Representative: Charles Lincoln Vickers, Route 2, Albemarle, NC 28001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unground petroleum coke* (in bulk, in dump vehicles), from Badin, NC, to Piney River, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shiland Metal Brokerage Co., Inc., P.O. Box 3332-A, Birmingham, AL 35205. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145339 (Sub-1TA), filed September 21, 1978. Applicant: NEBRASKA BEEF EXPRESS, INC., 5521 South 91st Street, Omaha, NE 68127. Representative: Kenneth P. Weiner. 408 Executive Building, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from Omaha, NE, to Chicago, IL, and to points in its commercial zone and to all points in the states of WI and KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: David Kousgaard, Traffic Consultant, Palamera Beef Corp., 25th and Z Streets, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 145369 (Sub-1TA), filed September 21, 1978. Applicant: AERO LIM-

OUSINE CO., INC., 3906 Concord Pike, Wilmington, DE 19803. Representative: Raymond A. Thisle, Jr., 5 Cottman Court, Homestead Road and Cottman Street, Jenkintown, PA 19046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers in vehicles with a maximum seating capacity of 10 passengers plus driver, between the Philadelphia International Airport, located at Philadelphia, PA, on the one hand, and, on the other, points in DE within 25 miles of the boundaries of the Philadelphia International Airport, including Wilmington, DE, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145384 (Sub-3TA), filed September 22, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Millwork and molding*, from Diamond Springs, CA, to points in IL, IN, IA, MI, MN, MO, OH, PA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pacific Southeast Forest Products, Inc., Suite 200, 5330 Primrose Drive, Fair Oaks, CA 95628. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145384 (Sub-5TA), filed September 22, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel*, from Chicago, IL, and points in the Chicago, IL, commercial zone, to Torrance and Oakland, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eden National Steel Corp., 21515 Hawthorne Boulevard, Torrance, CA 90503. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145384 (Sub-6TA), filed September 22, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50313. Representative: James Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard*, from Rocklin, CA, to points in IA, IL and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fibreboard Corp., 4300 Dominquez Road, Rocklin, CA. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145389TA, filed September 21, 1978. Applicant: THOMAS H. CHOATE III, 45 Waverly Wood, Helena, AR 72342. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, veneer, press board, and hardwood lumber*, from the commercial zone in Helena, AR, to points in TX, MO, TN, KS, OK, CO, AZ, LA, and MS, under a continuing contract, or contracts, with McKnight Veneer, for 180 days. Supporting shipper: McKnight Veneer, Garland Avenue, West Helena, AR 72390. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145411 (Sub-1TA), filed September 21, 1978. Applicant: WILLIAM V. THOMAS, P.O. Box 554, Ojo Caliente, NM 87549. Representative: Rober V. Eaton, Modrall Law Firm, P.O. Box 2168, Albuquerque, NM 87103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and the materials* used in marketing and manufacture of gypsum products, from Rosario, NM, to Colorado Springs, Loveland, Denver and Grand Junction, CO, from Hutchinson, KS, Pryor, OK, and Lebanon, OR, to Rosario, NM, under a continuing contract, or contracts, with Western Gypsum Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Gypsum Co., P.O. Box 2636, Santa Fe, NM 87501. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue, SW., Albuquerque, NM 87101.

MC 145520 TA, filed September 22, 1978. Applicant: MARYLAND CONTINENTAL EXPRESS, INC., 129 Overhill Drive, Hagerstown, MD 21740. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, from Martinsburg, WV, and its commercial zone, to Wilsonville, OR, and its commercial zone, under a continuing contract, or contracts, with Erath Veneer Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Erath Veneer Corp., 528 W. Race Street, Martinsburg, WV 25401. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145529 TA, filed September 19, 1978. Applicant: ROBERT STEEN, d.b.a. STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Mark Menard, 5301 North Cliff, P.O. Box 480, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk or bag, from Minneapolis-St. Paul, MN, to all points in SD, for 180 days. Supporting shipper: (1) South Dakota Wheat Growers Association, 205 Van Slyke Building, Aberdeen, SD 57401. (James Pfeifer Manager, Fertilizer Division) (2) Shanard, Inc., Riverside Road, Mitchell, SD 57301. (Evan Fluth Plant Manager) Send protests to: J. L. Hammond District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-32273 Filed 11-15-78; 8:45 am]

[7035-01-M]

[Notice No. 210]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 3, 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 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 40915 (Sub-51TA), filed September 22, 1978. Applicant: BOAT TRANSIT, INC., P.O. Box 1403, Newport Beach, CA 92663. Representative: David R. Parker, 1600 Broadway, Suite 2310, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in secondary movements, in truck away service, from the facilities of Chinook International at Fontana, 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: Chinook International, Inc., 2700 First Street, La Verne, CA 91750. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 41404 (Sub-151TA), filed September 27, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Drawer 440, Fulton Hwy, Martin, TN 38237. Representative: Mark L. Horne, P.O. Drawer 440, Fulton Hwy, Martin, TN 38237. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Stouffer Foods at or near Solon, OH; to Atlanta, GA, and its commercial zone and Buford, GA, and Cordele, GA, restricted to shipments originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stouffer Foods, Division of Stouffer Corp., 5750 Harper Road, Solon, OH 44139. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 61825 (Sub-84TA), filed September 22, 1978. Applicant: ROY STONE TRANSFER CORP., V. C., Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, Roy Stone Transfer Corp., P.O. Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts and materials, supplies and equipment used in the manufacture and distribution of new furniture and furniture parts on return*, from Appomattox, VA, and Brookneal, VA, to DE, NC and NJ, (except Newark, NJ, and points in NJ within 15 miles of Newark, NJ), NY (except New York, NY), points in OH on and east of a line beginning at Lake Erie at Hwy 21, then south to Interstate 77, then south to the OH-WV State line, and PA, and *materials, supplies and equipment on return*, for 180 days. Supporting shipper: Thomasville Furniture Industries, Inc., Thomasville, NC 27360. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 61825 (Sub-85TA), filed September 22, 1978. Applicant: ROY STONE TRANSFER CORP., V. C., Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, Roy Stone Transfer Corp., P.O. Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures and fibreboard boxes and materials, equipment and supplies* used in the manufacture and distribution thereof on return, from the plantsite and storage facilities of Owens-Illinois located at or near Clarion, PA, to Norfolk, Suffolk and Williamsburg, VA, and *materials, equipment and supplies on return*, for 180 days. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 63417 (Sub-175TA), filed September 27, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from Leeds, AL, to Cincinnati, OH, and its Commercial Zone, for 180 days. Supporting shipper: Rock Wool Manufacturing Co., P.O. Box 11446, Birmingham, AL 35205. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 71593 (Sub-12TA), filed September 21, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. 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 Boston and Springfield, MA; New Haven, CT, New York, NY; Philadelphia, PA; Baltimore, MD; Chicago, IL; Milwaukee, WI; Memphis, TN, and St. Louis, MO, and their respective commercial zones, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Phoenix, AZ; Reno, NV; Seattle, WA, and Portland, OR, and their respective commercial zones, restricted to the transportation of shipments moving on freight forwarder bills of lading, for 180 days. Supporting shipper: There are approximately (6) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 106398 (Sub-839TA), filed September 27, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickup trucks and van conversions*, from the facilities of Gladiator, Inc., at Denver, CO, to points in AZ, ID, MT, NV, NM, UT, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gladiator, Inc., P.O. Box 2237, Elkhart, IN 46515. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 NW., 3rd, Oklahoma City, OK 73102.

MC 110563 (Sub-242TA), filed September 22, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Instant coffee, dry*, from the facilities of The Nestle Co., Inc., located at

or near Freehold, NJ, to Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Nestle Co., Inc., 100 Bloomingdale Road, White Plains, NY 10605. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 110563 (Sub-244TA), filed September 27, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Victor J. Tambascia, P.O. Box 747, State Route 29 North, Sidney, OH 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products*, from the facilities of M&M Mars, Inc., located at or near Hackettstown, NJ, and Elizabethtown, PA, to Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M&M Mars, Inc., Hackettstown, NJ 07840. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 114569 (Sub-243TA), filed September 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. 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 packing<houses*, as described in sections A, B, and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities of John Morrell and Co., at or near Sioux Falls, SD, to the State of FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 114569 (Sub-244TA), filed September 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prunes, prune extract, and juice in containers*, (1) restricted to traffic originating at the facilities utilized by Diamond/Sunsweet, Inc., at or near Middleboro, MA; Burlington and Bordentown, NJ, to points in the States of PA, MD, and NY (except New York City and points in Long Island, NY), and Washington, DC; (2) restricted to traffic originating at the facilities utilized by Diamond/Sunsweet, Inc., at or near Bordentown and Burlington, NJ, to points in NC, SC, VA, and Atlanta, GA; and (3) between the facilities utilized by Diamond/Sunsweet, Inc., at or near Middleboro, MA, on the one hand, and, on the other, those facilities utilized by Diamond/Sunsweet, Inc., at or near Bordentown, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond/Sunsweet, Inc., P.O. Box 1727, Stockton, CA 95201. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 114632 (Sub-184TA), filed September 22, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, 212 Southwest Second Street, Madison, SD 57042. Representative: Michael L. Carter, 212 Southwest Second Street, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodites in bulk), from Bonner Springs, KS, to points in OK and TX, for 180 days. Supporting shipper: South Eastern Public Service, 800 West 47th Street, Kansas City, MO 64112 (Mr. George H. Nesselrode, Vice President). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 123407 (Sub-498TA), filed September 27, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and polystyrene products*, from the facilities of U. C. Industries, Tallmadge, OH, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper: U.S. Gypsum Co., Donald R. Vandermyde, Manager Transportation, 0101 South Wacker Drive, Chicago, IL 60606. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 124078 (Sub-884TA), filed September 27, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mortar cement* (in bulk), from Knowles, WI, to Fort Calhoun, NE, for 180 days. Supporting shipper: The Western Lime & Cement Co., P.O. Box 2076, Milwaukee, WI 53201 (Darrel E. Hegy). 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 124511 (Sub-51TA), filed September 22, 1978. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Maverick Tube Corp., at Union, MO, to points in IL, IA, KS, KY, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Maverick Tube Corp., 311 North Lindbergh Boulevard, St. Louis, MO 63141. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 124711 (Sub-64TA), filed September 22, 1978. Applicant: BECKER CORP., P.O. Box 1050, 2643 West Central, 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: *Compounding asphalt requiring heat in transit* (in bulk, in tank vehicles), from facilities of Mobil Oil Corp. at Augusta, KS, to points in IL, OH, and MN, for 180 days. Supporting shipper: Mobil Oil Corp., 8350 North Central Expressway, No. 522, Dallas, TX 75206. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 133119 (Sub-139TA), filed September 22, 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: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses* (except commodities in bulk), from Sioux Falls, SD, and Estherville, IA, to points in TX and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., Curt Y. Hopkins, Manager of Transportation, 208 South LaSalle Street, Chicago, IL. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, 110 North 14th Street, Suite 620, Omaha, NE 68102.

MC 133971 (Sub-3TA), filed September 27, 1978. Applicant: TRUAX TRUCK LINE, INC., P.O. Box 248, Egan, LA 70531. Representative: Edward A. Winter, 236 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from the facilities of Weyerhaeuser Co. located at or near Harahan, LA, to points in MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., 1001 Edwards Avenue, Harahan, LA 70123. 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 134286 (Sub-80TA), filed September 21, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, Kimball, Williams, & Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products* (except commodities in bulk), from the facilities of Arnold Bakers, Inc., at or near Stamford, CT, to Baltimore, MD, and all points in their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mim Helms, Traffic Manager, Arnold Bakers, Inc., 10 Hamilton Avenue, Greenwich, CT 06830. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140168 (Sub-4TA), filed September 27, 1978. Applicant: FANETTI REFRIGERATED TRANSPORT, Route 1, Box 29-A, Bloomer, WI 54724. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Columbus, OH, to Bloomer, WI, for 180 days. Supporting shipper(s): American Insulation, Inc., Route 3, Bloomer, WI 54724. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 140241 (Sub-27TA), filed September 27, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: William B. Barker, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings, knocked down*, from Chadron, NE, 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(s): Beaver Log Homes, Division of Chisum Industries, Inc., P.O. Box 1145, Claremore, OK 74107. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 140829 (Sub-139TA), filed September 21, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial trees, light sets, decorations and displays*, from East Douglas, MA, to points in the States of IL, IN, MI, MO, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles Savard, Order Process Manager, Mr. Christmas, Inc., North Street, East Douglas, MA 01516. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 142574 (Sub-4TA), filed September 22, 1978. Applicant: CIRCLE C TRANSPORTATION CO., 5800 York Street, Denver, CO 80217. Representative: William J. Lippman, Suite 330, 50 South Steele Street, Denver, CO 80209. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the breweries of C. Schmidt & Sons and Ortlieb in Philadelphia, PA, to Denver, CO, under a continuing contract or contracts, with Rocky Mountain High Co., Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rocky Mountain High Co., 5758 Lamar Street, Arvada, CO. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 142668 (Sub-15TA), filed September 22, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Representative: Kim G. Meyer, 235 Peachtree Street, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Stanley Home Products, Inc., from Meridian, MS, to points in AL and those points in LA in and east of Pointe Coupee, Iberville, Assumption, Part of St. Martin and St. Mary, parishes, under a continuing contract or contracts, with Stanley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stanley Home Products, Inc., 116 Pleasant Street, Easthampton, MA 01025. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 142672 (Sub-32TA), filed September 21, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fencing, fencing materials, wire and wire products*, from the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR, to points in AZ, CA, CO, CT, DE, FL, ID, MD, MI, MN, MT, NV, NJ, NM, NY, NC, ND, OR, PA, RI, SC, SD, UT, VA, WA, WV, WI, and WY; and (2) *Steel rods*, from the facilities of Georgetown Steel Co. at or near Beaumont, TX, to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR; and (3) from all points in the United States (except AR, AK, and HI) to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR, for 180 days. Supporting shipper: Bekaert Steel Wire Corp., I-40 and Lee Creek Road, Van Buren, AR 72956. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143002 (Sub-3TA), filed September 21, 1978. Applicant: C. D. B., INC.,

5170 36th Street SE., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and plastic products other than expanded* (except in bulk, in tank vehicles), and miscellaneous equipment and supplies, from the facilities of Dow Chemical Co. at Midland, MI, and its commercial zone to Atlanta, GA, Los Angeles and Oakland, CA, Linden, NJ, and Houston and Dallas, TX, and their respective commercial zones, for 180 days. Supporting shipper: Dow Chemical Co., 690 Building, Midland, MI 48640. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 143205 (Sub-2TA), filed September 22, 1978. Applicant: DAVE HAAS, INC., 203 East Birch Street, Thorp, WI 54771. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal and metal products*, from the facilities of Industrial Fabricators, Inc., at Thorp, WI, to points in AL, AR, CA, CO, IL, IN, KS, KY, LA, MI, MO, NE, OH, TN, TX, PA, FL, MD, NY, WA, OR, ID, OK, and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Industrial Fabricators, Inc., Thorp, WI 54771. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 143775 (Sub-19TA), filed September 21, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85302. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, AZ 85302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batteries and rubber tires, tubes, and accessories*, (1) from Little Rock, AR, Hanford, Los Angeles, Palo Alto, and Santa Fe Springs, CA; Phoenix, AZ; Cumberland, MD; Jackson, MS; Great Falls, MT; Akron, OH; and Des Moines, IA, to NV, NM, and WY, (2) from Little Rock, AR; Hanford, Los Angeles, Palo Alto, and Santa Fe Springs, CA; Cumberland, MD; Jackson, MS; Great Falls, MT; Akron, OH; and Des Moines, IA, to AZ, and (3) from Little Rock, AR; Phoenix, AZ; Cumberland, MD; Jackson, MS; Great Falls, MT; Akron, OH; and Des Moines, IA, to Santa Ana, CA, for 180 days. Supporting shipper: Charlie Case Tire Co., 32 South 7th Street, Phoenix, AZ 85034. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 145319 (Sub-1TA), filed September 27, 1978. Applicant: DALE BRADBURY AND BILL BRADBURY, d.b.a. BRADBURY BROS., P.O. Box 194A, Fort Scott, KS 66701. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from facilities of Bill's Coal Co., near Garland and Fulton, KS, to the rail facilities near Stotesbury, MO, with subsequent movement by rail, restricted to the use of 10-wheel straight trucks only, for 180 days. Supporting shipper: Bill's Coal Co., Inc., 5200 Yale Avenue, Tulsa, OK 74135. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 145384 (Sub-1TA), filed September 22, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin compound*, in containers, from the facilities of Cargill, Inc., at or near Lynwood, CA, to Phoenix, AZ; Portland and Culver, OR, and Spokane and Seattle, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., 2801 Lynwood Road, Lynwood, CA 90262. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145384 (Sub-7TA), filed September 22, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nickel base and titanium ingots and billets*, between the facilities of Viking Metallurgical at or near Verdi, NV, on the one hand, and, on the other, Owensboro, KY; Whitehall and Muskegon, MI; Monroe, NC, and New Hartford, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Viking Metallurgical, a subsidiary of Quanex, P.O. Box 339, Verdi, NV 89439. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145388TA, filed September 22, 1978. Applicant: ABC SPECIAL DELIVERY, 736 East 11th Street, Chattanooga, TN 37403. Representative: Ira H. Pierce, Sr., 1109 Fairmount Avenue, Chattanooga, TN 37405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, applicant does not seek authority to transport in bulk, in tank vehicles or passengers, (Section 210A, page 7 describes our request), from Chattanooga, TN, to points in the States of GA, NC, VA, KY, MS, AL, SC, IN, and MO, approximately 350 mile radius, for 180 days. Supporting shipper: D. M. Steward Manufacturing, Co., P.O. Box 510, Chattanooga, TN 37401. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 145417TA, filed September 27, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin currency and securities*, between New Orleans, LA, on the one hand, and on the other, points in FL west of the Apalachicola River, under a continuing contract, or contracts, with Federal Reserve Bank of New Orleans, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Reserve Bank of New Orleans, P.O. Box 61630, New Orleans, LA 70161. 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 145428 (Sub-1TA), filed September 27, 1978. Applicant: CLIFF REED, Route 1, Box 510, Corvallis, MT 59840. Representative: John D. Greef, Recht & Greef, 210 Pinchney Street, Hamilton, MT 59840. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in MT, ID, WA, and OR, and from MT, ID, WA, and OR, to points in UT, WY, and CO, under a continuing contract or contracts, with Fox Lumber Sales, Inc., for 180 days. Supporting shipper(s): (1) Clyde Rummel, Mill Manager, Chempion Building Products/S & W Lumber Co., P.O. Box 395, Darby, MT 59829. (2) Carl Mohn,

Sales Manager, Del Connor Lumber, Inc., P.O. Box 415, Darby, MT 59829. (3) Tom Fox, President, Fox Lumber Sales, Inc., P.O. Box 1021, Hamilton, MT 59840. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145490TA, filed September 21, 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 *contract carrier*, by motor vehicle, ove irregular routes, transporting: (1) *Paper and paper products*, from plantsite of Union Camp Corp. at Lafayette, LA, to the States of TX, OK, AR, MS, and AL, and (2) *Materials and supplies* used in the manufacture and distribution of the above commodities, from TX, AR, OK, MS, and AL, to Union Camp Corp.'s plantsite at Lafayette, LA, under a continuing contract or contracts, with Union Camp Corp., for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. 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.

By the Commission.

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

[FR Doc. 78-32274 Filed 11-15-78; 8:45 am]

[7035-01-M]

[Vol. No. 123]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

NOVEMBER 7, 1978.

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 Special Rule 247(e) of the Commission's *TGeneral Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 124735 (Sub-1) (M1F) (notice of filing of petition to modify a permit), filed October 5, 1978. Petitioner: R. C. KERCHEVAL, JR., 2214 Fourth Avenue, South Seattle, WA 98134. Representative: George R. La Bissoniere, 1100 Norton Building, Seattle, WA 98104. Petitioner holds a motor *contract carrier* permit in MC 124735 Sub-1 issued Feburary 2, 1977, authorizing transportation, over irregular routes, as pertinent, of: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage*, from points in IL, IN, IA, MI, MO, OH, and WI, to ports of entry on the United States-Canada boundary line at or near Blaine, WA, Eastport, ID, Sweetgrass, MT, and Portal, ND. Restriction: The operations authorized immediately above are subject to the following conditions: The transportation service specified immediately above shall be in foreign commerce only. Said operations are restricted to the transportation of shipments destined to Vancouver, BC, and Calgary, and Edmonton, AB, Canada. Said operations are limited to a transportation service to be performed under a continuing contract(s) with Wheels & Equipment, Ltd., of Vancouver, BC, Canada. By the instant petition, petitioner seeks to modify the above authority by adding the ports of entry of International Falls, MN and Portal, ND as destination points in the territorial description.

MC 127618 (M1F) (Notice of filing of petition to modify certificate), filed September 27, 1978. Petitioner: WAGAR COACH LINES LTD., P.O. Box 294, Napanee, ON, CD K7R 3M4. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 127618 issued February 2, 1967, authorizing transportation in foreign commerce, over irregular routes, of *Passengers and their baggage*, in charter operations, beginning and ending at ports of entry on the United States-Canada boundary line, and extending to points in the United States (except those in AK and HI) restricted to traffic originating at points in Ontario, Canada. By the instant petition, petitioner seeks to eliminate the restriction against service to AK.

MC 130138 (M1F) (correction) (Notice of filing of petition to modify license), filed June 20, 1978, previously noticed in the FEDERAL REGISTER issue of September 20, 1978. Petitioner: CHI-AM TOURS, INC., 9 Elizabeth Street, New York, NY 10013. Representative: Robert Goldstein, 8 West 40th Street, New York, NY 10018. Petitioner holds a motor carrier license as a *broker* in MC 130138, issued March 12, 1973, authorizing transportation, over irregular routes, of *Passengers and their baggage*, in round-trip sightseeing and pleasure tours, in special and charter operations, beginning and ending in that part of New York, NY in the Borough of Manhattan south of 14th Street, and extending to points in that part of the United States on and east of a line beginning at the mouth of the MS River and extending northerly along the MS River to its junction with the western boundary of Itasca County, MN, then northerly along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line. Applicant is authorized to engage in the above-specified operations as a broker at New York, NY. By the instant petition, petitioner seeks to modify the above authority by adding Los Angeles and San Francisco, CA to the beginning and ending portions of the territorial description, and also to add them as broker locations.

NOTE.—The purpose of this correction is to indicate the correct modification sought by this petition.

MC 135845 (Subs 1 and 3) (M1F) (Notice of filing petition to modify permits), filed May 18, 1978. Petitioner: CATER, INC., P.O. Box 129, Moorhead, MN 56560. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Petitioner holds motor *contract carrier* permits in MC 135845 Subs 1 and 3 issued June 12, 1972 and February 11, 1975, respectively. MC 135845 (Sub-1) authorizes transportation over irregular routes, of: (1) *Agricultural commodities*, the transportation of which is exempt from economic regulation under section 203(b)(6) of Part II of the Interstate Commerce Act when moving at the same time and in the same vehicle with the commodities named in (2) below, and (2) *Lactose and powdered corn sirup solids*, from Moorhead, MN to points in WA, OR, ID, MT, WY, ND, SD, and MN, under a continuing contract(s) in (1) and (2) above with Clark O. Orth Co., of Moorhead, MN. MC 135845 (Sub-3) authorizes transportation, over irregular

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commmission, Washington, DC 20423.

routes, of: (1) *Corn syrup solids and dextrose,* from Keokuk and Clinton, IA, to points in WA, OR, ID, MT, WY, ND, SD, and MN, (2) *Sugar,* from Sidney, MT, Drayton, ND, and Moorhead, Crookston, and East Grand Forks, MN, to points in ND, SD, and MT, (3) *Cheese starter media,* from points in WI, to Moorhead, MN, and points in WA, OR, ID, MT, WY, ND, and SD, (4) *Lactose,* from Bongards, and Rochester, MN, to Moorhead, MN, and points in WA, OR, ID, MT, WY, ND, and SD, and (5) *Commodities,* which are otherwise exempt from economic regulation under section 203(b)(6) of Part II of the Act when moving in mixed shipments with the commodities in (1), (2), (3), and (4) hereinabove, from the respective origin points specified in (1), (2), (3), and (4) to their respective destination points in named States in (1), (2), (3), and (4). Restriction: The service authorized herein is subject to the following conditions: (A) The authority granted herein is restricted against the transportation of commodities in bulk, in tank vehicles, (B) The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Clark O. Orth Co., Moorhead, MN. By the instant petition, petitioner seeks to modify the above permits by substituting Ramsen, Inc. of St. Paul, MN as the contracting shipper in lieu of, Clark O. Orth Co. of Moorhead, MN.

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 107839 (Sub-173) (republication), filed September 12, 1977, published in the Federal Register issue of October 6, 1977, and republished this issue. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver, CO 80216. Representative: Edward L. Gordon, P.O. Box 16106, Denver, CO 80216. A Decision of the Commission, Review Board Number 2, decided October 13, 1978, and served October 25, 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) *Foodstuffs;* (2) *pharmaceutical materials, supplies, and products;* (3) *chemicals;* (4) *alcoholic beverages;* (5) *tobacco products;* and (6) *pet foods,* in vehicles equipped with mechanical refrigeration, (A) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to the transportation of traffic originating at (or moving from storage-in-transit at) Denver, CO, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI); and (B) from points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), to Denver, CO, restricted to the transportation of traffic originating at points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and destined to (or moving to storage-in-transit at) Denver, CO, and restricted in Parts (A) and (B) against the transportation of commodities in bulk, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 109708 (Sub-79) (republication), filed December 23, 1977, published in the Federal Register issue of February 16, 1978, and republished this issue. Applicant: INDIAN RIVER TRANSPORT CO., d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. A Decision of the Commission, Review Board Number 3, decided September 29, 1978, and served October 13, 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) *Alcoholic liquors, neutral spirits, wine and brandy,* in bulk, in tank vehicles, from Auburndale and Lake Alfred, FL, to Lewiston, ME, Milwaukee, WI, and points in IL, IN, NJ, MA, MD, MI, KY, PA, OH, and LA; and (2) *neutral spirits and brandy,* in bulk, in tank vehicles, from Roberta, GA, to Peoria, IL, and Scobeyville, NJ, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of Lewiston, ME, and Milwaukee, WI, in part (1) above, as destination points.

MC 134090 (Sub-4) (republication), filed July 5, 1977, published in the Federal Register issue of August 18, 1977, and republished this issue. Applicant: ALLBEST TRANSFER & WAREHOUSE, INC., 405 Division Street, Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board Number 1, decided October 6, 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 *contract carrier,* by motor vehicle, over irregular routes, in the transportation of *Lawn and garden products,* in boxes and bags, from O. M. Scott & Sons Distribution Center, at New Brunswick, NJ, to the plantsite of M. Scott & Sons Co., at Marysville, OH, and points in CT, DE, MA, NY, and PA, under a continuing contract or contracts with O. M. Scott & Sons Co., of Marysville, OH, 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 delete MD as a destination point; indicate New Brunswick, NJ in lieu of Elizabethport, NJ as an origin point, and modify the territorial description.

MC 141914 (Sub-37F) (republication), filed April 3, 1978, published in the Federal Register issue of June 22, 1978, and republished this issue. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). A Decision of the Commission, Review Board No. 1, decided October 17, 1978, and served October 31, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Wooden products,* from Guilford, ME, to points in CA (except Los Angeles and San Francis-

co), CO, IN, ID, IA, MD, MT, NV, NM, OK, OR, SD, UT, WA (except Seattle), and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of MD as a destination point, and to indicate IN in lieu of IL 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 such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must 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 113531 (Sub-2F), filed October 17, 1978. Applicant: B & M SERVICE, INC. Box 888, Rangely, CO 81648. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, devlopment, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; (3) *machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, construction, operation, repair, servicing, maintenance and dismantling of mines; and (4) *commodities*, the transportation of which because of size or weight require special equipment, between points in that part of the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing: November 28, 1978 (14 days), at 9:30 a.m. local time, at Denver, CO in a hearing room to be later designated.)

MC 113822 (Sub-8F), filed October 9, 1978. Applicant: DALGARNO TRANSPORTATION, INC., 12075 East 45th Avenue, Suite 522, Denver, CO 80239. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their procucts and by-products, and *machinery*, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AR, AZ, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY; (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in or in connection with: (a) The transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in AR, AZ, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY; (3) To the extent required in *EX Parte 55 Sub No. 8*, applicant seeks authority to tack the applied for authority to its existing authority in Docket MC 113822 (Sub-3 and 4); (4) Restriction: The above authority to the extent that it duplicates authority presently held by applicant in Docket MC 113822 (Sub-3 and 4) shall not be construed as conferring more than a single operating right. (Hearing: November 28, 1978 (14 days), 9:30 a.m. local time, at Denver, CO, in a hearing room to be later designated.)

MC 144640 (Sub-3F), filed April 14, 1978, and previously published in the FEDERAL REGISTER issue of August 3, 1978. Applicant: AGRICULTURAL SERVICES ASSOCIATION, INC., Washington Street, Bells, TN 38006. Representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, NY 11743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1(b)B and 2, (1)(B) *Citrus and fruit concentrates*, from Highland City, Bartow, Umatilla, Plymouth, Bradenton, Auburndale, Leesburg, Forest City, Winterhaven, Orlando, Lake Wales, and Lakeland, FL, to Midfield and Huntsville, AL; Jonesboro and Helena, AR; Columbia and Gallation, IN; Jackson, Canton and Southhaven, MS; Columbia and St. Louis, MO; Vineland, NJ; Memphis, Nashville, Lebanon, Cookeville, Union City, Lawrenceburg, Martin and Humboldt, TN, and Richmond, VA; and (2) *juice*, (canned and bottled), from Highland City, Bartow, Umatilla, Plymouth, Bradenton, Auburndale, Leesburg, Forest City, Winterhaven, Orlando, Lake Wales, and Lakeland, FL, to Midfield and Huntsville, AL; Jonesboro and Helena, AR; Columbia and Gallation, IN; Jackson, Canton and Southhaven, MS; Columbia and St. Louis, MO; Vineland, NJ; Memphis, Nashville, Lebanon, Cookeville, Union City, Lawrenceburg, Martin, and Humboldt, TN, and Richmond, VA. (Hearing site:

Memphis, TN; New York, NY; Orlando, FL.)

NOTE.—This republication is to indicate "Jonesboro and Helena, AR", in lieu of Jonesboro and Helena, AK, in sections 1(b)B and 2 above.

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-13698F. Authority sought for purchase by NORMAN W. WENGER & SONS, INC., Box 11, R.D. No. 2, East Earl, PA 17519, of a portion of the operating authorities of RAYMOND E. TOWNSEND, JR., Dagsboro-Omar Road, Frankford, DE 19945, and for acquisition by NORMAN W. WENGER, Box 11, R.D., No. 2, East Earl, PA 17519, of control of such rights through the transaction. Applicant's representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Operating rights sought to be acquired: *Fertilizer* as a common carrier, over irregular routes, from Chesapeake, VA, to points in DE and MD east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal; *manufactured fertilizers* (except liquid fertilizer) in bulk, from Chesapeake, VA, to Windsor, NC; *manufactured fertilizers* (except liquid fertilizer), from Baltimore, MD, to points in that part of Delaware south of the Chesapeake and Delaware Canal, and points in Wicomico, Worcester and Somerset Counties, MD, and Accomac and Northampton Counties, VA; and *fertilizer*, from Dagsboro, Seaford, Bridgeville, Frankford, Milton, Harrington, Hartley, and Mt. Pleasant, DE, to points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset and Worcester Counties, MD, and Accomac and Northampton Counties, VA, with no transportation for compensation on return except as otherwise authorized, and restricted against the transportation of liquid fertilizer in bulk, in tank vehicles, from Seaford, DE. Vendee seeks tacking or joinder with present authority at points in New Castle County, DE to authorize transportation of fertilizer from Chesapeake, VA to points in Berks, Bucks, Chester, Delaware, Lancaster, Montgomery and Philadelphia Counties, PA. Vendee is authorized to operate as a *common carrier* in DE, MD, NJ, PA and VA. No duplicating authority. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC 111023 (Sub-6F) is a directly related matter.

MC-F-13712F. Authority sought for purchase by MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, MO 63077, of the operating rights of HEISER TRUCK LINE, INC., Route 3, Herington, KS 67449. Applicants' attorney: William H. Shawn, Grove, Jaskiewicz, Gilliam, and Cobert, 1730 M Street NW., Washington, DC 20036. Operating rights sought to be transferred: *Building materials and related commodities* over irregular routes between Herington, KS, on the one hand, and Kansas City, KS, Kansas City, MO, on the other; *livestock, malt beverages, and other commodities* over irregular routes between Herington and Kansas City, KS, and *general commodities* over regular routes between White City, KS, and Kansas City, MO, with service to described intermediate and off-route points. Vendee is authorized to operate as a common carrier in MO, IL, and TN. Application has not been filed for temporary authority under section 210a(b).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Kansas City, KS; St. Louis, MO; or Washington, DC. MC 120181 (Sub-12F) is a directly related matter.

MC-F-13750F. Authority sought for purchase by CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255, of a portion of the operating rights of BREYER EXCHANGE, INC., R.D. 3, Box 43, New Philadelphia, OH 44663, of control of such rights through the transaction. Applicants' attorney: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. Operating rights sought to be purchased: Salt and salt compounds, in bulk, as a *contract carrier* over irregular routes, transporting: From Rittman, OH, to points in NY on and west of a line beginning at the Niagara River southeast or Tonawanda, NY, and extending along NY Hwy 324 to junction NY Hwy 78 about 3 miles north of Bowmansville, NY, then south along NY Hwy 78 to junction U.S. Hwy 20 about 1 mile west of Lancaster, NY, then south along U.S. Hwy 20 to junction U.S. Hwy 62 about 4 miles north of Hamburg, NY, and then south along U.S. Hwy 62 via Hamburg, North Collins, Gowanda, Leon, Randolph, and Frewsburg, NY, to the NY-PA State line; to points in PA on and west of a line beginning at the NY-PA State line about 13 miles north of Warren, PA, and extending along U.S. Hwy 62 via Warren to junction PA Hwy 66 at Tionesta, PA, thence south along PA Hwy 66 via Shippenville, Clarion, and New Bethlehem, PA, to junction U.S. Hwy 422 about 1 mile east of Kittanning, PA, thence southeast along U.S. Hwy 422 via Elderton, PA, to junction U.S. Hwy 119 at Indiana, PA, and thence southwest along U.S. Hwy 119 via Homer City, Blairsville, Greensburg, Scottdale, Connelsville, Uniontown, and Point Marion, PA, to the PA-WV State line; and to points in Hancock, Brooke, Ohio, and Marshall Counties, WV, with no transportation for compensation on return except as otherwise authorized. *Salt*, from Fairport, OH, to points in that part of NY on and west of a line beginning at the Niagara River southeast of Tonawanda, NY, and extending along NY Hwy 324 to junction NY Hwy 78, then south along NY Hwy 78 to junction U.S. Hwy 20, then south along U.S. Hwy 20 to junction U.S. Hwy 62 and then south along U.S. Hwy 62 to the NY-PA State line, that part of PA on and west of a line beginning at the PA-NY State line and extending along U.S. Hwy 62 to junction PA Hwy 66, then south along PA Hwy 66 to junction U.S. Hwy 422, then southeast along U.S. Hwy 422 to junction U.S. Hwy 119, and then southwest along U.S. Hwy 119 to the PA-WV State line, and points in Brooke, Cabell, Hancock, Jackson, Kanawha, Marshall, Mason, Ohio, Pleasants, Putnam, Tyler, Wayne, Wetzel, and Wood Counties, WV; and *returned pallets*, from the above-specified destination points, to Fairport, OH. *Salt and salt compounds*, between points in Tuscarawas County, OH, on the one hand, and, on the other, points in KY, PA, and WV. *Salt and salt products*, from points in Tuscarawas County, OH, to points in IL, IN, KY, MD, MI, PA, VA, WV, and DC. Vendee is authorized to operate as a *common carrier* in OH, PA, and NY. Application has been filed for temporary authority under section 210a(b) of the Act.

MC 143267 (Sub-39F) is a directly related matter. (Hearing place: Columbus, OH.)

MC-F-13771F. Authority sought for purchase by LEAVITT'S FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477, of a portion of the operating rights of PELLISSIER TRUCKING, INC., 1002 Hostetler (P.O. Box 192), The Dalles, OR 97068, and for acquisition by DEAN, DAR-

RELL, DOUGLAS, AND DEWEY LEAVITT, all of 3855 Marcola Road, Springfield, OR 97477, of control of such rights through the transaction. Applicants' attorney: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Operating rights sought to be purchased: *Wooden Poles and Piling* as a *common carrier* over irregular routes from the facilities of J. H. Baxter Co. at or near The Dalles and Eugene, OR, to points in ID. Vendee is authorized to operate as a *common carrier* in OR, CA, NV, WA, and MT. Application has not been filed for temporary authority under section 210a(b).

MC-F-13790. Authority sought for purchase by PACE MOTOR LINES, INC., 132 West Dudleytown Road, Bloomfield, CT 06002, of the operating rights of ERNEST F. MONTZ, JR., d.b.a. J. F. RIEMER & CO., 15 Bailey Drive, West Haven, CT 06506, of control of such rights through the transaction. Applicants' representative: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Operating rights sought to be transferred; *Meats and packinghouse products* as a *common carrier*, over irregular routes from New Haven, CT, to Springfield, MA, and Providence and Westerly, RI. Vendee is authorized to operate as a *common carrier* in CT, MA, RI, NY, and NJ. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 9268 (Sub-18F), is a directly related matter.

MC-F-13793F. Authority sought for purchase by NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317, of the operating rights of Dean H. Petersen, 2401 Park Avenue, Lincoln, NE 68502, and for acquisition by Dean L. Petersen of control of the rights through the purchase. Applicants' Attorney: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Operating rights sought to be purchased: *Dairy products*, as a *common carrier*, over irregular routes, between points in NE, on the one hand, and, on the other, points in KS, MO, IA, MN, and CO. Restriction: The authority granted herein is restricted against the transportation of shipments originating at the plantsite of Beatrice Foods Co. at Lincoln, NE, as more fully described in Certificate No. MC 134418. Vendee is authorized to operate pursuant to Certificate No. MC 133219 as a *common carrier* in the 48 contiguous States, including DC. Application has not been filed for temporary authority under section 210a(b).

MC-F-13794F. Authority sought for purchase by ROSS NEELY EXPRESS, INC., 1500 Second Street, Birmingham, AL 35214, of a portion of the operating rights of Horne Heavy Hauling, Inc., P.O. Drawer L, Madisonville, KY 42431, and for acquisition by Ross Neely, Jr., also of Birmingham, AL, of control of the rights through purchase. Applicant vendee's attorney: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC. 20004; applicant vendor's attorney: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Operating rights sought to be purchased: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, as a *common carrier* over irregular routes: Between points within 15 miles of Chattanooga, TN, including Chattanooga, as described in vendor's certificate MC 35045. Vendee is authorized to operate pursuant to Certificate MC 99610 (Sub-14) and others in the transportation of general commodities (with the usual exceptions) as a *common carrier* in AL and MS. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 99610 (Sub-34F) is a directly related matter.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 1334 (Sub-23F), filed September 27, 1978. Applicant: Riteway Transport, Inc., 2131 West Roosevelt, Phoenix, AZ 85005. Representative: William H. Shawn, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority is sought to operate as a regular route motor *common carrier* 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) over regular routes: (1) Between Phoenix, AZ and Page, AZ, serving all intermediate points from Phoenix over Interstate Hwy 17 to junction of Interstate Hwy 40 to junction U.S. Hwy 89, then over U.S. Hwy 89 to junction U.S. Hwy 160, then over U.S. Hwy 160 to junction AZ Hwy 98, then over AZ Hwy 98 to Page, and return over the same route. (2) Between Grand Junction, CO and Moab, UT, serving all intermediate points from Grand Junction over U.S. Hwy 6 to junction of U.S. Hwy 163, then over U.S. Hwy 163 to Moab, and return over the same route. (3) Between Denver, CO, and Montrose, CO, serving all intermediate points, from Denver over U.S. Hwy 285 to junction of U.S. Hwy 50, then over U.S. Hwy 50 to Montrose, and return over the same route.

NOTE.—This matter is directly related to the section 5 finance proceeding in MC-F-13545 published in the FR issue of August 17, 1978. The purpose of this application is to convert irregular route authority in (3) above to regular route authority. (Hearing site: Phoenix, AZ, Grand Junction and Denver, CO.)

MC 9268 (Sub-18F), filed October 18, 1978. Applicant: PACE MOTOR LINES, INC., 132 West Dudleytown Road, Bloomfield, CT 06002. Representative: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, in bulk, in vehicles equipped with mechanical refrigeration, between New York, NY, on the one hand, and, on the other, points in Providence and Westerly, RI. (Hearing site: Hartford or New Haven, CT.)

NOTE.—The purpose of this application is to eliminate the gateway of New Haven, CT, and is a matter directly related to MC-F-13790F, published in a previous section of this FR issue.

MC 75627 (Sub-1), filed October 7, 1977. Applicant: PERILLO MOTOR LINES, INC., 499 Central Avenue, New Providence, NJ 07974. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. On October 24, 1978, the Motor Carrier Board granted this gateway elimination application which was noted in the FEDERAL REGISTER on November 3,

1977 (42FR 57540). The application was subsequently amended and was granted, as per the amendment. The Board's decision authorizes the issuance of a certificate covering the transportation of: (1) *Electrical equipment, fittings, and fixtures,* and (2) *materials, supplies, and equipment,* used in the manufacture of the commodities in (1) above (except commodities in bulk), (a) between New York, NY, and points in Morris County, NJ, on the one hand, and, on the other, points in CT, ME, MA, NH, NY (except New York City and points in Westchester, Nassau, and Suffolk Counties), RI and VT, and (b) between points in Rockland County, NY, and Bergen, Passaic, Essex, and Hudson Counties, NJ, on the one hand, and, on the other, points in CT, ME, MA, NH, NY (except New York City and points in Westchester, Nassau, and Suffolk Counties), RI and VT.

NOTE.—This was a related matter to MC-FC-77333.

MC 99610 (Sub-34F), filed October 24, 1978. Applicant: ROSS NEELY EXPRESS, INC., P.O. Drawer "B," Pratt City Station, Birmingham, AL 35214. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as *common carrier,* by motor vehicle, over regular and 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 commodities requiring special equipment), over regular routes: (1) Between Gadsden, AL and Chattanooga, TN, serving all intermediate points in AL and those in GA and TN within 15 miles of Chattanooga, TN, as intermediate and off-route points: From Gadsden over Interstate Hwy 59 to Chattanooga and return over the same route; and (2) between Bridgeport, AL and Chattanooga, TN serving all intermediate points in AL and those in GA and TN within 15 miles of Chattanooga as intermediate and off-route points: (a) over U.S. Hwy 72 to junction U.S. Hwy 41 (also portion U.S. Hwy 64) then over U.S. Hwy 41 (also portion U.S. Hwy 64) to junction Interstate Hwy 59, then over Interstate Hwy 59 to Chattanooga and return over the same route; and (b) from Bridgeport over U.S: Hwy 72 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 59 then over Interstate Hwy 59 to Chattanooga and return over the same route. Irregular routes: (1) Between points within 15 miles of Chattanooga, TN, including Chattanooga. (Hearing site: Birmingham, AL or Atlanta GA.)

NOTE.—This application is directly related to MC-F-13794F, published in a previous section of this FEDERAL REGISTER issue, in which applicant seeks approval of the pruchase of operating authority directly related which authorizes the transportation of the commodities herein described over irregular routes between points within 15 miles of Chattanooga, TN, including Chattanooga. Under existing operating authority in MC-99610 (Sub-14) applicant is authorized to transport general commodities, except commodities in bulk and household goods as defined by the Commission, over irregular routes between all points in Alabama north of the southern boundaries of Russell, Bullock, Pike, Crenshaw, Butler, Wilcox, Clarke, and Choctaw Counties. Thus, those points in the extreme northeastern corner of Alabama which are within 15 miles of Chattanooga, TN, are common points of service between the authority sought in the directly related sec. 5 application and applicant's existing authority. The purpose of this application is to permit the joinder of the authority to be acquired with applicant's existing authority over the described regular routes. Under applicant's Certificate MC 99610 (Sub-14) it is now authorized to serve as part of its network of regular routes in Alabama both Gadsden and Bridgeport. Thus, the authority sought herein will be joined with applicant's existing authority to provide service between points within 15 miles of Chattanooga, TN, on the one hand, and, on the other, applicant's existing authorized service territory in Alabama and Mississippi. Applicant also seeks to retain the nonradial irregular route authority to be acquired so as to able to perform the same service Horne Heavy Hauling, Inc., could provide between points within 15 miles of Chattanooga, TN, including Chattanooga, TN.

MC 111023 (Sub-6F), filed October 16, 1978. Applicant: NORMAN W. WENGER & SONS, INC., Box 11, R.D. No. 2, East Earl, PA 17519. Representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer,* from Chesapeake, VA, to points in Berks, Bucks, Chester, Delaware, Lancaster, Montgomery, and Philadelphia Counties, PA. (Hearing site: Harrisburg, PA or Washington, DC.)

NOTE.—The purpose of this application is to eliminate the gateway of New Castle County, DE, and is a directly related matter to a section 5(2) finance proceeding docketed MC-F-13698F and published in a previous section of this FEDERAL REGISTER issue.

MC 120181 (Sub-12F), filed October 13, 1978. Applicant: MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, MO 63077. Representative: William H. Shawn, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle over regular routes, transporting: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank trucks),* between Kansas City, MO, and St. Louis, MO, from Kansas City over Interstate 70 to St. Louis, and return over the same route. Gateways: Kansas City, MO and Parkway Village, MO. (Hearing site: St. Louis or Kansas City, MO.)

NOTE.—This matter is directly related to the section 5 finance proceeding in MC-F-13712F published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to eliminate the gateways of Kansas City and Parkway Village, MO. Applicant states that a portion of the authority being joined in this proceeding and being utilized for the gateway elimination is pending before the Commission and docketed MC 120181 (Sub-11F), filed August 8, 1978 and published in the FEDERAL REGISTER issue of October 5, 1978. Applicant has a corresponding Sub-9TA.

MC 143267 (Sub-39F), filed October 18, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, Ohio 44255. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Salt and salt compounds,* in bulk, from Rittman, OH, to points in NY on and west of a line beginning at the Niagara River southeast of Tonawanda, NY, and extending along NY Hwy 324 to junction NY Hwy 78 about 3 miles north of Bowmansville, NY, then south along NY Hwy 78 to junction U.S. Hwy 20 about 1 mile west of Lancaster, NY, then south along U.S. Hwy 20 to junction U.S. Hwy 62 about 4 miles north of Hamburg, NY, and then south along U.S. Hwy 62 via Hamburg, North Collins, Gowanda, Leon, Randolph, and Frewsburg, NY, to the NY-PA State line; to points in PA on and west of a line beginning at the NY-PA State line about 13 miles north of Warren, PA, and extending along U.S. Hwy 62 via Warren to junction PA Hwy 66 at Tionesta, PA, thence south along PA Hwy 66 via Shippenville, Clarion, and New Bethlehem, PA, to junction U.S. Hwy 422 about 1 mile east of Kittanning, PA, thence southeast along U.S. Hwy 422 via Elderton, PA, to junction U.S. Hwy 119 at Indiana, PA, and thence southwest along U.S. Hwy 119 via Homer City, Blairsville, Greensburg, Scottdale, Connelsville, Uniontown, and Point Marion, PA, to the PA-WV State line; and to points in Hancock, Brooke, Ohio, and Marshall Counties, WV, (2) *salt,* from Fairport, OH, to points in that part of NY on and west of a line beginning at the Niagara River southeast of Tonawanda, NY, and extending along NY Hwy 324 to junction NY Hwy 78, then south along NY Hwy 78 to junction U.S. Hwy 20, then south along U.S. Hwy 20 to junction U.S. Hwy 62 and then south along U.S. Hwy 62 to

the NY-PA State line, that part of PA on and west of a line beginning at the PA-NY State line and extending along U.S. Hwy 62 to junction PA Hwy 66, then south along PA Hwy 66 to junction U.S. Hwy 422, then southeast along U.S. Hwy 422 to junction U.S. Hwy 119, and then southwest along U.S. Hwy 119 to the PA-WV State line, and points in Brooke, Cabell, Hancock, Jackson, Kanawha, Marshall, Mason, Ohio, Pleasants, Putnam, Tyler, Wayne, Wetzel, and Wood Counties, WV; and (3) *returned pallets*, from the above-specified destination points, to Fairport, OH; (4) *salt and salt compounds*, between points in Tuscarawas County, OH, on the one hand, and, on the other, points in KY, PA, and WV; and (5) *salt and salt products*, from points in Tuscarawas County, OH, to points in IL, IN, KY, MD, MI, PA, VA, WV, DC. (Hearing site: Columbus, OH.)

NOTE.—The purpose of this application is to convert Permit MC 113254, and subs 2, 3, and 4, to a certificate of public convenience and necessity. This is a matter directly related to a transfer proceeding under sec. 5, wherein applicant seeks to acquire the said permit from Breyer, Exchange, Inc., docketed MC-F-13750F and published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 30204 (Deviation No. 30), HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, MA, filed October 26, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Newark, NJ over Interstate Hwy 280, then over Interstate Hwy 80 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Duncansville, PA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Newark, NJ over U.S. Hwy 22 to junction unnumbered Hwy, then over unnumbered Hwy via Easton, Bethlehem, and Allentown, PA to junction U.S. Hwy 22, then over U.S. Hwy 22 to Harrisburg, PA, then over U.S. Hwy 11 to Hagerstown, MD, then over U.S. Hwy 40 to Cumberland, MD, then over U.S. Hwy 220 to Duncansville, PA and return over the same route.

MC 69901 (Deviation No. 6), COURIER-NEWSOM EXPRESS, INC., P.O. Box 270, Columbus, IN 47201, filed November 1, 1978. Carrier's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, TN over Interstate Hwy 65 to Indianapolis, IN, then over Interstate Hwy 69 to junction MI Hwy 60, then over MI Hwy 60 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Detroit, MI, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commidities over a pertinent service route as follows: From Nashville, TN over U.S. Hwy 70N to junction U.S. Hwy 70S, then over U.S. Hwy 70S to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 25W, then over U.S. Hwy 25W to junction TN Hwy 61, then over TN Hwy 61 to junction TN Hwy 62, then over TN Hwy 62 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction KY Hwy 35, then over KY Hwy 35 to junction KY Hwy 151, then over KY Hwy 151 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction IN Hwy 9, then over IN Hwy 9 to junction IN Hwy 7, then over IN Hwy 7 to junction Alt. U.S. Hwy 31, then over Alt U.S. Hwy 31 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 421, then over U.S. Hwy 421 to junction IN Hwy 29, then over IN Hwy 29 to junction U.S. Hwy 24, then over U.S Hwy 24 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction U.S. 12, then over U.S. Hwy 12 to junction Business Route U.S. Hwy 12, then over Business Route U.S. Hwy 12 to junction U.S. Hwy 12, then over U.S. Hwy 12 to Detroit, MI, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Florida Docket No. 780838-CCT, filed October 13, 1978. Applicant: SMALLEY TRANSPORTATION CO., 410 Ware Boulevard, P.O. Box 5175, Tampa, FL 33675. Representative: Ansley Watson, Jr., 512 North Florida Avenue, P.O. Box 1531, Tampa, FL 33601. Certificate of public convenience and necessity sought to operate a freight service over regular routes, as follows: Transportation of: *General commodities* (except those of unusual value, household goods, commodities in bulk, commodities which because of size or weight require the use of special equipment, commodities in vehicles equipped with mechanical refrigeration, and the following commodities when moving in truckload lots: building and construction materials on flatbed trailers, fertilizer on flatbed trailers, beer, sodium hypochlorite, and empty glass containers and closures therefor), (1) Between Jacksonville and Melbourne, FL, serving all intermediate points: from Jacksonville over U.S. Hwy 1 and/or FL Hwy A1A to Melbourne, and return over the same route. (2) Between Jacksonville and Orlando, FL, serving all intermediate points: from Jacksonville over U.S. Hwy 17 to Orlando, and return over the same route. (3) Between Jacksonville and Ocala, FL, serving all intermediate points: from Jacksonville over U.S. Hwy 301 to Ocala, and return over the same route. (4) Between Ocala and Gainesville, FL, serving all intermediate points: from Ocala over U.S. Hwy 441 to Gainesville, and return over the same route. (5) Between Gainesville and Waldo, FL, serving all intermediate points: From Gainesville over FL Hwy 24 to Waldo, and return over the same route. (6) Between Gainesville and Palatka, FL, serving all intermediate points: from

Gainesville over FL Hwy 20 to Palatka, and return over the same route. (7) Between Leesburg and New Smyrna Beach, FL, serving all intermediate points: from Leesburg over FL Hwy 44 to New Smyrna Beach, and return over the same route. (8) Between DeLand and Daytona Beach, FL, serving all intermediate points: from DeLand over U.S. Hwy 92 to Daytona Beach, and return over the same route. (9) Between Orlando and Titusville, FL, serving all intermediate points: from Orlando over FL Hwy 50 to its junction with FL Hwy 405, then over FL Hwy 405 to Titusville, and return over the same route. (10) Between Ocala and Williston, FL, serving all intermediate points: from Ocala over U.S. Hwy 27 to Williston, and return over the same route. (11) Between Gainesville and Williston, FL, serving all intermediate points: from Gainesville over FL Hwy 121 to Williston, and return over the same route. (12) Between Gainesville and High Springs, FL, serving all intermediate points: from Gainesville over U.S. Hwy 441 to High Springs, and return over the same route. (13) Between Williston and High Springs, FL, serving all intermediate points: from Williston over U.S. Hwy 27/41 to High Springs, and return over the same route. (14) Between Gainesville and Newberry, FL, serving all intermediate points: from Gainesville over FL Hwy 26 to Newberry, and return over the same route. (15) Between Gainesville and Archer, FL, serving all intermediate points: from Gainesville over FL Hwy 24 to Archer, and return over the same route. (16) Between Gainesville and Lake Butler, FL, serving all intermediate points: from Gainesville over FL Hwy 121 to Lake Butler, and return over the same route. (17) Between Starke and Lake Butler, FL, serving all intermediate points: from Starke over FL Hwy 100 to Lake Butler, and return over the same route. (18) Between Starke and Green Cove Springs, FL, serving all intermediate points: from Starke over FL Hwy 16 to Green Cove Springs, and return over the same route. (19) Between Starke and Palatka, FL, serving all intermediate points: from Starke over FL Hwy 100 to Palatka, and return over the same route. (20) Between Ocala and Barberville, FL, serving all intermediate points: from Ocala over FL Hwy 40 to Barberville, and return over the same route. (21) Between Barberville and Ormond Beach, FL, serving all intermediate points: from Barberville over FL Hwy 40 to Ormond Beach, and return over the same route. (22) Between Palatka and Bunnell, FL, serving all intermediate points: from Palatka over FL Hwy 100 to Bunnell, and return over the same route. (23) Between St. Augustine and Palatka, FL, serving all intermediate points: from St. Augustine over FL Hwy 207 to its junction with FL Hwy 100, then over FL Hwy 100 to Palatka, and return over the same route. (24) Between St. Augustine and Green Cove Springs, FL, serving all intermediate points: from St. Augustine over FL Hwy 16 to Green Cove Springs, and return over the same route. (25) Between Sanford and Mt. Dora, FL, serving all intermediate points: from Sanford over FL Hwy 46 to Mt. Dora, and return over the same route. (26) Between Orlando and Melbourne, FL, serving all intermediate points: from Orlando over U.S. Hwy 441 to Holopaw, then over U.S. Hwy 192 to Melbourne, and return over the same route. (27) Between Dunnellon and Williston, FL, serving all intermediate points: from Dunnellon over U.S. Hwy 41 to Williston, and return over the same route. (28) Between Orlando and Daytona Beach, FL, serving all intermediate points: from Orlando over I-4 to Daytona Beach, and return over the same route. (29) Between Jacksonville, FL, and the junction of I-95 with U.S. Hwy 192 near West Melbourne, FL, serving all intermediate points: from Jacksonville over I-95 to its junction with U.S. Hwy 192, and return over the same route. (30) Between Ocala and Gainesville, FL, serving all intermediate points: from Ocala over I-75 to Gainesville, and return over the same route. (31) Between Gainesville, FL, and the junction of I-75 with I-10, serving all intermediate points: from Gainesville over I-75 to its junction with I-10, and return over the same route. (32) Between Jacksonville, FL, and the junction of I-10 with I-75, serving all intermediate points: from Jacksonville over I-10 to its junction with I-75, and return over the same route. (33) Between High Springs, FL, and the junction of U.S. Hwy 441 with I-10, serving all intermediate points: from High Springs over U.S. Hwy 441 to its junction with I-10, and return over the same route. (34) Between Jacksonville, FL, and the junction of U.S. Hwy 90 with I-75, serving all intermediate points: from Jacksonville over U.S. Hwy 90 to its junction with I-75, and return over the same route. (35) Between Lake Butler and Macclenny, FL, serving all intermediate points: from Lake Butler over FL Hwy 121 to Macclenny, and return over the same route. (36) Between Lake Butler and Watertown, FL, serving all intermediate points: from Lake Butler over FL Hwy 100 to Watertown and return over the same route. (37) Between Bunnell and DeLand, FL, serving all intermediate points: from Bunnell over FL Hwy 11 to DeLand, and return over the same route. (38) Between Palatka and Eustis, FL, serving all intermediate points: from Palatka over FL Hwy 19 to Eustis, and return over the same route. (39) Between the junction of FL Hwy 40 with FL Hwy 314 and the junction of FL Hwy 314 with FL Hwy 19, serving all intermediate points: from the junction of FL Hwy 40 with FL Hwy 314, over FL Hwy 314 to its junction with FL Hwy 19, and return over the same route. (40) All other points in Alachua, Bradford, Brevard, Clay, Duval, Flagler, Lake, Marion,, Orange, Putnam, St. Johns, Seminole, and Volusia Counties, FL, will be served as off-route points in connection with the regular routes authorized to be served. Applicant seeks authority to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority sought herein, and further seeks authority to tack or join the routes sought herein with each other at common points, and to tack or join all of the authority sought herein with its present operating rights under Florida Public Service Commission Certificate No. 1013, Interstate Commerce Commission Certificates of Registration No. MC 121667 and subs, and extensions thereof granted prior to final disposition of this application. Applicant seeks no authority herein duplicating that presently held under its certificate and certificates of registration referred to above. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC 2668 (Sub-7), filed August 24, 1978. Applicant: HOHENWALD TRUCK LINES, INC., Columbia Highway, Hohenwald, TN 38462. Representative: A. O. Buck, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except household goods, Classes A and B explosives, commodities in bulk and those requiring special equipment): Route 1. Between Franklin, TN and Buffalo, TN. From Franklin over TN Hwy 96 to its junction with Interstate Hwy I-40, then over Interstate Hwy I-40 to Buffalo, and return over the same route. Route 2. Between Franklin, TN and Hohenwald, TN: From Franklin over U.S. Hwy 31 to its junction with TN Hwy 99, then over TN Hwy 99 to Hohenwald, and return over the same route. Said Routes 1 and 2 to be used as alternate routes for operating convenience only, and to be used in conjunction with all of applicant's existing authority. Hearing:

November 21, 1978, at 1:30 p.m., C-1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

NOTE.—The purpose of this republication is to clarify applicant's actual grant of authority. Intrastate, interstate, and foreign commerce authority sought.

Tennessee Docket MC 5317 (Sub-2), filed August 23, 1978. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment), (1) From Jackson, TN via U.S. Hwy 45 to junction with U.S. Hwy 45W, then via U.S. Hwy 45W to the Obion County Line, then via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Jackson and the said Obion County Line), and return over the same route. (2) Amend Route (2) of carrier's Certificate No. 3436-A, so as to read as follows: "From Memphis, TN via I-40 to junction with U.S. Hwy 45 at Jackson, TN, then via U.S. Hwy 45 to its junction with U.S. Hwy 45E to the Weakley County Line, then via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties, and serving Jackson as an intermediate point". (3) From Jackson, TN via I-40 to junction of I-40 and TN Hwy 22, and return over the same route, serving said junction of I-40 and TN Hwy 22 for purposes of joinder only. (4) Amend Route (1) of carrier's Certificate No. 3436, so as to read as follows: "From Nashville, TN, via I-40 to junction with TN Hwy 22, then via TN Hwy 22 to the Weakley County Line, then over any and all highways and roads in Weakley and Obion Counties, serving all points in said counties, and return over the same route, serving the junction of I-40 and TN Hwy 22 for purposes of joinder only." All of the foregoing routes to be used in conjunction with each other and in conjunction with all of carrier's other authority. Restricted against tacking the foregoing authority with any of carrier's other authority for the purpose of providing a through service between Nashville and Memphis, TN and points in their respective commercial zones. Hearing: December 11, 1978, at 9:30 a.m., C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

NOTE.—Applicant presently operates in interstate commerce pursuant to Certificates of Registration issued in MC 121699. The purpose of this publication is to clarify applicant's actual grant of authority. Intrastate, interstate and foreign commerce authority sought.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-32112 Filed 11-15-78; 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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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 21, 1978.

PLACE: 2033 K Street NW., Washington, D.C. 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed revisions of Form 1-PR and amendment to the Freedom of Information Act Rules.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2316-78 Filed 11-14-78; 3:38 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., November 21, 1978.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters/application for registration as an associated person of a futures commission merchant; proposed administrative proceeding.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2317-78 Filed 11-14-78; 3:38 pm]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m. Friday, November 24, 1978.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2318-78 Filed 11-14-78; 3:38 pm]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 9, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, item No., and subject

Common Carrier—1—ENFIA Negotiations, Status Report.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission, November 8, 1978. Commissioners Ferris, Chairman; Lee, Quello, Washburn, Fogarty, White, and Brown, voting to consider this additional item.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 13, 1978.

[S-2312-78 Filed 11-14-78; 11:28 am]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 14, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, item No., and subject

General—5—Radio frequency interference to electronic equipment.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission, November 8, 1978. Commissioners Ferris, (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown voting to consider this additional item.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 13, 1978.

[S-2313-78 Filed 11-14-78; 11:28 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: November 22, 1978, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Report on notation items disposed of during October 1978.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during October 1978.
3. Report of the Secretary on Applications for Admission to Practice approved during October 1978, pursuant to delegated authority.
4. Assignment of informal dockets by the Secretary during October 1978, pursuant to delelgated authority.
5. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
6. Agreement No. 10350: Cargo revenue pooling, sailing, and equal access agreement in the United States Atlantic/Argentina trade. Agreement No. 10346: Cargo revenue pooling, sailing, and equal access agreement in the Argentina/United States Gulf trade.

Agreement No. 10349: Cargo revenue pooling, sailing, and equal access agreement in the Argentina/United States Atlantic trade.

7. Agreement No. 10044-4: Modification and extension of a pooling agreement in the southbound United States Gulf-Peru trade.

8. Agreement No. 10041-6: Modification and extension of a pooling agreement in the southbound United States Atlantic-Peru trade.

9. Agreements Nos. T-3453 and T-3453-A: Agreements regarding marine terminal facilities at San Juan, P.R. and Docket No. 76-41: Berthing of Seatrain Vessels in San Juan, P.R.—consideration of petition for stay.

10. Draft final rules limiting extensions of time to file pleadings and postponements of hearing dates.

11. Proposed revision of declaratory order procedures.

12. Special Docket No. 554: *Hermann Ludwig, Inc.* v. *Waterman Steamship Corp.*, consideration of the record.

Portions closed to the public:

1. Docket No. 71-76: *Bethlehem Steel Corp.* v. *Indiana Port Commission*, consideration of the record.

2. Docket No. 74-44: Agreement between Puerto Rico Maritime Shipping Authority and Puerto Rico Marine Management, Inc./Puerto Rico Marine Operating Co., Inc., consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2319-78 Filed 11-14-78; 3:48 pm]

[6735-01-M]

7

NOVEMBER 14, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., November 21, 1978.

PLACE: 1730 K Street NW., Room 600, Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The following will be considered and acted upon by the Commission. If necessary, they will be carried over to the next regularly scheduled meeting.

1. Peter White Coal Mining Corp., Docket Nos. HOPE 78-554, 78-555, 78-556, 78-557, 78-558 (petition for discretionary review).

2. Westmoreland Coal Co., Docket No. IBMA 76-101 (application for compensation).

3. *Kanawha Coal Co.* v. *Local Union No. 3453*, Docket No. IBMA 78-7 (Motion for filing brief on appeal).

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-2320-78 Filed 11-14-78; 3:48 pm]

[7025-01-M]

8

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 12:30 p.m., November 28, 1978.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Boulevard, Rosslyn, Va. 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. President's report.
2. Financial report.
3. Portfolio review of IAF funding.
4. Discussion on the learning process.

CONTACT PERSON FOR MORE INFORMATION:

Lawrence E. Bruce, Jr, 703-841-3812.

[S-2315-78 Filed 11-14-78; 3:37 pm]

[7590-01-M]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, November 20, 1978.

PLACE: Commissioners Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

MONDAY, NOVEMBER 20 (ITEMS ARE TENTATIVE)

2:30 p.m.—(1) Discussion of proposals for reviewing allegations of discrimination in EEO (approximately 1 hour, public meeting). (2) Discussion of review of ALAB-500 and ALAB-489—Offshore Power Systems (floating nuclear plants) (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

NOVEMBER 13, 1978.

[S-2310-78 Filed 11-14-78; 11:08 am]

[7600-01-M]

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., November 22, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, 634-4015.

DATE: November 7, 1978.

[S-2311-78 Filed 11-14-78; 11:08 am]

[7910-01-M]

11

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49412, October 23, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Thursday, November 30, 1978; 9:30 a.m.

CHANGE IN MEETING: Date postponed to: Thursday, December 14, 1978; 9:30 a.m.

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 9, 1978.

GOODWIN CHASE,
Chairman.

[S-2314-78 Filed 11-14-78; 3:37 pm]

federal register

THURSDAY, NOVEMBER 16, 1978
PART II



NATIONAL SCIENCE FOUNDATION

■

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

AGENCY: National Science Foundation.

ACTION: Incorporation by reference of Privacy Act issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

DATES: This document fulfills the annual notice requirements of the Privacy Act for 1978.

FOR FURTHER INFORMATION CONTACT: Mr. Herman G. Fleming, NSF Privacy Act Officer, National Science Foundation, Washington, D.C. 20550.

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on October 2, 1978. Attached is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notice of this agency's systems of records appear in Volume XI of the 1977 Compilation at page 54780 (Vol. 42, no. 195, pp. 54780-54792, October 7, 1977). The price of this volume is six dollars and fifty cents.

Richard C. Atkinson,
Director.

October 30, 1978.

NSF—6

System name: Doctorate Records File.

Security classification: None.

System location: National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418; and National Science Foundation, 1800 G Street NW., Washington, D.C. 20550; and National Institutes of Health, Buildings 31 and 12, 9000 Rockville Pike, Bethesda, Md. 20014.

Categories of individuals covered by the system: Approximately 99 percent of those individuals who have received earned doctorates from U.S. institutions.

Categories of records in the system: Name, Social Security number, education history, post grad plans, sex, citizenship, race, and related items.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Information is given to the institution awarding degree. 2. Certain information (name, year, and field of degree) is given to the institution that awarded degrees and to other organizations for address searches and statistical studies. No other routine uses have been identified although data is given to other organizations without identifying particulars for statistical purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes and questionnaires are kept by the National Academy of Sciences. Computer tapes are kept by the National Science Foundation and the National Institutes of Health.

Retrievability: Alphabetically by last name of individual.

Safeguards: Data are kept in secured areas with access limited to authorized personnel. Questionnaires are kept in locked cabinets. Published findings will be in formats which preclude individual identification.

Retention and disposal: Destroyed after 75 years.

System manager(s) and address: Division Director, Science Resources Studies, National Science Foundation.

Notification procedure: Write to the system manager and provide the following information:

1. System Name: Doctorate Records File.
2. Complete name at time degree was awarded.
3. Complete birthdate and institution awarding degree (to distinguish among duplicate names, if necessary).

Record access procedures: See "Notification procedure" above.

Contesting record procedures: See "Notification procedure" above.

Record source categories: Information obtained from individual.

Systems exempted from certain provisions of the act: None.

NSF—44

System name: Visiting Women Scientists Roster.

System location: Research Triangle Institute, P.O. Box 12194, Research Triangle Park, NC 27709.

Categories of individuals covered by the system: Women scientists who have asked to be included in a roster to be released to schools and professional groups.

Categories of records in the system: Name, address, telephone, ID number, science field, type of employment, highest degree earned, and race.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The roster will be released to high schools and other groups who wish to bring women scientists into contact with junior high school, high school and college students.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information will be stored on computer disk.

Retrievability: Computer records retrievable by ID number, name, geographic location, science field, type of employment.

Retention and disposal: Maintained at the Research Triangle Institute until August 1979, then turned over to NSF for disposition.

System manager(s) and address: Director, Division of Scientific Personnel Improvement. NSF, 2000 L Street NW., Washington, D.C. 20550.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individuals.

NSF—45

System name: Study to Evaluate Scientific Information Services.

System location: King Research, Inc., 6000 Executive Boulevard, Suite 307, Rockville, Md. 20852; Charles River Associates, Inc., 1050 Massachusetts Avenue, Cambridge Mass. 02138

Categories of individuals covered by the system: A sample of 2,000 physicists is covered.

Categories of records in the system: Demographic, educational and professional characteristics of U.S. physicists. The study concentrates on factors describing the physicists' use of and attitudes toward scientific information services.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The survey is used to develop a data base for generation of a policy-sensitive model of the demand for scientific and technical information services by scientists. This research is funded by NSF under contract DSI: 77-18020. Data provided by respondents will be used by the project staff for analysis purposes only, and will be published only in aggregate form without identifying specific individuals or institutions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Questionnaires and computer cards are maintained by King Research, Inc. through keypunch and preliminary computer runs. Computer cards are maintained by Charles River Associates, Inc. from preliminary computer runs through final generation of the model.

Retrievability: Questionnaires and computer cards are filed by preassigned code number. Respondent names will not appear on questionnaires or computer cards.

Safeguards: All buildings and offices in which questionnaires and computer cards are stored are locked after working hours. Only direct project staff will be allowed access to files. Upon project completion, the list of responsdent names and addresses will be destroyed.

Retention and disposal: Questionnaires will be retained by King Research and computer cards will be retained by Charles River Associates for at least five years. Data will be made available to other researchers only in computer card format.

System manager(s) and address: Donald W. King Research Inc., 6000 Executive Boulevard, Suite 307, Rockville, Md. 20852; David S. Evans, Charles River Associates, Inc., 1050 Massachusetts Avenue, Cambridge, Mass. 02138.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Record source categories: Information obtained from individuals and from other sources available to the general public.

NSF—46

System name: Sample of U.S. Scientists Who Published Research Papers during 1978.

System location: King Research, Inc., 6000 Executive Boulevard, Suite 307, Rockville, Md. 20852.

Categories of individuals covered by the system: The Background Survey individuals who published research papers in scientific journal during calendar year 1978. A sample of scientists in each of three scientific disciplines is covered.

Categories of records in the system: Demographic, education, and professional characteristics of U.S. scientists. The study concentrates primarily upon factors describing the scientists' perceptions of the relative importance of journal characteristics such as price, prestige, type of audience, quality, and level of readership.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Survey is used to generate a data base for analysis performed for the NSF-funded research contract DSI-77-17943 "An In-Depth Study of the Interactions Between Scientists and the Publishing of Scientific Journals." In addition, a subsample of survey respondents are to be contracted for personal interviews regarding their evaluation of the journals which they use. Data provided by respondents are used by the Principal Investigator for analysis purposes only and are published only in summary form without identifying specific individuals or institutions. May be released for statistical purposes without identifiers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Questionnaires and computer cards are maintained by contractor, King Research.

Retrievability: Questionnaires: filed alphabetically by last name. Computer Cards: sorted numerically by preassigned code number.

Safeguards: Building is locked after business hours. Office in which Questionnaire and computer cards are stored is also locked after business hours. After completion of personal interviews and analysis respondents' names are removed from Questionnaires. At the completion of this research project the list of respondents' names, addresses, and telephone numbers will be destroyed.

System manager(s) and address: Helen Ebenfield, Division of Information Science and Technology, National Science Foundation, Washington, D.C. 20550, Dennis McDonald (Principal Investigator, NSF DSI-77-17943.) King Research Inc., Suite 307, 6000 Executive Boulevard, Rockville, Md. 20852.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Record source categories: Information obtained from individuals and from other sources available to the general public.

NSF—47

System name: NSF Applied Research Evaluators Roster.

System location: Paper records are maintained at National Science Foundation, Office of Special Assistant for Oversight and Evaluation, Directorate for Applied Science and Research Applications, 1800 G Street NW., Washington, D.C. 20550. Computer tapes are maintained at Kappa Systems, Inc., 1501 Wilson Boulevard, Arlington, Va. 22209.

Categories of individuals covered by the system: Individuals who have agreed to participate in the NSF applied research evaluation project.

Categories of records in the system: Name, address, and scientific/professional group categorization.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Other Government agencies needing names of potential reviewers or specialists in particular fields may be given information from this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and computer tapes.

Retrievability: Paper records are filed alphabetically by last name; computer records retrievable by appropriate combination of field of science and engineering and field of application codes.

Safeguards: Records at NSF: Building employs security guard. Building is locked during nonbusiness hours when guard is not on duty. Room in which records are kept is locked during nonbusiness hours. Computer records: a password must be used to access computer files.

Retention and disposal: file is cumulative and is maintained indefinitely.

System manager(s) and address: Special Assistant for Oversight and Evaluation, Directorate for Applied Science and Research Application.

Notification procedure: The NSF Privacy Act officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individual.

[FR Doc. 78-31513 Filed 11-15-78; 8:45 am]

Federal Register

THURSDAY, NOVEMBER 16, 1978
PART III



CIVIL AERONAUTICS BOARD

All-Cargo Carriers

■

RULES FOR ALL-CARGO AIR CARRIERS, DOMESTIC CARGO TRANSPORTATION; DELEGATION OF AUTHORITY

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1080; Reissuance of Part 291; Docket 33093]

PART 291—GENERAL RULES FOR ALL-CARGO CARRIERS

Operating Rules for All-Cargo Carriers and Domestic Cargo Transportation by Section 401 and Section 418 Carriers

NOVEMBER 8, 1978.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: These rules govern all-cargo air carrier applications and certificates, and domestic air cargo services by all-cargo carriers and by existing certificated route carriers. They substantially lessen the extent of the Board's regulation of domestic cargo transportation, implementing Pub. L. 95-163, deregulating all-cargo service, and Pub. L. 95-504, the Airline Deregulation Act of 1978.

DATES: Effective: November 9, 1978, except for §§ 291.23, 291.33, and 291.42 which are subject to GAO Review and will be effective on December 31, 1978 unless later amended. Adopted: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Within the last year Congress has passed two laws, substantially changing the direction and extent of the Board's regulation of the air transportation industry, particularly in the area of domestic air cargo. Pub. L. 95-163, enacted on November 9, 1977, which deregulated all-cargo service, eliminated the core elements of the Board's regulatory powers over domestic air freight: the ability to control entry and exit, and the ability to set or control rates by comparing the rates to carrier costs. Also, after a "grandfather" period ending November 9, 1978 (which allowed existing all-cargo carriers to obtain a new section 418 certificate authorizing air cargo service under deregulated conditions), the Board is directed to issue all-cargo certificates under section 418 to any applicant, unless it finds, within 180 days, that the applicant is not fit, willing, or able to operate as an all-cargo carrier or to comply with the Board's regulations. This type of certificate only applies to the direct carriage of air freight and mail within the United States, Puerto Rico, and the Virgin Islands.

Pub. L. 95-504, the Airline Deregulation Act of 1978, makes far-ranging changes in the way the air transportation industry is regulated, gradually ending most economic regulation by 1985. The Board's exemption power under section 416(b) of the Act has also been greatly expanded from its previous criteria of "undue burden" because of "unusual circumstances" or "limited operations" to that of "consistent with the public interest." It is within the framework of these two laws that the Board is adopting these rules for domestic cargo transportation, substantially as proposed, although with some changes discussed below.

In Notice of Proposed Rulemaking EDR-359 (43 FR 33733, August 1, 1978), the Board proposed to remove many of the economic regulatory restraints affecting domestic air cargo service, whether by all-cargo freighters or combination aircraft, and whether by carriers operating under section 401 or section 418 of the Act, including air taxi operators under Part 298 of the Economic Regulations (14 CFR Part 298) holding section 418 certificates. The only property not included within the coverage of these rules is that carried by air taxi operators not also holding section 418 certificates. To avoid any competitive disadvantage to one class of carriers, we thus proposed to use our exemption powers under both sections 416(b) and 418(c) of the Act, as explained in EDR-359 (pp. 3-4), to establish a single set of rules for all segments of the air freight industry, to the maximum extent possible.

We have received comments on our proposal from all types of carriers, shippers, forwarders, government agencies, and interest groups, large and small, both supporting and opposing parts of the proposal. A list of all commenters is attached as Appendix A. We have also heard oral argument from approximately 41 parties.

The Board will discuss the issues raised by the proposal, and explain the resolution of each on a subpart-by-subpart basis. Any requests or suggestions for changes made in the comments are denied unless specifically granted.

The changes made in Parts 241, 242, and 249 are being issued simultaneously in ER-1081, ER-1082, and ER-1083, respectively.

SUBPART A

Subpart A explains the applicability of the rules in Part 291, and defines certain terms used in the part. Intra-Alaskan and intra-Hawaiian cargo operations over which the Board still has full rate jurisdiction are included in the definition of "domestic cargo transportation"; while the terms "all-cargo air carrier" and "all-cargo air service" exclude these operations in accordance with the limitation in section 418(b)(3) of the Act. Changes have been made in § 291.1 to state that certain exemption provisions in Subpart D affect persons entering into control relationships with domestic cargo carriers.

SUBPART B

These rules set forth the form, content, and processing of applications for section 418 certificates that are needed to comply with the short time (180 days) under the Act for the Board to grant or deny the application, as explained in EDR-359 (p. 6). One of the more important features of the application procedures is that the statutory 180-day period does not begin to run until the application is complete. This insures both quick action and that only fit applicants are licensed, as is the intent of Congress.

Several additions have been made to Subpart B as proposed in EDR-359. Inadvertently, the word "material" had been left out of § 291.11(c)(9), thereby requiring that all claims in litigation, no matter how small, be listed in the application. It is our intent, however, to require that a list of only material claims be filed, thus giving us the needed information without unduly burdening the applicant, and we are, therefore, only requiring the filing of claims over $5,000 to avoid definitional problems.

Section 291.11(d)(2) also has been changed to require a pro-forma cash flow statement in addition to a pro-forma balance sheet and profit and loss statement. The proposed version mistakenly used the term "income statement" instead of the intended "cash flow statement."

Section 291.12(b)(ii) has been changed to provide that the copy of each application sent to the FAA for a safety and compliance report include a request for recommendations on the safety implications of the new service. This addition follows the policy set forth in section 102(a)(1) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978.

Several carriers objected to the application form as needlessly burdensome, in requiring, for example, a listing of officers and directors, a presentation of financial information, and information on past violations of the Act. They recommended that the procedures allow incorporation by reference of all material already on file with the Board, that fitness information be eliminated for corporations already holding licenses, and that technical qualifications be deleted for all

existing direct air carriers, or for those already authorized to operate large aircraft.

First, although a case may be made that those carriers already licensed are obviously fit, we do not agree that the application form is unduly burdensome. Second, in order to follow Congressional intent that only fit applicants be licensed, the Board believes that it must have a full picture of the type of organization and its management, the ability to fulfill certificate obligations to the public, and the likelihood of compliance with the Act and Board regulations. In designing these application procedures, the Board has required only the minimum amount of information to meet its tests. Because of the short time to act on the application and the need to coordinate action with the FAA, it is necessary to have all information submitted in one complete package without the need to search through other dockets or files to compile the applicant's qualifications.

Section 291.14 adds provisions, not included in the proposed rule, for amendment of the identification information supplied on the application. There is no fee for amendments, and the Board will decide on the basis of the notification whether to issue a new certificate.

Two of the certificate conditions proposed by the Board for section 418 carriers have drawn criticism from some carriers. Commuters in particular argued that certificates should not automatically terminate on lapse of insurance coverage. They argued that carriers should have the option of merely "holding" a section 418 certificate, although not using it at the time, and therefore should not be required to continue expensive liability insurance when in a non-operational status. These commenters also argue that insurance may lapse for reasons not the fault of the carrier, and such a harsh penalty is overkill.

Section 291.20 of Subpart C provides that holders of 418 certificates must comply with the rules in Part 291 for all of their domestic cargo transportation, even though they may also be certificated or registered under some other Board authority. Air taxis and commuter airlines requested that they be allowed to hold 418 certificates, but be bound only by the rules of Part 298 as long as they operate aircraft no larger than permitted by that part. Most of these air taxis and commuters have "grandfather" 418 certificates, but do not operate large aircraft. They do not wish to be bound by the regulations of Part 291 governing record retention, reporting, and insurance, and they are concerned that their FAA certification requirements will become more stringent if they are subject to Part 291. On the other hand, they do not wish to relinquish their current 418 certificates and be put to the expense and trouble of reapplying should they eventually choose to start operating large aircraft.

The Board concludes that it is not in the public interest to create a class of "non-operating" section 418 certificate holders who do not have to comply with the rules of Part 291. Allowing persons to hold section 418 certificates while not subject to Part 291's requirements would make it difficult for the Board to monitor fitness and other certification requirements for the holders if and when they decide to operate. Further, the Board does not wish to encourage persons to obtain or retain section 418 certificates solely for their value as balance sheet assets.

Section 291.13(g) provides that a 418 certificate may not be transferred by the applicant to any other person. The section 418 certificate represents a finding by the Board that the holder is fit, willing, and able to operate in domestic cargo transportation. If the holder could transfer the certificate, the new holder would be able to avoid the "fit, willing, and able" test. This would clearly not be in the public interest. The burdens of applying for a 418 certificate are not great, and the prohibition on transfer does not preclude a 418 certificate holder from being acquired or controlled by another person. Therefore, the Board finds it reasonable to prohibit the transfer of section 418 certificates and to require persons seeking such a certificate to use the application process specified in Part 291.

We believe that Congress has clearly indicated the need for safety consciousness on the part of the Board, and has shown its concern for protection of the public in the form of liability insurance. The Airline Deregulation Act of 1978 makes safety an important component of the public interest in Board regulation of domestic air transportation (sections 102(a) (1) and (2) of the Act), and requires that both a study and a report be made on the effects of airline deregulation on safety. The Congress also included in section 401(q) of the Act a provision that no certificate shall remain in effect unless the carrier complies with insurance regulations of the Board. We believe that, in view of this Congressional declaration of policy, section 418 certificates should be subject to these same conditions of insurance. Responsibility for maintaining insurance coverage must be on the carrier in order to minimize the risk to the general public, and this provision gives the carrier the incentive to maintain the currency of its insurance coverage.

Some carriers also stated that failure to file required reports should not be grounds for revocation of a section 418 certificate. We do not, however, find this provision harsh since the reports required of these carriers are not only not burdensome, but needed for the Board's enforcement functions under the Act. This provision does allow the Board to consider mitigating factors, and does not make failure to file the reports conclusive in the revocation proceeding.

SUBPART C

The general rules in this subpart reflect the Board's decision to create one set of rules for almost all domestic air freight service. Although some exceptions have been made for the separate kinds of operations apart from section 418 that the different classes of carriers now provide, these rules set forth a common framework under which no class of carrier should suffer a competitive disadvantage. Nor do we believe that this framework burdens smaller firms with unnecessary paperwork or regulations. These rules are only lightly restrictive, in accordance with Congressional intent, and impose only one new requirement, requiring retention only of those records already kept by most businesses for their own purposes.

EDR-359 proposed in §§ 291.21 and 291.22 that two types of insurance be required: cargo liability insurance and public liability insurance. The Board tentatively concluded that cargo liability insurance was necessary to protect shippers against their damage claims becoming worthless due to the insolvency of new, and perhaps financially unstable, carriers. Many comments objected to the cargo liability coverage requirements and suggested a variety of alternatives. There were two main objections: (1) the expense of meeting the $500,000 minimum would unduly burden small operations, and (2) the proposals would not allow large operators to self-insure. In view of these comments, the Board has decided that cargo liability insurance should not be required. Cargo liability has never been required for unregulated air taxis, yet there have been few, if any, complaints to the Board from shippers unable to recover from an insolvent carrier. The expense burden on small operators and the inpediments to self-insurance for large operators outweigh the relatively small chance of harm to the shipping public if cargo insurance is not required. The Board also believes that it will be more efficient for shippers rather than carriers to purchase cargo insurance. The shipper has better knowledge of the value of the shipment than the carrier, and is in a better position to determine the proper level of insurance. We see no point in requiring an arbitrary minimum level of coverage, which will add

to the costs of all shippers, when each individual shipper is in a better position to know how much insurance he needs.

So that the shipper will know in advance what liability insurance limits are maintained by the carrier, we are requiring that the carrier's airwaybills and rate sheets contain a clear and conspicuous notice of these limits. The shipper will then be able to make an informed decision on whether to use the carrier's service and whether to obtain his own insurance.

The Board further proposed that section 418 carriers maintain public liability insurance with a minimum of $500,000 per person and $20 million per occurrence. These amounts would be required only for aircraft larger than air taxi size. Aircraft of a size eligible for treatment as air taxis would still be subject only to the insurance requirements for air taxis, in order to avoid unduly discouraging air taxi operations from expanding their operations with larger aircraft.

No comments questioned the need for public liability insurance, but the Commuter Airlines Association of America (CAAA) felt that the minimum amount was far too high. There is no established method in the insurance industry for determining a "reasonable" amount of public liability insurance to be required for the wide range of aircraft and aircraft operators in the domestic cargo industry. In practice, the size of the aircraft is not a good indicator of the amount of potential third party damage from an accident, since the damage depends primarily on where or how the accident occurs.

As pointed out by CAAA, only a few insurers in the United States could write policies as large as $20 million for a single plane without obtaining excess coverage elsewhere. Therefore, to meet our requirements as proposed, many small operators will have to obtain insurance from a London insurer or obtain multiple policies. This will mean an increased premium. On the other hand, the additional cost would probably not be determinative of whether to engage in section 418 operations. Some balance must be struck between the public interest in insuring compensation for air accidents, and the public interest in making it financially possible for small operators to enter the domestic cargo industry at whatever level seems attractive to them. We are, therefore, adopting the public liability limits as proposed.

Section 291.22 as proposed incorporated by reference the policy conditions and certificate filing requirements applicable to air taxis. Some technical changes have been made to adapt the air taxi provisions to all-cargo air service treated by this rule. Section 291.22 now specifies that the insurer's liability applies to operations for all-cargo aircraft in domestic cargo transportation and prescribes two standard forms for certifying insurance coverage. The new forms are attached as appendices F and G. Carriers who obtained section 418 certificates prior to November 9, 1978, should submit insurance certification on these forms by December 9, 1978.

A second substantive change has been made in this subpart, in response to the comments and our reconsideration. As discussed under subpart D, we are deleting the rate reporting requirement proposed in EDR-359, and replacing it with a record retention requirement covering all rates and agreements by section 418 carriers. Since almost all businesses would keep this type of records for their own purposes, we see no increase in burden to require these records be maintained for a period of 1 year for enforcement audits by the Board.

Trans International Airlines, among others, requests that the record retention requirements apply equally, or not at all, to any all-cargo operator, with no exception for flights on small aircraft. We see no reason why domestic cargo transportation flights on small aircraft should be subject to these requirements. We recently issued a separate notice of proposed rulemaking, EDR-365 (43 FR 50150, Oct. 26, 1978) (Docket 33735), proposing substantial changes in Part 249 for record retention, including bringing section 418 carriers under this part. We shall, therefore, review these issues in that rulemaking, and adopt § 291.23 in the interim.

American commented that § 291.24, *Waiver of Board Economic Regulations* would relieve carriers providing domestic cargo operations under section 418 of the Act from Part 239, which requires reporting of freight loss and damage claims. It argues that Part 239 should be eliminated because the reports in CAB form 239 would no longer contain any meaningful information after the exclusion of data relating to domestic cargo operations.

The question of abolishing Part 239 of the Economic Regulations is one which should be considered separately since it involves foreign carriers. We have decided, therefore, to consider all of the aspects involved with the abolishment of Part 239 in a separate proceeding to be initiated in the near future. Until then we will continue to require reporting under Part 239 from those carriers who are now required to file these reports. This will be done in the final rule by making an exception for Part 239 reporting in § 291.24.

SUBPART D

This subpart continues our decision to establish one set of rules for all carriers providing domestic cargo transportation. For the reasons stated below and in EDR-359, we find these exemptions to be consistent with the public interest under section 416(b), and to be appropriate under section 418(c) of the Act.

TARIFF EXEMPTION

The first exemption relieves each carrier providing domestic cargo transportation from the filing of tariffs. In connection with this exemption, we had proposed to require the carrier to file rate sheets with the Board. After a careful review of all comments received in response to EDR-359, we have decided that our tentative reasoning and conclusion on the exemption from tariffs is correct. We are, however, substituting a record retention requirement for the rate reports.

This issue caused more controversy and resulted in more comments than any other. A large majority of comments received from shippers, forwarders, and direct carriers opposed this exemption. They claimed that rates will fluctuate wildly on a day-to-day basis, that some shippers may receive preferred treatment, that the existing system of tariff distribution for rate information will break down, that there will be no practical way to resolve disputs between shippers and carriers on the proper rate for a particular shipment, that the Board will be unable to prevent statutory discrimination or predatory practices, and that there will be no way for shippers easily to find out transportation costs and conditions of service, or to predict what they will be in the future.

Those direct carriers responding were also mostly opposed to eliminating tariffs. Along with the reasons advanced by the shippers, they argued that the Board does not have the legal power to exempt carriers from the tariff requirement, and that the tariff system benefits new carriers by giving them nationwide exposure by merely becoming a party to an existing tariff. Several commenters also cite the history of railroad rate legislation as showing that abuse will result if tariffs are eliminated.

The Department of Justice supported elimination of tariffs, and recommended replacement of the rate reports with a record retention requirement.

We have carefully and thoroughly reviewed each argument raised on this issue, both in the comments and at the oral argument, during which the main topic discussed was elimination of tariffs. After this review, we reaffirm our tentative conclusion and reasoning in

EDR-359 (pp. 11-14). To a large extent, the discussion in EDR-359 answers the legal and economic comments of the opposing parties.

Although we have decided to eliminate the requirement to file formally structured tariffs, we have never doubted the value of rate and rule information to the shippers. We believe, however, that tariffs directly inhibit competition, and possibly the flow of information itself. As we stated in EDR-359 (p. 12), and need not recount here, there are sufficient economic incentives to insure that information will continue to be distributed to the shippers. The experience of Federal Express and of the air taxi operators who are exempt from tariff filing has amply demonstrated this incentive. Nor do shippers in the deregulated air taxi market appear to have suffered in resolving claims or other disputes, or from rapid price fluctuations, as the comments claimed will happen here. For example, Federal Express, operating without tariffs, appears to have had few problems in terms of customer satisfaction. Federal Express is now carrying almost 9 million packages per year, and the Board received only four complaints relating to rates in 1977 and four in the first 7 months of 1978.

The shippers arguing for retention of tariffs appear to prefer artifical uniformity to a competitively determined price level, and to ask for protection from the Board that is opposed to the spirit of both deregulation laws. Their near unanimity in opposition, however, cannot be decisive: We must look beyond the cargo shipper to the ultimate consumer, who eventually pays for the inefficiencies and restrictions created by tariffs. Further, those same shippers who cling tenaciously to tariffs for certificated carriers have assisted in increasing scheduled cargo transported by air taxis between 1970 and 1977 from 38,661,000 pounds to 249,478,333 pounds, equivalent to an average annual increase of 27 percent.

The second major reason given for retaining the tariff requirement is to enable the Board to prevent discriminatory rates or predatory practices. After reviewing the comments, the Board agrees with those who argue that rate reporting would not be an effective method of monitoring pricing practices in domestic cargo transportation. We also agree with the Department of Justice that this rate reporting is in effect a posting of prices, which is only a half-way step toward the deregulated cargo industry that Congress has mandated. Since these reports have no substantial benefit, and would be a burden and expense on those carriers having to file them, we are replacing them with a requirement that rate sheets, contracts reflecting special prices, and airway bills be retained by the carrier for a period of 1 year.[1] This will enable the Board to take action on any complaints from shippers, and will provide the Board with the documents necessary to insure an effective means to monitor carrier pricing practices through spot audits. This requirement, coupled with the airbill retention requirements of existing Part 249 for section 401 carriers, will give the Board the necessary resources to fulfill its enforcement responsibilities.

One of the most important reasons for eliminating the tariff requirement in domestic cargo transportation is to have a preliminary test of the congressionally mandated elimination of tariffs for the passenger transportation industry in 1983 (sec. 1601 of the Act, as added by the Airline Deregulation Act of 1978). Domestic air freight service provides a means by which the Board and the Congress can observe the effects of price freedom combined with completely free entry. Since cargo comprises only about 10 percent of the entire air transportation industry in revenues, it is a good testing ground for the rest of the industry, as it was following passage of Pub. L. 95-163 in October of 1977.

In EDR-359 the Board mentioned, as did several commenters, that the Interstate Commerce Commission uses the tariffs filed with the Board as a basis for exemption from its own licensing and tariff requirement. The Board (with the knowledge of the staff of the Commission) will maintain a master list of ground points were air carrier delivery services can operate, assuring to those services protection from newly imposed Commission regulation. To ask for the addition of new points, we will permit carriers to file a self-canceling pickup and delivery tariff under Part 222. The Board will then, if the application is granted, add the new points to its master list. We intend to amend Part 222 in the future to reflect a final agreement with the Commission.

We are also simultaneously issuing OR-136, delegating to the Director, Bureau of Pricing and Domestic Aviation, the authority to require the filing of pickup and delivery tariffs under Part 221 by carriers operating in domestic cargo transportation if needed in the public interest.

Carriers that have effective tariff rules and rates on file with the Board will be allowed to maintain them in effect for 90 days from the effectiveness of this rule, so that they will have sufficient time to arrange for alternative methods of rate and rule publication.[2]

Several direct carriers have asked that, if tariffs are eliminated, prorate and interline agreements be filed with the Board. For the same reasons that we are eliminating tariffs, we believe that these agreements should not be filed with the Board. Carriers negotiate between themselves to arrive at these agreements, and certainly will be able to find out the terms of these agreements without the necessity of having them filed with the Board.

DUTY TO CARRY

The Board is also exempting carriers in domestic cargo transportation from the duty under section 404(a) of the Act to carry on reasonable request, for the reasons stated in EDR-359 (pp. 14-15). Many respondents opposed this exemption, claiming that the carriers would take advantage of their freedom from a legal duty to carry by refusing to transport out-sized, perishable, and other kinds of cargo, such as live animals.

This exemption, however, does not relieve the carriers of their service obligations as common carriers, and does not apply to a carrier's duty to refrain from providing preferential treatment to particular companies or persons. Carriers holding certificates under section 401 or 418 of the Act remain, by definition, common carriers. The statutory duty to provide service upon reasonable request is broader than the service obligations of a common carrier at common law. At common law, a carrier is permitted to hold itself out as a carrier of only a particular kind of freight, and is not obligated to carry other types of cargo. This exemption, therefore, only ends the Board's role in regulating the extent of the carriers service offerings, leaving that decision to carrier management in response to market demand. With unlimited entry into the air cargo industry, there is every reason to believe that all reasonable service needs will be met. Al-

[1] Pending issuance of revised Part 249 (EDR-365), these records may be preserved on either paper or nonerasable microfilm.

[2] On Nov. 2, 1978, Delta Air Lines filed a motion for stay of the effectiveness of the exemption from tariff filing for 90 days, so that the present tariff system would remain in effect, allowing time for carriers to establish new shipping documents and procedures. The Board does not agree that the ending of the cargo tariff system has been sudden, or without sufficient time for the carriers to prepare. EDR-359 was issued 3 months ago, and the Board clearly indicated there its tentative decision on this issue. The Board has, in any event, anticipated the problem that Delta raises, and has included a provision in the rule that allows carriers, at their option, to keep their tariffs in effect for 90 days from the effective date of this rule. It is not entirely clear whether Delta's motion contemplates requiring all section 418 carriers to establish or retain tariffs during the 90-day period. To the extent that it does, the motion is denied. We have found no good reason why carriers who wish to move to a nontariff system immediatley, or in less than 90 days, should be restrained from doing so.

though it is true that some airfreight rates have increased since Pub. L. 95-163 was enacted, particularly on these special items, they have been more than matched by substantial increases in available all-cargo service, with more certainly to follow when entry is completely open.

We intend to monitor closely the activities of the all-cargo carriers and the operation of the cargo market under this exemption for any abuses by the carriers. Again, as in the case of the exemption from the tariff filing requirement, the exemption from section 404(a) will allow the domestic cargo industry to be the testing ground for the entire industry, which will be statutorily "deregulated" by terms of the Airline Deregulation Act.

MAIL AUTHORITY

EDR-359 proposed to exempt all-cargo flights within domestic cargo transportation from the requirement to file schedules with the Board under section 405(b) of the Act for the carriage of mail, since we cannot regulate the points to be served by the section 418 carriers. The U.S. Postal Service (USPS) argued that it is likely that some section 418 carriers will not be willing to develop the needed cargo facilities and equipment required by the USPS, and may not understand that their certificates to carry mail confer a legal obligation to do so under section 405(d) of the Act when USPS so demands. USPS recommended that mail authority should be given only to those applicants who asked specifically for mail authority, and that if a carrier subsequently decides not to carry mail, it could apply for an amendment to its certificate. Federal Express stated that the wholly permissive nature of the section 418 certificate should extend to the transportation of mail as well.

We agree with Federal Express that the real and potential powers of USPS under section 405 of the Act are formidable and would work against the concept of cargo deregulation. Since we are leaving the established mail transportation rules undisturbed for the combination flights of section 401 certificated carriers, there is no risk of any disruption in the movement of mail on established scheduled services between specific points. Also, since USPS would allow section 418 carriers to decide not to carry mail at all, we see no reason to subject them to section 405 of the Act. Any transportation of mail by these carriers should be entirely permissive. We see no reason to require section 418 carriers to go through the formality of certificate amendments, as USPS suggests.

ANTITRUST EXEMPTIONS

Section 291.31(d) exempts all-cargo air carriers from disclosing certain stock ownership by directors, officers, and 5 percent-or-more shareholders under section 407 (b) and (c). Such an exemption is already part of the interim Part 291 governing "grandfather" 418 operators. As a practical matter, the exemption affects only those carriers who engage solely in domestic cargo transportation, because other carriers would have to comply with section 407 (b) and (c) on the basis of their other operations. Emery Air Freight suggested that section 407 (b) and (c) disclosures should be retained for all carriers to monitor citizenship requirements and acquisitions of control. In the Board's judgment, citizenship requirements can be adequately enforced without the 407 (b) and (c) disclosures, and existing securities laws are sufficient to monitor acquisitions of control.

Section 291.31(e) exempts carriers from section 408 of the Act, dealing with mergers and acquisitions of control, to the extent that they are engaged in domestic cargo transportation. Several comments argued that the Board should not abdicate its antitrust enforcement duties to the Department of Justice. The passage of the Airline Deregulation Act of 1978 (Pub. L. 95-504), however, clearly directs the Board to move quickly toward a deregulated, competitive environment. Deregulation means relinquishment not only of rate and entry controls but also, to the fullest extent consistent with congressional intent, of antitrust responsibilities. Relieving the domestic cargo industry of the application notification procedures required by the new section 408 will reduce expense and delay. This exemption will also serve as a useful proving ground for the eventual deregulation of the entire industry as contemplated by the Airline Deregulation Act.

In granting the exemption from section 408, the Board is retaining authority to examine a limited range of transactions involving domestic cargo transportation securities. Thus, the general section 408 exemption is subject to the requirements of § 291.33. The Board is retaining this limited authority for the reasons stated in the discussion of § 291.33.

Section 291.31(e) as adopted provides that all segments of the domestic cargo industry can acquire and control other segments of that industry on an equal basis. Thus, domestic all-cargo carriers may acquire air freight forwarders, and air freight forwarders may acquire all-cargo carriers. Since many domestic cargo carriers are also engaged in other operations (for instance, foreign cargo transportation or passenger service), transactions involving the securities of those carriers will still be subject to section 408(a), unless the acquiring party is engaged solely in domestic cargo transportation. In the latter case, the transaction will be subject to the notification requirements of § 291.33. The exchange of domestic cargo transportation assets (such as cargo aircraft or loading equipment) is completely unrestricted. The Board intends that carriers engaged solely in domestic cargo transportation may also acquire "other common carriers" and "persons substantially engaged in the business of aeronautics." Section 291.31(e) also make it clear that foreign carriers, or persons controlling foreign carriers, may not acquire control of domestic all-cargo carriers without Board approval.

Section 291.31(f) exempts domestic cargo carriers from section 409 of the Act, dealing with interlocking relationships between air carrier managements. The same commenters that opposed exemption from 408 also opposed exemption from 409. They argued that the Board should not abandon its antitrust enforcement powers, especially where those powers protect against conflicts of interest. We reject these arguments, because, in our judgment, general public laws are sufficient to protect the public interest.

Section 291.31(f) also exempts domestic cargo carriers from section 412(c), dealing with filing and approval of agreements affecting interstate and overseas air transportation. The Airline Deregulation Act changed section 412 to make filing mandatory only for agreements involving foreign air transportation. Filing, and hence possible approval conferring antitrust immunity, is made permissible by section 412(c) for agreements involving interstate and overseas air transportation. The exemption from 412(c) will preclude the filing and approval of agreements involving domestic cargo transportation. In Pub. L. 95-163, Congress gave the Board broad discretion in the all-cargo field to decide in which areas it should relinquish its jurisdiction. That discretion was broadened in the Deregulation Act, which granted authority to exempt any person from the Act when the exemption is consistent with the public interest. We do not believe that it is essential, or even advisable, to retain approval or immunity powers over this portion of the industry.

As proposed, § 291.32 would exempt persons from section 408(a)(5) of the Act, thus allowing acquisitions of all-cargo carriers by any person. Section 408(a)(5) contained a restriction on transactions between air carriers and persons not connected with the trans-

portation industry, which was eliminated by the Deregulation Act. Therefore, the situation dealt with by proposed § 291.32 no longer requires a special rule. Section 291.32 has been revised in the final rule to clarify, in response to comments, that acquisitions of all-cargo carriers by certain persons still covered by section 408(a) are permitted to the same extent as acquisitions of those persons by all-cargo carriers.

Proposed § 291.33 approved certain section 409(a) relationships which were beyond the scope of the Board's exemption powers at the time EDR-359 was issued. The Deregulation Act expanded the Board's section 416(b) exemption authority to apply to any "person," instead of any "air carrier." Therefore, the approval granted in proposed § 291.33 is no longer needed. Proposed § 291.33 has been replaced by a completely new provision.

Section 291.33 adopted here provides for a 45-day notification provision modeled after the similar provision in section 408(b)(3) of the Act (as recently amended). The notification provision applies only to the case a domestic cargo carrier merging with, acquiring control of, or having control acquired by, another air carrier with authority to transport cargo internationally. The general exemption of domestic cargo transportation activities from section 408(a) of the Act, contained in § 291.31(e), is conditioned on compliance with the notification provision. The purpose of the notification provision is to retain Board control over potentially anticompetitive effects of mergers and acquisitions when the still protected route system of the foreign operating section 401 carriers is a central factor. Although we prefer to make as many transactions as possible in the domestic cargo area subject to general antitrust provisions, we see a need to retain the ability to take at least a preliminary look in the cases of mixed domestic and foreign systems covered by § 291.33. Since the deregulated *domestic* cargo industry is still in the beginning stages of development, we believe that we need an opportunity to examine any unfair advantage that may arise out of the semi-exclusive nature of many of the important foreign routes.

Section 408(f) of the Act, creating a presumption of control when a person beneficially owns 10 percent or more of the securities or capital of an air carrier, does not apply to § 291.33. The Board intends that "acquisition of control" comprehend mergers and consolidations as well as purchase of securities.

SUBPART E

REPORTING MATTERS

The Postal Service argued that the reporting requirements proposed for Parts 241 and 291 are not sufficient for the development of service mail rates. It suggested that the Board adopt the additional reporting requirements necessary to develop multiservice mail rates. In support of the recommendation, the Postal Service stated that the failure to adopt the additional reporting requirements would place the Board in the position of: (1) Having to develop mail rates in the absence of adequate historical data, or (2) applying to section 418 carriers the domestic service mail rates which reflect the costs of section 401 trunk carriers. The first would lead to protracted evidentiary proceedings, and the second would cause severe equitable and legal problems.

We have concluded that postal rate responsibilities can be met under the Act without imposing a recurrent requirement to report the additional data. Since the Board still has the power to collect the needed data in special information requests, collection of data on an ad hoc basis seems to be the least burdensome course of action for both the carriers and the Board.

PART 241

SERVICE SEGMENT DATA

Three trunkline carriers commented on the proposed amendment of section 19-3 of Part 241, which would relieve route carriers from having to file individual flight stage data (service segment data) for section 418 all-cargo operations. American and Trans World favored continuing the requirement, while Northwest supported the Board's proposal.

American pointed out that service segment data have proven useful to the entire industry, and are valuable tools in determining whether all-cargo service is adequate in particular markets, and whether there is potential support for additional service. In essence, Trans World stated that the practical consequences of discontinuing the requirement to report section 418 all-cargo services in service segment data would place carriers conducting mixed passenger-cargo service under section 401 at a competitive disadvantage. More specifically, service segment data would be available for mixed passenger-cargo service, while carriers who conduct all-cargo operations would not be placed in a position of having to make known their point-to-point data.

We agree that service segment data has been a valuable tool for both the carriers and the Board. However, this alone is not a sufficient reason for continuing to impose the burden of reporting individual flight stage data for all-cargo operations on those who do not want to provide it. Quite simply, the Board no longer has a regulatory need for these data. Also, such a massive extension of reporting requirements as would be needed to assure an evenness in the availability of data could not be justified on the grounds that it is needed to protect carriers conducting mixed passenger-cargo operations.

SCHEDULE T-6

Among the reporting suggestions made in the comments was one to eliminate the reporting of all-cargo charters in CAB Form 41 Schedule T-6, "Report of Civil Aircraft Charters." We agree that there is no longer any need to submit data on domestic cargo charter operations within the geographic limitations specified in section 418, and the final rule has been amended accordingly.

EXPENSE DATA ON SCHEDULE T-8

In EDR-359, the Board proposed to establish a new CAB Form 41 Schedule T-8, "Report of Section 418 Operations." The schedule, attached to EDR-359 as appendix A, was designed to obtain data on operating revenues, traffic on revenue flights, and aircraft capacity operated. On the proposed schedule these data were to be segregated in two columns, one headed "Section 401 Operations" and the other headed "Section 418 Operations."

One direct carrier has suggested that the column headings be changed for the sake of clarity. As an alternative, it suggested that the columns be headed "Combination Aircraft" and "All-Cargo Aircraft." We are adopting this suggestion, in part, and will change the heading of the second column to read "All-Cargo Aircraft." The heading "Combination Aircraft" would not accurately depict the data which should be reported in the first column, since it may include all-cargo aircraft in international operations.

Another suggestion was that there is a duplication of reporting between the new Schedule T-8 and the summary domestic all-cargo statistics reported on CAB Form 41 Schedule T-1(b) and Schedule T-1(c). The all-cargo reporting on the new Schedule T-8 applies to all-cargo operations within the geographic limitations set out in section 418 of the Act, and these geographic limitations do not necessarily coincide with the domestic reporting entities of the carriers that will be subject to the reporting requirements. For example, statistics on Canadian transborder operations, intra-Alaskan and intra-Hawaiian operations may be included on

Schedules T-1(b) and T-1(c), but not on Schedule T-8. Thus, the reporting requirement is not duplicative as suggested.

Upon review of Schedule T-8, the Board has decided that some expense data will be needed in order to separate all-cargo operating expenses from other operating expenses for the purpose of regulating passenger fare levels. Therefore, Schedule T-8 contains an additional line for operating expenses. We believe that the elimination of CAB Form 242, as discussed below, will more than offset an additional burden brought about by including the additional line item on Schedule T-8.

PART 291

Only one carrier challenged the necessity for the proposed reporting requirements embodied in Subpart E of Part 291. It argued that the semiannual financial and traffic schedules proposed were burdensome amd totally unnecessary to the exercise of the Board's few remaining powers over domestic air freight.

Section 205 of the Act still requires the Board to report to the Congress such information and data collected by the Board as may be considered of value in the determination of questions connected with the development and regulation of civil aeronautics. The reporting requirements in Subpart E are designed to: (a) Satisfy basic interests about the financial fitness of the air carriers, (b) enable general comparisons of the profitability of regulated and deregulated segments of the air transport industry, and (c) enable the Board to monitor the overall size, growth and health of deregulated cargo operations. Finally, the information received from Subpart E reports are designed to help monitor service levels as contemplated in section 418(b)(4).

The balance sheet and statement of operations are basic documents periodically generated by virtually every business enterprise. In Subpart E, we have given these basic documents a structured format so as to allow comparability, and so that we are receiving the same things from carriers conducting similar operations. The structured formats we have prescribed are not complex and should not present a formidable obstacle to even the smallest carriers.

PART 242

Seaboard expressed the view that the Board should not abolish reporting requirements contained in Part 242. They stated that Part 242 would provide the Board with valuable "benchmark" information on the effects of deregulation. Seaboard suggested, however, that it be required on an annual basis rather than a semiannual basis.

At the present time, the CAB Form 242 report is being filed by only nine air carriers. Originally intended as a temporary reporting requirement in 1965, it has continued to serve a useful purpose until now. We believe that any value the form has as a benchmark can also be provided by the new schedule T-8 in the CAB Form 41 report. The reporting on the new Schedule T-8 is also less burdensome than the CAB Form 242 report, which is composed of three different schedules and a separate certification sheet.

We have therefore decided to eliminate the CAB Form 242 report and rely instead on the new T-8 schedule in Part 241.

ENVIRONMENTAL AND ENERGY CONSIDERATIONS

In EDR-359, we proposed two sets of rules. The first established guidelines for the issuance of section 418 certificates. The other changed the rules governing the cargo operations of section 401 carriers.

With respect to the first set we tentatively concluded that the proposed rules constitute neither a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 et. seq., (NEPA) nor a major regulatory action under the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. (EPCA). We based these conclusions on the lack of discretion Congress has given us to deny applications of all-cargo carriers.

Although we still have the power to regulate the cargo operations of section 401 carriers, we tentatively concluded in EDR-359 that it would not be in the public interest to do so. While the second set of proposed rules might be considered a major Federal action, we concluded that they would not significantly affect the operations of section 401 carriers. We therefore concluded that NEPA does not require the preparation of an environmental impact statement evaluating the implications of this aspect of the proposed rules, and that EPCA does not require a statement of the energy impact of this set of rules.

The Massachusetts Port Authority (Massport) has submitted comments that do not challenge the Board's finding on the first set of rules. Massport argues, however, that the rules dealing with section 401 cargo operations are not mandated by Congress and therefore constitute a major Federal action under NEPA and a major regulatory action under EPCA. It also argues that in attempting to foster competition within the aviation industry, the Board has failed to consider either: (a) The possibly adverse impacts and economic inefficiencies it may be fostering between transportation modes, and (b) the costly externalities of fuel inefficiency and noise pollution.

Massport may be correct in its assertion that the change we have proposed in the rules governing the cargo operations of section 401 carriers constitutes a major Federal action. However, our decision not to prepare an environmental impact statement on that portion of the proposed rules was based on our finding that the rules would not have a significant impact on the environment. Massport's only challenge to that finding is its assertion that the rules may: (a) Foster adverse impacts and economic inefficiencies between transportation modes or (b) decrease fuel efficiency and/or create noise.

Massport has not, however, provided any basis for concluding that the rules will have a significant impact on the environment. As we said in issuing the proposed rules, we expect the rules to have a favorable, though insignificant, environmental impact by encouraging greater operating efficiencies. While we believe the rules will also have a favorable environmental impact on the operations of other modes of transportation, we believe these impacts would be even less significant. There is certainly no basis for concluding that there will be a significant impact, either beneficial or adverse, in this respect.

Similarly, we see no reason to find that the rules would have significant energy efficiency or noise pollution impacts. Section 401 carriers derive only 7 percent of their revenues from cargo operations. More than three quarters of those revenues come from cargo carried on planes which are also carrying passengers. Scheduling by section 401 carriers is this designed almost exclusively to accommodate the needs of passengers. The airlines are therefore not likely to make any significant changes in their scheduling in response to these rules. We thus affirm our tentative decision in EDR-359 that neither environmental impact nor energy assessment statements are required for the proposed rules.

EFFECTIVENESS

Section 418(a)(3) of the Act states that 1 year after the date of the enactment of Pub. L. 95-163 (November 9, 1977), any U.S. citizen may submit an application to the Board for a section 418 certificate, containing such information and in such form as the Board by regulation may require. Since these rules should, therefore, be operative by that date, we find good cause to make them effective immediately.

The Board will review the operation of domestic cargo transportation under these rules, particularly the

public liability insurance requirement, after 12 months, and ask the staff for any recommended changes after 18 months.

FEDERAL REPORTS ACT

This rule requires applicants for section 418 certificates to provide the Board with certain information. By publishing this final rule, we have determined that this information is necessary and must be prepared and submitted. Accordingly, the application requirements found in § 291.11 and the related insurance certificate filing requirements in § 291.22 are adopted subject only to review by the General Accounting Office pursuant to 44 U.S.C. 3512. These specific requirements will be effective November 9, 1978. Applicants are not precluded from providing this information beginning November 9, 1978. However, GAO will conduct its clearance review to ensure that a minimum burden is imposed upon applicants and that the information is otherwise consistent with the Federal Reports Act. We shall publish a notice of GAO's decision when it is received.

This rule also contains reporting and recordkeeping requirements in §§ 291.23, 291.33, and 291.42 which will be submitted to the General Accounting Office for review under the Federal Reports Act. The effective date of these reporting requirements, unless the Board hereafter indicates otherwise, is December 31, 1978, which reflects the inclusion of a 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

Accordingly, Part 291 of the Board's Economic Regulations (14 CFR Part 291) is revised and reissued to read as follows:

PART 291—DOMESTIC CARGO TRANSPORTATION

Subpart A—General

Sec.
291.1 Applicability.
291.2 Definitions.

Subpart B—All-Cargo Air Service Certificates

291.10 General.
291.11 Form and content of applications.
291.12 Procedure on receipt of application.
291.13 Certificate conditions.
291.14 Amendment of certificates.

Subpart C—General Rules for Domestic Cargo Transportation

291.20 Applicability.
291.21 Public disclosure of cargo liability insurance.
291.22 Public liability insurance.
291.23 Record retention.
291.24 Waiver of Board Economic Regulations.

Subpart D—Exemptions for Domestic Cargo Transportation

291.30 General.
291.31 Exemptions from the Act.
291.32 Mutuality of exemptions.
291.33 Notification requirement for certain transactions involving section 401 certificated carriers.
291.34 Duration of exemptions.
291.35 No relief from antitrust laws.

Subpart E—Reporting Rules

291.40 [Reserved].
291.41 Financial and statistical reporting—general.
291.42 Section 418 financial and statistical reporting.

Subpart F—Enforcement

291.50 Enforcement.

AUTHORITY: (Secs. 102, 204, 407, 416 and 418 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 758, 766; 91 Stat. 1283, 1284, 49 U.S.C. 1302, 1324, 1377, 1386, and 1388; Pub. L. 95-504.)

Subpart A—General

§ 291.1 Applicability.

This part applies to domestic cargo transportation by air carriers certificated under sections 401 or 418 of the Act. It also applies to applicants for a certificate under section 418 of the Act, and to persons entering into control relationships or consolidations with domestic cargo air carriers.

§ 291.2 Definitions.

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 et seq.

"All-cargo air carrier" or "section 418 carrier" means an air carrier holding an all-cargo air service certificate, issued under section 418 of the Act, to provide domestic cargo transportation, but excluding service between any pair of points both of which are in Alaska or in Hawaii.

"All-cargo air service" means domestic cargo transportation, but excluding service between any pair of points both of which are in Alaska or in Hawaii, performed by any air carrier holding a certificate issued under section 418 of the Act.

"Domestic cargo transportation" means the carriage by aircraft of property as a common carrier for compensation or hire, or mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, or Puerto Rico, or the U.S. Virgin Islands, and a place in any other of those entities, or between places in the same State or other entity through the airspace over any place outside thereof, or between places within the District of Columbia, Puerto Rico, or the U.S. Virgin Islands. This includes commerce moving partly by aircraft and partly by other forms of transportation, as well as commerce moving wholly by aircraft.

"FAA" means the Federal Aviation Administration, U.S. Department of Transportation.

" Section 401 carrier" means an air carrier certificated under section 401 of the Act.

Subpart B—All-Cargo Air Service Certificates

§ 291.10 General.

Within 180 days after receipt of an application complying with this subpart from any U.S. citizen, the Board will issue a certificate to perform all-cargo air service, under section 418 of the Act, unless the Board finds that the applicant is not fit, willing, and able to provide such service or to comply with the Act or the orders and regulations of the Board. The 180-day period will not begin to run until the Board has received an application that is complete in all respects.

§ 291.11 Form and content of applications.

An original and six copies, typed on 8½ x 11-inch paper, shall be filed with the Docket Section, Office of the Secretary, Civil Aeronautics Board, Washington, D.C. 20428. The application may be mailed or delivered to Room 714, 1825 Connecticut Avenue NW., Washington, D.C. The application shall be conspicuously titled "Section 418 Application," and shall be accompanied by a check or money order payable to the Civil Aeronautics Board, in the amount of $250. The original of the application shall be manually signed and dated by the applicant, or by an authorized officer, partner, trustee, etc., of the applicant. The application shall contain all of the following information:

(a) *Identification of the applicant.*

(1) Name, mailing address, and telephone number of the applicant.

(2) Type of organization of the applicant, and State under whose law applicant is organized, if a corporation partnership, trust, etc.

(3) A statement that the applicant is a citizen of the United States as defined in section 101(14) of the Act.

NOTE.—Section 101(14) of the Act provides that a "citizen of the United States" means "(a) an individual who is a citizen of the United States or one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions."

(4) If any officers, directors, partners, trustees, shareholders, or persons who have the power to influence the management of the applicant are not U.S. citizens, state the names and citizenship of each such person, and describe each such person's interest in the applicant.

(b) *Applicant's past and present operations.*

(1) The names of all directors, partners, trustees officers, and principal management personnel of the applicant, and indicate the positions held by each.

(2) The total number of applicant's employees.

(3) A brief, narrative, chronological history of the ownership and operations of the applicant and its predecessors. Identify any civil Aeronautics Board, State, or foreign authority under which the applicant has conducted or is conducting air operations.

(4) A report on passenger and cargo air operations, if any, performed by the applicant or its predecessors over the past 3 years, totaled by year-end, showing:

(i) Aircraft hours flown;

(ii) Aircraft miles flown; and

(iii) Revenue ton-miles flown.

(5) The types of aircraft used in the above operations, the top 10 markets served, and the type of service performed. A list of aircraft owned or leased by the applicant, indicating type of aircraft, seating capacity and cargo capacity, and whether owned or leased.

(6) Applicant's equipment (exclusive of aircraft) and ground facilities owned or leased, including applicant's main base of operations.

(7) For the most recent 12-month period and, on a calendar or fiscal year basis, for the 2 preceding years (audited if possible), separating out for transport, transport-related and non-transport activities:

(i) Balance sheet;

(ii) Profit and loss statement; and

(iii) Cash flow statement.

(8) All material adverse changes, if any, in the financial position of the applicant that have occurred since the closing date of the balance sheet submitted in response to paragraph (a) of this section.

(9) All claims in litigation over $5,000, and any liabilities more than 60 days past due, on the date of the application.

(10) All FAA authority held by the applicant, and the address and telephone number of the responsible FAA office.

(d) *Projected operations.*

(1) The general geographic scope, the aircraft type, and the revenue hours anticipated for the first year of operations.

(2) Provide for the first year of operations, an illustrative profit and loss statement, pro-forma balance sheet (as at the end of the period), and cash flow statement.

(3) For applicants not now providing air service, an organizational plan of the proposed company, identify the directors, partners, trustees, officers, and principal management personnel, and briefly state the relevant qualifications.

(4) A detailed description of all provisions for the payment of cargo loss or damage claims, including insurance, claims reserves, etc.

(5) A statement of whether applicant's projected operations will require additional authority from the FAA and, if so, the status of any application for that authority, with the name, address, and telephone number of the FAA personnel responsible for processing the application.

(e) *Compliance disposition.*

(1) A description of each formal or docketed complaint lodged against the applicant, any predecessor or affiliate thereof (or against any other transportation company over which the applicant or any predecessor exercises or has ever exercised control) in the past 5 years, regarding compliance with the Federal Aviation Act or the rules, regulations, and requirements issued under it. The final disposition, if any, of each incident.

(2) A statement of whether, within the past 5 years, any of the persons and/or companies listed in paragraph (a)(1), either as a partner, officer, director, or stockholder, has been affiliated with, controlled by, or participated in control of any air carrier which, during such affiliation, was found to have committed knowing, willful violations of the Act, or of any order, rule, or regulation issued pursuant to the Act. If so, list the orders.

(3) Any action taken by the FAA under § 13.15 (involving civil penalties) § 13.17, § 13.19, or § 13.23 of this title in the past 5 years, and the disposition of each.

(4) An indication of whether the applicant, any predecessor, or any of the persons listed in the applicant's application has ever been found to have committed a felony, anti-trust violation, or to have engaged in criminal or civil fraud. Identification of the proceeding and provide a description, including current status or final disposition.

(f) *Insurance.*

The applicant shall provide a certificate complying with § 291.22 or state when its certificate will be filed with the Board.

(g) *Other information.*

The applicant may submit any other information that it believes to be relevant to the Board's decision of whether to issue it an all-cargo air service certificate.

§ 291.12 Procedure on receipt of application.

(a) Within 14 business days after the receipt of an application, the Board will notify the applicant whether its application is complete. If the application is not complete, the applicant will be told what information is necessary to complete the application. Applications will not be processed, and the 180-day period for issuance of a certificate will not begin to run, until the application is complete.

(b) Promptly upon the determination that an application is complete, the Board will (1) prepare a summary of the application and forward it to the FEDERAL REGISTER for publication, and (2) forward a copy of the application to the Secretary of Transportation with a request for a safety and compliance report from the FAA, and for recommendations on the safety implications of the proposed new service.

(c) The Board will hold the application for 21 days following the date of publication in the FEDERAL REGISTER for receipt of opposition from any member of the public. Opposition must be in writing, must identify the applicant and the docket number assigned to its application, and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The applicant shall be served by the opposing person with a copy of all documents submitted in opposition, at the same time that the documents are filed with the Board. The opposing documents shall contain proof of such service. The applicant shall have 14 days after receipt to reply to any opposing documents.

(d) After the period for the receipt of documents has expired, the Board will either (1) grant or deny the application on the basis of the written record, (2) request further information, or (3) set any disputed material issues of fact for expedited hearing before an Administrative Law Judge.

(e) In the case of applications that are opposed by any person, including the Secretary of Transportation, any further proceedings shall be governed by the Board's rules of practice, Part 302 of this title.

(f) The Board will transmit a copy of each certificate to the FAA when it is issued.

§ 291.13 Certificate conditions.

(a) All-cargo air service certificates shall remain effective only as long as the holder retains its U.S. citizenship (as defined in section 101(14) of the Act) and its insurance coverage required by § 291.22.

(b) All-cargo service certificates shall confer no right to receive subsidy, for the carriage of mail or otherwise.

(c) All-cargo air service certificates shall confer no right to carry passengers (except cargo attendants), or to engage in any air transportation outside the geographical scope of domestic cargo transportation. They shall not, however, restrict the right of the holder to provide scheduled, charter, contract, or other transportation of cargo, by air, within that geographical scope.

(d) All-cargo air service certificates shall entitle the holder to carry cargo attendants accompanying a shipment.

(e) Failure to file the reports required by this part, or to comply with the Act or the Board's regulations, shall be sufficient grounds to revoke a certificate.

(f) The authority to transport U.S. mail under this certificate is permissive, unless the Board, by order or rule, directs a carrier or class of carriers to transport mail on demand of the U.S. Postal Service.

(g) All-cargo air service certificates shall be held only by the applicant and shall not be transferred to any other person.

§ 291.14 Amendment of certificates.

Holders of all-cargo air service certificates shall notify the Board of any changes in the identification information supplied on the application under § 291.11(a). Notification must be received by the Board not later than 10 days after the change. An original and six copies, typed on 8½ × 11-inch paper, shall be filed with the Docket Section, Office of the Secretary, Civil Aeronautics Board, Washington, D.C. 20428. The notification may be mailed or delivered to Room 714, 1825 Connecticut Avenue NW., Washington, D.C.

Subpart C—General Rules for Domestic Cargo Transportation

§ 291.20 Applicability.

These rules apply to all domestic cargo transportation performed by air carriers certificated under sections 401 or 418 of the Act. Section 418 carriers that operate passenger-only or combination aircraft under section 401, Part 298 of this title, or other Board authority, must comply with these rules in connection with all domestic cargo transportation, whether provided on all-cargo or combination aircraft, operated pursuant to this authority or otherwise. In case a carrier may operate a particular flight under either a section 401 certificate or a section 418 certificate, the flight is presumed to be operated under the carrier's section 418 authority.

§ 291.21 Public disclosure of cargo liability insurance.

Every air carrier engaged in domestic cargo transportation shall give notice in writing to the shipper, when any shipment is accepted, of the limits of its cargo liability insurance, or of the absence of such insurance. Such notice shall be included clearly and conspicuously on all rate sheets and airwaybills of the carrier, and on any other documentation that is given to a shipper at the time of acceptance of the shipment.

§ 291.22 Public liability insurance.

(a) Each carrier operating all-cargo aircraft shall maintain public liability insurance. Policy conditions and certificate filing requirements shall be governed by the provisions of Subpart E of 14 CFR Part 298, except as provided in paragraph (b) of this section.

(b)(1) Carriers operating all-cargo aircraft larger than those eligible to be operated under 14 CFR Part 298 shall maintain combined bodily injury and property damage liability limits of at least $500,000 per person and $20 million per occurrence, with respect to such aircraft.

(2) Each certificate for insurance covering aircraft described in paragraph (b)(1) of this section shall be on Forms 29-D and 291-E.

(3) The liability of the insurer shall apply to the operation, maintenance, or use of all-cargo aircraft by the insured operator in "domestic cargo transportation."

§ 291.23 Record retention.

(a) The provisions of 14 CFR Part 249, *Preservation of air carrier accounts, records and memoranda*, shall apply to all carriers, except that records pertaining to transportation provided on aircraft eligible to be operated under Part 298 of this title, and records concerning transportation outside the geographic scope of domestic cargo transportation, need not be maintained unless required by other Board regulations.

(b) Each carrier shall retain for 1 year a copy of each rate sheet, airwaybill contract, and other document reflecting changed, new, or other previously unreported general or special prices or rules governing the carriage of freight in domestic cargo transportation (except mail), unless the transportation was performed in accordance with an effective tariff on file with the Board. Each carrier shall retain for 1 year a copy of any formula based on standard weight, mileage, or other method used to determine an individual airbill or contract.

§ 291.24 Waiver of Board Economic Regulations.

Except for this part and those parts of the Board's Economic Regulations (Part 200 through 299 of this title) specifically referred to in this part, carriers providing domestic cargo transportation are, with respect to that transportation, relieved from all obligations imposed on air carriers by those economic regulations. Flights operated entirely within domestic cargo transportation shall be free from those obligations, even though they may also carry shipments to or from points outside that geographic area. This waiver shall not apply to the requirements of Part 239 of this title.

Subpart D—Exemptions for Domestic Cargo Transportation

§ 291.30 General.

The following exemptions, except as otherwise specifically noted, apply only to domestic cargo transportation. They do not relieve a carrier from obligations derived from other transportation.

§ 291.31 Exemptions from the Act.

Each direct air carrier providing domestic cargo transportation is, with respect to such transportation, exempted from the following sections or subsections of the Act:

(a) Section 403, with the following exceptions:

(1) Air transportation of property within the States of Alaska or Hawaii; and

(2) To the extent necessary, as provided in Part 222 of this title, tariffs for pickup and delivery services not otherwise provided for in domestic cargo transportation.

NOTE.—Tariffs already on file with the Board may remain in effect for not longer than 90 days after the effective date of this rule.

(b) Subsection 404(a), except for air transportation of property within the States of Alaska or Hawaii, and (for all domestic cargo transportation) except the requirement to provide safe and adequate service, equipment, and facilities in connection with that transportation.

(c) Section 405 for all-cargo operations under section 418.

(d) Subsections 407(b) and 407(c).

(e) Subsections 408(a), except for subsection 408(a)(4), subject to the notification requirements of section 291.33.

(f) Sections 409 and 412(c).

§ 291.32 Mutuality of exemptions.

Indirect air carriers, to the extent they are engaged in domestic cargo transportation, common carriers that

are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from subsection 408(a) of the Act with respect to domestic cargo transportation assets and with respect to securities of carriers engaged solely in domestic cargo transportation.

§ 291.33 Notification requirement for certain transactions involving section 401 certificated carriers.

(a) The exemption in § 291.31(e) is subject to the following condition:

Notice of any transaction resulting in the acquisition or control of a section 418 carrier by a section 401 certificated carrier having authority to transport cargo in foreign air transportation, or of any transaction resulting in the acquisition or control of a section 401 certificated carrier having such authority by a section 418 carrier, shall be filed with the Board not later than 45 days before the effective date of such transaction. The Board may invoke any of the powers and procedures described in section 408(b)(3) of the Act within 45 days after notice is filed.

(b) For the purposes of this section, the "presumption of control" provisions in section 408(f) of the Act shall not be applicable.

§ 291.34 Duration of exemptions.

The exemptions granted in §§ 291.31 through 291.33 shall continue in effect until the Board finds that the exemption is no longer in the public interest.

§ 291.35 No relief from antitrust laws.

The exemptions granted in §§ 291.31 through 291.33 do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute except the Act. These exemptions do not relieve any person from the preacquisition notification requirements of the Clayton Act, 15 U.S.C. 18a, which apply to certain transactions involving firms with annual sales or assets of $10 million or more.

Subpart E—Reporting Rules

§ 291.40 [Reserved]

§ 291.41 Financial and statistical reporting—general.

(a) Carriers providing domestic cargo transportation that also conduct other operations under section 401 shall comply with the provisions of Part 241 of this title.

(b) Carriers providing domestic cargo transportation under section 418 certificates shall comply with § 291.42.

(c) Carriers providing domestic cargo transportation under section 418, and also providing other services under Part 298 of this title, shall report their domestic cargo transportation operations in accordance with § 291.42, and shall report all other traffic in accordance with the provisions of Subpart F of Part 298.

§ 291.42 Section 418 financial and statistical reporting.

(a) *General instructions and certification.*

(1) Carriers holding section 418 certificates shall file a Balance Sheet, Schedule 291-A, a Statement of Operations, Schedule 291-B, and a Summary of Traffic and Capacity Statistics, Schedule 291-C. These schedules will not be required from carriers who are subject to Part 241 of the Economic Regulations.

(2) Schedules required by this section shall be filed with the Civil Aeronautics Board semiannually on August 10 and February 10.

(3) All reports shall be addressed as follows: Bureau of Accounts and Statistics, Reports Control and Administration Division, B-46, Civil Aeronautics Board, Washington, D.C. 20428.

(4) The carrier's chief accounting officer shall sign the certification statement which appears at the bottom of the Balance Sheet and which relates to the information presented on the Balance Sheet, the Statement of Operations, and the Summary of Traffic and Capacity Statistics.

(b) *Balance Sheet.*

(1) This schedule shall reflect account balances at the close of business on the last day of each semiannual period for the corporate entity of each reporting carrier.

(2) "Current Assets" shall be comprised of all resources which may reasonably be expected to be realized in cash or sold or consumed within 1 year. This classification shall include cash, notes and accounts receivable, temporary cash investments, materials and supplies, and short-term prepayments.

(3) "Property and Equipment" shall be segregated into that which is owned and that which is leased under capital leases. All property and equipment, with the exception of land, shall be reported net of accumulated depreciation or amortization.

(4) "Other Assets" shall include all assets not included in the above categories, such as long-term investments, long-term prepayments, long-term receivables, deferred charges, and intangible assets.

(5) "Current Liabilities" shall be comprised of all obligations, the liquidation of which is reasonably expected to require the use of existing resources within 1 year. This classification shall include notes and accounts payable, accrued taxes and other debts, advances received, and current maturities of long-term debt.

(6) "Long-Term Debt" shall include all obligations which are not reasonably expected to be liquidated within 1 year. Typical examples include bonds payable, long-term notes payable, lease obligations, and pension obligations.

(7) "Other Liabilities" shall include any debts or obligations which are not properly listed in the "Current Liabilities" or "Long-Term Debt" sections.

(8) "Deferred Credits" shall include all credit balances of a general clearing nature, including credits held in suspense pending receipt of further information necessary for final disposition.

(9) "Stockholder's Equity" shall be reported as follows:

(i) "Capital Stock" shall be segregated as between common and preferred. The number of shares outstanding, along with the par or stated value of the stock, shall be reported. In the case of no-par stock without stated value, the full consideration received shall be reported

(ii) "Other Paid-In Capital" shall include the difference between the price at which the capital stock is sold and the par or stated value of the stock.

(iii) "Retained Earnings" shall represent the net income or loss from all operations of the corporate entity less dividends.

(iv) "Treasury Stock" shall represent the cost of stock issued by the carrier and reacquired by it but not retired or canceled.

(10) The statement of certification shall be signed by the carrier's chief accounting officer as provided in paragraph (a)(4).

(c) *Statement of Operations.*

(1) This schedule shall be filed semiannually by each reporting carrier and shall reflect the results of the carrier's corporate operations.

(2) "Operating Revenue" shall be categorized as follows:

(i) "Transport Revenues" shall include the revenues generated by the performance of air transportation services. This category shall be subdivided as follows:

(A) "Scheduled Service" shall include all transport revenues derived from operations between pairs of points which are served on a regularly scheduled basis. Transport revenues received from scheduled service operations shall be categorized as follows:

(1) Property;

(2) Mail; and

(3) Other. Revenues generated by the transportation of passengers shall be included in this category.

(B) "Nonscheduled Service" shall include all transport revenues derived from operations between pairs of

points which are not served on a regularly scheduled basis.

(ii) "Transport-Related Revenues" shall include moneys received for providing air transportation facilities associated with the performance of services which flow from and are incidental to air transportation services performed by the air carrier. For example, this category would include cargo pickup and delivery charges, the preparation of extra documents, storage beyond the free period, and the provision of in-flight services.

(3) "Operating Expenses" shall be segregated as follows:

(i) "Flying Operations" shall include expenses incurred directly in the in-flight operation of aircraft and expenses attaching to the holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status.

(ii) "Maintenance" shall include all expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation.

(iii) "General and Administrative" shall include that portion of all expenses of a general corporate nature and all other expenses not provided for elsewhere which are related to air transport operations either directly or indirectly.

(iv) "Depreciation and Amortization" shall include all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services. These expenses shall be segregated between those applicable to owned property and equipment and those applicable to property and equipment which is leased.

(4) "Operating Profit (Loss)" shall be computed by subtracting the total operating expenses from the total operating revenues.

(5) "Nonoperating Income and Expense" shall include all revenues and expenses resulting from commercial ventures which are not inherently related to the performance of air transport services. For example, the revenues and expenses related to operating a hotel or motel would be reported under this category. This category shall also include the total interest expense incurred from all sources and be subdivided as follows:

(i) Interest Expense.

(ii) Other Nonoperating (Net).

(6) "Income Tax" shall reflect the semiannual provision for accruals of Federal, State, local, and foreign taxes based upon taxable income, and computed at the normal and surtax rates in effect during the current accounting year.

(7) "Discontinued Operations, Extraordinary Items or Accounting Changes" shall reflect any earnings or losses from discontinued operations, the net of the tax amount of extraordinary items, and the cumulative effect of any changes in accounting principles.

(d) *Summary of Traffic and Capacity Statistics.*

(1) Each reporting carrier shall file this schedule semiannually.

(2) "Traffic on Revenue Flights" shall be reported in the following categories:

(i) "Revenue ton-miles" shall reflect the total revenue ton-miles in all-cargo service for the semiannual period. Revenue ton-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of tons of revenue traffic transported on that stage. Revenue ton-miles shall be reported based on the following categories:

(A) Scheduled Service. This statistic will be broken down between revenue ton-miles applicable to property and those applicable to mail.

(B) Nonscheduled Service.

(ii) "Nonrevenue ton-miles" shall reflect the total nonrevenue ton-miles in all-cargo service for the semiannual period. Nonrevenue ton-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of tons of nonrevenue traffic transported on that stage.

(iii) "Revenue tons enplaned" shall reflect the total revenue tons of cargo loaded on aircraft during the semiannual period.

(3) "Aircraft capacity operated" shall be reported in the following categories:

(i) "Available ton-miles" shall reflect the total revenue ton-miles available for all-cargo service during the semiannual period. Available ton-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of tons of aircraft capacity available for use on that stage. Available ton-miles shall be reported based on the ton-miles available for scheduled service and those available for nonscheduled service.

(ii) "Revenue aircraft miles flown" shall reflect the number of aircraft miles flown in revenue cargo service during the semiannual period.

(iii) "Nonrevenue aircraft miles flown" shall reflect the number of aircraft miles flown in nonrevenue cargo service during the semiannual period.

(iv) "Revenue aircraft departures performed" shall reflect the total number of takeoffs performed in revenue cargo service during the semiannual period.

(v) "Nonrevenue aircraft departures performed" shall reflect the total number of takeoffs performed in nonrevenue cargo service during the semiannual period.

(vi) "Revenue aircraft hours (airborne)" shall reflect the aircraft hours of flight (from takeoff to landing) performed in revenue cargo service.

(vii) "Nonrevenue aircraft hours (airborne)" shall reflect the aircraft hours of flight (from takeoff to landing) performed in nonrevenue cargo service.

Subpart F—Enforcement

§ 291.50 Enforcement.

In case of any violation of any of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to section 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance therewith; or to civil penalties pursuant to the provisions of section 901(a) of the Act; or, in the case of a willful violation, to criminal penalties pursuant to the provisions of section 902(a) of the Act; or other lawful sanctions including suspension or revocation of operating authority.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

COMMENTS ON AIRLINE CARGO DEREGULATION—DOCKET 33093

CARRIERS

Alaska International Air, Inc.
Trans Continental Airlines
CF Air Freight, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Caribbean Air Services, Inc.
Central American Air Taxi, Inc.
Delta Air Lines, Inc.
Emery Air Freight Corp.
Federal Express Corp.
Frontier Airlines
Midwest Air Charter, Inc.
Northwest Orient
Pan American World Airways, Inc.
Seaboard World Airlines, Inc.
Trans International Airlines, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
Great Western Airlines, Inc. and Sedalia-Marshall-Boonville Stage Line, Inc.
Commuter Airlines Association of America
Imperial Air Freight Service, Inc.
DHL Corp. and DHL Airways, Inc.
The Flying Tiger Line, Inc.

SHIPPERS

American Standard, Inc.
Oxford Chemicals
Travenol Laboratories, Inc.
Sperry New Holland Division of Sperry Rand Corp.
Geo. A. Hormel & Co.
C. L. Frost & Son, Inc.
Robertshaw Controls Co.
The Budd Co.
Actran
General Mills, Inc.
Eastman Kodak Co.
Motorola Semiconductor Group
Oscar Mayer & Co.
Westinghouse Electric Corp.

U.S. Postal Service
Deere & Co.
Phillips Petroleum Co.
West Bend Co.
Minnesota Mining & Manufacturing Co.
Ethyl Corp.
Continental Freight Data Systems, Inc.
Harnischfeger Corp.
Computax, Inc.
Castle & Cooke Foods
H. Goodman & Sons, Inc.
Twin Disc, Inc.
Arthur G. McKee & Co.
W. R. Morgan
Pacific Resins & Chemicals, Inc.
Capwell's
Robert L. Garrett
C. F. Braun & Co.
Wright Line
Owens-Illinois
Blue Anchor, Inc.
Varo, Inc.
Spiegel, Inc.
Missouri Portland Cement Co.
Hiram Walker & Sons, Inc.
Western Electric
RCA
Swank, Inc.
Aldens, Inc.
Volvo of America Corp.
Westinghouse Electric Corp. (Industrial & Government Tube Division)
Anderson IBEC (Division of International Basic Economy Corp.)
Rockwell International (Saberliner Division)
Warnaco, Inc.
Georgia-Pacific Corp.
Firestone Tire and Rubber Co.
Diamond Fruit Growers, Inc.
FMC Corp.
Capitol Records, Inc.
CBS Records
Armour-Dial, Inc.
Shaklee Corp.
Levy's
Digital
Rhodia, Inc.
Joy Manufacturing Company
Trent Carpet/Roxbury Carpet (Divisions of WWG Industries, Inc.)
Dow Chemical U.S.A.
Montgomery Ward
ITT Grinnell Corp.
Certron Corp.
McCormick & Co., Inc.
Reichhold Chemicals, Inc.
Bio-Dynamics/bmc
Nekoosa Papers, Inc.
Goodman-Reichwald-Dodge, Inc.
General Mills Chemicals, Inc.
Thatcher Glass Manufacturing Co.
Lockheed-Georgia Co.
Wiebold Stores, Inc.
Broyhill Industries
Rexnord, Inc.
Marathon Battery Co.
Michelin Tire, Corp.
Horbart Brothers Co.
A & E Plasti-Line
Kohler Co.
Searle Laboratories
Omark Industries
Allis-Chalmers
International Foodservice/Los Angeles, Inc.
W. D. Allen Manufacturing Co.
Yellow Springs Instrument Co., Inc.
Red Devil
American Valve Manufacturing Corp.
Federal Pacific Electric Co.
Micro Switch (Division of Honeywell)
Union Underwear Co., Inc.
ITT Publishing
Jones & Laughlin Steel Corp.
Reynolds Aluminum
GAF Corp.
Ray-O-Vac Division, ESB, Inc.
Sarco Co. Inc.
Raytheon Data Systems Co.
AVCO
Whirlpool Corp.
Mohasco Corp.
National Lock Hardware
Day and Zimmermann, Inc.
Marion Power Shovel Division Dresser Industries, Inc.
J. L. Clark Manufacturing Co.
Brown & Williamson Tobacco Corp.
World Color Press
Fairchild Publications
Lincoln St. Louis
Oster Corp.
Engineering Sinterings and Plastics, Inc.
Erico Products, Inc.
Flintkote Co.
Kimberly-Clark Corp.
Lennox Industries, Inc.
Colonial Sugars Co., Borden, Inc.
Brunswick Corp.
GenRad, Inc.
Amerada Hess Corp.
Dixie Yarns, Inc.
Bath Iron Works, Corp.
Weirton Steel Division of National Steel Co.
Central Steel & Wire Co.
Oil-Dri Corp.
Cannon Mills Co.
ICI Americas, Inc.
Westinghouse Electric Corp. Powers Generation Group
Nordson Corp.
Brown & Haley
Cutter Laboratories, Inc.
Scott Graphics
Hewlett Packard Co.
Eagle Rubber Co., Inc.
Air Products and Chemicals, Inc.
Rockford Products Corp.
Mack Trucks, Inc.
Chevrolet Motor Division (General Motors Corp.)
Hedstrom Co.
Milliken & Co.
Buffalo Forge Co.
Clairol, Inc.
Ely & Walker
Hyland
Ball Seed Co.
Zellerback Paper Co.
Marathon LeTourneau Co.
AMP, Inc.
Louisville Cement Co.
Cascade Corp.
M. Lowenstein & Sons, Inc.
Corning Glass Works
Phelps Dodge Corp.
Strouss
Eaton Corp.
Jacobson Stores, Inc.
Monadnock Paper Mills, Inc.
Harry and David
Abbott Laboratories
DeSoto, Inc.
Ross Industries
Milwaukee Boston Store Co.
GTE Sylvania, Inc.
Continental Diversified Industries
Martin Marietta Aluminum, Inc.
Champion Products, Inc.
General Motors Corp.
ILC Dover
U.S. Department of Defense
CIBA-GEIGY Corp.
Freightliner Corp.
Grumman Aerospace Corp.
NCR Corp.
Pioneer Electronics of America

OTHERS

Air Freight Forwarders Association of America
Traffic Service Bureau, Inc.
Pacific Northwest Traffic League
Interstate Commerce Commission
Wisconsin Paper & Pulp Manufacturers' Traffic Association
Air Freight Motor carriers Conference, Inc.
COSTHA (Council for Safe transportation of Hazardous Articles)
U.S. Department of Justice
Eastern Industrial Traffic League, Inc.
Lincoln Chamber of Commerce
National Industrial Traffic League
Our Animal Wards
Shippers National Freight Claim Council, Inc.
Society of American Florists
National Small Shipments Traffic Conference, Inc. and Drug and Toilet Preparation Traffic Conference, Inc.
Massachusetts Port Authority
Logistical Management Consultants, Inc. and Greater Portland Shippers Conference, Inc.

[6320-01-C] APPENDIX B

REPORT OF SECTION 418 OPERATIONS		
Air Carrier	Operations	
Six-Months Ended	Section 401 Operations	All Cargo Aircraft (418)
Operating Revenue and Expenses		
Transport Revenues		
Scheduled Service		
Property		
Mail		
Other		
Nonscheduled Service		
Transport-Related Revenues		
Operating Expenses		
Traffic on Revenue Flights		
Revenue Ton-miles		
Scheduled Service:		
Property		
Mail		
Nonscheduled Service		
Nonrevenue Ton-Miles		
Revenue Tons Enplaned		
Aircraft Capacity Operated		
Aircraft Ton-miles:		
Scheduled Service		
Nonscheduled Service		
Aircraft Miles Flown:		
Revenue		
Nonrevenue		
Aircraft Departures Performed:		
Revenue		
Nonrevenue		
Aircraft Hours (Airborne)		
Revenue		
Nonrevenue		

Schedule T-8 CAB Form 41

APPENDIX C

BALANCE SHEET

Carrier _____

As at _____

ASSETS

Current assets:	
Cash	_____
Notes and accounts receivable–net	_____
Other current assets	_____
Total current assets	_____
Property and equipment:	
Owned property and equipment	_____
Less accumulated depreciation	_____
Property and equipment obtained under capital leases	_____
Less accumulated amortization	_____
Total property and equipment	_____
Other assets	_____
Total assets	_____

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:	
Notes and accounts payable	_____
Accrued taxes	_____
Other current liabilities	_____
Total current liabilities	_____
Long–term debt	_____
Other liabilities	_____
Deferred credits	_____
Stockholders' equity:	
Capital stock	
Preferred _____ shares outstanding	_____
Common _____ shares outstanding	_____
Other paid–in capital	_____
Retained earnings	_____
Total stockholders' equity	_____
Less: Treasury stock	_____
Net stockholders' equity	_____
Total liabilities and stockholders' equity	_____

I, the undersigned, (Title) _____ of the above–named air carrier certify that the above report and the attached Statement of Operations and Summary of Traffic and Capacity Statistics have been examined by me and to the best of my knowledge and belief are true, correct and complete reports for the period stated.

Date _____ Signature: _____

Name (Please Type or Print): _____

Schedule 291–A

APPENDIX D

STATEMENT OF OPERATIONS

Carrier _____
Six Months Ended _____

Operating Revenue	
Transport Revenues	
Scheduled Service	
Property	
Mail	
Other	
Nonscheduled Service	
Transport Related Revenues	
Total Operating Revenue	
Operating Expense	
Flying Operations	
Maintenance	
General and Administrative	
Depreciation and Amortization	
Owned Property and Equipment	
Leased Property and Equipment	
Total Operating Expense	
Operating Profit (Loss)	
Non operating Income and Expense:	
Interest Expense	
Other Nonoperating (Net)	
Income Tax	
Discontinued operations, extraordinary items or Accounting changes	
Net Income (Loss)	

APPENDIX E

SUMMARY OF TRAFFIC AND CAPACITY STATISTICS

Carrier _____
Six Months Ended _____

Traffic on Revenue Flights	
Revenue Ton-miles	
Scheduled Service:	
Property	
Mail	
Nonscheduled Service	
Nonrevenue Ton-miles	
Revenue Tons Enplaned	
Aircraft Capacity Operated	
Available Ton-miles:	
Scheduled Service	
Nonscheduled Service	
Aircraft Miles Flown:	
Revenue	
Nonrevenue	
Aircraft Departures Performed:	
Revenue	
Nonrevenue	
Aircraft Hours (Airborne):	
Revenue	
Nonrevenue	

Schedule 291–C

APPENDIX F
Page 1 of 2

NOTE: THIS FORM IS TO BE COMPLETED BY AN OFFICER OR AUTHORIZED REPRESENTATIVE OF THE INSURANCE COMPANY

CAB Form 291-D
(11-78)

CERTIFICATE OF INSURANCE
ALL-CARGO AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

THIS CERTIFIES THAT:

_____ (Insurer)
(Name and address of Insurer)

has issued a policy or policies of Aircraft Liability Insurance to _____
(Name and

_____
address of Insured All-Cargo Air Carrier)

_____ (Named Insured)

effective from _____ until ten (10) days after written notice from the Insurer of the intent to terminate coverage is received by the Civil Aeronautics Board.

The Insurer (check one):

☐ is licensed to issue aircraft insurance policies; or

☐ is an approved surplus line insurer; in the State(s) of _____

The Insurer assumes, under the policy or policies listed below, aircraft liability insured to minimums at least equal to the following during operation, maintenance or use of all-cargo aircraft in "domestic cargo transportation" as that term is defined in 14 CFR 291.2:

Policy No.	Type of Liability	Minimum Limit	
		Each person	Each occurrence
	Combined Bodily Injury and Property Damage Liability Excluding Passengers (Other than cargo attendants)	$500,000	$20,000,000

The policy or policies listed in this certificate insure (check one):

☐ Operations conducted with the following types of aircraft:

☐ Operations conducted with the following aircraft:

FAA Registration	Manufacturer's Type	FAA Registration	Manufacturer's Type

Each policy listed in this certificate has been amended by attachment of a Standard Endorsement Form (CAB Form 291-E) and does not cover operations except between a place in any State of the United States, or the District of Columbia, or Puerto Rico, or the U. S. Virgin Islands, and a place in any other of those entities, or between places in the same State or other entity through the airspace over any place outside thereof, or between places within the District of Columbia, Puerto Rico or the U.S. Virgin Islands.

_____
(Name of Insurer)

_____
(Name of Broker, if applicable)

_____
(Address of Broker)

Date: _____ By: _____
(Officer, or authorized representative of insurer or broker)

[6320-01-M]

STANDARD ENDORSEMENT

ALL-CARGO AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

The policy to which this endorsement is attached is hereby amended to assure compliance by the Named Insured, an all-cargo air carrier providing services in domestic cargo transportation, with the provisions of Part 291 of the Economic Regulations of the Civil Aeronautices Board.

1. In consideration of the premium stated in the policy to which this endorsement is attached, the Insurer hereby agrees to pay, within the limits of liability for coverages specified in the policy, all sums which the Named Insured shall become legally obligated to pay as damages for bodily injury to or death of persons or for loss of or damage to property of others, resulting from the Named Insured's negligent operation, maintenance, or use of all-cargo aircraft in "domestic cargo transportation" as that term is defined in 14 CFR 291.2. The liability of the Insurer is not contingent upon the solvency or freedom from bankruptcy of the Named Insured.

2. The Insurer also agrees that the attached policy shall remain in force, and cannot be replaced, cancelled, withdrawn, or modified to exclude any aircraft or to reduce the extent of liability coverage, by the Insurer or the Insured, nor expire by its own terms, until ten (10) days after written notice by the Insurer (by the retiring Insurer, in the event of replacement) describing the change is received by the Board's Bureau of Pricing and Domestic Aviation, Washington, D.C. 20428. In addition, with respect to expiration by the policy's own terms, the Insurer agrees that to be effective the notice to the Board of nonrenewal must be received not more than 30 days before the expiration date.

3. The Insurer further agrees that, within the limits of liability for coverages specified in the policy, no term, condition, limitation, stipulation or other provision contained in the policy or any endorsement attached thereto or any violation thereof by the Named Insured, except the EXCLUSIONS contained in this endorsement shall relieve the Insurer of liability with respect to such bodily injury or property damage. In this connection, the Insurer expressly agrees that no violation by the Named Insured of any safety or economic rule, regulation, order, or other legally imposed requirement of the Federal Aviation Administration or the Civil Aeronautics Board, and no special waiver issued by the Federal Aviation Administration or the Civil Aeronautics Board, shall affect the insurance afforded under this policy.

4. The Insurer further agrees that, while an aircraft owned by the Named Insured and declared in this policy, is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction, such insurance as is afforded by this policy with respect to such aircraft applies also with respect to another aircraft of similar type, horse-power, and payload capacity, whether or not owned by the Insured, while temporarily used as the substitute for such aircraft. (Applicable only if aircraft are listed in policy by FAA registration number).

5. The exclusions of the policy to which this endorsement is attached are deleted and are replaced by the following exclusions:

"Exclusions, unless otherwise provided in the policy of insurance, the liability insurance afforded under this policy shall not apply to:

"(a) Any loss against which the Named Insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be excess of the limits provided by such other valid and collectible insurance up to the limits certified in a certificate of insurance, but in no event exceeding the limits of liability expressed elsewhere in this policy;

"(b) Liability assumed by the Named Insured under any contract or agreement, unless such liability would have attached to the Insured even in the absence of such contract or agreement;

"(c) Bodily injury, sickness, disease, mental anguish or death of any employee of the Named Insured while engaged in the duties of his employment, or any obligation for which the Named Insured or any company as his Insurer may be held liable under any workmen's compensation or occupational disease law;

"(d) Loss of or damage to property owned, rented, occupied or used by, or in the care, custody or control of the Named Insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

"(e) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly, by hostile or warlike action, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority or forces; the discharge, explosion or use of any weapon of war employing atomic fission or atomic fusion or radioactive materials; insurrection, rebellion, revolution, civil war or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority;

"(f) Any loss arising from operations within any geographic areas other than the following: 'between a place in any State of the United States, or the District of Columbia, or Puerto Rico, or the U.S. Virgin Islands, and a place in any other of those entities, or between places in the same State or other entity through the airspace over any place outside thereof, or between places within the District of Columbia, Puerto Rico or the U.S. Virgin Islands.'

"(g) Any loss arising from operations by the Named Insured to or from installations of the Distant Early Warning System (DEW line) or the Ballistic Missile Early Warning System (BMEWS);

"(h) Any loss arising from the ownership, maintenance or use of any aircraft of a type or class not specified for coverage in the policy, or any aircraft not declared to the Insurer in accordance with the terms and conditions of this policy, other than substitute aircraft as authorized in paragraph 4 hereof;

"(i) Any loss arising from operations other than the carriage by aircraft of property as a common carrier for compensation or hire, or the carriage of mail by aircraft, in domestic cargo transportation."

6. The Named Insured will promptly reimburse the Insurer for payments made by the Insurer which the Insurer would not have been obligated to make except for the provisions of this endorsement.

7. Any exclusions, conditions or provisions of this endorsement that have the effect of restricting or nullifying the coverage granted by this policy in the absence of this endorsement shall not apply.

Attached to and forming part of Policy No(s):
Issued by:
To:
Date:
By:
(Authorized Representative of Insurer)

[FR Doc. 78-32004 Filed 11-9-78; 8:45 am]

[6320-01-M]

[Regulation ER-1081; Amendment No. 34; Docket No. 33093]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Rules for All-Cargo Air Carriers and for Domestic Cargo Transportation

NOVEMBER 8, 1978.

Adopted by the Civil Aeronautics Board at its office in Washinton, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule sets accounting and reporting rules for all-cargo air carriers and for domestic cargo transportation. The reasons for this change are explaned in ER-1080, issued simultaneously.

DATES: Effective: December 31, 1978. Adopted: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Board amends part 241 of its Economic Regulations (14 CFR Part 241) to read as follows:

1. Amend section 03 by adding a definition of "Section 418 cargo operations" to read:

Section 03—Definitions for Purposes of This System of Accounts and Reports

* * * * *

Section 418 operations.—The carriage by aircraft of property as a common carrier for compensation or hire, or mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, or Puerto Rico, or the U.S. Virgin Islands, and a place in any other of those entities, or between places in the same State or other

entity through the air-space over any place outside thereof, or between places within the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, but excluding service between any pair of points both of which are in Alaska or Hawaii. This includes commerce moving partly by aircraft and partly by other forms of transportation, as well as commerce moving wholly by aircraft.

* * * * *

2. Amend section 21 by revising paragraph (g) to read:

Section 21—Introduction to System of Reports

* * * * *

(g) Four separate air carrier entities shall be established for route air carriers for the purpose of submitting the reports prescribed. They are as follows: (1) Domestic operations; (2) operations via the Atlantic Ocean; (3) operations via the Pacific Ocean; and (4) operations within the Latin American areas. With respect to the first classification, the domestic entity shall embrace all operations within the 50 States of the United States and the District of Columbia, and shall also include Canadian transborder operations. Carriers need not establish a Latin American entity for reporting purposes if the only operations being conducted in that entity are section 418 cargo operations. The reports to be submitted by each entity shall be comparable to those required of a distinct legal entity whether the reporting entity constitutes such an entity, a semi-autonomous physically separated operating division of the air carrier, or an entity established for reporting purposes only.

* * * * *

3. Amend section 22 by revising paragraph (a), the list of schedules in the CAB form 41 report, to read:

Section 22—General Reporting Instructions

(a) * * *

List of Schedules in CAB Form 41 Report

Schedule No.	Schedule title	Filing frequency	Applicability by carrier group		
			I	II	III
*	*	*	*	*	*
T-7	Statistical market report	Monthly			(7)
T-8	Report of sec. 418 operations	Semi-annually	(8)	(8)	(8)
T-41	Charter and special services revenue aircraft-miles flown; calculation of limitation of charter trips.	(2)		(3)	(3)
*	*	*	*	*	*

[1] In accordance with the provisions of sec. 235.4 and 235.5. of pt. 235 of this subch.
[2] For the first 9 mo and for the 12 mo of each calendar year.
[3] Applicable only to route air carriers.
[4] Applicable only to supplemental air carriers.
[5] Applicable to all air carriers except local service air carriers.
[6] Applicable only to local service air carriers.
[7] Applicable only to subsidized air carriers.
[8] Applicable only to trunk air carriers.
[9] Applicable only to carriers holding certificates issued under sec. 418 of the Act.

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due dates[1] and Schedule No.

Jan. 20—P-12, P-12(a)
Jan. 30— * * *
Feb. 10[2] A, B-1[5], B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, B-2, B-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, B-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b), T-8.

* * * * *

Aug. 10—A, A-1, B-1[5], B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-11(a), P-11(b), T-8.

* * * * *

4. Amend section 25, by amending paragraph (b) of the reporting instructions for schedule T-6 Report of Civil Aircraft Charters and by adding reporting instructions for new scheduled T-8 Report of Section 418 Operations immediately following the reporting instructions for schedule T-7 to read as follows:

Section 25—Traffic and Capacity Elements

* * * * *

Schedule T-6—Report of civil aircraft charters.

* * * * *

(b) A complete report shall be made on the schedule for the overall or system operations conducted by the air carrier; except that, all-cargo charters conducted within the geographic limitations set out in section 418 of the Act need not be reported.

* * * * *

Schedule T-7—Statistical Market Report.

* * * * *

Schedule T-8—Report of Section 418 Operations.

(a) This schedule shall be filed semiannually by all air carriers holding section 401 certificates that conduct all-cargo operations under certificates issued for section 418 cargo operations.

(b) Data reported on this schedule shall be based on the system operations of the air carrier with the data being segregated between section 401 operations and all-cargo operations conducted on all-cargo aircraft under section 418.

(c) "Total Operating Revenue" shall be segregated between transport and transport-related revenues.

(d) Transport revenues shall be subdivided between those generated by scheduled service operations and those generated by nonscheduled service operations. Scheduled service revenues shall be further subdivided as follows:

(1) Property;
(2) Mail; and
(3) Other.

(e) "Operating Expenses" shall reflect the segregation of total operating expenses reported in line 7199 on Schedule P-11 or Schedule P-12 for the overall or system operations of the air carrier.

(f) "Revenue Ton-Miles" shall be segregated between those flown in scheduled service and those flown in nonscheduled service. Scheduled service ton-miles shall be subdivided between property transported and mail transported.

(g) "Nonrevenue Ton-Miles" and "Revenue Tons Enplaned" applicable to the revenue flights operated during the reporting period shall be reported on this schedule.

(h) "Available Ton-Miles" shall be segregated between scheduled service and nonscheduled service.

(i) "Aircraft Miles Flown," "Aircraft Departures Performed," and "Aircraft

Hours (Airborne)" shall be segregated between the aircraft capacity operated in revenue service and nonrevenue service.

* * * * *

5. Amend § 19-3, by adding a new sentence to read.

§ 19-3 Accessibility and transmittal of data.

Each air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready availability for examination by representatives of the Board. All Group I subsidized route carriers, Group II subsidized route carriers and all Group III route air carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled services as prescribed in section 19-5, summarized by flight number, service segment, service class, and aircraft type. Individual flight stage data for section 418 all-cargo operations shall not be transmitted to the Board, but shall be included in the summary schedules prescribed in section 25 of this part. Those air carriers required to submit this data shall utilize either magnetic ADP tapes or ADP punched cards for transmitting the prescribed data to the Board. All ADP-oriented records shall be transmitted in accordance with standard practices to be established by the Board's Bureau of Accounts and Statistics. All such data shall be received by the Civil Aeronautics Board at its offices in Washington, D.C., no later than 30 days following the close of the month to which applicable.

(Sections 204 and 407 of the Federal Aviation Act, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324 and 1377.)

NOTE.—The Civil Aeronautics Board is submitting this rule to the General Accounting Office for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of the reporting requirements of this rule, which is December 31, 1978, accordingly reflects the inclusion of a 45-day period which that statute allows for such review (44 U.S.C. 3512(e)(2)).

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32005 Filed 11-9-78; 8:45 am]

[6320-01-M]

[Regulation ER-1082; Amendment No. 6; Docket 33093]

PART 242—REPORTING RESULTS OF SCHEDULED ALL-CARGO SERVICES

Revocation of Part

NOVEMBER 8, 1978.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Revocation of part.

SUMMARY: The Board is revoking this part of its Economic Regulations as no longer needed, for the reasons explained in ER-1080, issued simultaneously.

DATES: Effective: November 9, 1978. Adopted: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Part 242 [Reserved]

Accordingly, the Board revokes and reserves Part 242 of its Economic Regulations (14 CFR Part 242).

(Sections 204 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324 and 1377.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32006 Filed 11-9-78; 8:45 am]

[6320-01-M]

[Regulation ER-1083; Amendment No. 28; Docket 33093]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS, AND MEMORANDA

All-Cargo Air Carriers Under Section 418 of the Act

NOVEMBER 8, 1978.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons stated in ER-1080, issued simultaneously, this rule includes air carriers certificated under section 418 of the Act under the Board's record retention requirements.

DATES: Effective: December 31, 1978. Adopted: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Board amends part 249 of its Economic Regulations (14 CFR part 249) by revising paragraph (a) of § 249.1 to read:

§ 249.1 Applicability.

* * * (a) air carriers that hold certificates issued under sections 401 or 418 of the Act, * * *.

(Sections 204 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324 and 1377.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32007 Filed 11-9-78; 8:45 am]

[6320-01-M]

SUBCHAPTER E—ORGANIZATION REGULATION

[Regulation OR-136; Amendment No. 74; Docket 33093]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATIONS: NONHEARING MATTERS

Delegation to Director, Bureau of Pricing and Domestic Aviation for Pickup and Delivery Tariffs

NOVEMBER 8, 1978.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Director, Bureau of Pricing and Domestic Aviation, to require pickup and delivery tariffs in domestic cargo transportation if needed in the public interest. This rule is at the Board's own initiative, and is explained in ER-1080, issued simultaneously.

DATES: Effective: November 9, 1978. Adopted: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Since this rule is administrative in nature, affecting a rule of agency organization and procedure, we find that

there is good cause not to require public notice and procedures, and for making it effective immediately.

Accordingly, the Board is amending Part 385 of its Organization Regulations (14 CFR Part 385) by adding a new paragraph (oo) to § 385.13 to read as follows:

§ 385.13 Delegation to Director, Bureau of Pricing and Domestic Aviation.

* * * * *

(oo) Require pickup and delivery tariffs be filed with the Board under Part 221 of the Economic Regulations by carriers operating in domestic cargo transportation under Part 291, if in the public interest.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32008 Filed 11-9-78; 8:45 am]

federal register

THURSDAY, NOVEMBER 16, 1978
PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

ADDITIONAL PROTECTIONS PERTAINING TO BIOMEDICAL AND BEHAVIORAL RESEARCH INVOLVING PRISONERS AS SUBJECTS

[4110-08-M]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 46—PROTECTION OF HUMAN SUBJECTS

Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: These regulations stipulate additional requirements for Institutional Review Boards (Boards), provide for prisoners or representatives of prisoners on Boards when prisoners are involved, outline additional duties for Boards, and specify the conditions under which research involving prisoners is permitted.

EFFECTIVE DATE: These regulations shall become effective on November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Normand R. Goulet, Ph. D., Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-7005

SUPPLEMENTARY INFORMATION: On January 5, 1978, the Department of Health, Education, and Welfare (Department) published (43 FR 1050) proposed rules providing additional protections for prisoners involved in research conducted or supported by the Department. Interested individuals, institutions and organizations were invited to submit comments. A total of 57 comments were received.

RESPONSE TO PUBLIC COMMENTS

The public comments and the Department's responses are discussed below in the order of their reference to the proposed regulations as they appeared in the FEDERAL REGISTER. The Department, having reviewed these comments, has decided to allow two additional types of research:

(1) Certain research on conditions particularly affecting prisoners as a class; and

(2) Certain research intended to benefit the subjects but which involves the use of control subjects to whom such benefit may not be expected.

Neither of these research categories may be approved until additional and more stringent review procedures are conducted. These requirements are detailed in § 46.306(a)(2) of these regulations.

Comment: Twelve respondents commented on the proposals to require that the Board should be "* * * sufficiently qualified through the maturity, experience, and expertise of its members, and the diversity of the members' racial and cultural backgrounds, to insure respect for its advice and counsel * * *" and that no Board should consist entirely of members of only one sex.

Several respondents felt that it was misleading and inappropriate to propose a change in Board composition in what was presented as proposed regulations on research involving prisoners. They felt that such a publication was not conspicuous enough to insure appropriate comment. In addition, it was noted that no justification was presented in the introductory comments which preceded the proposed changes. It was felt that a substantial change of this magnitude deserved to be published separately, with a full and adequate explanation of its meaning, and clearly labelled for comments by the affected and interested public.

Other respondents felt that changes to the existing criteria for Board membership should be proposed only when supported by clear evidence that present criteria are inadequate to provide protection to human subjects. The proposal should document these inadequacies for the public and should explain why they are attributable to the absence of certain types of people on the Board, as opposed to other reasons.

Several respondents felt that the current requirements, along with existing equal employment opportunity and affirmative action policies, are sufficient to the Department's needs and obligations. Placing additional limitations on the composition of Boards would further increase the difficulties in: (a) finding Board candidates who are willing and qualified to serve; (b) assembling a committee of workable size; (c) serving staggered terms because of vacations, sabbaticals, etc.; (d) constituting an appropriate committee in a smaller institution; and (e) precluding the overuse of minorities on Boards. These respondents felt that further limitations would be counterproductive in adversely affecting the quality of decisions and would detract from the respect shown to the Board's advice and counsel.

Finally, some respondents had concern for the potential for disagreement on the adequacy of the phrase, "diversity of the members' racial and cultural backgrounds." They felt that definitions were needed and that there would be as many definitions as there would be anthropologists.

Response: The Department does not feel that the language proposed by the Commission for Boards to be qualified for the review of research in prisoners differs so significantly from the existing requirement that all Boards be "* * * sufficiently qualified through the maturity, experience, and expertise of its members and diversity of its membership to insure respect for its advice and counsel" as to present any great difficulties for grantee and contractor institutions. The only significant change is in the substitution of "diversity of members' racial and cultural backgrounds" for "diversity of membership." Coupled with the existing requirement for the inclusion of persons competent to judge community attitudes, the present regulatory language has required existing Boards to acquire the same "diversity of racial and cultural backgrounds" that would be required under the change in language. No additional difficulties (a) in finding candidates, (b) with Board size, (c) in staggering terms, or (d) precluding the overuse of minorities, other than those already encounterd, need be anticipated. Similarly, the requirement for the inclusion of at least one member of the opposite sex has already been met without obvious difficulty by the great majority of Boards.

The Department also notes that the Commission's recently published recommendations with respect to Board operations provides an early opportunity to reopen these issues. Consequently, the Department has concluded that no purpose will be served by delaying implementation of the provisions incorporated in §§ 46.106(b)(1) and 46.106(b)(3).

Comment: Two respondents commented upon § 46.302, which states that the purpose of this subpart is to provide additional safeguards for the protection of prisoners involved in research. One respondent suggested that the introduction of additional protections would make it virtually impossible for prisoners to participate in research and that this runs counter to the philosophical cornerstones of modern penology. The commenter argued that participation in research (1) reduces the pervasive idleness of prisoners, and (2) encourages the assumption of responsibility on the part of the prisoners for their actions and welfare. The commenter felt that research participation should be encouraged, developed, and sustained.

Response: Testimony gathered by the Commission does not reflect general agreement among penologists that participation in research is an acceptable means to counteract undesirable aspects of incarceration or to assist in the rehabilitation of prison-

ers. In fact, most testimony before the Commission opposed the use of prisoners in any form of medical research not intended to benefit the individual prisoner. However, the Department has determined that research which is in the long range interests of prisoners as a class may be approved if the Secretary, after consulting appropriate experts, including experts in penology, medicine and ethics, and publishing a notice in the FEDERAL REGISTER, concurs with the approval recommendation of the IRB.

Comment: The other commenter on § 46.302 expressed the view that the Department has improperly accepted the Commission's position that prison conditions are so coercive that prisoners cannot give informed consent. In so concluding, it is argued, the Commission overlooked a significant legal aspect of informed consent, namely capacity. A person is able or unable to give informed consent according to whether or not he has the legal capacity to do so. A lack of legal capacity is based on minority or insanity considerations. Assuming that a prisoner suffers neither disability, his/her legal capacity to give informed consent, as well as to handle all of his/her other affairs, is undiminished.

Response: The Commission's basic question, as noted in its report (42 FR 3076 at 3078) is whether a prisoner is so situated as to be able to exercise free power of choice, i.e., whether a consent, even if informed, can be considered truly voluntary. The right to be secure in one's person is a constitutional right. The Supreme Court has held in *Brady* v. *United States,* 397 U.S. 742 (1970) that "waiver of constitutional rights must be voluntary." As noted in *Kaimowitz* v. *Department of Mental Health,* 42 U.S.L.W. 101 (1973), "the very nature of (the prisoner's) * * * incarceration diminishes the capacity to consent." The Commission concluded that age and mental incompetence alone are not the only factors in establishing the validity of consent. The Department agrees. No changes are made in § 46.302 as proposed.

Comment: Eight respondents commented upon the definitions incorporated in §46.303. Regarding the definition of "prisoner," several commenters indicated that clarification is needed concerning which individuals are included in the definition. They asked whether "prisoner" includes people in halfway houses, persons on parole, those serving time in alternative settings such as college campuses, persons committed to mental hospitals through legal proceedings, juveniles housed in correctional facilities, person housed in group homes or private care facilities, etc.

Response: The proposed definition of "prisoner" encompasses any individual involuntarily confined or detained for any period of time in an institution, such as a penal facility, a hospital by civil commitment, a prerelease center, or in a similar institution or facility which is not considered a normal, private, day-to-day residence. The term includes individuals sentenced to an institution under a criminal or civil statute, individuals detained by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or to incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing. The term also includes inmates in educational release or work release programs. The term "prisoner" does not include either those persons voluntarily confined or those persons subject to a civil commitment procedure which is not an alternative to criminal prosecution. Under the proposed definition, persons on parole or residing on college campuses are in fact not involuntarily confined to an institution and are therefore clearly not "prisoners." Similarly, persons committed to mental hospitals, group homes, halfway houses, or who are out-clients, are not "prisoners" unless their commitment is by virtue of a statute or commitment procedure which is an alternative to criminal prosecution or incarceration in a penal institution.

Comment: It was also suggested that definitions of "biomedical" and "behavioral" research are needed. While carefully constructed biomedical research can be tested against the "reasonable probability of improving the health and well-being of the subject," this is an unrealistic standard for a good deal of behavioral research which has nothing to do with health and touches well-being only in the most indirect way. In addition, behavioral and psychological effects of criminality, personality, and demographic and life experience antecedents of criminality should be added to the allowable research as this information can almost solely be obtained from prisoners.

Reponse: Most research on the effects of criminality, personality and demographic and life experience of criminality would be admissible under paragraph (a)(2)(A) of § 46.306 as studies "of the possible causes, effects and processes of incarceration", and of criminal behavior, or under paragraph (a)(2)(B) as studies of "prisoners as incarcerated subjects" or under (a)(2)(C) as "Research on conditions particularly affecting prisoners as a class." The fact that a research project could not qualify under paragraph (a)(2)(D) requiring promise of "improving the health and well-being of the subject" (with the possible exception of control subjects, the use of which requires a more stringent review process) would not block its acceptance if it qualified under any of the other three paragraphs.

At the same time, the Department agrees to the utility of defining biomedical and behavioral research. The soon to be published recommendations of the Commission on Board operations will incorporate a definition of research in both biomedical and behavioral terms. The Department will consider its adoption after it has received comment on the recommendations.

Comment: It has been suggested that a research project should be considered to involve no more than minimal risk and no more than inconvenience to the subject even when a breach of confidentiality could conceivably present a potentially serious risk, *provided* that the investigator is in compliance with the confidentiality requirements of the human subjects regulations (45 CFR 46.119).

If this suggestion were adopted, research involving a risk resulting from a breach of confidentiality would be permitted under § 46.306(a)(2)(A) without prior consultation with experts and publication of a notice in the FEDERAL REGISTER.

Response: The regulation (§ 46.306(a)(2)(C)) does in fact, permit research involving potentially serious risk from a breach of confidentiality, but only on a case-by-case basis after the Secretary has consulted with appropriate experts, including experts in penology, medicine, and ethics, and published a notice in the FEDERAL REGISTER. The Department believes that this more conservative approach is warranted because: (1) breaches of confidentiality may occasionally occur despite compliance with confidentiality requirements; and (2) such breaches of confidentiality could be life-threatening (for example, in the case of disclosures concerning sexual assaults). Nevertheless, the Department is interested in receiving comments on this issue.

Comment: Four respondents commented on the composition of Boards where prisoners are involved, § 46.304. They noted that the proposed regulations specify that a majority of board members shall have no association with the prison(s) involved. They suggested that clarification of the meaning of "no association" was needed.

Response: The term "no association" was used generally in order to avoid as many conflicting interests as possible. It means that an individual should not be an officer, employee, agent, or trustee of the prison or have authority over or responsibility for any aspect of prison activities. However, by using the broad term "no association" the Department intends to rule out even

more remote connections with prisons as well. It should be noted that the requirement refers only to the majority of each of the Boards, exclusive of prisoner members.

Comment: One commenter noted that the proposed regulations require additional screening by a Board established at each prison or jail in which the study is to take place. While some institutions may have such review panels, many do not. It appears that this is unnecessarily duplicative and likely to be a factor militating against research.

Response: There is no requirement for duplication of review functions. Current regulations require that a Board review and certify the safeguarding of the rights and welfare of human subjects at risk in biomedical and behavioral research activities. The Board need only have one member who is a prisoner or prisoner representative. When a second Board is established for purposes of convenience or when dictated by local considerations, only one such Board need have a prisoner or prisoner representative as a member.

Where a Board does not now exist, and is required by the regulations, the establishment of such a Board will become a prerequisite for the award of a grant or contract.

Comment: One respondent felt that to require institutions to include prisoners or prisoner representatives as Board members would lead inevitably to pressures from other population groups for equal representation on review committees, detracting from the Board's integrity and effectiveness.

Response: While acknowledging that the mandatory inclusion of specific prisoner representatives on Boards could lead to increased pressures from other population groups for similar representation, the Department believes the special circumstances involved in any research on prisoners warrant this requirement, to assure that the interests of the prisoners are directly represented on the Board.

Comment: There were six comments on § 46.305, concerning additional duties of the Boards where prisoners are involved. One commenter noted that § 46.305(a)(4) requires that the information necessary to prisoners' consent be presented in language which is appropriate for the subject population. The commenter ask whether this item should not be reworded to include each person tested.

Response: Existing regulations require at § 46.103(c)(1) that subjects be given a "fair explanation" of the procedures to be followed. An explanation that is incomprehensible to the subject, whether because of differences in native tongue, dialect, or complexity, is clearly not "fair." The requirement in § 46.305(4) serves only to reinforce this basic provision of the regulations.

Comment: One commenter noted that the regulations require that adequate assurance exist that parole boards will not take into account a prisoner's participation in the research in making decisions regarding parole. The commenter argued that although parole "credit" should not be given for research participation, it would be poor social policy to disallow information concerning a successful response to medical treatment if it has a bearing on the subject's ability to function well outside of the prison setting.

Response: The regulations require adequate assurance that parole boards not consider a prisoner's participation in research as a criterion for or against parole. Information concerning medical treatment and its bearing on the subject's ability to function in the future is strictly a physician-patient relationship and subject to constraints appropriate to that situation. These regulations are concerned only with considerations given to the physical act of participating in research in relation to parole board decisions.

Comment: Fifteen comments were received on permitted research involving prisoners, § 46.306. Several respondents felt that prisoners should be allowed to participate in medical research even if it does not have the intent and reasonable probability of improving the health and well-being of the subject. They argued that the regulations do not consider research which may strictly be of benefit to society as a whole.

Response: The Department is well aware of the past contributions of prison research, and of individual prisoners, acting as research subjects, to the general health and welfare of the Nation and of society as a whole. However, it finds that there are substantial reasons for prohibiting continuation of such research and does not find any demonstrable need for continuing such research except where, as provided in § 46.306, there is reason to believe that such research is necessarily concerned with prisons as institutions; prisoners as persons or as a class; or when the research has the intent and reasonable probability of improving the health and well-being of the subject (with the possible exception of control subjects, the use of which requires a more stringent review process).

The Department again notes that medical and medically related research:

—Has already been prohibited in all Federal prisons;
—Has been prohibited in eight States;
—Is conducted in only about seven of the States that either permit it or don't regulate it;
—And is not conducted in countries outside the United States.

In general, these prohibitions have been based on the demonstrable inequities of such research and on the questionable voluntariness of prisoner consent. Though in theory the benefits of such research are usually to society as a whole, prisoners included, only one segment of society, prisoners, is asked to accept the research risks. Even if prisoner consent is obtained, the circumstances of that consent in a confined, restrictive, unattractive and boring environment, raise questions as to the voluntary nature of that consent. In addition, other nations active in biomedical and behavioral research have been able to conduct investigations without involving prisoners. After considerable deliberation, the department has amended § 46.306 (a)(2) so as to permit certain research on conditions particularly affecting prisoners as a class and research on practices which have the intent and reasonable probability of improving the health and well-being of the subjects, even though some subjects who are in a control group may not benefit directly from the research. The review process required before these kinds of research may be approved is more stringent, and includes the requirement that the Secretary consult appropriate experts, including experts in penology, medicine and ethics, and published in the FEDERAL REGISTER his intent to approve such research.

Comment: One respondent felt that the allowable research on practices as stated in § 46.306(a)(2)(C) of the proposed regulations, § 46.306(a)(2)(D) of the final regulations, appears to allow a broader range of "therapeutic" research than the preamble would lead one to expect. The respondent noted that there is not even a "minimal risk" ceiling on this type of research.

Response: The Commission would permit research on practices which have the intent and reasonable probability of improving the health or well-being of the subject when a prisoner benefits from a practice, no limit on the inherent, medically related risk was intended. The Commission felt that a research subject should not be deprived of health benefits (even experimental ones) simply because the subject is a prisoner. The Department agrees.

Comment: Several respondents felt that "minimal risk" as used in § 46.306(a)(2)(A) and (B) should be defined more precisely.

Response: The Department agrees. A definition of "minimal risk" has been introduced into these regulations as § 46.303(d).

Comment: One respondent asked whether the phrase "no more than inconvenience to the subjects" means inconvenience in actually conducting the research or does it apply to the results.

Response: The Department is of the opinion that the risks must be minimal or absent and present no more than inconvenience to the subjects both during the conduct of the research and later, e.g., permissible research should not present the prospect of delayed side effects involving more than minimal risk, nor should it involve the accumulation of data potentially more than minimally injurious to the prisoner.

The regulations, proposed in the January 5, 1978, publication of the FEDERAL REGISTER (43 FR 1050-1053), are hereby adopted with the changes incorporated in § 46.306(a)(2), as noted above; the addition of a definition for "minimal risk;" and minor technical and editorial changes.

Dated: September 11, 1978.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: November 7, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Accordingly, Part 46 of 45 CFR, Subtitle A, is amended by:

§ 46.106 [Amended].

1. Revising the second sentence of § 46.106(b)(1) to read: "The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and the diversity of the members' racial and cultural backgrounds, to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects."

2. Renumbering §§ 46.106(b)(3) through 46.106(b)(6) as §§ 46.106(b)(4) through 46.106(b)(7), and inserting the following new § 46.106(b)(3):

(3) No Board shall consist entirely of members of only one sex.

§ 46.301 [Redesignated].

3. Redesignating Subpart C and § 46.301 as Subpart D and § 46.401 respectively.

4. Adding the following new Subpart C.

Subpart C—Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects

Sec.
46.301 Applicability.
46.302 Purpose.
46.303 Definitions.
46.304 Composition of Institutional Review Boards where prisoners are involved.
46.305 Additional duties of the Institutional Review Boards where prisoners are involved.
46.306 Permitted activities involving prisoners.
AUTHORITY: 5 U.S.C. 301.

Subpart C—Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects

§ 46.301 Applicability.

(a) The regulations in this subpart are applicable to all biomedical and behavioral research conducted or supported by the Department of Health, Education, and Welfare involving prisoners as subjects.

(b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will authorize research involving prisoners as subjects, to the extent such research is limited or barred by applicable State or local law.

(c) The requirements of this subpart are in addition to those imposed under the other subparts of this part.

§ 46.302 Purpose.

Inasmuch as prisoners may be under constraints because of their incarceration which could affect their ability to make a truly voluntary and uncoerced decision whether or not to participate as subjects in research, it is the purpose of this subpart to provide additional safeguards for the protection of prisoners involved in activities to which this subpart is applicable.

§ 46.303 Definitions.

As used in this subpart:

(a) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom authority has been delegated.

(b) "DHEW" means the Department of Health, Education, and Welfare.

(c) "Prisoner" means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing.

(d) "Minimal risk" is the probability and magnitude of physical or psychological harm that is normally encountered in the daily lives, or in the routine medical, dental, or psychological examination of healthy persons.

§ 46.304 Composition of Institutional Review Boards where prisoners are involved.

In addition to satisfying the requirements in § 46.106 of this part, an Institutional Review Board, carrying out responsibilities under this part with respect to research covered by this subpart, shall also meet the following specific requirements:

(a) A majority of the Board (exclusive of prisoner members) shall have no association with the prison(s) involved, apart from their membership on the Board.

(b) At least one member of the Board shall be a prisoner, or a prisoner representative with appropriate background and experience to serve in that capacity, except that where a particular research project is reviewed by more than one Board only one Board need satisfy this requirement.

§ 46.305 Additional duties of the Institutional Review Boards where prisoners are involved.

(a) In addition to all other responsibilities prescribed for Institutional Review Boards under this part, the Board shall review research covered by this subpart and approve such research only if it finds that:

(1) The research under review represents one of the categories of research permissible under § 46.306(a)(2);

(2) Any possible advantages accruing to the prisoner through his or her participation in the research, when compared to the general living conditions, medical care, quality of food, amenities and opportunity for earnings in the prison, are not of such a magnitude that his or her ability to weigh the risks of the research against the value of such advantages in the limited choice environment of the prison is impaired;

(3) The risks involved in the research are commensurate with risks that would be accepted by nonprisoner volunteers;

(4) Procedures for the selection of subjects within the prison are fair to all prisoners and immune from arbitrary intervention by prison authorities or prisoners. Unless the principal investigator provides to the Board justification in writing for following some other procedures, control subjects must be selected randomly from the group of available prisoners who meet the characteristics needed for that particular research project;

(5) The information is presented in language which is understandable to the subject population;

(6) Adequate assurance exists that parole boards will not take into account a prisoner's participation in the research in making decisions regarding parole, and each prisoner is clearly informed in advance that participation

in the research will have no effect on his or her parole; and

(7) Where the Board finds there may be a need for follow-up examination or care of participants after the end of their participation, adequate provision has been made for such examination or care, taking into account the varying lengths of individual prisoners' sentences, and for informing participants of this fact.

(b) The Board shall carry out such other duties as may be assigned by the Secretary.

(c) The institution shall certify to the Secretary, in such form and manner as the Secretary may require, that the duties of the Board under this section have been fulfilled.

§ 46.306 Permitted research involving prisoners.

(a) Biomedical or behavioral research conducted or supported by DHEW may involve prisoners as subjects only if:

(1) The institution responsible for the conduct of the research has certified to the Secretary that the Institutional Review Board has approved the research under § 46.305 of this subpart; and

(2) In the judgment of the Secretary the proposed research involves solely the following:

(A) Study of the possible causes, effects, and processes of incarceration, and of criminal behavior, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects;

(B) Study of prisons as institutional structures or of prisoners as incarcerated persons, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects;

(C) Research on conditions particularly affecting prisoners as a class (for example, vaccine trials and other research on hepatitis which is much more prevalent in prisons than elsewhere; and research on social and psychological problems such as alcoholism, drug addiction and sexual assaults) provided that the study may proceed only after the Secretary has consulted with appropriate experts including experts in penology medicine and ethics, and published notice, in the FEDERAL REGISTER, of his intent to approve such research; or

(D) Research on practices, both innovative and accepted, which have the intent and reasonable probability of improving the health or well-being of the subject. In cases in which those studies require the assignment of prisoners in a manner consistent with protocols approved by the IRB to control groups which may not benefit from the research, the study may proceed only after the Secretary has consulted with appropriate experts, including experts in penology medicine and ethics, and published notice, in the FEDERAL REGISTER, of his intent to approve such research.

(b) Except as provided in paragraph (a) of this section, biomedical or behavioral research conducted or supported by DHEW shall not involve prisoners as subjects.

[FR Doc. 78-32050 Filed 11-15-78; 8:45 am]

Federal Register

THURSDAY, NOVEMBER 16, 1978
PART V



DEPARTMENT OF ENERGY

■

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Rule

[3128-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 1040]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Rulemaking

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: Under various statutes, the Department of Energy is responsible for implementing compliance with and enforcement of public laws prohibiting discrimination because of race, color, national origin, sex, handicap, and age in programs and activities receiving Federal assistance from the Department of Energy. This regulation, which applies to all recipients of Federal assistance from the Department of Energy, is intended to insure that departmental federally assisted programs are operated without discrimination against potential beneficiaries, beneficiaries, and qualified handicapped persons. As employers, where employment is covered by this regulation and as providers of services, recipients are required to operate their programs in a nondiscriminatory manner consistent with this regulation.

DATES: Comments must be received on or before December 19, 1978.

ADDRESSES: Comments should be addressed to Carlos Ruiz, Office of Equal Opportunity, Department of Energy, Room 6105, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Carlos Ruiz, Director, Federally Assisted Programs Division, Office of Equal Opportunity, Room 6105, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-1923.

Marsha A. Robinson, Equal Opportunity Specialist, Office of Equal Opportunity, Room 6105, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-1891.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Overview of Proposed Regulation.
III. Comment Procedure.

I. Background

The Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 et seq., transferred to DOE the functions of the Energy Research and Development Administration (ERDA), which had responsibility for long-term energy research and development, the Federal Energy Administration (FEA), with the task of developing the Nation's energy policy and allocating its energy supply, the Federal Power Commission (FPC), whose responsibilities were in the area of ratemaking for gas and electric power, as well as energy-related functions of various other Federal agencies and departments.

Although several of the DOE predecessor agencies and incoming components of other agencies were extending Federal assistance in the form of grants, loans, and contracts, none of those entities had issued appropriate regulations implementing Federal statutes which prohibit discrimination in federally assisted programs. The Department of Energy, in accordance with applicable laws, is issuing a proposed regulation to implement Federal statutes which prohibit discrimination in programs and activities receiving Federal assistance from DOE.

II. Overview of Proposed Regulation

The proposed DOE regulation is comprehensive in nature and encompasses the following laws pertaining to nondiscrimination in federally assisted programs: Title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race, color, and national origin; section 16 of the Federal Energy Administration Act of 1974, as amended, and section 401 of the Energy Reorganization Act of 1974 prohibit discrimination on the ground of sex; Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination on the ground of race, color, religion, national origin, or sex in the sale or leasing of all federally assisted housing; Title IX of the Education Amendments of 1972, as amended, prohibits discrimination on the basis of sex in any education program or activity receiving Federal assistance; section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from the participation in, or be subjected to discrimination under any program or activity receiving Federal assistance; and the Age Discrimination Act of 1975 prohibits discrimination on the basis of age in the administration of programs or activities receiving Federal assistance.

The regulation is divided into eight subparts. Subpart A (General Provisions) defines the important terms that are used throughout the regulation and states in general terms the program requirements common to the several Federal statutes implemented by this regulation. It also sets forth what the Secretary, DOE, believes is a simple, workable system of administration: assurances of compliance, self-evaluation by recipients, establishment of complaint procedures, and notification of employees and beneficiaries of the recipient's policy of nondiscrimination on the basis of race, color, national origin, sex, handicap, or age.

Subpart B pertains to the various kinds of discriminatory acts prohibited as well as the specific applicability of Title VI of the Civil Rights Act of 1964, section 16 of the Federal Energy Administration Act of 1974, as amended, and section 401 of the Energy Reorganization Act of 1974, to the employment practices of the recipient. Such employment practices include recruitment, hiring, compensation, promotion, demotion, training, and use of facilities.

Subpart C deals with implementation of Title IX of the Education Amendments of 1972, as amended, which is designed to eliminate discrimination on the basis of sex in any education program or activity receiving Federal assistance. It defines specifically all exceptions to the statute including educational institutions which are controlled by religious organizations, educational institutions whose primary purpose is the training of individuals for military service or for the merchant marine, membership practices of certain social fraternities and sororities, the Y.M.C.A., Girl Scouts, Boy Scouts, Camp Fire Girls, and the membership practices of certain voluntary youth service organizations.

Subpart D pertains to section 504 of the Rehabilitation Act of 1973 and defines in general terms the discriminatory acts prohibited, applicable parameters set for recipient's employment criteria, limitations of preemployment inquiries, and requirement of recipients to assure reasonable accommodation to qualified handicapped applicants, employees, or beneficiaries. It also establishes requirements for rendering existing and newly constructed facilities accessible to qualified handicapped applicants, employees, or beneficiaries.

Subparts E and F deal with the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age in federally assisted programs and Title VIII of the Civil Rights Act of 1968 (the Fair Housing Law) which prohibits discrimination on the basis of race, color, national origin, religion, and sex in the sale or leasing of Federally assisted housing, respectively. Subparts E and F are reserved until such time as the applicability of the Federal statutes to the Department of Energy is determined.

Subparts G and H deal with the application of program monitoring and enforcement requirements and procedures common to the various Federal statutes included in the implemented by this regulation.

III. COMMENT PERIOD

Interested persons are invited to submit written comments with respect to the proposed regulation to Carlos Ruiz, Director, Federally Assisted Programs Division, Office of Equal Opportunity, Department of Energy, Room 6105, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Comments on Nondiscrimination in Federally Assisted Programs Regulation." Five (5) copies should be submitted. All comments and related information should be received by DOE within 15 days following the final day of the 31 day comment period in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

NOTE.—The Department of Energy has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis (EIA) statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Issued in Washington, D.C., November 7, 1978.

JOHN F. O'LEARY,
Deputy Secretary,
Department of Energy.

Chapter X, Title 10 of the Code of Federal Regulations is amended by adding a proposed new Part 1040, reading as follows:

PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Subpart A—General Provisions

Sec.

1040.1 Purpose.
1040.2 Application.
1040.3 Definitions—General.
1040.4 Assurances Required and Pre-Award Review.
1040.5 Designation of Responsible Employee and Adoption of Complaint Procedure.
1040.6 Notice.
1040.7 Remedial and Affirmative Action and Self-Evaluation.

Subpart B—Title VI of the Civil Rights Act of 1964, Section 16 of the Federal Energy Administration Act of 1974, as amended, and Section 401 of the Energy Reorganization Act of 1974.

1040.11 Purpose and Application.
1040.12 Definitions.
1040.13 Discrimination Prohibited.
1040.14 Covered Employment.

Subpart C—Nondiscrimination on the Basis of Sex—Title IX of the Higher Education Amendment of 1972, as amended

1040.21 Purpose.
1040.22 Application.
1040.23 Definitions.
1040.24 Effects of Other Requirements.
1040.25 Educational Institutions Controlled by Religious Organizations.
1040.26 Military and Merchant Marine Educational Institutions.
1040.27 Membership Practices of Certain Organizations.
1040.28 Admissions.
1040.29 Educational Institutions Eligible to Submit Transition Plans.
1040.30 Trahsition Plans.
1040.31 Discrimination on the Basis of Sex in Admission and Recruitment Prohibited: Admission.
1040.32 Preference in Admission.
1040.33 Recruitment.
1040.34 Education Programs and Activities.
1040.35 Housing.
1040.36 Comparable Facilities.
1040.37 Access to Course Offerings.
1040.38 Access to Schools Operated by LEA's.
1040.39 Counseling and Use of Appraisal and Counseling Materials.
1040.40 Financial Assistance.
1040.41 Employment Assistance to Students.
1040.42 Health and Insurance Benefits and Services.
1040.43 Marital or Parental Status.
1040.44 Athletics.
1040.45 Textbooks and Curricular Materials.
1040.46 Procedures.

Subpart D—Nondiscrimination on the Basis of Handicap—Section 504 of the Rehabilitation Act of 1973, as amended

GENERAL PROVISIONS

1040.61 Purpose and Application.
1040.62 Definitions.
1040.63 Discrimination Prohibited.
1040.64 Effect of State or Local Law or Other Requirements and Effect of Employment Opportunities.
1040.65 Procedures.

EMPLOYMENT PRACTICES

1040.66 Discrimination Prohibited.
1040.67 Reasonable Accommodation.
1040.68 Employment Criteria.
1040.69 Preemployment Inquiries.

PROGRAM ACCESSIBILITY

1040.71 Discrimination Prohibited.
1040.72 Existing Facilities.
1040.73 New Construction.

Subpart E—Nondiscrimination on the Basis of Age—Age Discrimination Act of 1975, as amended

1040.81 [Reserved].

Subpart F—Nondiscrimination Under VIII of the Civil Rights Act of 1968, as amended.

Sec.

1040.91 [Reserved].

Subpart G—Program Monitoring

1040.101 Compliance Reviews.
1040.102 Compliance Information.
1040.103 [Reserved].
1040.104 Complaint Investigation.

Subpart H—Enforcement

MEANS OF EFFECTING COMPLIANCE

1040.111 Means Available.
1040.112 Noncompliance with Assurances.
1040.113 Termination of or Refusal to Grant or to Continue Federal Assistance.
1040.114 Other Means Authorized by Law.

OPPORTUNITY FOR HEARING

1040.121 Notice of Opportunity for Hearing.

HEARINGS AND FINDINGS

1040.131 Presiding Officer.
1040.132 Right to Counsel.
1040.133 Procedures, Evidence, and Record.
1040.134 Consolidated or Joint Hearings.

DECISION AND NOTICE

1040.141 Initial Decision or Certification.
1040.142 Exceptions and Final Decision.
1040.143 Rulings Required.
1040.144 Content of Orders.
1040.145 Post-Termination Proceedings.

JUDICIAL REVIEW

1040.151 Judicial Review.
Appendix A Federal Assistance Programs of the Department of Energy to which this Part applies.

AUTHORITY: Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat 241, 42 U.S.C. 2000d; section 16 of the Federal Energy Administration Act of 1974, Pub. L. 93-275, 88 Stat 96, 15 U.S.C. 775; section 401 of the Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat 1233, 42 U.S.C. 5891; Title IX of the Higher Education Amendments of 1972, Pub. L. 92-318, 86 Stat 235, 20 U.S.C. 1681; section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat 355, 29 U.S.C. 794, the Age Discrimination Act of 1975, Pub. L. 94-135, 89 Stat 728, 42 U.S.C. 6101; Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601-3707.

Subpart A—General Provisions

§ 1040.1 Purpose.

The purpose of this Part is to implement Title VI of the Civil Rights Act of 1964, Pub. L. 88-352; section 16 of the Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275; section 401 of the Energy Reorganization Act of 1974, Pub. L. 93-438; Title IX of the Education Amendments of 1972, as amended, Pub. L. 92-318 and Pub. L. 93-568; section 504 of the Rehabilitation Act of 1973, as amended, Pub. L. 93-112; the Age Discrimination Act of 1975, Pub. L. 94-135; and Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284; so no person shall on the ground of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where the main purpose of the program or activity is

to provide employment or when the delivery of program services is affected by the recipient's employment practices, in connection with any program or activity receiving Federal assistance from the Department of Energy (after this referred to as DOE or the Department).

§ 1040.2 Application.

(a) The application of this Part is to any program or activity for which Federal assistance is authorized under laws administered by DOE. Programs to which this Part applies are listed in Appendix A of this Part; Appendix A is to be revised from time to time by notice published in the FEDERAL REGISTER. This Part applies to money paid, property transferred, or other Federal assistance including cooperative agreements extended under any program or activity, by way of grant, loan, or contract by DOE, or an authorized contractor or subcontractor of DOE, the terms of which require compliance with this Part. If any statutes implemented by this Part are otherwise applicable, the failure to list a program in Appendix A does not mean the program is not covered by this Part.

(b) This Part does not apply to—

(1) contracts of insurance or guaranty; or

(2) employment practices under any program or activity except as provided in §§ 1040.12, 1040.41 and 1040.66.

§ 1040.3 Definitions—General.

(a) "Academic institution" includes any school, academy, college, university, institute, or other association, organization, or agency conducting or administering any program, project, or facility designed to educate or train individuals.

(b) "Administrative law judge" means a person appointed by the reviewing authority to preside over a hearing held under this Part.

(c) "Agency" or "Federal agency" refers to any Federal department or agency which extends Federal assistance.

(d) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a primary recipient as a condition to becoming eligible for Federal assistance.

(e) "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(f) "Associate Director" refers to the Associate Director, Federal Assistance Prøgrams Division, Office of Equal Opportunity, DOE.

(g) "Compliance Review" means an analysis of a recipient's selected employment practices or delivery of services for adherence to provisions of any of the subparts of this Part.

(h) "Department" means the Department of Energy (DOE).

(i) Where designation of persons by race, color, or national origin is required, the following designations are to be used:

(1) *Black,* not of Hispanic origin. A person having origins in any of the black racial groups of Africa.

(2) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

(3) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This includes, for example, China, India, Japan, Korea, the Philippine Islands, and Somoa.

(4) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

(5) *White, not of Hispanic Origin.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Subparagraphs (1) through (5), inclusive, set forth in this section are in conformity with the office of Management and Budget (OMB) Ad Hoc Committee on Race/Ethnic Categories recommendations. To the extent that these designation are modified by the OMB Ad Hoc Committee, subparagraphs (1) through (5), inclusive, set forth in this section are to be interpreted to conform with those modifications.

(j) "Director" means the Director, Office of Equal Opportunity, DOE.

(k) "Disposition" means any treatment, handling, decision, sentencing, confinement, or other proscription of conduct.

(l) "Employment practices," see individual section headings.

(m) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(n) "Federal financial assistance" or "Federal assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interest in property, (3) the detail of or provision of services by Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property, the funishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease, or furnishing of services to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(o) "General Counsel" means the Office of the General Counsel, Department of Energy.

(p) "Government organization" means the political subdivision for a prescribed geographical area.

(q) "Investigations" include fact-finding efforts and attempts to secure voluntary resolution of complaints.

(r) "Noncompliance" means the failure of a ricipient or subrecipient to comply with any subpart of this Part.

(s) "Primary recipient" means any person, group, organization, State, or local unit of government which is authorized or required to extend Federal assistance to another recipient for the purpose of carrying out a program.

(t) "Program" includes any project or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, rehabilitation, or other services or disposition, whether provided through employees of the recipient or by others through contracts or other arrangements with the recipient, and including work opportunities and cash, loan, or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal assistance include any disposition, services, financial aid, or other benefits provided with the aid of Federal assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal assistance, and to include any disposition, services, financial aid, or benefits provided in or through a facility provided with the aid of the Federal assistance or such non-Federal resources.

(u) "Recipient" means any person, State, or its political subdivision, any instrumentality of a state or its political subdivision, and public or private agency, institution, organization, or other entity, or any program to which Federal assistance is extended directly or through another recipient, but excludes any ultimate beneficiary of the assistance.

(v) "Responsible Departmental or DOE Official" means the official of the Department of Energy that has

been assigned the principal responsibility for administration of the law extending Federal assistance.

(w) "Reviewing authority" means the component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this Part.

(x) "Secretary" means the Secretary of the Department of Energy.

(y) The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessons of the United States, and the term "State" includes any one of the foregoing.

(z) "Headquarters" means DOE offices located in Washington, D.C.

§ 1040.4 Assurances required and preaward review.

(a) Assurances. An applicant for Federal assistance for a program or activity to which this Part applies shall submit an assurance on a form specified by the Director, that the progam or activity will be operated in compliance with this Part. Such assurances are to include provisions which give the United States a right to seek judicial enforcement.

(b) Duration of obligation. (1) In the case of Federal assistance extended in the form of real property or to provide real property or structure on the property, the assurance obligates the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal assistance extended to provide personal property, the assurance obligates the recipient for the period during which its retains ownership or possession of the property.

(3) In all other cases, the assurance obligates the recipient to all terms and conditions contained in the certificate of assurance for the period during which Federal assistance is extended.

(c) Covenants. (1) Where Federal assistance is provided in the form of real property, structures, improvements on or interests in the property, or in the case where Federal assistance is provided in the form of a transfer of real property or interest in the property from the Department, the instrument effecting or recording this transfer is to contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved or imposed with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant is to also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a material breach of the covenant. If a transferee of real property manages to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on the property for the purpose for which the property was transferred, the Director may, upon request of the transferee and, if necessary to accomplish such financing and upon such conditions, as he or she deems appropriate, agree to forbear the exercise of the right to revert title for so long as the lien of the mortgage or other encumbrance remains effective.

(d) Assurances from Government agencies. In the case of any application from any department, agency or office of any State or local government for Federal financial assistance for any specified purpose, the assurance required by this section, is to extend to any other department, agency, or office of the same governmental unit if the policies of such other department, agency, or office will substantially affect the project for which Federal financial assistance is requested. That requirement may be waived by the responsible Department official if the applicant establishes, to the satisfaction of the responsible Department official, that the practices in other agencies or parts of programs of the governmental unit will in no way affect—

(1) its practices in the program for which Federal financial assistance is sought;

(2) the beneficiaries of or participants in or persons affected by such program; or

(3) full compliance with the subpart as respects such program.

(e) Assurance from academic and other institutions.

(1) In the case of any application for Federal financial assistance for any purpose to an academic institution, the assurance required by this section is to extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an academic institution, detention or correctional facility, or any other institution or facility, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, wards, inmates, persons subject to control, or clients of the institution or facility or to the opportunity to participate in the provision of services, disposition, treatment, or benefits to such individuals, shall be applicable to the entire institution or facility unless the applicant establishes, to the satisfaction of the responsible Department official, that the practices in designated parts or programs of the institution or facility will in no way affect its practices in the program of the institution or facility for which Federal financial assistance is sought, or the beneficiaries of, or participants in, such program.

(f) Continuing State programs. Any State or State agency administering a program which receives continuing Federal financial assistance subject to this regulation shall, as a condition for the extension of such assistance—

(1) provide a statement that the program is (or, in the case of a new program, will be) conducted in compliance with this regulation; and

(2) provide for such methods of administration as are found by the responsible Department official to give reasonable assurance that the primary recipient and all other recipients of Federal financial assistance under such program will comply with this regulation.

(g) Assistance for construction. Where the assistance is sought for the construction of a facility, or a part of a facility, the assurance is to extend to the entire facility and to facilities operated in connection with it. In particular, if a facility to be constructed is part of a larger system, the assurance is to extend to the larger system.

(h) Preaward review. Prior to and as a condition of approval, all applications for Federal financial assistance are to be reviewed by the appropriate Civil Rights Department official who is to make a written determination of the applicant's compliance with this Part. The basis for such a determination is to be the submission of the assurance of compliance as specified in paragraph (a) and a review of data to be submitted by the applicant as specified by the Director. For purposes of this paragraph, the appropriate departmental official at headquarters level is the Associate Director, Office of Equal Opportunity, and at the regional level it is to be the Civil Rights Officer delegated by the Director as having review authority for determining compliance with requirements of this Part. Where a determination of

compliance cannot be made from this data, DOE may require the applicant to submit necessary additional information and may take other steps necessary to make the determination of compliance. Such other steps may include, for example, communicating with local government officials or minority group organizations and field reviews. Any agreement to achieve voluntary compliance as a result of a preaward review shall be in writing. In the case of title VI, the Director will notify the Assistant Attorney General of instances of probable noncompliance determined as the result of application reviews. The opportunity for a hearing as provided under § 1040.113 is applicable to this section.

§ 1040.5 Designation of responsible employee and adoption of complaint procedures.

(a) Designation of responsible employee. Each recipient shall designate at least one employee to coordinate its efforts to carry out its responsibilities under this Part, including investigation of any complaint communicated to the recipient alleging its noncompliance with this Part or alleging any actions which would be prohibited by this Part. The recipient shall publish the name, office address and telephone number of the employee or employees appointed under this paragraph.

(b) Complaint procedure of recipient. A recipient shall adopt and publish in accordance with appropriate DOE approval and guidelines, complaint procedures providing for prompt and equitable resolution of any action which would be prohibited by this Part.

(c) A recipient shall display prominently, in reasonable numbers and places, posters which state that the recipient operates a program or programs subject to the nondiscrimination provisions of this Part, summarize those requirements, note the availability of information regarding this Part from the recipient and DOE, and explain briefly the procedures for filing a complaint. Information on requirements of this Part, complaint procedures and the rights of beneficiaries are to be included in handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public to describe the federally assisted programs and the requirements for participation by recipients and beneficiaries. To the extent that recipients are required by law or regulation to publish or broadcast program information in the news media, the recipient shall insure that such publications and broadcasts state that the program in question is an equal opportunity program or otherwise indicate that discrimination in the program is prohibited by Federal law.

(d) Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program requires service or information in a language other than English in order to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and size and concentration of such population, to provide information in appropriate languages (including braille) to such persons. This requirement applies to written material of the type which is ordinarily distributed to the public. The Department may require a recipient to take additional steps to carry out the intent of this subsection.

§ 1040.6 Notice.

(a) A recipient shall take appropriate, initial, and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of race, color, national origin, sex, handicap, or age. The notification is to state, where appropriate, that the recipient does not discriminate in admission or access to, and treatment of, or employment in its programs and activities and inform employees of their rights under this Part. The notification is to include an identification of the responsible employee designated under § 1040.5. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this Part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

(c) The provisions of § 1040.5(d) to provide information in appropriate languages (including braille), apply to this section.

§ 1040.7 Remedial and affirmative action and self-evaluation.

(a) Remedial action. If the Director finds that a recipient has discriminated against persons on the basis of race, color, national origin, sex, handicap, or age in any program or activity receiving Federal assistance, the recipient shall take remedial action as the Director considers necessary to overcome the effects of the discrimination.

(b) Affirmative action. In the absence of a finding of discrimination on the basis of race, color, national origin, sex, handicap, or age in any program or activity a recipient may take affirmative action to overcome effects of conditions which resulted in limited participation by persons of a particular race, color, national origin, sex, handicap, or age.

(c) Self-evaluation. Each recipient shall, within 1 year of the effective date of this Part:

(1) Evaluate, in terms of the requirements of this Part, its current policies and practices and their effects concerning personnel working in connection with the recipient's program or activity;

(2) Modify any policies and practices which do not or may not meet the requirements of this Part; and

(3) Take appropriate remedial steps to eliminate the effects of discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) Availability of self-evaluation and related materials. Recipients shall maintain on file, for at least 3 years following its completion, the evaluation required under paragraph (c) of this section, and shall provide to the Director upon request, a description of any modifications made under paragraph (c) (2) of this section and of any remedial steps taken under paragraph (c) (3) of this section.

Subpart B—Title VI of the Civil Rights Act of 1964; Section 16 of the Federal Energy Administration Act of 1974, as amended; and Section 401 of the Energy Reorganization Act of 1974

§ 1040.11 Purpose and application.

(a) The purpose of this subpart is to implement Title VI of the Civil Rights Act of 1964 (after this referred to as Title VI) and the pertinent regulations of DOE so that no person in any program or activity receiving Federal assistance shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under covered employment, as defined in § 1040.12, in connection with any program or activity receiving, in whole or in part, Federal assistance of the type subject to Title VI. This subpart is also to implement section 16

of the Federal Energy Administration act of 1974, as amended (after this referred to as section 16) and section 401 of the Energy Reorganization Act of 1974 (after this referred to as section 401) so that no person in any program or activity receiving Federal assistance shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under covered employment, as defined in § 1040.12, in connection with any program or activity receiving, in whole or in part, Federal assistance from DOE.

(b) The application of this subpart is to delivery of services by and the covered employment practices of recipients and subrecipients administering, participating in, or substantially bene fiting from any program or activity receiving Federal assistance under laws administered by DOE covered by Title VI, section 16 or section 401.

§ 1040.12 Definitions

(a) "Covered employment" means employment practices covered by Title VI, sections 16 and 401. Such practices are those which—

(1) exist in a program where a primary objective of the Federal assistance is to provide employment; or

(2) cause discrimination on the basis of race, color, sex, or national origin with respect to beneficiaries or potential beneficiaries of the assisted program.

(b) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* Where appropriate, this term also refers to the civil rights provision of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, or national origin in programs receiving Federal assistance of the type subject to Title VI itself. The definitions set forth in § 1040.3 of Subpart A, to the extent not inconsistent with this subpart, are applicable to and incorporated into this subpart.

§ 1040.13 Discrimination prohibited.

(a) General. No person in the United States shall be excluded on the ground of race, color, national origin, or sex, from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

(b) Specific discriminatory action prohibited. A recipient under any program to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, national origin or sex:

(1) Deny an individual any disposition, service, financial aid, or benefit provided under the program;

(2) Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any matter related to his receipt of any disposition, service, financial aid, or benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program;

(5) Treat an individual differently from others in determining whether such individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function, or benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise afford such individual an opportuniy to do so which is different from that afforded others under the program (including the opportunity to participate the program as an employee but only to the extent set forth in § 1040.14 of this subpart; or

(7) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(c) A recipient, in determining the type of Federal assistance (i.e., disposition, services, financial aid, benefits, or facilities) which will be provided under any program, or the class of individuals to whom, or the situations in which the assistance will be provided, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the program objectives with respect to individuals of a particular race, color, national origin, or sex.

(d) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or this subpart.

(e) For the pupose of this section, the disposition, services, financial aid, or benefits provided under a program receiving Federal assistance include any portion of any program, function, or activity conducted by a recipient of Federal assistance in which the program, function, or activity is directly or indirectly improved, enhance, enlarged, or benefited by the Federal assistance or by which the recipient makes use of any facility, equipment, or property provided with the aid of Federal assistance.

(f) The enumeration of specific forms of prohibited discrimination in this paragraph and in § 1040.14 of this subpart does not limit the generality of the prohibition in paragraph (a) of this section.

(g) Exemptions—Exclusion from programs for protected groups. An individual is not to be considered subjected to discrimination by reason of his/her exclusion from the benefits of a program limited to individuals of a particular race, color, national origin, or sex different from his/hers when the exclusion is provided for or required by Federal law, for example, programs funded exclusively to serve on-reservation Indians.

§ 1040.14 Covered employment.

(a) Employment practices. (1) Whenever a primary objective of the Federal assistance to a program to which this subpart applies is to provide employment, a recipient of the assistance may not (directly or through contractual or other arrangements) subject any individual to discrimination on the grounds of race, color, national origin, or sex in its employment practices under the program (including recruitment or recruitment advertising, employment, layoff, or termination, upgrading, demotion or transfer, training, participation in upward mobility programs, rates of pay or other forms of compensation, and use of facilities). This prohibition also applies to programs where the primary objective of the Federal assistance is—

(i) To assist individuals through employment to meet expenses incident to the commencement or continuation of their education or training;

(ii) To provide work experience which contributes to the education or training of the individuals involved;

(iii) To reduce the unemployment of individuals or to help them through employment to meet subsistence needs; or

(iv) To provide employment to individuals who, because of handicaps, cannot be readily absorbed in the competitive labor market. The requirements applicable to construction employment under any such program are to be those specified in or under Part III of Executive Order 11246, as amended, or any Executive order which supersedes it.

(2) In regard to Federal assistance which does not have provision of employment as a primary objective, the provisions of paragraph (a)(1) of this section apply to the employment practices of the recipient if discrimination

on the grounds of race, color, national origin, or sex in such employment practices tends to exclude persons from participation in, deny them the benefits of, or subject them to discrimination under the program receiving Federal assistance. In any such case, the provisions of paragraph (a)(1) of this section apply, to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

(b) Enforcement of Title VI compliance with respect to covered employment practices is not to be superseded by State or local merit systems relating to the employment practices of the same recipient.

Subpart C—Nondiscrimination on the Basis of Sex—Title IX of the Higher Education Amendments of 1972, as Amended

§ 1040.21 Purpose.

The purpose of this Part is to implement title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by Pub. L. 93-568, which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal assistance, whether or not the program or activity is offered or sponsored by an educational institution as defined in this subpart.

§ 1040.22 Application.

Except as provided in §§ 1040.25, 1040.26, and 1040.27, this subpart applies to every recipient and to each education program or activity operated by the recipient which receives or benefits from Federal assistance.

§ 1040.23 Definitions.

(a) "Title IX" means Title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855, (except sections 904 and 906 of the Amendments), 20 U.S.C. sections 1681, 1682, 1683, 1685, and 1686.

(b) "Educational Institution" means a local educational agency (L.E.A.) as defined by section 801 (f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a pre-school, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraphs (c), (d), (e), or (f) of this section.

(c) "Institution of graduate higher education" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in the field is awarded by an institution of undergraduate higher education or professional education); or (3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(d) "Institution of undergraduate higher education" means:

(1) An institution offering at least 2 but less than 4 years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(e) "Institution of professional education" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the U.S. Commissioner of Education.

(f) "Institution of vocational education" means a school or institution (except an institution of professional, graduate, or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full time study.

(g) "Administratively separate unit" means a school, department, or college of an educational institution (other than a local educational agency), admission to which is independent of admission to any other component of the institution.

(h) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(i) "Student" means a person who has gained admission.

(j) "Transition plan" means a plan subject to the approval of the United States Commissioner of Education under section 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

The definitions set forth in § 1040.3 of Subpart A of this Part, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 1040.24 Effects of other requirements.

(a) Effect of other Federal provisions. The obligations imposed by this subpart are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; sections 799A and 845 of the Public Health Service Act (42 U.S.C. 295h-9 and 298b-2), the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other Act of Congress or Federal regulation.

(b) Effect of State or local law or other requirements. The obligation to comply with this subpart is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) Effect of rules or regulations of private organizations. The obligation to comply with this subpart is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league or association, which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal assistance.

§ 1040.25 Educational institutions controlled by religious organizations.

(a) Application. This subpart does not apply to an educational institution which is controlled by a religious organization to the extent that application of this subpart would not be consistent with the religious tenets of such an organization.

(b) Exemption. An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, is to do so by submitting in writing to the Director a statement by the highest ranking official of the institution identifying the provisions of this subpart which conflict with a specific tenet of the religious organization.

§ 1040.26 Military and merchant marine educational institutions.

This subpart does not apply to an educational institution whose primary purpose is the training of individuals for military service of the United States or for the merchant marine.

§ 1040.27 Membership practices of certain organizations.

(a) Social fraternities and sororities. This subpart does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) Y.M.C.A., Y.W.C.A., Girl Scouts, Boy Scouts, and Camp Fire Girls. This subpart does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts, and the Camp Fire Girls.

(c) Voluntary youth service organizations. This subpart does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the membership of which has been traditionally limited to members of one sex and principally to persons of less than 19 years of age.

§ 1040.28 Admissions.

(a) Admission to education institutions prior to June 24, 1973 are not covered by this subpart.

(b) Administratively separate units. For the purposes, only, of this section, §§ 1040.28 and 1040.29, each administratively separate unit shall be deemed to be an educational institution.

(c) Application of § 1040.31 through § 1040.33. Except as provided in paragraphs (c) and (d) of this section, § 1040.31 through § 1040.33 apply to each recipient. A recipient to which § 1040.31 through § 1040.33 apply shall not discriminate on the basis of sex in admission or recruitment in violation of those sections.

(d) Educational institutions. Except as provided in paragraph (e) of this section as to recipients which are educational institutions, § 1040.31 through § 1040.33 apply only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) Public institutions of undergraduate higher education. §§ 1040.31 through 1040.33 do not apply to any public institutions of undergraduate higher education which, traditionally and continually from its establishment, has had a policy of admitting only students of one sex.

§ 1040.29 Educational institutions eligible to submit transition plans.

(a) Application. This section applies to each educational institution to which §§ 1040.31 through 1040.33 apply which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but after that admitted as regular students, individuals of the sex not admitted prior to June 23, 1965.

(b) Provision for transition plans. An educational institution to which this section applies is not to discriminate on the basis of sex in admission or recruitment in violation of §§ 1040.31 through 1040.33 unless it is carrying out a transition plan approved by the U.S. Commissioner of Education as described in § 1040.30, which plan provides for the elimination of discrimination by the earliest practicable date but in no event later than June 23, 1979.

§ 1040.30 Transition plans.

(a) *Submission of plans.* Any institution to which § 1040.28 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all units, or separate transition plans applicable to each unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan is to:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting the plan, the administratively separate units to which the plan is applicable, the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief adminstrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

(3) Identify and describe, with respect to the educational institution or administratively separate unit, any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle identified and indicate the schedule for taking these steps and the individual responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 1040.29 applies is to result in treatment of applicants to, or students of, the recipient in violation of §§ 1040.31 through 1040.33 unless such treatment is necessitated by an obstacle identified in paragraph (b) (3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b) (4) of this section.

(d) Effects of past exclusion. To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 1040.29 applies is to include in its transition plan and implement specific steps designed to encourage individuals of the previously excluded sex to apply for admission to the institution. The steps are to include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

§ 1040.31 Discrimination on the basis of sex in admission and recruitment prohibited: Admission.

(a) General. No person shall, on the basis of sex, be denied admission or be subjected to discrimination in admission by any recipient to which §§ 1040.31, 1040.32, and 1040.33 apply, except as provided in §§ 1040.29 and 1040.30.

(b) Specific prohibitions. (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 1040.31, 1040.32, and 1040.33 apply shall not—

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on that basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionate adverse effect on persons on the basis of sex unless the use of the test or criterion is shown to predict validly success in the education program or activity and alternative tests or criteria which do not have a disproportionately adverse effect are shown to be unavailable.

(c) Prohibitions relating to marital or parental status. In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 1040.31, 1040.32, and 1040.33 apply:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student

or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any persons on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; or

(4) Shall not make preadmission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make preadmission inquiry as to the sex of an applicant for admission, but only if the inquiry is made equally of applicants of both sexes and if the results of the inquiry are not used in connection with discrimination prohibited by this subpart.

§ 1040.32 Preference in admission.

A recipient to which §§ 1040.31, 1040.32, and 1040.33 apply shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of §§ 1040.31, 1040.32, and 1040.33.

§ 1040.33 Recruitment.

(a) Nondiscriminatory recruitment. A recipient to which §§ 1040.31, 1040.32, and 1040.33 apply shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action under § 1040.7(a) and may choose to undertake these efforts as affirmative action under § 1040.7(b).

(b) Recruitment at certain insitutions. A recipient to which §§ 1040.31, 1040.32, and 1040.33 apply shall not recruit primarily or exclusively at educational institutions, schools, or entities which admit as students only or predominantly members of one sex, if these actions have the effect of discriminating on the basis of sex in violation of §§ 1040.31, 1040.32, and 1040.33.

§ 1040.34 Education programs and activities.

(a) *General.* Except as provided elsewhere in this subpart, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal assistance. Ths subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of—

(1) A recipient to which §§ 1040.31, 1040.32, and 1040.33 do not apply; or

(2) An entity, not a recipient, to which §§ 1040.31, 1040.32, and 1040.33 would not apply if the entity were a recipient.

(b) Specific prohibitions. Except as provided in § 1040.34 through § 1040.45, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex—

(1) Treat one person differently from another in determining whether the person satisfies any requirement or condition for the provision of the aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) Assistance administered by a recipient educational institution to study at a foreign institution. A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution provided, a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex provides, or other wise makes available, reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) Programs not operated by recipient. (1) This paragraph applies to recipients which require participation by any applicant or student in any education program or activity not operated wholly by the recipient, or which facilitates, permits, or considers participation in educational consortia and cooperative employment and student-teaching assignments.

(2) The recipient: (i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of the recipient which this subpart would prohibit the recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider participation if such action occurs.

§ 1040.35 Housing.

(a) *General.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by the recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take reasonable action as may be necessary to assure itself that housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(i) Proportionate in quantity; and

(ii) Comparable in quality and cost to the student. A recipient may render this assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

§ 1040.36 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facili-

ties provided for students of one sex are to be comparable to the facilities provided for students of the other sex.

§ 1040.37 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation by any of its students on that basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than 1 year from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports, the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have that effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus of choruses of one or predominantly one sex.

§ 1040.38 Access to schools operated by LEAs.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to—

(a) Any institution of vocational education operated by the recipient; or

(b) Any other school or educational unit operated by the recipient, unless the recipient otherwise makes available to a person, under the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through the schools.

§ 1040.39 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on the basis of sex unless the different materials cover the same occupations and interest areas and use of the different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for insuring that materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take action to assure itself that the disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take action to assure itself that the disproportion is not the result of discrimination on the basis of sex in counseling, appraisal materials, or by counselors.

§ 1040.40 Financial assistance.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amounts or types of assistance, limit eligibility for assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of the recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for assistance which treats persons of one sex different from persons of the other sex with regard to marital or parental status.

(b) Financial aid established by certain legal instruments.

(1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which require that awards be made to members of a particular sex specified in those documents provided, that the overall effect of the award of such sex-restricted scholarships, fellowships and other forms of financial assistance does not discriminate on the basis of sex.

(2) To insure nondiscriminatory awards of assistance as required in subparagraph (b)(1) of this subsection, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under subsection (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under subsection (b)(a)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.*

(1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it shall provide reasonable opportunities for the awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams of members of each sex to the extent consistent with this section and § 1040.44 of this subpart.

§ 1040.41 Employment assistance to students.

(a) Assistance by recipient in making available outside employment. A recipient which assists any agency, organization or person in making employment available to any of its students—

(1) Shall assure itself that the employment is made available without discrimination on the basis of sex; and

(2) Shall not render services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) Employment of students by recipients. A recipient which employs any of its students shall not do so in a discriminatory manner.

§ 1040.42 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex. This section is not to prohibit a recipient from pro-

viding any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

§ 1040.43 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extra-curricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require the student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as the certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its educational program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section, shall insure that the instructional program in the separate program is comparable to that offered to nonpregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan, or policy which the recipient administers, operates, offers or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for a period of time considered medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

§ 1040.44 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by the recipient, and no recipient shall provide any athletics separately on the basis of sex.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex shall be allowed to tryout for the team offered unless the sport involved is a contact sport. For the purposes of this subpart, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports, the purpose of major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes; In determining whether equal opportunities are available, the Associate Director is to consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice, and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services; and

(10) Publicity. Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams, if a recipient operates or sponsors separate teams, will not constitute noncomplaince with this section, but the Associate Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the elementary, secondary or post-secondary school level shall comply fully with this section as expeditiously as possible, but in no event later than one year from the effective date of this regulation.

§ 1040.45 Textbooks and curricular material.

Nothing in this regulation is to be interpreted as requiring, probihiting, or abridging, in any way, the use of particular textbooks or curricular materials.

§ 1040.46 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated in this section by reference. These procedures may be found in subparts G and H of this Part.

Subpart D—Nondiscrimination on the Basis of Handicap—Sec. 504 of the Rehabilitation Act of 1973, as amended

GENERAL PROVISIONS

§ 1040.61 Purpose and application.

(a) The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal assistance.

(b) This subpart applies to each recipient or subrecipient of Federal assistance from DOE and to each program or activity that receives or benefits from assistance.

§ 1040.62 Definitions.

(a) "Executive Order" means Executive Order 11914, titled "Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs" issued on April 28, 1976.

(b) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(c) "Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

(d) As used in paragraph (c) of this section, the phrase:

(1) "Physical or mental impairment" means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affection one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive,

digestive, genito-urinary; hemic an lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) "Major life activities" means functions such as caring for one's self, performing maunal tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraphs (d)(1) (i) and (ii) of this section, but is treated by a recipient as having such an impairment.

(e) "Qualified handicapped person" means—

(1) With respect to employment, a handicapped person who, with reasonable accommodation can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person:

(i) Of an age during which nonhandicapped persons are provided such services;

(ii) Of any age during which it is mandatory under State law to provide such services to handicapped persons; or

(iii) To whom a State is required to provide a free appropriate public education under section 712 of the Handicapped Act.

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity; and

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(f) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (c) of this section.

The definitions set forth in § 1040.3 of subpart A of this Part, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 1040.63 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from DOE.

(b) Discriminatory actions prohibited.

(1) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit or service.

(2) For purposes of this Part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of permissible separate or different programs or activities, a recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that—

(i) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(ii) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(iii) Perpetuate the discrimination of another recipient if both recipients are subject to common admininstrative control or are agencies of the same State.

(5) In determining the site of a facility, an applicant for assistance or a recipient may not make selections that—

(i) Have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal assistance from DOE; or

(ii) Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal assistance.

(c) Programs limited by Federal law. The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this Part.

(d) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

§ 1040.64 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that,

on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this Part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

(c) Effect of other regulations. All regulations, orders, or similar directions issued by any officer of DOE which impose requirements designed to prohibit discrimination against individuals on the grounds of race, color, national origin, sex, age, or handicap under any program to which this Part applies, and which authorize the suspension, termination or refusal to grant or to continue Federal assistance under any program for failure to comply with these requirements, are superseded to the extent that discrimination is prohibited by this Part. Nothing in this Part is to relieve any person of the obligation assumed or imposed under any superseded regulation, order, instruction, or similar direction prior to the effective date of this Part. Nothing in this Part is to supersede Executive Orders 10925, 11114, 11063, 11246, and regulations issued under these authorities, or supersede any other regulations or instructions which prohibit discrimination on the grounds of race, color, national origin, sex, age, or handicap in any program or activity to which this Part applies.

§ 1040.65 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated in this section by reference. These procedures may be found in Subparts G and H of this Part.

EMPLOYMENT PRACTICES

§ 1040.66 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this Part applies.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this Part applies in a manner which insures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrmination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick or otherwise;

(6) Fringe benefits available by virtue of employment, whether administered by the recipient or not;

(7) Selection and provision of financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collection bargaining agreement to which it is a party.

§ 1040.67 Reasonable accommodations.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 1040.68 Employment criteria.

(a) A recipient may not use any employment test or other selection criterion that screens out or tends to screen out handicapped persons unless—

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are shown by the recipient to be unavailable.

(b) A recipient shall select and administer tests concerning employment to best insure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude or other factors the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 1040.69 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a pre-employment medical examination or may not make pre-employment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature of severity of a handicap. A recipient may, however, make pre-employment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, under § 1040.7 of Subpart A of this Part, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity under § 1040.7 of Subpart A of this Part, or when a recipient is taking affirmative action under Section 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for em-

ployment to indicate whether, and to what extent, they are handicapped provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) Nothing in this section is to prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to the examination regardless of handicap or absence of handicap and results of the examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section concerning the medical condition or history of the applicant is to be collected and maintained on separate forms that are to be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restriction on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition, might require emergency treatment; and

(3) Government officials investigating compliance with Section 504 of the Rehabilitation Act of 1973, as amended, shall be provided relevant information upon request.

PROGRAM ACCESSIBILITY

§ 1040.71 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unuseable by handicapped persons, be denied the benfits of, be excluded from participation in, or be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from DOE.

§ 1040.72 Existing facilities.

(a) *Program accessibility.* A recipient shall operate any program or activity to which this subpart applies so that the program or activity, when viewed in its entirety, is readily assessible and useable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and useable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 1040.73 or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this Subpart except that where structural changes in facilities are necessary, the changes are to be made within three years of the effective date of this Subpart, but in any event, as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this Subpart, a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan is to meet with the approval of the Associate Director. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) Notice. The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and useable by, handicapped persons.

§ 1040.73 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient is to be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and useable by, handicapped persons, if the construction was commenced after the effective date of this subpart.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this Subpart in a manner that affects or could affect the useability of the facility or part of the facility is, to the maximum extent feasible, to be altered in a manner that the altered portion of the facility is readily accessible to and useable by handicapped persons.

(c) *American National Standards Institute, Incorporated, accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specification for Making Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped," published by the American National Standards Institute, Incorporated (ANSI A117.1-1961 (R1971),[1] which is incorporated by reference in this Subpart, are to constitute compliance with paragraphs (a) and (b) of this section. Departures from the particular requirements of those standards by the use of other methods are to be permitted with the concurrence of the Associate Director when it is clearly evident that equivalent access to the facility or part of the facility is provided.

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

Subpart E—Nondiscrimination on the Basis of Age—Age Discrimination Act of 1975, as amended.

§ 1040.81 [Reserved]

Subpart F—Nondiscrimination Under Title VIII of the Civil Rights Act of 1968, as amended

§ 1040.91 [Reserved]

Subpart G—Program Monitoring

§ 1040.101 Compliance reviews.

(a) The Director shall periodically conduct compliance reviews of selected recipients of DOE Federal assistance.

(b) The Director shall seek to review those recipients which have the most serious equal opportunity problems, or the greatest disparity in delivery of services on a nondiscriminatory basis. Selection for review is to be made on the basis of:

(1) The relative disparity between the percentage of minorities, women, or handicapped persons, in the relevant labor market, and the percentage of minorities, women, or handicapped persons, employed by the recipient;

(2) The percentage of minorities, women and handicapped persons in the population receiving project benefits;

(3) The number and nature of discrimination complaints filed against a recipient with DOE or other Federal agencies;

(4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with DOE against a recipient; and

(5) The amount of assistance provided to the recipient.

(c) Within 30 days after selection of a recipient for review, DOE is to inform the recipient that it has been selected for review. The review will ordinarily be initiated by a letter requesting data pertinent to the review and advising the recipient of:

(1) The practices to be reviewed;

(2) The programs or activities affected by the review;

(3) The opportunity to make, at any time prior to receipt of DOE's finding, a documentary submission responding to DOE which explains, validates, or otherwise addresses the practices under review; and

(4) The schedule under which the review will be conducted and a determination of compliance or noncompliance made.

(d) Within 90 days of notifying a recipient that he has been selected for review, the Associate Director shall advise the recipient, in writing, of:

(1) Preliminary findings;

(2) Where appropriate, recommendations for achieving voluntary compliance; and

(3) The opportunity to request DOE to engage in voluntary compliance negotiations prior to the Director's final determination of compliance or noncompliance. The Director or his designee shall notify the Assistant Attorney General at the same time he notifies the recipient of any matter where recommmendations for achieving voluntary compliance are made.

(e) If, within 45 days of the recipient's notification under subsection (d) above, the Associate Director's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Director for a determination of compliance on noncompliance. The determination is to be made no later than 15 days after conclusion of a 45 day negotiation period. If the Director makes a determination of noncompliance, the Department shall institute administrative proceedings specified in Subparts G and H.

(f) Where the Director makes a formal determination of noncompliance, the recipient and the Assistant Attorney General shall be immediately advised in writing of the determination and of the fact that the recipient has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Director shall institute proceedings under Subpart H.

(g) All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

§ 1040.102 Compliance information.

(a) Cooperation and assistance. Each responsible Departmental official shall, to the fullest extent practicable, seek the cooperation of recipient in obtaining compliance with this Part and shall provide assistance and guidance to recipient to help them comply voluntary with this Part.

(b) *Compliance reports.* Each recipient shall keep reports and submit to the responsible Department official or his/her designee, timely, complete, and accurate compliance reports at the times, in such form, and containing information as the responsible Department official or the designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Part. In general, recipients should have available for DOE data on the race, color, national origin, sex, age, and handicap status showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal assistance to any other recipient of subcontracts with any other person or group, such other recipient shall also submit compliance reports to the primary recipient which will enable the primary recipient to carry out its obligations under this Part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his/her designee during normal business hours to books, records, personnel records, accounts, other sources of information, and its facilities, which are pertinent to ascertain compliance with this Part. The requirement for access to sources of information shall be contained in the certificate of assurance and agreed to by the recipient as a condition to award. Whenever any information required of a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution, or person fails or refuses to furnish that information, the recipient shall certify this in its report and set forth the efforts which it has made to obtain the information. The sub-recipient in such case shall be subject to proceedings described under Subpart H of this Part.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons information regarding the provisions of this section and its applicability to the program under which the recipient receives Federal assistance. Information is to be made available to beneficiaries, participants, and other interested persons in a manner which the responsible Department officials find necessary to inform such persons of the protections against discrimination assured them by this Part and the statutes to which this Part applies.

§ 1040.103 [Reserved]

§ 1040.104 Complaint investigation.

(a) The Associate Director shall investigate complaints of discrimination that allege a violation of—

(1) Title VI, of the Civil Rights Act of 1964, section 16 of the Federal Energy Administration Act of 1974, as amended, or section 401 of the Energy Reorganization Act of 1974;

(2) Title IX of the Education Amendments of 1972, as amended;

(3) Section 504 of the Rehabilitation Act of 1973, as amended;

(4) Age Discrimination Act of 1975, as amended, (reserved in this Part);

(5) Title VIII of the Civil Rights Act of 1968, as amended, (reserved in this Part); and

(6) This subpart.

(b) No complaint will be investigated if it is received by an appropriate Departmental official more than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Associate Director for good cause shown. Where a complaint is accepted for investigation,

the Associuate Director will initiate a DOE investigation. The Associate Director, who is responsible for the investigation, shall notify the complainant, in writing, if the complaint has been accepted or rejected.

(c) The Associate Director or his/her designee shall conduct investigations of complaints as follows:

(1) Within 10 days of receipt of a complaint, the Associate Director shall:

(i) Determine whether DOE has jurisdiction under paragraphs (a) and (b) of this section;

(ii) If jurisdiction is not found, wherever possible refer the complaint to the Federal agency with such jurisdiction and advise the complainant;

(iii) If jurisdiction is found, notify the recipient alleged to be discriminating of its receipt of the complaint; and

(iv) Initiate the investigation.

(2) The investigation will ordinarily be initiated by a letter requesting data pertinent to the complaint and advising the recipient of:

(i) The nature of the complaint, and with the written consent of the complainant, the identity of the complainant;

(ii) The program or activities affected by the complaint;

(iii) The opportunity to make, at any time prior to receipt of DOE's findings, a documentary submission, responding to, rebutting, or denying the allegations made in the complaint; and

(iv) The schedule under which the complaint will be investigated and a determination of compliance or noncompliance made.

(3) Within 90 days of notifying a recipient that he has been selected for review, the Associate Director shall advise the recipient, in writing of:

(i) Preliminary findings;

(ii) Where appropriate, recommendations for achieving voluntary compliance; and

(iii) The opportunity to request DOE to engage in voluntary compliance negotiations prior to the Director's final determination of compliance or noncompliance. The Director or his designee shall notify the Assistant Attorney General at the same time he notifies the recipient of any matter where recommendations for achieving voluntary compliance are made.

(4) If, within 45 days of the recipient's notification under subsection (3) above, the Associate Director's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Director for a determination of compliance or noncompliance. the determination is to be made no later than 15 days after conclusion of a 45 day negotiation period. If the Director makes a determination of noncompliance, the Department shall institute administrative proceedings specified in Subparts G and H.

(5) Where the Director makes a formal determination of noncompliance, the recipient and the Assistant Attorney General shall be immediately advised in writing of the determination and of the fact that the recipient has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Director shall institute proceedings under Subpart H. All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

(6) If the complainant or party other than the Attorney General has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to DOE, and if during DOE's investigation, the trial of that suit would be in progress, DOE will consult with the Assistant Attorney General and court records to determine the need to continue or suspend the investigation and will monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination, against a recipient that would constitute a violation of this Part, the DOE shall institute administrative proceedings as specified in Subpart H. All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

(7) The time limits listed in paragraphs (c)(1) through (c)(6) of this section shall be appropriately adjusted where DOE requests another Federal agency to act on the complaint. DOE is to monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, DOE is to institute appropriate proceedings as required by this Part.

(d) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws implemented in this Part or because the complainant has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants is to kept confidential except as determined by the Associate Director to be necessary to carry out the purpose of this subpart, including investigations, hearings, or judicial proceedings arising thereunder.

Subpart H—Enforcement

Means of Effecting Compliance

§ 1040.111 Means available.

If there appears to be a failure or threatened failure to comply with any of the provisions of this Part, and if the noncompliance or threatened noncompliance cannot be corrected by voluntary means, compliance with this Part may be effected by the suspension, termination of, or refusal to grant or to continue Federal assistance, or by any other means authorized by law. Such other means may include, but are not limited to—

(a) Referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law including other titles of the Civil Rights Act of 1964, other statutes to which this Part applies, or any assurance or other contractual undertaking; and

(b) Any applicable proceeding under State or local law.

§ 1040.112 Noncompliance with assurances.

If an applicant fails or refuses to furnish an assurance required under § 1040.4 of Subpart A of this part, or otherwise fails or refuses to comply with a requirement imposed by that section, such as § 1040.102(c), Subpart G of this Part, Federal assistance shall be refused in accordance with procedures of § 1040.113 of this subpart. DOE may defer action on pending applications for assistance in such a case during pendency of administrative proceedings under § 1040.113 of this subpart.

§ 1040.113 Termination of or refusal to grant or to continue Federal assistance.

No order suspending, terminating, or refusing to grant or continue Federal assistance is to become effective until—

(a) Notice of the proposed order is given to the Assistant Secretary, Intergovernmental and Institutional Relations, if the action is contemplated against a State or local government;

(b) The Director has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means. (It will be determined by the Director that compliance cannot be secured by voluntary means if it has not been secured within the time periods specifically set forth by this Part).

(c) There has been an express finding on the record after opportunity for hearing, of a failure by the applicant or recipient to comply with the re-

quirement imposed by or under this Part;

(d) The action has been approved by the Secretary or his designee under § 1040.142; and

(e) The expiration of 30 days after the Secretary or his designee has filed with the committee of the House of Representatives and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend, terminate, or to refuse to grant or to continue Federal assistance is to be limited to the particular political entity or part of that entity or other applicant or recipient to whom the finding has been made and shall be limited in its effect to the particular program or part of the program in which the noncompliance has been found.

§ 1040.114 Other means authorized by law.

No action to effect compliance by any other means authorized by law is to be taken until—

(a) The Director has determined that compliance cannot be secured by voluntary means;

(b) The recipient or other person has been notified by the Director in writing that it has been found in formal noncompliance and that it has 10 days before formal enforcement proceedings begin in which to enter into a written voluntary compliance agreement.

(c) The expiration of at least ten (10) days from the mailing of the notice to the recipient or other person.

OPPORTUNITY FOR HEARING

§ 1040.121 Notice of opportunity for hearing.

(a) Whenever an opportunity for hearing is required by § 1040.113, the General Counsel or his/her designee shall serve on the applicant or recipient, by registered, certified mail, or return receipt requested, a notice of opportunity for hearing which will:

(1) Inform the applicant or recipient of the action proposed to be taken and of his right within twenty (20) days of the date of the notice of opportunity for hearing, or another period which may be specified in the notice, to request a hearing;

(2) Set forth the alleged item or items of noncompliance with this Part;

(3) Specify the issues;

(4) State that compliance with this Part may be effected by an order providing for the termination of or refusal to grant or to continue assistance, as appropriate, under the program involved; and

(5) Provide that the applicant or recipient may file a written answer to the notice of opportunity for hearing under oath or affirmation within twenty (20) days of its date, or another period which may be specified in the notice.

(b) The applicant or recipient may respond to a notice of opportunity for hearing by filing a written answer under oath or affirmation. The answer shall specifically admit or deny such allegation, or, where the applicant or recipient does not have knowledge or information sufficient to form a belief, the answer may so state and the statements shall have the effect of a denial. Allegations of fact not denied shall be deemed to be admitted. The answer shall separately state and identify matters alleged as affirmative defenses and may also set forth the matters of fact and law on which the applicant or recipient relies. The applicant or recipient may request a hearing on the answer.

(c) If the answer requests a hearing, the responsible DOE official will issue a notice of hearing specifying:

(1) The time, place, and nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held; and

(3) The matters of fact and law asserted or to be considered. The time and place of hearing will be fixed with due regard for the convenience and necessity of the parties or their representatives and for the public interest. An answer to a notice of hearing is not required.

(d) An applicant or recipient may file an answer, and waive or fail to request a hearing, without waiving the requirement for findings of fact and conclusions of law or the right to seek the Secretary's review in accordance with the provisions of §§ 1040.141 and 1040.142. At the time an answer is filed, the applicant or recipient may also submit written information or argument for the record if he does not request a hearing.

(e) An answer or stipulation may consent to the entry of an order in substantially the form set forth in the notice of opportunity for hearing; the order may be entered by the General Counsel or his/her designee. The consent of the applicant or recipient to the entry of an order shall constitute a waiver by him of a right to—

(1) A hearing under section 602 of Title VI of the Civil Rights Act of 1964 and § 1040.113;

(2) Findings of fact and conclusions of law; and

(3) seek the Secretary's review.

(f) The failure of an applicant or recipient to file an answer within the period prescribed, or, if he requests a hearing, his failure to appear at the hearing, shall constitute a waiver by him of a right to—

(1) A hearing under section 602 of Title VI of the Civil Rights Act of 1964 and § 1040.113;

(2) Conclusions of law; and

(3) Seek the Secretary's review. In the event of such a waiver, the responsible DOE official may find the facts on the basis of the record available and enter an order in substantially the form set forth in the notice of opportunity for hearing.

(g) An order entered in accordance with paragraph (e) or (f) of this section shall constitute the final decision of DOE, unless the Secretary on his own motion, within forty-five (45) days after entry of the order, issues his own decision, which shall then constitute the final decision of DOE.

(h) A copy of an order entered by the responsible DOE official shall be mailed to the applicant or recipient and to the complainant, if any.

HEARINGS AND FINDINGS

§ 1040.131 Presiding officer.

One or more administrative law judges appointed in accordance with 5 U.S.C. 3105 and 3344, are to —

(a) Preside at a hearing; and

(b) Make findings of fact and conclusions of law if an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 1040.121.

§ 1040.132 Right to counsel.

In all proceedings under § 1040.121 through § 1040.151, the parties shall have the right to be represented by counsel. A notice of appearance is to be filed by counsel prior to participation in any such proceedings.

§ 1040.133 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review is to be conducted in conformity with 5 U.S.C. 554 through 557 and in accordance with such procedures as are proper and not inconsistent with § 1040.131 through § 1040.134, relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 1040.121, taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. Both parties shall be entitled to introduce all relevant evidence on the issues as stated in the notice of hearing or as determined by the presiding officer at the outset of or during the hearing.

(b) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the

presiding officer. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(c) Each decision made after a hearing has been held shall be based on the hearing record, and written findings shall be made.

(d) If an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 1040.121(d), written findings shall be made.

§ 1040.134 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute noncompliance with this Part with respect to two or more programs to which this Part applies or noncompliance with this Part and the regulations of one or more other Federal departments or agencies issued to implement the requirements of the laws cited in this Part, the Secretary may, by agreement with other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings and for the application to such hearings of rules of procedure not inconsistent with this Part. Final decision in such cases, insofar as programs subject to this Part are concerned, shall be made in accordance with § 1040.142.

DECISION AND NOTICE

§ 1040.141 Initial decision or certification.

The officer designated, (a) to preside at a hearing, or, (b) to make findings of fact and conclusions of law where an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 1040.121(d), shall render an initial decision on the record or, if the Secretary so directs, shall certify the entire record to the Secretary for decision, together with a recommended decision on the record. A copy of such initial decision, or of such certification and recommended decision, shall be mailed to the applicant or recipient.

§ 1040.142 Exceptions and final decision.

(a) The applicant or recipient, within thirty (30) days of the mailing of an initial decision or a recommended decision, may file with the Secretary any exceptions to the decision, with reasons for the exceptions.

(b) In the absence of exceptions of an initial decision, the Secretary may, on his own motion within forty-five (45) days after the mailing of the initial decision, serve on the applicant or recipient a notice that the Secretary will review the decision.

(c) Upon the filing of exceptions to an initial decision or of a notice of review, the Secretary shall review the initial decision and issue his own decision on the record with the reasons for the decision.

(d) In the absence of either exceptions to an initial decision or of a notice of review, an initial decision shall constitute the final decision of DOE.

(e) Upon the filing of exceptions to a recommended decision, the Secretary shall review the recommended decision and issue his own decision on the record with reasons for the decisions.

(f) In the absence of exceptions to a recommended decision, the Secretary shall review the recommended decision and issue his own decision on the record with reasons for the decision.

§ 1040.143 Rulings required.

Any decision of a presiding officer shall set forth the rulings on each findings, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or under this Part with which it is found the applicant or recipient has failed to comply.

§ 1040.144 Content of orders.

The final decision may provide for suspension, termination, or refusal to grant or continue Federal assistance, in whole or in part, under the program involved, and may contain terms, conditions, and other provisions that are consistent with and will implement the purposes of this Part. Such a decision may include provisions designed to assure that no Federal assistance is extended to any program or activity of the applicant or recipient determined by the decision to be in default in the performance of an assurance given by an applicant or recipient under this Part, or to have otherwise failed to comply with this Part, unless and until the applicant or recipient corrects its noncompliance and satisfies DOE that it will fully comply with this Part. A copy of the final decision is to be mailed to the applicant or recipient and the complainant, if any.

§ 1040.145 Post termination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 1040.144 shall be restored to full eligibility to receive Federal assistance if it satisfies the terms and conditions of that order for eligibility or if it brings itself into compliance with this Part and provides reasonable assurance that it will fully comply with this Part. An elementary or secondary school or school system which is unable to file an assurance of compliance with this Part shall be restored to full eligibility to receive Federal assistance if it files a court order or a plan for desegregation which meets the requirements of this Part and provides reasonable assurance that it will comply with the court order or plan.

(b) Any applicant or recipient adversely affected by an order entered under § 1040.144 may at any time request the Director to restore fully its eligibility to receive Federal assistance. Any request is to be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the Director determines in writing that those requirements have been satisfied, he/she shall restore the eligibility.

(c) If the Director denies the request, the applicant or recipient may submit a written request for a hearing to the Secretary specifying why it believes the official made an error. The applicant or recipient shall be given an expeditious hearing, with a decision on the record, in accordance with rules of procedures issued by the Secretary or his/her designee. The applicant or recipient will be restored to eligibility if it proves at the hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 1040.144 shall remain in effect.

JUDICIAL REVIEW

§ 1040.151 Judicial review.

Action taken under section 602 of the Civil Rights Act of 1964 is subject to judicial review as provided in section 603 of title VI of the Civil Rights Act of 1964.

APPENDIX A

Federal Assistance Programs of the Department of Energy To Which This Part Applies.

1. *Access Permits.*—Atomic Energy Act of 1954, as amended, sections 1, 2, 3 and 161(i), Pub. L. 83-703, 68 Stat. 919; 42 U.S.C. 2011-13, 2201; and Title I section 104 (c) of the Energy Reorganization Act of 1974, Pub. L. 93-438; 88 Stat 1237; 42 U.S.C. 5814; Department of Energy Organization Act, 42 U.S.C. 7101; Pub L. 95-91

2. *Motion Pictures Film Libraries.*—Atomic Energy Act of 1954, as amended, Pub. L. 83-703, sections 3 and 141(b), (68 Stat. 919), 42 U.S.C. 2013 and 2161; The Energy Reorganization Act of 1974, Pub. L. 93-438, Title I, sections 103 and 107, (88 Stat. 1240), 42 U.S.C. 5817; Department of Energy Organization Act, Pub. L. 95-91, Title I, section 102, and Title III, section 301, (19 Stat. 565), 42 U.S.C. 7101; the National Energy Extension Service Act, Title V, Pub. L. 95-39, (91 Stat. 191), 42 U.S.C. 7001.

3. *Granting of Patent Licenses.*—Atomic Energy Act of 1954, as amended, sections

156 and 161(g); Pub. L. 83-703; 68 Stat. 919, 42 U.S.C. 2186 and 2201; Federal Nonnuclear Energy Research and Development Act of 1974, section 9 (f) (g) (h); Pub. L. 93-577; 88 Stat. 1887; 42 U.S.C. 5908 (f) (g) (h); Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

4. *University Laboratory Cooperative Program.*—Atomic Energy Act of 1954, as amended, section 31 (a) and (b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

5. *Facility Training Institutes, Short Courses, and Workshops on Energy and Environmental Subjects.*—Atomic Energy Act of 1954, as amended, section 31 (a) and (b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; 42 U.S.C. 7101; Pub. L. 93-438; 88 Stat 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

6. *Reactor Sharing and Fuel Assistance.*—Atomic Energy Act of 1954, as amended, section 31 (a) and (b), Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93438, 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S,C. 7101; Pub. L. 95-91.

7. *Traineeships for Graduate Students in Energy Related Fields.*—Atomic Energy Act of 1954, as amended, sections 31 (a) and (b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Pub. L. 93-409, section 12(a); Pub. L. 94-163 section 337; Pub. L. 93-577, section 4(d); Pub. L. 93-275, section 5; Pub. L. 95-39, Title V, section 502 (7); Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

8. *Energy Related Laboratory Equipment Grants.*—Atomic Energy Act of 1954, as amended, section 31 (a) and (b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

9. *Information Services Exhibits, Public Speakers Publications, Reference and Analysis.*—Atomic Energy Act of 1954, as amended, sections 3 and 141b; Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2013 and 2161; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

10. *Payments in Lieu of Property Taxes.*—Atomic Energy Act of 1954, as amended, section 168; Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2208; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438, 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

11. *Radiological Emergency Assistance.*—Atomic Energy Act of 1954, as amended, Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2011 et seq.; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

12. *Nuclear Industry Seminars.*—Atomic Energy Act of 1954, as amended, section 141 (b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2161, and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438, 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

13. *Work Experience.*—Atomic Energy Act of 1954, as amended, section 3, Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2013; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Pub. L. 95-91.

14. *Citizens: Workshops.*—Atomic Energy Act of 1954, as amended, Pub. L. 83-703, section 3 and 141 (b), 68 Stat. 919; 42 U.S.C. 2013 and 2161; the Energy Reorganization Act of 1974, Pub. L. 93-438, Title I, section 103 and 107, 88 Stat. 1240; 42 U.S.C. 5817, Department of Energy Organization Act, Pub. L. 95-91, Title I, section 102, and Title III, section 301, 91 Stat. 565; 42 U.S.C. 7101; the National Energy Extension Service Act, Title V, Pub. L. 95-39, 91 Stat. 191; 42 U.S.C. 7001.

15. *Research and Development in Energy Conservation.*—Atomic Energy Act of 1954, as amended, section 31; Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

16. *Energy Related Inventions.*—Section 14 of the Federal Non-Nuclear Energy Research and Development Act of 1974; Pub. L. 93-577; Stat. 1894; 42 U.S.C. 5913; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

17. *Research and Development Fission, Fossil, Solar, Geothermal, Electric and Storage Systems, Magnetic Fusion.*—Amendments to the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

18. *Energy Information Administration Clearinghouse (EIAC).*—Department of Energy Organization Act, section 205; Pub. L. 95-91.

19. *National Energy Information Center (NEIC).*—Federal Energy Administration Act of 1974, as amended, section 20(a) (4); Pub. L. 93-175; 15 U.S.C. 779; Department of Energy Organization Act, section 301; Pub. L. 95-91.

20. *Grants for Offices of Consumer Services.*—Title II, section 205 of the Energy Conservation and Production Act, Pub. L. 94-385; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

21. *State Energy Conservation Program.*—Title III, sections 361-366, Part C of the Energy Policy and Conservation Act, Pub. L. 94-163; 42 U.S.C. 6321; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

22. *Weatherization Assistance Program for Low Income Persons.*—Title IV, Part A of the Energy Conservation and Production Act, Pub. L. 94-385; 42 U.S.C. 6861-6870; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

23. *Supplemental State Energy Conservation Program.*—Title IV, sections 432(a), Part B of the Energy Conservation and Production Act of 1976, Pub. L. 94-385; 42 U.S.C. 6801 *et. seq.; Department of Energy Orgdnization Act, 42 U.S.C. 7101; Pub. L. 95-91.*

24. *Public Education in Energy.*—Atomic Energy Act of 1954, as amended, sections 31(a) and 31(b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107 of the Energy Reorganization Act of 1974; Pub. L. 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Pub. L. 93-409, section 12(a); Pub. L. 94-163, section 337; Pub. L. 93-577, section 4(d); Pub. L. 93-275; section 5; Pub. L. 95-39, Title V, section 502 (7); Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

25. *Special Studies and Projects in Energy Education and Training.*—Atomic Energy Act of 1954, as amended, sections 31(a) and 31(b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107 of the Energy Reorganization Act of 1974; Pub. L. 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Pub. L. 93-409, section 12(a); Pub. L. 93-163, section 337; Pub. L. 93-577, section 4(d); Pub. L. 93-275, section 5; Pub. L. 95-39, Title V, section 502 (7).

26. *Research and Development in Biomedical and Environmental Sciences.*—Atomic Energy Act of 1954, as amended, section 31; Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; Title I, Sec. 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

27. *Preface (Pre-Freshman and Cooperative Education for Minorities In Engineering).*—Atomic Energy Act of 1954, as amended, sections 31(a) and 31(b); Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107 of the Energy Reorganization Act of 1974; Pub. L. 93-458; 88 Stat. 1240; U.S.C. 5817; Department of Energy Organization Act, Pub. L. 95-91, section 102 and 203; Pub. L. 93-409, section 12(a); Pub. L. 94-163, section 337; Pub. L. 93-577, section 4(d); Pub. L. 93-275, section 5; Pub. L. 95-39, Title V, section 502 (7).

28. *Materials Allocation.*—Section 104, Energy Policy and Conservation Act (EPCA), section 101(c) Defense Production Act of 1950, as amended (DPA), 50 U.S.C. 2071(c), section 7, Executive Order 11912, April 13, 1976, Defense Mobilization Order No. 13, September 22, 1976, 41 FR 43720; Department of Commerce, Bureau of Domestic Commerce, Delegation 4, 41 FR 52331, MA Regulations 10 CFR 216; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

29. *Basic Energy Sciences, High Energy and Nuclear Physics, and Advanced Technology and Assessment Projects.*—Atomic Energy Act of 1954, as amended, section 31; Pub. L. 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, section 107, of the Energy Reorganization Act of 1974; Pub. L. 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Pub. L. 95-91.

30. *Energy Extension Service.*—National Energy Extension Service Act; Title V, Pub. L. 95-39; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95-91.

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Federal Register

THURSDAY, NOVEMBER 16, 1978
PART VI



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

COMMERCIAL DIVING OPERATIONS

General Provisions

[4910-14-M]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-009]

PART 197—GENERAL PROVISIONS

Commercial Diving Operations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing regulations governing commercial diving operations from vessels and facilities including vessels required to have a Certificate of Inspection; deepwater ports; and artificial islands, installations, other devices, or otherwise related to activities on the Outer Continental Shelf. Commercial diving exposes individual divers to many hazardous situations that can and have caused marine casualties. These regulations prescribe safety and health standards for commercial diving operations.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Commander Peter T. Muth, Manager, Underwater Sefety Project (G-MP-3/USP/82), Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2307.

SUPPLEMENTARY INFORMATION: The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on August 11, 1975 (40 FR 33681), proposing to amend chapter I of title 46 of the Code of Federal Regulations (CFR) by adding a new subchapter prescribing marine occupational safety and health standards for vessels and facilities that are under Coast Guard jurisdiction. In this ANPRM the Coast Guard proposed to regulate all working conditions and work places under Coast Guard jurisdiction if they are determined to be hazardous to employees, and if the Coast Guard determines that the hazards encountered can be reduced or eliminated by the promulgation of effective regulations.

The Occupational Safety and Health Administration (OSHA), Department of Labor, published an announcement in the FEDERAL REGISTER on October 22, 1975 (40 FR 49123), that it would hold an informal fact-finding hearing on commercial diving operations. The Coast Guard participated in this informal hearing that was conducted in Washington, D.C. on November 11 through 14, 1975.

On June 15, 1976 OSHA published a 6-month Emergency Temporary Standard (ETS) for commercial diving in the FEDERAL REGISTER (41 FR 24272). A Memorandum of Understanding (MOU), covering the relationship between OSHA and the Coast Guard during the 6-month period of the ETS and also during the period of development of final Coast Guard regulations for commercial diving, was signed on June 9, 1976, by the Commandant of the Coast Guard and the Assistant Secretary of Labor for Occupational Safety and Health. The text of the MOU was published with the ETS (41 FR 24291) and contained a provision terminating the MOU "upon the effective date of the Coast Guard standards * * * pertaining to diving operations." The ETS was withdrawn by OSHA on November 5, 1976 (41 FR 48969).

On July 15, 1976, the Coast Guard published an ANPRM in the FEDERAL REGISTER (41 FR 29151) stating that it was considering new regulations prescribing occupational safety and health standards for commercial diving. The Coast Guard invited specific public advice and recommendations on nine enumerated areas, and any general comments to assist it in developing new occupational safety and health regulations for commercial diving in areas of Coast Guard jurisdiction.

During August 1976, the OSHA Advisory Committee on Construction Safety and Health met to discuss materials and information relating to the occupational safety and health aspects of commercial diving operations and to make recommendations to OSHA. The Coast Guard participated in this public proceeding.

On November 5, 1976 OSHA published a Notice of Proposed Rulemaking (NPRM) and Notice of Public Hearings in the FEDERAL REGISTER (41 FR 48950) covering commercial diving operations. Pursuant to the MOU between the Coast Guard and OSHA, the Coast Guard published a Notice in the FEDERAL REGISTER (41 FR 48969 and 41 FR 49208) joining OSHA in the public hearings, scheduled for December 16 through 17, 1976, in New Orleans, to receive public comments for the Coast Guard on the substance of the OSHA proposed standards. During the joint public hearings (December 16 through 21, 1976, and January 10 through 14, 1977) the Coast Guard gave the public an opportunity to comment on Coast Guard regulatory concepts that would be substantively similar to the OSHA proposed standards for commercial diving operations.

On July 22, 1977 OSHA published its final commercial diving standard in the FEDERAL REGISTER (42 FR 37650). Under section 4(b)1 of the Occupational Safety and Health Act of 1970, the OSHA standards do not apply to those diving operations over which the Coast Guard exercises its statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

On November 10, 1977, the Coast Guard published a NPRM in the FEDERAL REGISTER (42 FR 58712), with corrections on November 21, 1977 (42 FR 59763), governing commercial diving operations from vessels and facilities subject to Coast Guard jurisdiction. In developing this proposal, the Coast Guard met at various times beginning in 1975 with members of the National Offshore Operations Industry Advisory Committee (NOOIAC). NOOIAC submitted its recommendations to the Coast Guard on June 15, 1977. These recommendations, along with the comments received as a result of the ANPRMs and joint OSHA/CG rulemaking activities, were taken into consideration for the purpose of the NPRM. Pursuant to the MOU the proposed regulation was considered to be substantively similar to the final OSHA commercial diving standard.

The public comment period for the NPRM remained open for written comments until December 27, 1977. A total of 29 written comments were received during the comment period. Commentors included private individuals; companies representing diving contractors, insurance consultants, manufacturers, a deepwater port, offshore exploration; industry and trade associations; five national recreational and sport diving training organizations; and a labor union.

As a result of these written comments, the regulations were revised in part. Many revisions have been made to the regulations to improve clarity without changing the substance of the regulations. Those changes that significantly alter the proposed regulations and those items that received considerable comment and have not been revised and discussed below.

This rule has been reviewed under the Department of Transportation's "Policies Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). An evaluation has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Commander Peter T. Muth, Project Manager, Office of Merchant Marine Safety and Mr. Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF MAJOR COMMENTS

PREAMBLE

Although the preamble to the proposed rule indicated that the proposal did not address the qualifications of individual dive team members, including the medical requirements, with the reasons therefor, two commentors made suggestions and recommendations in this area. One commentor commended the Coast Guard for its position on medical qualifications while suggesting that rulemaking for other personnel qualifications be initiated. The other commentor suggested that, as a minimum, the Coast Guard incorporate into this final rule the diving medical guidelines including the psychological screening requirements of the U.S. Navy. The Coast Guard agrees that the qualification of individual dive team members, especially the medical requirements, are important, and has noted that the commercial diving industry, subject to the jurisdiction of the Coast Guard, has established a school to train commercial divers; has physicians trained and experienced in hyperbaric medicine either employed full time or on-call by individual companies and the commercial diving school; has developed and vigorously follows an on-the-job training program encompassing all facets of commercial diving activities; and has established safety and health programs within most individual companies. It is the intent of the Coast Guard to regulate commercial diving operations on vessels and facilities subject to the jurisdiction of the Coast Guard to the extent necessary to insure an acceptable level of personnel safety and health. After careful reconsideration, the Coast Guard has reaffirmed its prior determination that it will not regulate in these areas at this time; however, the Coast Guard intends to publish an Advance Notice of Proposed Rulemaking concerning the qualifications of dive team members including medical requirements.

GENERAL

Several commentors were unsure about the application of this regulation to one atmosphere observation bells, suits, or submersibles. By the definition of "diver," those applications are not covered. The definition of "PVHO" was rewritten to clarify any possible misunderstanding by specifically excluding one atmosphere devices and to preclude a potential erroneous interpretation that the exterior pressure criteria of the ASME Code and ASME PVHO-1 was not required. All the requirements of ASME PVHO-1 are mandatory for new PVHO's. The requirements of 46 CFR 54 or as an alternative, Section VIII, Division 1 of the ASME Code, are, and have been, mandatory for existing PVHO's and include external pressure criteria. The requirements of ASME PVHO-1 are not mandatory for existing PVHO's under § 197.328(b).

Two commentors expressed concern over the exemption from the regulations of diving operations for marine scientific research and development purposes being limited to those conducted by educational institutions. The commentors suggested the words "by educational institutions" be deleted. The Coast Guard does not agree and foresees considerable difficulty differentiating between commercial diving operations for profit under the guise of research and development, and diving operations for purely marine scientific research and development purposes unless the limitation "by educational institutions" is retained.

The regulations allow the Coast Guard to accept substitutes for equipment, materials, apparatus, arrangements, procedures, or tests required by this subpart if the substitute provides an equivalent level of safety. Specific wording permitting equivalent substitutes has been removed from all sections of this rule except in the standard for helium, § 197.340(h). This permits the diving supervisor to determine equivalency to the required standards for helium when helium is obtained outside the United States without applying to the Commandant of the Coast Guard. This does not permit the diving supervisor to use helium meeting a lesser standard as a breathing gas, but only helium meeting the published standard.

Seventeen commentors offered 90 suggestions including numerous alternatives and alternative wording for § 197.208 on the designation of the person-in-charge and the other sections impacted by this section. These comments were accepted, in part, and the regulation has been completely rewritten to clearly define and assign responsibility where it belongs. This necessitated the addition of definitions for "diving supervisor" and "diving installation" and the addition § 197.210 and 197.404. The person-in-charge remains responsible for the vessel or facility, its operation and safety, and the records and reports required by statute or regulation. In addition, the person-in-charge must coordinate the activities on and of the vessel or facility with the diving supervisor so as not to endanger the dive team conducting diving operations. The diving supervisor is in charge of the planning and execution of the commercial diving operation and is responsible for the diving installation, the safety and health of the dive team, and the records and reports required. In addition, the diving supervisor must immediately notify the person-in-charge when a diving accident or casualty occurs, must keep the person-in-charge informed, and coordinate any changes to the planned diving operation with the person-in-charge.

EQUIPMENT

The equipment specifications and equipment requirements apply to each vessel or facility conducting commercial diving operations having a portable diving installation or having an installed diving installation. Nothing in this subpart amends or supercedes the requirements contained in other parts of titles 33 and 46 CFR for the design, plan approval, construction, certification, and inspection required of those vessels or facilities subject to this subpart conducting commercial diving operations and having installed diving systems. Therefore, permanently installed diving installations aboard certificated vessels must comply with 46 CFR 54 regarding pressure vessels, with 46 CFR 56 regarding pressure piping, and with 46 CFR 110 through 113 regarding electrical systems in addition to complying with this subchapter.

Three commentors recommended modification of the requirement that breathing supply hoses be made of kink-resistant material to allow use of synflex hose. The Coast Guard agrees that the wording of the proposal did not allow the use of synflex hose nor properly reflect what was intended. Section 197.312(a)(4) has been modified to clarify that breathing supply hoses are to resist kinking, and that the method of achieving this can be either by initial design and construction of the hose, or by supporting the hose in such a manner as to make it resistant to kinking.

Two comments were received on § 197.312(b)(2). The Coast Guard feels that the present wording clearly shows that markings are required only on diver and open bell umbilicals, not closed bell umbilicals, and that further clarification is unnecessary.

Paragraphs 197.314 (a)(1) and (c)(4) were modified to clarify intent and to specify the contents, dimensions, and packaging of the medical kit in response to several comments received.

In response to a commentor's question, the Coast Guard modified § 197.314(b) to clarify the two-way communications system requirement. This change permits substitution of the vessel or facility ship-to-shore, two-way communications system for the system required by this section if it is readily available to obtain emergency medical assistance.

Three commentors noted that the depth requirement as to when a decompression chamber was required differed between the Coast Guard and

OSHA standards. Two commentors did not offer an opinion as to the depth when it should be required, but recommended that the two agencies agree to the same figure of either 130 fsw or 100 fsw. The other commentor proposed adoption of 66 fsw with the no-decompression limit, or adoption of 100 fsw with the no-decompression limit and an additional requirement of having a decompression chamber any time a diver is working in a "contained space" where there is a chance of becoming "hung-up." This commentor also noted that a secondary breathing gas supply was required when a decompression chamber is required.

The requirement to have a decompression chamber at the dive location also requires additional associated equipment for the chamber (i.e., handling gear to load, unload, and position the decompression chamber; hoses and piping; a secondary breathing gas supply; a larger primary breathing gas supply; and breathing gases for treatment of decompression sickness); additional personnel to load, unload, and operate the decompression chamber and associated equipment; a substantially larger dive location capable of providing the extra space needed and supporting the additional weight; and a method of transportation with at least a fivefold, increased weight-handling capability over a dive not requiring a decompression chamber. Additionally, the requirements for a standby diver, individual surface tending, and more detailed record keeping are based on the determination of where the increased risks to a diver exist.

The incidence rate of decompression sickness among all divers diving within the no-decompression limit at depths less than 130 fsw is very small. Gas embolism can occur at almost any depth, but occurs more frequently at depths less than 66 fsw. (This may be because most air dives take place at depths less than 66 fsw.) Also, the incidence rate occurs more frequently when using SCUBA equipment. However, among experienced divers the incidence rate of gas embolism is small.

It is the opinion of the Coast Guard, based on a review of the entire record as set forth in the preamble of the NPRM, the diver's work environment, and a review of the experience of hundreds of thousands of air dives by military, civilian, governmental, commercial, sport, and recreational, and scientific divers all using the U.S. Navy air tables, that the requirement for a decompression chamber need not be set at a depth less than 130 fsw to protect against potential decompression sickness. The Coast Guard feels a 20 fsw requirement in lieu of a 66 fsw or 100 fsw requirement is not an unreasonable depth to require equipment for treatment of gas embolism. However, a review of the record and comments cited in the NPRM and the experience of many dives does not support protecting commercial divers (professionals) for possible gas embolism by providing additional personnel and equipment for no-decompression dives at depths less than 130 fsw.

After careful reconsideration and reexamination of the comments and records mentioned above, the Coast Guard reaffirms the 130 fsw decompression chamber requirement. However, the Coast Guard agrees with the general philosophy of the commentors regarding a single Federal standard for the same marine activity and has been discussing this subject with OSHA to resolve this issue. Both the Coast Guard and OSHA have determined that additional public input on this subject is desirable and both agencies intend to request additional public comment in a future notice in the FEDERAL REGISTER.

In answer to a commentor, the requirement of § 197.314(c)(5) to have a "capability" could be discharged by having specialized equipment such as a Stoke's litter with the personnel needed to carry it available or by having sufficient personnel to assist an injured diver into the decompression chamber. The wording of this section allows future equipment development to occur that may replace the most common present system of having "sufficient personnel" as long as the objective of getting the injured diver inside the decompression chamber is met.

One commentor recommended that dives at depths less than 40 fsw, or those not involving decompression, be exempt from the requirements of § 197.318. The Coast Guard disagrees. Neither ascent and descent rates nor bottom time can be determined without a timekeeping device. The diving supervisor may not be able to determine whether a diver has been at depths that require a decompression obligation without a gage available indicating diver depth (i.e., a diver working at 28 fsw for 6 hours vice at 32 fsw for 6 hours). Without the combined information of bottom time and depth available to the diving supervisor, the safety and health of the diver may be in jeopardy.

Many commentors objected to, and offered rewording for, "be made of corrosion-resistant material" where required for diving ladders, stages, and open bells (§§ 197.320 and 197.334). The Coast Guard agrees that the wording of the proposal was too restrictive and has rewritten those requirements. This wording allows either construction using corrosion-resistant material, or application of anti-corrosion coatings to protect the structural integrity of the device.

Two commentors suggested that the requirement of § 197.320(b)(3) be modified to allow the use of a diving ladder instead of a diving stage under certain conditions. The Coast Guard disagrees. Divers diving at depths deeper than 130 fsw, or outside the no-decompression limits, are more likely to be tired and need the additional assistance a diving stage affords over a diving ladder. A diving stage also provides a haven during in-water decompression stops. If because of conditions at the dive site, the use of a diving stage would likely cause an injury, § 197.202(b) allows a deviation from this requirement. If the use of the diving stage is unreasonable or impractical, § 197.206(b) provides that the Commandant of the Coast Guard may permit the use of alternative equipment or procedures that insure a degree of safety consistent with the minimum standard afforded by a diving stage.

One commentor suggested that § 197.326(b) be amended to allow ball valves to be used as PVHO pressure boundary shutoff valves in oxygen systems. The Coast Guard agrees and has amended the proposal accordingly.

Section 197.328(d)(3) has been changed in response to one commentor to clearly indicate that overpressurization of the PVHO is intended to be protected by this requirement and not the pressure piping. Pressure piping is protected by the pressure relief devices required by the ANSI Code.

The requirement that each PVHO must have a pressure sealing hatch (§ 197.328(c)(4) of the proposal) has been deleted. This requirement did not add anything that was not already required by the design Codes and was a point of confusion to two commentors.

Three commentors recommended modifications to the requirement for PVHO two-way voice communications systems. These comments were accepted, in part, and § 197.328(d) (6) and (7) and § 197.332(m) have been rewritten to clearly specify intent and set forth the requirements. The Coast Guard considers voice communications between the diving supervisor and occupants of a PVHO, between occupants in separately pressurized compartments of the same PVHO, and between the occupant of a closed bell and a diver in the water being supported from that closed bell as the minimum standards for the safety and health of the dive team members. Additionally, if two separate PVHO's are designed to mechanically couple and become in effect one PVHO, these two-way voice communications system requirements apply when the PVHO's are mechanically coupled. The Coast

Guard did not intend to have redundant sound-powered communications systems in decompression chambers, and permits only one two-way voice communications system in a decompression chamber if the system is sound-powered. The configuration and operation of the required communications system is not specified, allowing any system that provides the required two-way voice contacts.

Four commentors pointed out that internal pressure gages were not required for PVHO's unless the PVHO atmosphere can be controlled internally. The Coast Guard agrees and has rewritten § 197.328(d)(7).

The Coast Guard has rewritten the viewport requirements of § 197.328(d)(8) and (9). As previously worded, it could have been interpreted to require that all occupants of dual- or multiple-lock PVHO's had to be seen from the exterior through one viewport, even if the PVHO has more than one viewport. In most situations, this would be impossible. The intent of the regulation is to require sufficient viewports to allow observation of all occupants from the exterior. If a PVHO is designed such that a single viewport would allow observation of all occupants, that design would satisfy this requirement.

Three commentors made suggestions concerning the requirement for a fire extinguisher inside a PVHO. The Coast Guard reviewed the causes of several PVHO fires, and has amended the proposed regulations to require a means of extinguishing a fire in the interior. Past experience indicates that fire prevention is most important and can be enhanced by keeping combustible materials, sources of heat and sparks, and all nonessential or potentially hazardous equipment, including electrical systems, to an absolute minimum inside a PVHO. Known combustible materials or sources of ignition required inside a PVHO should be isolated from the PVHO atmosphere and purged with inert gas, where possible, or maintained in a area easily accessible by an occupant to facilitate extinguishing a fire. Localized fires that have been combatible in the past have been extinguished with water or sand.

Two commentors recommended that § 197.328(c)(19) of the NPRM be amended to exempt additional electrical equipment inside PVHO's such as communications speakers and medical measurement instrumentation. Electrical systems, besides being a potential shock hazard, can present a source of ignition as well as the fuel required for combustion. Additionally, electrical shock hazards and possible galvanic action of the PVHO need to be considered when designing and maintaining interior electrical systems. The Coast Guard has carefully reviewed the proposed requirements and the comments received in the context of present-day equipment available, and has rewritten § 197.328(d)(18).

One commentor requested clarification of § 197.330(a)(6). This requirement assists surface personnel in locating and retrieving a closed bell after the umbilical has been severed. The emergency locating device required is not limited to the following but could be, active (i.e., an acoustical pinger), passive (i.e., a sonar reflector or target), or some other device (i.e., a surface buoy with attaching line releasible by either the closed bell occupants and/or remotely from the surface).

Three commentors suggested alternative language and alternatives to the requirements for a 12-hour breathing gas supply independent of the surface. The Coast Guard agrees, in part, with the suggestions and has rewritten § 197.330(a)(8). This revision recognizes that scrubbing and recirculating of breathing gases is an alternative to an independent breathing gas supply of sufficient volume and pressure to last for 12 hours. Also, having a sufficient breathing gas supply does not by itself provide life support as other considerations must be taken into account (i.e., thermal protection). The revision also allows a reduced life support capability if there are two independent retrieval systems for the closed bell.

One commentor suggested that § 197.332(d) be reworded to account for shipping dogs. Shipping dogs are constructed to be operated from only one side of a man-way or hatch, are never used to obtain a pressure seal, and are only used during shipping to prevent damage to the decompression chamber. When the decompression chamber is occupied, shipping dogs are removed or disabled by securing them out of the way. The Coast Guard agrees and has revised this requirement.

The proposed illumination levels for the interior of a decompression chamber were addressed by five commentors. Two commentors suggested deletion of the requirement as illumination was already covered by "PVHO-General" requirements. Two commentors expressed concern regarding fire prevention. Comments also addressed the "convenience" aspects of bunk reading lights. The Coast Guard agrees, in part, with the philosophy expressed; however, the lighting requirements addressed within the decompression chamber requirements are in addition to "General" PVHO illumination requirements. The general PVHO illumination requirement addressed work and operating conditions. The decompression chamber interior illumination requirement is directed not toward "convenience items" but being able to visually observe, treat, medically diagnose, and medically assist, if necessary, occupants undergoing decompression or treatment for decompression sickness. Therefore, the Coast Guard has rewritten § 197.332(e) for clarity.

The requirement for compressed gas cylinders, § 197.338(e), has been modified to allow the use of cylinders designed and constructed under the requirements of Part 54 of this Chapter, which requires a greater design safety factor for pressure vessels aboard certificated vessels than the standard of 49 CFR 178 Subpart C.

Two commentors recommended that § 197.346(b) be modified to allow a diver to select equipment he will use for a particular dive. The Coast Guard agrees in part, and has modified this requirement by requiring that a helmet cushion and weighted shoes be provided to the diver, but has not required them to be worn by the diver. When using a heavy-weight diving outfit, the absence of weighted shoes could pose an unintended risk to a diver's safety under some conditions; however, this risk may be avoided by the use of leg or ankle weights.

One commentor observed that the requirements of § 197.346(d)(5) regarding a "life-line" and a "communications cable" can be met in some cases by a communications cable in the hose group that has a breaking strength equal to or exceeding that required of a life-line. The Coast Guard agrees, and under such a circumstance would not require a separate life-line.

One commentor suggested that § 197.346(f) be modified to also exclude from the diver-carried reserve breathing gas requirement, diving with a stage nearby having a sufficient supply of breathing gases or a closed or open bell. The Coast Guard disagrees. An inexhaustable supply of breathing gas just beyond the immediate reach of a diver in distress may never be used. A reserve breathing gas supply, when required, should always be within the immediate reach of a diver, except when it becomes a greater hazard to the diver's safety than the diver not having it. In such a case, alternatives, such as the commentor suggested, should be considered.

OPERATIONS

One commentor requested clarification of what was meant by the post dive requirement in the proposal to check the physical condition of the diver. This has been clarified in § 197.410(a)(7)(i).

Five commentors suggested the requirement proposed in § 197.420(a) to have an operations manual prepared for each vessel or facility from which diving operations are conducted be modified. The Coast Guard agrees, in part, and with the rewriting of respon-

sibilities has revised this requirement so that the diving supervisor provides to the person-in-charge and the dive team an operations manual. The intent of the proposed requirement to have an operations manual tailored to a specific situation is retained by requiring certain modifications to be made in writing.

SPECIFIC DIVING MODE PROCEDURES

Two commentors proposed that the depth requirement for the use of a closed bell (§ 197.434(d) of this rule) be changed from 300 fsw to 350 fsw. The Coast Guard disagrees. The Coast Guard, however, realizes that there may be specific commercial diving operations at depths greater than 300 fsw where the use of a closed bell may not be indicated and feels that § 197.206(b) allows a viable alternative.

One commentor pointed out that the proposed requirement in § 197.434(f)(2), that a standby diver be available one hour before the return of a closed bell to the dive location during saturation diving is impractical. An operational emergency could arise at any time that could require returning the closed bell to the dive location. The Coast Guard agrees and has rewritten the proposed requirements as § 197.434(g). The standby diver requirement for closed bell retrieval during saturation diving has been removed. A requirement that a member of the topside crew be diver-qualified and available has been substituted.

One commentor requested clarification of the prohibition against liveboating at night. The intent was to prohibit liveboating operations when the direction that the umbilical tends in the water, or when the "bubbles" from the diver, are not visible to the dive team member at the dive location continuously tending the diver. Also, the vessel from which liveboating operations are being conducted should be visible to other vessels transiting the area for the safety of the diver. This clarification has been made by prohibiting liveboating from 1 hour after sunset to 1 hour before sunrise or during periods of restricted visibility as defined in a new § 197.436(b).

Two commentors proposed that the depth limitation for liveboating be changed from 200 fsw to 250 fsw. The figure of 200 fsw appearing in § 197.436(a) was an unnoticed, typographical error appearing in the NPRM. The Coast Guard intended that there be a limitation of 220 fsw which is compatible with the 220 fsw bell requirement. The Coast Guard disagrees with changing the limitation for liveboating from 220 to 250 fsw. However, § 197.206(b) provides an alternative when there is a specific commercial diving operation that requires liveboating at depths greater than 220 fsw.

One commentor felt the requirement for a diver pick-up boat during liveboating operations was unnecessary as the vessel from which liveboating is supported should be able to make the diver pick-up. The commentor felt a second vessel might exacerbate the hazard to the diver in the water. However, under the worst situation, the vessel is most likely to have its screws fouled with a severed umbilical and be dead-in-the-water. Further, liveboating by definition could be conducted from a barge. Diver pick-up, in either case, might be difficult without the required pick-up boat, if possible at all. The Coast Guard has retained the requirement for a boat for diver pick-up in § 197.436(a)(4) thereby allowing the person-in-charge the option to utilize his vessel or the boat for picking up the diver in distress, whichever under the specific circumstances would be more appropriate.

PERIODIC TESTS AND INSPECTIONS OF DIVING EQUIPMENT

One commentor recommended that the words "repair or modification" in § 197.450(a) be changed to "overhaul" because there are many repairs or modifications that may not affect the quality of the breathing gas output of an air compressor. The same argument could be used regarding the word "overhaul." The tests required are not only for quality but also for quantity. The tests required are to be performed after every repair or modification to the compressor (such as, the speed at which it is driven, pressure boundaries, intake and exhaust piping arrangements, etc.) which might affect the quantity and/or quality of the compressor output. Retightening a foundation mounting nut of the compressor or straightening a bent dip stick on the prime mover are not intended to be considered "repairs" under this section.

One commentor suggested that a Compressed Gas Association (CGA) pamphlet, G-4.1 entitled "Cleaning Equipment for Oxygen Service," be referenced in § 197.452 and other CGA pamphlets be referenced elsewhere in this regulation. The Coast Guard disagrees. The Coast Guard, in preparing the NPRM, considered all CGA standards through December 1976 and found many of the standards had already made their way into regulations. Some of these regulations have been referenced in this subpart and thereby incorporated (i.e., 49 CFR 173.34 incorporated CGA pamphlet C-6, 1968 edition, and CGA pamphlet C-8, 1972 edition). The Coast Guard noted during its review of the CGA standards and publications that they were not developed with human life support under hyperbaric conditions as the main objective and therefore in some areas were neither complete nor acceptable.

One commentor recommended the exclusion of cylinders from the requirements of § 197.462 since they would be tested according to the appropriate DOT regulations. The Coast Guard disagrees. It is not the Coast Guard's intention to subject any pressure vessel to duplicate inspection and testing requirements. The "appropriate DOT regulations" apply to cylinders in interstate commerce and may not cover after purchase a significant percentage of cylinders used for diving. If a cylinder is inspected and tested annually with a hydrostatic test every fifth year in accordance with 49 CFR 173.34, it meets the requirements of this section.

One commentor expressed concern regarding the leak test requirement. In response, the Coast Guard has rewritten § 197.462(g) to set out the leak test procedures.

RECORDS

The revision of this regulation previously discussed regarding the person-in-charge and diving supervisor, required major revision to this portion of the regulations. The official logbook (Coast Guard form CG-706) required by statute is retained. Those vessels or facilities not required to have an official logbook by 46 U.S.C. 201 are required to have a logbook, as is the diving supervisor. The size, shape, and form of the logbook is left to the discretion of the person-in-charge or diving supervisor. The entries of the person-in-charge in either the official logbook or logbook have been reduced in quantity.

The entries required of the diving supervisor to be entered in the supervisor's logbook are much more detailed. They include entries similar to those required to be entered by the person-in-charge, specific information about the dive and divers, a record of the diving activity, equipment history including testing, etc. The Coast Guard recognizes that many of the records and entries required are not kept at the dive location. The Coast Guard does not require copying the information into the logbook or duplicating these existing records, as long as an entry is made in the diving supervisory's logbook at the dive location indicating where the records are physically available.

Several commentors suggested that form CG-2692 was not indicated for a diving casualty as required by § 197.486(b) but rather for a vessel casualty not involving diving. The Coast Guard agrees and has deleted this requirement. Section 197.486 was also rewritten to clarify that form CG-924E is required only when the dive location

is a vessel, and that a written narrative report is required when the dive location is a facility.

In consideration of the foregoing, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

PART 54—PRESSURE VESSELS

1. By adding a new § 54.01-17 to read as follows:

§ 54.01-17 Pressure vessel for human occupancy (PVHO).

Pressure vessels for human occupancy (PVHO's) must meet the requirements of subpart B (Commercial Diving Operations) of part 197 of this chapter.

PART 56—PIPING SYSTEMS AND APPURTENANCES

2. By adding a new § 56.50-110 to read as follows:

§ 56.50-110 Diving support systems.

(a) In addition to the requirements of this part, piping for diving installations which is permanently installed on the vessel must meet the requirements of subpart B (Commercial Diving Operations) of part 197 of this chapter.

(b) Piping for diving installations which is not permanently installed on the vessel need not meet the requirements of this part, but must meet the requirements of subpart B of part 197 of this chapter.

(c) Piping internal to a pressure vessel for human occupancy (PVHO) need not meet the requirements of this part, but must meet the requirements of subpart B of part 197 of this chapter.

PART 110—GENERAL PROVISIONS

3. By adding a new § 110.05-8 to read as follows:

§ 110.05-8 Electrical systems internal to pressure vessels for human occupancy (PHVO).

Electrical systems internal to a pressure vessel for human occupancy (PVHO) need not meet the requirements of this subchapter, but must meet the requirements of subpart B (Commercial Diving Operations) of part 197 of this chapter.

4. And by adding a new subchapter V, consisting at this time of part 197, subpart B, to read as follows:

SUBCHAPTER V—MARINE OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 197—GENERAL PROVISIONS

Subpart A—(Reserved)

Subpart B—Commercial Diving Operations

GENERAL

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197.200 Purpose of subpart.
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EQUIPMENT

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197.324 Diver's safety harness.
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197.328 PVHO—General.
197.330 PVHO—Closed bells.
197.332 PVHO—Decompression chambers.
197.334 Open diving bells.
197.336 Pressure piping.
197.338 Compressed gas cylinders.
197.340 Breathing gas supply.
197.342 Buoyancy-changing devices.
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197.346 Diver's equipment.

OPERATIONS

197.400 Applicability.
197.402 Responsibilities of the person-in-charge.
197.404 Responsibilities of the diving supervisor.
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SPECIFIC DIVING MODE PROCEDURES

197.430 SCUBA diving.
197.432 Surface-supplied air diving.
197.434 Surface-supplied mixed gas diving.
197.436 Liveboating.

PERIODIC TESTS AND INSPECTIONS OF DIVING EQUIPMENT

197.450 Breathing gas tests.
197.452 Oxygen cleaning.
197.454 First aid and treatment equipment.
197.456 Breathing supply hoses.
197.458 Gages and timekeeping devices.
197.460 Diving equipment.
197.462 Pressure vessels and pressure piping.

RECORDS

197.480 Logbooks.
197.482 Logbook entries.
197.484 Notice of casualty.
197.486 Written report of casualty.
197.488 Retention of records after casualty.

APPENDIX A: Air no-decompression limits.

AUTHORITY: (46 U.S.C. 239; 46 U.S.C. 390b; 46 U.S.C. 391a; 33 U.S.C. 1509(b); 43 U.S.C. 1333(d)(1); 43 U.S.C. 1331 et seq., as amended by Sec. 203 and 208 of Pub. L. 95-372; 46 U.S.C. 395; 46 U.S.C. 375; 46 U.S.C. 391; 46 U.S.C. 392; 46 U.S.C. 416; 49 U.S.C. 1655(b); 49 CFR 1.46 (b) and (s).)

Subpart A—[Reserved]

Subpart B—Commerical Diving Operations

GENERAL

§ 197.200 Purpose of subpart.

This subpart prescribes rules for the design, construction, and use of equipment, and inspection, operation, and safety and health standards for commercial diving operations taking place from vessels and facilities under Coast Guard jurisdiction.

§ 197.202 Applicability.

(a) This subpart applies to commercial diving operations taking place at any deepwater port or the safety zone thereof as defined in 33 CFR 150; from any artificial island, installation, or other device on the Outer Continental Shelf and the waters adjacent thereto as defined in 33 CFR 147 or otherwise related to activities on the Outer Continental Shelf; and from all vessels required to have a certificate of inspection issued by the Coast Guard including mobile offshore drilling units regardless of their geographic location, or from any vessel connected with a deepwater port or within the deepwater port safety zone, or from any vessel engaged in activities related to the Outer Continental Shelf; except that this subpart does not apply to any diving operation—

(1) Performed solely for marine scientific research and development purposes by educational institutions;

(2) Performed solely for research and development for the advancement of diving equipment and technology; or

(3) Performed solely for search and rescue or related public safety purposes by or under the control of a governmental agency.

(b) Diving operations may deviate from the requirements of this subpart to the extent necessary to prevent or minimize a situation which is likely to cause death, injury, or major environmental damage. The circumstances leading to the situation, the deviations made, and the corrective action taken, if appropriate, to reduce the possibility of recurrence shall be recorded by the diving supervisor in the logbook as required by § 197.482(c).

§ 197.204 Definitions.

As used in this subpart:

"ACFM" means actual cubic feet per minute.

"ANSI Code" means the B31.1 American National Standards Insti-

tute "Code for Pressure Piping, Power Piping."

"ASME Code" means the American Society of Mechanical Engineers "Boiler and Pressure Vessel Code."

"ASME PVHO-1" means the ANSI/ASME standard "Safety Standard for Pressure Vessels for Human Occupancy."

"ATA" means a measure of pressure expressed in terms of atmosphere absolute (includes barometric pressure).

"Bell" means a compartment either at ambient pressure (open bell) or pressurized (closed bell) that allows the diver to be transported to and from the underwater work site, allows the diver access to the surrounding environment, and is capable of being used as a refuge during diving operations.

"Bottom time" means the total elapsed time measured in minutes from the time the diver leaves the surface in descent to the time to the next whole minute that the diver begins ascent.

"Breathing gas/breathing mixture" means the mixed-gas, oxygen, or air as appropriate supplied to the diver for breathing.

"Bursting pressure" means the pressure at which a pressure containment device would fail structurally.

"Commercial diver" means a diver engaged in underwater work for hire excluding sport and recreational diving and the instruction thereof.

"Commercial diving operation" means all activities in support of a commercial diver.

"Cylinder" means a pressure vessel for the storage of gases under pressure.

"Decompression chamber" means a pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system especially equipped to recompress, decompress, and treat divers.

"Decompression sickness" means a condition caused by the formation of gas or gas bubbles in the blood or body tissue as a result of pressure reduction.

"Decompression table" means a profile or set of profiles of ascent rates and breathing mixtures designed to reduce the pressure on a diver safely to atmospheric pressure after the diver has been exposed to a specific depth and bottom time.

"Depth" means the maximum pressure expressed in feet of seawater attained by a diver and is used to express the depth of a dive.

"Dive location" means that portion of a vessel or facility from which a diving operation is conducted.

"Dive team" means the divers and diver support personnel involved in a diving operation, including the diving supervisor.

"Diver" means a person working beneath the surface, exposed to hyperbaric conditions, and using underwater breathing apparatus.

"Diver-carried reserve breathing gas" means a supply of air or mixed-gas, as appropriate, carried by the diver in addition to the primary or secondary breathing gas supplied to the diver.

"Diving installation" means all of the equipment used in support of a commercial diving operation.

"Diving mode" means a type of diving requiring SCUBA, surface-supplied air, or surface-supplied mixed-gas equipment, with related procedures and techniques.

"Diving stage" means a suspended platform constructed to carry one or more divers and used for putting divers into the water and bringing them to the surface when in-water decompression or a heavy-weight diving outfit is used.

"Diving supervisor" means the person having complete responsibility for the safety of a commercial diving operation including the responsibility for the safety and health of all diving personnel in accordance with this subpart.

"Facility" means a deepwater port, or an artificial island, installation, or other device on the Outer Continental Shelf subject to Coast Guard jurisdiction.

"Fsw" means feet of seawater (or equivalent static pressure head).

"Gas embolism" means a condition caused by expanding gases, which have been taken into and retained in the lungs while breathing under pressure, being forced into the bloodstream or other tissues during ascent or decompression.

"Heavy-weight diving outfit" means diver-worn surface-supplied deep-sea dress.

"Hyperbaric conditions" means pressure conditions in excess of surface atmospheric pressure.

"Injurious corrosion" means an advanced state of corrosion which may impair the structural integrity or safe operation of the equipment.

"Liveboating" means the support of a surfaced-supplied diver from a vessel underway.

"Maximum working pressure" means the maximum pressure to which a pressure containment device can be exposed under operating conditions (usually the pressure setting of the pressure relief device).

"No-decompression limits" means the air depth and bottom time limits of appendix A.

"Pressure vessel" means a container capable of withstanding an internal maximum working pressure over 15 psig.

"Psi(g)" means pounds per square inch (gage).

"PVHO" means pressure vessel for human occupancy but does not include pressure vessels for human occupancy that may be subjected to external pressures in excess of 15 psig but can only be subjected to maximum internal pressures of 15 psig or less (i.e., submersibles, or one atmosphere observation bells).

"Saturation diving" means saturating a diver's tissues with the inert gas in the breathing mixture to allow an extension of bottom time without additional decompression.

"SCUBA diving" means a diving mode in which the diver is supplied with a compressed breathing mixture from diver carried equipment.

"Standby diver" means a diver at the dive location available to assist a diver in the water.

"Surface-supplied air diving" means a diving mode in which the diver is supplied from the dive location or bell with compressed breathing air including oxygen or oxygen enriched air if supplied for treatment.

"Surface-supplied mixed-gas diving" means a diving mode in which the diver is supplied from the dive location or bell with a compressed breathing mixture other than air.

"Timekeeping device" means a device for measuring the time of a dive in minutes.

"Treatment table" means a depth, time, and breathing gas profile designed to treat a diver for decompression sickness.

"Umbilical" means the hose bundle between a dive location and a diver or bell, or between a diver and a bell, that supplies the diver or bell with a life-line, breathing gas, communications, power, and heat as appropriate to the diving mode or conditions.

"Vessel" means any waterborne craft including mobile offshore drilling units required to have a Certificate of Inspection issued by the Coast Guard or any waterborne craft connected with a deepwater port or within the deepwater port safety zone, or any waterborne craft engaged in activities related to the Outer Continental Shelf.

"Volume tank" means a pressure vessel connected to the outlet of a compressor and used as an air reservoir.

"Working pressure" means the pressure to which a pressure containment device is exposed at any particular instant during normal operating conditions.

§ 197.205 Availability of standards.

(a) Several standards have been incorporated by reference in this subchapter. The incorporation by reference has been approved by the Direc-

tor of the FEDERAL REGISTER under the provisions of 1 CFR Part 51.

(b) The standards are available from the appropriate organizations whose addresses are listed below:

(1) American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

(2) American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

§ 197.206 Substitutes for required equipment, materials, apparatus, arrangements, procedures, or tests.

(a) The Coast Guard may accept substitutes for equipment, materials, apparatus, arrangements, procedures, or tests required in this subpart if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, material, apparatus, arrangement, procedure, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, material, apparatus, arrangement, procedure, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this Subpart.

§ 197.208 Designation of person-in-charge.

(a) The owner or agent of a vessel or facility without a designated master shall designate, in writing, an individual to be the person-in-charge of the vessel or facility.

(b) Where a master is designated, the master is the person-in-charge.

§ 197.210 Designation of diving supervisor.

The name of the diving supervisor for each commercial diving operation shall be—

(a) Designated in writing; and

(b) Given to the person-in-charge prior to the commencement of any commercial diving operation.

EQUIPMENT

§ 197.300 Applicability.

(a) Each diving installation used on each vessel or facility subject to this subpart must meet the requirements of this subpart.

(b) In addition to the requirements of this subpart, equipment which is permanently installed on vessels and is part of the diving installation must meet subchapters F and J of this chapter.

(c) All repairs and modifications to pressure vessels used for commercial diving operations must be made in accordance with the requirements of section VIII, division 1 or division 2 of the ASME Code, ASME PVHO-1, part 54 of this chapter, or 49 CFR 173.34, as applicable.

(d) All repairs and modifications to pressure piping used for commercial diving operations must be made in accordance with the requirements of the ANSI Code or part 56 of this chapter, as applicable.

§ 197.310 Air compressor system.

A compressor used to supply breathing air to a diver must have—

(a) A volume tank that is—

(1) Built and stamped in accordance with section VIII, division 1 of the ASME Code with—

(i) A check valve on the inlet side;

(ii) A pressure gage;

(iii) A relief valve; and

(iv) A drain valve; and

(2) Tested after every repair, modification, or alteration to the pressure boundaries as required by § 197.462;

(b) Intakes that are located away from areas containing exhaust fumes of internal combustion engines or other hazardous contaminants;

(c) An efficient filtration system; and

(d) Slow-opening shut-off valves when the maximum allowable working pressure of the system exceeds 500 psig.

§ 197.312 Breathing supply hoses.

(a) Each breathing supply hose must—

(1) Have a maximum working pressure that is equal to or exceeds—

(i) The maximum working pressure of the section of the breathing supply system in which used; and

(ii) The pressure equivalent of the maximum depth of the dive relative to the supply source plus 100 psig;

(2) Have a bursting pressure of four times its maximum working pressure;

(3) Have connectors that—

(i) Are made of corrosion-resistant material;

(ii) Are resistant to accidental disengagement; and

(iii) Have a maximum working pressure that is at least equal to the maximum working pressure of the hose to which they are attached; and

(4) Resist kinking by—

(i) Being made of kink-resistant materials; or

(ii) Having exterior support.

(b) Each umbilical must—

(1) Meet the requirements of paragraph (a) of this section; and

(2) Be marked from the diver or open bell end in 10-foot intervals to 100 feet and in 50-foot intervals thereafter.

§ 197.314 First aid and treatment equipment.

(a) Each dive location must have—

(1) A medical kit approved by a physician that consists of—

(i) Basic first aid supplies; and

(ii) Any additional supplies necessary to treat minor trauma and illnesses resulting from hyperbaric exposure;

(2) A copy of an American Red Cross Standard First Aid handbook;

(3) A bag-type manual resuscitator with transparent mask and tubing; and

(4) A capability to remove an injured diver from the water.

(b) Each diving installation must have a two-way communications system to obtain emergency assistance except when the vessel or facility ship-to-shore, two-way communications system is readily available.

(c) Each dive location supporting mixed-gas dives, dives deeper than 130 fsw, or dives outside the no-decompression limits must meet the requirements of paragraph (a) of this section and have—

(1) A decompression chamber;

(2) Decompression and treatment tables;

(3) A supply of breathing gases sufficient to treat for decompression sickness;

(4) The medical kit required by paragraph (a)(1) of this section that is—

(i) Capable of being carried into the decompression chamber; and

(ii) Suitable for use under hyperbaric conditions; and

(5) A capability to assist an injured diver into the decompression chamber.

§ 197.318 Gages and timekeeping devices.

(a) A gage indicating diver depth must be at each dive location for surface-supplied dives.

(b) A timekeeping device must be at each dive location.

§ 197.320 Diving ladder and stage.

(a) Each diving ladder must—

(1) Be capable of supporting the weight of at least two divers;

(2) Extend 3 feet below the water surface;

(3) Be firmly in place;

(4) Be available at the dive location for a diver to enter or exit the water unless a diving stage or bell is provided; and

(5) Be—(i) Made of corrosion-resistant material; or

(ii) Protected against and maintained free from injurious corrosion.

(b) Each diving stage must—

(1) Be capable of supporting the weight of at least two divers;

(2) Have an open-grating platform;

(3) Be available for a diver to enter or exit the water from the dive location and for in-water decompression if the diver is—

(i) Wearing a heavy-weight diving outfit; or

(ii) Diving outside the no-decompression limits, except when a bell is provided; and

(4) Be—(i) Made of corrosion-resistant material; or

(ii) Protected against and maintained free from injurious corrosion.

§ 197.322 Surface-supplied helmets and masks.

(a) Each surface-supplied helmet or mask must have—

(1) A nonreturn valve at the attachment point between helmet or mask and umbilical that closes readily and positively;

(2) An exhaust valve; and

(3) A two-way voice communication system between the diver and the dive location or bell.

(b) Each surface-supplied air helmet or mask must—

(1) Ventilate at least 4.5 ACFM at any depth at which it is operated; or

(2) Be able to maintain the diver's inspired carbon dioxide partial pressure below 0.02 ATA when the diver is producing carbon dioxide at the rate of 1.6 standard liters per minute.

§ 197.324 Diver's safety harness.

Each safety harness used in surface-supplied diving must have—

(a) A positive buckling device; and

(b) An attachment point for the umbilical life line that—

(1) Distributes the pulling force of the umbilical over the diver's body; and

(2) Prevents strain on the mask or helmet.

§ 197.326 Oxygen safety.

(a) Equipment used with oxygen or oxygen mixtures greater than 40 percent by volume must be designed for such use.

(b) Oxygen systems with pressures greater than 125 psig must have slow-opening shut-off valves except pressure boundary shut-off valves may be ball valves.

§ 197.328 PVHO—General.

(a) Each PVHO, contracted for or purchased after February 1, 1979, must be built and stamped in accordance with ASME PVHO-1.

(b) Each PVHO, contracted for or constructed before February 1, 1979, and not Coast Guard approved, must be submitted to the Coast Guard for approval prior to February 1, 1984.

(c) To be approved under paragraph (b), a PVHO must be—

(1) Constructed in accordance with Part 54 of this Chapter; or—

(2) Be built in accordance with section VIII, division 1 or division 2 of the ASME Code; and—

(i) Have the plans approved in accordance with § 54.01-18 of this chapter;

(ii) Pass the radiographic and other survey tests of welded joints required by section VIII, division 1 or division 2, as appropriate, of the ASME Code; and

(iii) Pass—(A) The hydrostatic test described in § 54.10-10 of this chapter; or

(B) The pneumatic test described in § 54.10-15 of this chapter and such additional tests as the Officer-in-Charge, Marine Inspection (OCMI) may require.

(d) Each PVHO must—

(1) Have a shut-off valve located within 1 foot of the pressure boundary on all piping penetrating the pressure boundary;

(2) Have a check valve located within 1 foot of the pressure boundary on all piping exclusively carrying fluids into the PVHO;

(3) Have the pressure relief device required by ASME PVHO-1;

(4) Have a built-in breathing system with at least one mask per occupant stored inside each separately pressurized compartment;

(5) Have a two-way voice communications system allowing communications between an occupant in one pressurized compartment of the PVHO and—

(i) The diving supervisor at the dive location;

(ii) Any divers being supported from the same PVHO; and

(iii) Occupants of other separately pressurized compartments of the same PVHO;

(6) If designed to mechanically couple to another PVHO, have a two-way communications system allowing communications between occupants of each PVHO when mechanically coupled;

(7) Have a pressure gage in the interior of each compartment that is—

(i) Designed for human occupancy; and

(ii) Capable of having the compartment pressure controlled from inside the PVHO;

(8) Have viewports that allow observation of occupants from the outside;

(9) Have viewports that meet the requirements of ASME PVHO-1 except those PVHO's approved under paragraph (b) of this section which have nonacrylic viewports;

(10) Have means of illumination sufficient to allow an occupant to—

(i) Read gages; and

(ii) Operate the installed systems within each compartment;

(11) Be designed and equipped to minimize sources of combustible materials and ignition;

(12) Have a protective device on the inlet side of PVHO exhaust lines;

(13) Have a means of extinguishing a fire in the interior;

(14) Have a means of maintaining the oxygen content of the interior atmosphere below 25 percent surface equivalent by volume when pressurized with air as the breathing mixture;

(15) Have a means of maintaining the interior atmosphere below 2 percent surface equivalent carbon dioxide by volume;

(16) Have a means of overriding and controlling from the exterior all interior breathing and pressure supply controls;

(17) Have a speech unscrambler when used with mixed-gas;

(18) Have interior electrical systems that are designed for the environment in which they will operate to minimize the risk of fire, electrical shock to personnel, and galvanic action of the PVHO; and

(19) Be tested after every repair, modification, or alteration to the pressure boundaries as required by § 197.462.

§ 197.330 PVHO—Closed bells.

(a) Except as provided in paragraph (b) of this section, each closed bell must meet the requirements of § 197.328 and—

(1) Have underwater breathing apparatus for each occupant stored inside each separately pressurized compartment;

(2) Have an umbilical;

(3) Have lifting equipment attached to the closed bell capable of returning the occupied closed bell when fully flooded to the dive location;

(4) Be capable of recompressing on the surface to the maximum design diving depth;

(5) Be constructed and equipped as required by § 197.332;

(6) Have an emergency locating device designed to assist personnel on the surface in acquiring and maintaining contact with the submerged PVHO if the umbilical to the surface is severed;

(7) Have a capability to remove an injured diver from the water; and

(8) Have a life support capability for the intact closed bell and its occupants for—

(i) Twelve hours after an accident severing the umbilical to the surface when the umbilical to the surface is the only installed means of retrieving the closed bell; or

(ii) A period of time, at least equal to 1 hour plus twice the time required to retrieve the bell from its designed operating depth and attach an auxiliary lifesupport system, after an accident severing the umbilical to the surface when the umbilical is one of the two independent installed means of retrieving the closed bell, each meeting the requirements of paragraph (a)(3) of this section.

(b) A closed bell that does not meet the requirements of paragraphs (a)(3), (a)(4), and (a)(5) of this section, must be capable of attachment to another PVHO that—

(1) Allows the transfer of personnel and diver's equipment under pressure from the closed bell to the PVHO;

(2) Meets the requirements of paragraph (a)(3) of this section;

(3) Is capable of attachment to a decompression chamber meeting the requirements of paragraphs (a)(4) and (a)(5) of this section; and

(4) Allows the transfer of personnel and diver's equipment under pressure from the PVHO to the decompression chamber.

§ 197.332 PVHO—Decompression chambers.

Each decompression chamber must—

(a) Meet the requirements of § 197.328;

(b) Have internal dimensions sufficient to accommodate a diver lying in a horizontal position and another person tending the diver;

(c) Have a capability for ingress and egress of personnel and equipment while the occupants are under pressure;

(d) Have a means of operating all installed man-way locking devices, except disabled shipping dogs, from both sides of a closed hatch;

(e) Have interior illumination sufficient to allow visual observation, diagnosis, and medical treatment of an occupant.

(f) Have one bunk for each two occupants;

(g) Have a capability that allows bunks to be seen over their entire lengths from the exterior;

(h) Have a minimum pressure capability of—

(1) 6 ATA, when used for diving to 300 fsw; or

(2) The maximum depth of the dive, when used for diving operations deeper than 300 fsw, unless a closed bell meeting the requirements of § 197.330(a) (3), (4), and (5) is used;

(i) Have a minimum pressurization rate of 2 ATA per minute to 60 fsw and at least 1 ATA per minute thereafter;

(j) Have a decompression rate of 1 ATA per minute to 33 fsw;

(k) Have an external pressure gage for each pressurized compartment;

(l) Have a capability to supply breathing mixtures at the maximum rate required by each occupant doing heavy work; and

(m) Have a sound-powered headset or telephone as a backup to the communications system required by § 197.328(c) (5) and (6), except when that communications system is a sound-powered system.

§ 197.334 Open diving bells.

Each open diving bell must—

(a) Have an upper section that provides an envelope capable of maintaining a bubble of breathing mixture available to a diver standing on the lower section of the platform with his body through the open bottom and his head in the bubble;

(b) Have lifting equipment capable of returning the occupied open bell to the dive location;

(c) Have an umbilical; and

(d) Be—(1) Made of corrosion-resisting material; or

(2) Protected against and maintained free from injurious corrosion.

§ 197.336 Pressure piping.

Piping systems that are not an integral part of the vessel or facility, carrying fluids under pressures exceeding 15 psig must—

(a) Meet the ANSI Code;

(b) Have the point of connection to the integral piping system of the vessel or facility clearly marked; and

(c) Be tested after every repair, modification, or alteration to the pressure boundaries as set forth in § 197.462.

§ 197.338 Compressed gas cylinders.

Each compressed gas cylinder must—

(a) Be stored in a ventilated area;

(b) Be protected from excessive heat;

(c) Be prevented from falling;

(d) Be tested after any repair, modification, or alteration to the pressure boundries as set forth in § 197.462; and

(e) Meet the requirements of—

(1) Part 54 of this Chapter; or

(2) 49 CFR 173.34 and 49 CFR 178 Subpart C.

§ 197.340 Breathing gas supply.

(a) A primary breathing gas supply for surface-supplied diving must be sufficient to support the following for the duration of the planned dive:

(1) The diver.

(2) The standby diver.

(3) The decompression chamber, when required by § 197.432(e)(2) or by § 197.434(a) for the duration of the dive and for one hour after completion of the planned dive.

(4) A decompression chamber when provided but not required by this subpart.

(5) A closed bell when provided or required by § 197.434(d).

(6) An open bell when provided or required by § 197.432(e)(4) or by § 197.434(c).

(b) A secondary breathing gas supply for surface-supplied diving must be sufficient to support the following:

(1) The diver while returning to the surface.

(2) The diver during decompression.

(3) The standby diver.

(4) The decompression chamber when required by § 197.432(e)(2) or by § 197.434(a) for the duration of the dive and one hour after the completion of the planned dive.

(5) The closed bell while returning the diver to the surface.

(6) The open bell while returning the diver to the surface.

(c) A diver-carried reserve breathing gas supply for surface-supplied diving must be sufficient to allow the diver to—

(1) Reach the surface.

(2) Reach another source of breathing gas; or

(3) Be reached by a standby diver equipped with another source of breathing gas for the diver.

(d) A primary breathing gas supply for SCUBA diving must be sufficient to support the diver for the duration of the planned dive through his return to the dive location or planned pick-up point.

(e) A diver-carried reserve breathing gas supply for SCUBA diving must be sufficient to allow the diver to return to the dive location or planned pick-up point from the greatest depth of the planned dive.

(f) Oxygen used for breathing mixtures must—

(1) Meet the requirements of Federal Specification BB-0-925a; and

(2) Be type 1 (gaseous) grade A or B.

(g) Nitrogen used for breathing mixtures must—

(1) Meet the requirements of Federal Specification BB-N-411c;

(2) Be type 1 (gaseous);

(3) Be class 1 (oil free); and

(4) Be grade A, B, or C.

(h) Helium used for breathing mixtures must be grades A, B, or C produced by the Federal Government, or equivalent.

(i) Compressed air used for breathing mixtures must—

(1) Be 20 to 22 percent oxygen by volume;

(2) Have no objectionable odor; and

(3) Have no more than—

(i) 1,000 parts per million of carbon dioxide;

(ii) 20 parts per million carbon monoxide;

(iii) 5 milligrams per cubic meter of solid and liquid particulates including oil; and

(iv) 25 parts per million of hydrocarbons (includes methane and all other hydrocarbons expressed as methane).

§ 197.342 Buoyancy-changing devices.

(a) A dry suit or other buoyancy-changing device not directly connected to the exhaust valve of the helmet or mask must have an independent exhaust valve.

(b) When used for SCUBA diving, a buoyancy-changing device must have

an inflation source separate from the breathing gas supply.

§ 197.344 Inflatable floatation devices.

An inflatable floatation device for SCUBA diving must—

(a) Be capable of maintaining the diver at the surface in a faceup position;

(b) Have a manually activated inflation device;

(c) Have an oral inflation device;

(d) Have an over-pressure relief device; and

(e) Have a manually operated exhaust valve.

§ 197.346 Diver's equipment.

(a) Each diver using SCUBA must have—

(1) Self-contained underwater breathing equipment including—

(i) A primary breathing gas supply with a cylinder pressure gage readable by the diver during the dive; and

(ii) A diver-carried reserve breathing gas supply provided by—

(A) A manual reserve (J valve); or

(B) An independent reserve cylinder connected and ready for use;

(2) A face mask;

(3) An inflatable floatation device;

(4) A weight belt capable of quick release;

(5) A knife;

(6) Swim fins or shoes;

(7) A diving wristwatch; and

(8) A depth gage.

(b) Each diver using a heavyweight diving outfit must—

(1) Have a helmet group consisting of helmet, breastplate, and associated valves and connections;

(2) Have a diving dress group consisting of a basic dress that encloses the body (except for head and hands) in a tough, waterproof cover, gloves, shoes, weight assembly, and knife;

(3) Have a hose group consisting of the breathing gas hose and fittings, the control valve, the lifeline, communications cable, and a pneumofathometer; and

(4) Be provided with a helmet cushion and weighted shoes.

(c) Each surface-supplied dive operation using a heavyweight diving outfit must have an extra breathing gas hose with attaching tools available to the standby diver.

(d) Each diver using a lightweight diving outfit must have—

(1) A safety harness;

(2) A weight assembly capable of quick release;

(3) A mask group consisting of a lightweight mask and associated valves and connections;

(4) A diving dress group consisting of wet or dry diving dress, gloves, shoes or fins, and knife; and

(5) A hose group consisting of the breathing gas hose and fittings, the control valve, the lifeline, communications cable, and a pneumofathometer (if the breaking strength of the communications cable is at least equal to that required for the lifeline, the communications cable can serve as the lifeline).

(e) Each surface-supplied air dive operation within the no-decompression limits and to depths of 130 fsw or less must have a primary breathing gas supply at the dive location.

(f) Each surface-supplied dive operation outside the no-compression limits, deeper than 130 fsw, or using mixed-gas as a breathing mixture must have at the dive location—

(1) A primary breathing gas supply; and

(2) A secondary breathing gas supply.

(g) Each diver diving outside the no-decompression limits, deeper than 130 fsw, or using mixed-gas must have a diver-carried reserve breathing gas supply except when using a heavyweight diving outfit or when diving in a physically confining area.

OPERATIONS

§ 197.400 Applicability.

Diving operations may only be conducted from a vessel or facility subject to the subpart if the regulations in this subpart are met.

§ 197.402 Responsibilities of the person-in-charge.

(a) The person-in-charge shall—

(1) Be fully cognizant of the provisions of this subpart;

(2) Prior to permitting any commercial diving operation to commence, have—

(i) The designation of the diving supervisor for each diving operation as required by § 197.210;

(ii) A report on—

(A) The nature and planned times of the planned diving operation; and

(B) The planned involvement of the vessel or facility, its equipment, and its personnel in the diving operation.

(b) Prior to permitting any commerical diving operation involving liveboating to commence, the person-in-charge shall insure that—

(1) A means of rapid communications with the diving supervisor while the diver is entering, in, or leaving the water is established; and

(2) A boat and crew for diver pickup in the event of an emergency is provided.

(c) The person-in-charge shall insure that a boat and crew for SCUBA diver pickup is provided when SCUBA divers are not line-tended from the dive location.

(d) The person-in-charge shall coordinate the activities on and of the vessel or facility with the diving supervisor.

(e) The person-in-charge shall insure that the vessel or facility equipment and personnel are kept clear of the dive location except after coordinating with the diving supervisor.

§ 197.404 Responsibilities of the diving supervisor.

(a) The diving supervisor shall—

(1) Be fully cognizant of the provisions of this subpart;

(2) Be fully cognizant of the provisions of the operations manual required by § 197.420;

(3) Insure that diving operations conducted from a vessel or facility subject to this subpart meet the regulations in this subpart;

(4) Prior to the commencement of any commercial diving operation, provide the report required by § 197.402 to the person-in-charge;

(5) Coordinate with the person-in-charge any changes that are made to the report required by § 197.402; and

(6) Promptly notify the person-in-charge of any diving related casualty, accident, or injury.

(b) The diving supervisor is in charge of the planning and execution of the diving operation including the responsibility for the safety and health of the dive team.

§ 197.410 Dive procedures.

(a) The diving supervisor shall insure that—

(1) Before commencing diving operations, dive team members are briefed on—

(i) The tasks to be undertaken;

(ii) Any unusual hazards or environmental conditions likely to affect the safety of the diving operation; and

(iii) Any modifications to the operations manual or procedures including safety procedures necessitated by the specific diving operation;

(2) The breathing gas supply systems, masks, helmets, thermal protection, when provided, and bell lifting equipment, when a bell is provided or required, are inspected prior to each diving operation;

(3) Each diver is instructed to report any physical problems or physiological effects including aches, pains, current illnesses, or symptoms of decompression sickness prior to each dive;

(4) A depth, bottom time profile, including any breathing mixture changes, is maintained at the dive location for each diver during the dive, except that SCUBA divers shall maintain their own profiles;

(5) A two-way voice communication system is used between—

(i) Each surface-supplied diver and a dive team member at the dive location or bell (when provided); and

(ii) The bell (when provided) and the dive location;

(6) A two-way communication system is available at the dive location to obtain emergency assistance;

(7) After the completion of each dive—

(i) The physical condition of the diver is checked by—

(A) Visual observation; and

(B) Questioning the diver about his physical well-being;

(ii) The diver is instructed to report any physical problems or adverse physiological effects including aches, pains, current illnesses, or symptoms of decompression sickness or gas embolism;

(iii) The diver is advised of the location of an operational decompression chamber; and

(iv) The diver is alerted to the potential hazards of flying after diving;

(8) For any dive outside the no-decompression limits, deeper than 130 fsw, or using mixed-gas as a breathing mixture—

(i) A depth, time, decompression profile including breathing mixture changes is maintained for each diver at the dive location;

(ii) The diver is instructed to remain awake and in the vicinity of the dive location decompression chamber for at least one hour after the completion of a dive, decompression, or treatment; and

(iii) A dive team member, other than the diver, is trained and available to operate the decompression chamber; and

(9) When decompression sickness or gas embolism is suspected or symptoms are evident, a report is completed containing—

(i) The investigation for each incident including—

(A) The dive and decompression profiles;

(B) The composition, depth, and time of breathing mixture changes;

(C) A description of the symptoms including depth and time of onset; and

(D) A description and results of the treatment;

(ii) The evaluation for each incident based on—

(A) The investigation;

(B) Consideration of the past performance of the decompression table used; and

(C) Individual susceptibility; and

(iii) The corrective action taken, if necessary, to reduce the probability of recurrence.

(b) The diving supervisor shall ensure that the working interval of a dive is terminated when he so directs or when—

(1) A diver requests termination;

(2) A diver fails to respond correctly to communications or signals from a dive team member;

(3) Communications are lost and can not be quickly reestablished between—

(i) The diver and a dive team member at the dive location; or

(ii) The person-in-charge and the diving supervisor during liveboating operations; or

(4) A diver begins to use his diver-carried reserve breathing gas supply.

§ 197.420 Operations manual.

(a) The diving supervisor shall—

(1) Provide an operations manual to the person-in-charge prior to commencement of any diving operation; and

(2) Make an operations manual available at the dive location to all members of the dive team.

(b) The operations manual must be modified in writing when adaptation is required because of—

(1) The configuration or operation of the vessel or facility; or

(2) The specific diving operation as planned.

(c) The operations manual must provide for the safety and health of the divers.

(d) The operations manual must contain the following:

(1) Safety procedures and checklists for each diving mode used.

(2) Assignments and responsibilities of each dive team member for each diving mode used.

(3) Equipment procedures and checklists for each diving mode used.

(4) Emergency procedures for—

(i) Fire;

(ii) Equipment failure;

(iii) Adverse environmental conditions including, but not limited to, weather and sea state;

(iv) Medical illness; and

(v) Treatment of injury.

(5) Procedures dealing with the use of—

(i) Hand-held power tools;

(ii) Welding and burning equipment; and

(iii) Explosives.

SPECIFIC DIVING MODE PROCEDURES

§ 197.430 SCUBA diving.

The diving supervisor shall insure that—

(a) SCUBA diving is not conducted—

(1) Outside the no-decompression limits;

(2) At depths greater than 130 fsw;

(3) Against currents greater than one (1) knot unless line-tended; and

(4) If a diver cannot directly ascend to the surface unless line-tended;

(b) The SCUBA diver has the equipment required by § 197.346(a);

(c) A standby diver is available while a diver is in the water;

(d) A diver is line-tended from the surface or accompanied by another diver in the water in continuous visual contact during the diving operation;

(e) When a diver is in a physically confining space, another diver is stationed at the underwater point of entry and is line-tending the diver; and

(f) A boat is available for diver pickup when the divers are not line-tended from the dive location.

§ 197.432 Surface-supplied air diving.

The diving supervisor shall insure that—

(a) Surface-supplied air diving is conducted at depths less than 190 fsw, except that dives with bottom times of 30 minutes or less may be conducted to depths of 220 fsw;

(b) Each diving operation has a primary breathing gas supply;

(c) Each diver is continuously tended while in the water;

(d) When a diver is in a physically confining space, another diver is stationed at the underwater point of entry and is line-tending the diver;

(e) For dives deeper than 130 fsw or outside the no-decompression limits—

(1) Each diving operation has a secondary breathing gas supply;

(2) A decompression chamber is ready for use at the dive location;

(3) A diving stage is used except when a bell is provided;

(4) A bell is used for dives with an in-water decompression time greater than 120 minutes, except when the diver is using a heavy-weight diving outfit or is diving in a physically confining space;

(5) A separate dive team member tends each diver in the water;

(6) A standby diver is available while a diver is in the water; and

(7) Each diver has a diver-carried reserve breathing gas supply except when using a heavy-weight diving outfit or when diving in a physically confining space; and

(f) The surface-supplied air diver has the equipment required by § 197.346 (b) or (d).

§ 197.434 Surface-supplied mixed-gas diving.

The diving supervisor shall insure that—

(a) When mixed-gas diving is conducted, a decompression chamber or a closed bell meeting the requirements of § 197.332 is ready for use at the dive location;

(b) A diving stage is used except when a bell is provided;

(c) A bell is used for dives deeper than 220 fsw or when the dive involves in-water decompression times greater than 120 minutes, except when the diver is using a heavy-weight diving outfit or is diving in a physically confining space;

(d) A closed bell is used for dives at depths greater than 300 fsw, except when diving is conducted in a physically confining space;

(e) A separate dive team member tends each diver in the water;

(f) A standby diver is available during all nonsaturation dives;

(g) When saturation diving is conducted—

(1) A standby diver is available when the closed bell leaves the dive location until the divers are in saturation; and

(2) A member of the dive team at the dive location is a diver able to assist in the recovery of the closed bell or its occupants, if required;

(h) When closed bell operations are conducted, a diver is available in the closed bell to assist a diver in the water;

(i) When a diver is in a physically confining space, another diver is stationed at the underwater point of entry and is line-tending the diver;

(j) Each diving operation has a primary and secondary breathing gas supply meeting the requirements of § 197.340; and

(k) The surface-supplied mixed-gas diver has the equipment required by § 197.346 (b) or (d).

§ 197.436 Liveboating.

(a) During liveboating operations, the person-in-charge shall insure that—

(1) Diving is not conducted in seas that impede station-keeping ability of the vessel;

(2) Liveboating operations are not conducted—

(i) From 1 hour after sunset to 1 hour before sunrise; or

(ii) During periods of restricted visibility;

(3) The propellers of the vessel are stopped before the diver enters or exits the water; and

(4) A boat is ready to be launched with crew in the event of an emergency.

(b) As used in paragraph (a)(2)(ii) of this section, "restricted visibility" means any condition in which vessel navigational visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.

(c) During liveboating operations, the diving supervisor shall insure that—

(1) Diving is not conducted at depths greater than 220 fsw;

(2) Diving is not conducted in seas that impede diver mobility or work function;

(3) A means is used to prevent the diver's hose from entangling in the propellers of the vessel;

(4) Each diver carries a reserve breathing gas supply;

(5) A standby diver is available while a diver is in the water;

(6) Diving is not conducted with in-water decompression times greater than 120 minutes; and

(7) The person-in-charge is notified before a diver enters or exits the water.

PERIODIC TESTS AND INSPECTIONS OF DIVING EQUIPMENT

§ 197.450 Breathing gas tests.

The diving supervisor shall insure that—

(a) The output of each air compressor is tested and meets the requirements of § 197.340 for quality and quantity by means of samples taken at the connection point to the distribution system—

(1) Every 6 months; and

(2) After every repair or modification.

(b) Purchased supplies of breathing mixtures supplied to a diver are checked before being placed on line for—

(1) Certification that the supply meets the requirements of § 197.340; and

(2) Noxious or offensive odor and oxygen percentage;

(c) Each breathing supply system is checked, prior to commencement of diving operations, at the umbilical or underwater breathing apparatus connection point for the diver, for noxious or offensive odor and presence of oil mist; and

(d) Each breathing supply system, supplying mixed-gas to a diver, is checked, prior to commencement of diving operations, at the umbilical or underwater breathing apparatus connection point for the diver, for percentage of oxygen.

§ 197.452 Oxygen cleaning.

The diving supervisor shall ensure that equipment used with oxygen or oxygen mixtures greater than 40 percent by volume is cleaned of flammable materials—

(a) Before being placed into service; and

(b) After any repair, alteration, modification, or suspected contamination.

§ 197.454 First aid and treatment equipment.

The diving supervisor shall ensure that medical kits are checked monthly to insure that all required supplies are present.

§ 197.456 Breathing supply hoses.

(a) The diving supervisor shall insure that—

(1) Each breathing supply hose is pressure tested prior to being placed into initial service and every 24 months thereafter to 1.5 times its maximum working pressure;

(2) Each breathing supply hose assembly, prior to being placed into initial service and after any repair, modification, or alteration, is tensile tested by—

(i) Subjecting each hose-to-fitting connection to a 200 pound axial load; and

(ii) Passing a visual examination for evidence of separation, slippage, or other damage to the assembly;

(3) Each breathing supply hose is periodically checked for—

(i) Damage which is likely to affect pressure integrity; and

(ii) Contamination which is likely to affect the purity of the breathing mixture delivered to the diver; and

(4) The open ends of each breathing supply hose are taped, capped, or plugged when not in use.

(b) To meet the requirements of paragraph (a)(3) of this section, each breathing supply hose must be—

(1) Carefully inspected before being shipped to the dive location;

(2) Visually checked during daily operation; and

(3) Checked for noxious or offensive odor before each diving operation.

§ 197.458 Gages and timekeeping devices.

The diving supervisor shall insure that—

(a) Each depth gage and timekeeping device is tested or calibrated against a master reference gage or time- keeping device every 6 months;

(b) A depth gage is tested when a discrepancy exists in a depth gage reading greater than 2 percent of full scale between any two gages of similar range and calibration;

(c) A timekeeping device is tested when a discrepancy exists in a timekeeping device reading greater than one-quarter of a minute in a 4-hour period between any two timekeeping devices; and

(d) Each depth gage and timekeeping device is inspected before diving operations are begun.

§ 197.460 Diving equipment.

The diving supervisor shall insure that the diving equipment designated for use in a dive under § 197.346 is inspected before each dive.

§ 197.462 Pressure vessels and pressure piping.

(a) The diving supervisor shall insure that each volume tank, cylinder, PVHO, and pressure piping system has been examined and tested every 12 months and after any repair, modification, or alteration to the extent necessary to determine that they are in condition and fit for the service intended.

(b) The following tests must be made to meet the annual requirements of paragraph (a) of this section:

(1) An internal and external visual examination for mechanical damage or deterioration. If a defect is found that may impair the safety of the pressure vessel, a hydrostatic test must be performed.

(2) A leak test.

(3) A pneumatic test.

(4) A hydrostatic test every fifth year instead of the pneumatic test.

(c) The following tests must be made after any repair, modification, or alteration to meet the requirements of paragraph (a) of this section:

(1) An internal and external visual examination for correctness and adequacy of repair, modification, or alteration.

(2) A leak test.

(3) A hydrostatic test when the repair, modification, or alteration affects the pressure boundary.

(d) When the pneumatic test on pressure vessels is conducted—

(1) The test pressure must be the maximum allowable working pressure stamped on the pressure vessel; and

(2) The test may be conducted only after suitable precautions are taken to protect personnel and equipment.

(e) When the pneumatic test on pressure piping is conducted

(1) The test pressure must be no less than 90 percent of the setting of the relief device; and

(2) The test may be conducted only after suitable precautions are taken to protect personnel and equipment.

(f) When a hydrostatic test on a pressure vessel is made, the test pressure must be—

(1) 1¼ times the pressure stamped on the pressure vessel built to division 2 of the ASME Code; and

(2) 1½ times the pressure stamped on the pressure vessel built to division 1 of the ASME Code.

(g) When a hydrostatic test on pressure piping is conducted, the test must be conducted in accordance with the ANSI Code.

(h) When the leak test on pressure vessels or pressure piping is conducted—

(1) The test must be conducted with the breathing mixture normally used in service;

(2) The test must be conducted at the maximum allowable working pressure; and

(3) The test pressure must be maintained for a minimum of 10 minutes to allow checking all joints, connections, and regions of high stress for leakage.

RECORDS

§ 197.480 Logbooks.

(a) The person-in-charge of a vessel or facility required by 46 U.S.C. 201 to have an official logbook shall maintain the logbook on form CG-706.

(b) The person-in-charge of a vessel or facility not required by 46 U.S.C. 201 to have an official logbook, shall maintain, on board, a logbook for making the entries required by this subpart.

(c) The diving supervisor conducting commercial diving operations from a vessel or facility subject to this subpart shall maintain a logbook for making the entries required by this subpart.

§ 197.482 Logbook entries.

(a) The person-in-charge shall insure that the following information is recorded in the logbook for each commercial diving operation:

(1) Date, time, and location at the start and completion of dive operations.

(2) Approximate underwater and surface conditions (weather, visibility, temperatures, and currents).

(3) Name of the diving supervisor.

(4) General nature of work performed.

(b) The diving supervisor shall insure that the following information is recorded in the logbook for each commercial diving operation:

(1) Date, time, and location at the start and completion of each dive operation.

(2) Approximate underwater and surface conditions (weather, visibility, temperatures, and currents).

(3) Names of dive team members including diving supervisor.

(4) General nature of work performed.

(5) Repetitive dive designation or elapsed time since last hyperbaric exposure if less than 24 hours for each diver.

(6) Diving modes used.

(7) Maximum depth and bottom time for each diver.

(8) Name of person-in-charge.

(9) For each dive outside the no-decompression limits, deeper than 130 fsw, or using mixed-gas, the breathing gases and decompression table designations used.

(10) When decompression sickness or gas embolism is suspected or symptoms are evident—

(i) The name of the diver; and

(ii) A description and results of treatment.

(11) For each fatality or any diving related injury or illness that results in incapacitation of more than 72 hours or requires any dive team member to be hospitalized for more than 24 hours—

(i) The date;

(ii) Time;

(iii) Circumstances; and

(iv) Extent of any injury or illness.

(c) The diving supervisor shall insure that the following is recorded in the logbook for each diving operation deviating from the requirements of this subpart:

(1) A description of the circumstances leading to the situation.

(2) The deviations made.

(3) The corrective action taken, if appropriate, to reduce the possibility of recurrence.

(d) The diving supervisor shall insure that a record of the following is maintained:

(1) The date and results of each check of the medical kits.

(2) The date and results of each test of the air compressor.

(3) The date and results of each check of breathing mixtures.

(4) The date and results of each check of each breathing supply system.

(5) The date, equipment cleaned, general cleaning procedure, and names of persons cleaning the diving equipment for oxygen service.

(6) The date and results of each test of the breathing supply hoses and system.

(7) The date and results of each inspection of the breathing gas supply system.

(8) The date and results of each test of depth gages and timekeeping devices.

(9) The date and results of each test and inspection of each PVHO.

(10) The date and results of each inspection of the diving equipment.

(11) The date and results of each test and inspection of pressure piping.

(12) The date and results of each test and inspection of volume tanks and cylinders.

(e) The diving supervisor shall insure that a notation concerning the location of the information required under paragraph (d) is made in the logbook.

NOTE.—R.S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook in addition to the entries required by this section; and R.S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

§ 197.484 Notice of casualty.

(a) In addition to the requirements of subpart 4.05 of this chapter and 33 CFR 146.01-20, the person-in-charge shall notify the Officer-in-Charge, Marine Inspection, as soon as possible after a diving casualty occurs, if the casualty involves any of the following:

(1) Loss of life.

(2) Diving-related injury to any person causing incapacitation for more than 72 hours.

(3) Diving-related injury to any person requiring hospitalization for more than 24 hours.

(b) The notice required by this section must contain the following:

(1) Name and official number (if applicable) of the vessel or facility.

(2) Name of the owner or agent of the vessel or facility.

(3) Name of the person-in-charge.

(4) Name of the diving supervisor.

(5) Description of the casualty including presumed cause.

(6) Nature and extent of the injury to persons.

(c) The notice required by this section is not required if the written report required by § 197.486 is submitted within 5 days of the casualty.

§ 197.486 Written report of casualty.

The person-in-charge of a vessel or facility for which a notice of casualty was made under § 197.484 shall submit a report to the Officer-in-Charge, Marine Inspection, as soon as possible after the casualty occurs, as follows:

(a) On form CG-924E, when the diving installation is on a vessel.

(b) Using a written report, in narrative form, when the diving installation is on a facility. The written report must contain the information required by § 197.484.

(c) The report required by this section must be accompanied by a copy of the report required by § 197.410(a)(9) when decompression sickness is involved.

§ 197.488 Retention of records after casualty.

(a) The owner, agent, or person-in-charge of a vessel or facility for which a report of casualty is made under § 197.484 shall retain all records onboard that are maintained on the vessel or facility and those records required by this subpart for 6 months after the report of a casualty is made or until advised by the Officer-in-Charge, Marine Inspection, that records need not be retained onboard.

(b) The records required by paragraph (a) of this section to be retained on board include, but are not limited to, the following:

(1) All logbooks required by § 197.480.

(2) All reports required by § 197.402(a)(2)(ii), § 197.404(a)(4), § 197.410(a)(9).

(c) The owner, agent, person-in-charge, or diving supervisor shall, upon request, make the records described in this section available for examination by any Coast Guard official authorized to investigate the casualty.

APPENDIX A

The following table gives the depth versus bottom time limits for single, no-decompression, air dives made within any 12-hour period. The limit is the maximum bottom time in minutes that a diver can spend at that depth without requiring decompression beyond that provided by a normal ascent rate of 60 fsw per minute. (Although bottom time is concluded when ascent begins, a slower ascent rate would increase the bottom time thereby requiring decompression.) An amount of nitrogen remains in the tissues of a diver after any air dive, regardless of whether the dive was a decompression or no-decompression dive. Whenever another dive is made within a 12-hour period, the nitrogen remaining in the blood and body tissues of the diver must be considered when calculating his decompression.

AIR NO-DECOMPRESSION LIMITS

Depth (feet):	*No-decompression limits (minutes)*
35	310
40	200
50	100
60	60
70	50
80	40
90	30
100	25
110	20
120	15
130	10

(Source: U.S. Navy Diving Manual, 1 September 1973.)

(46 U.S.C. 239; 46 U.S.C. 390b; 46 U.S.C. 391a; 33 U.S.C. 1509(b); 43 U.S.C. 1333(d)(1); 43 U.S.C. 1331 et seq., as amended by Sec. 203 and 208 of Pub. L. 95-372; 46 U.S.C. 395; 46 U.S.C. 375; 46 U.S.C. 391; 46 U.S.C. 392; 46 U.S.C. 416; 49 U.S.C. 1655(b); 49 CFR 1.46 (b) and (s).)

Dated: November 9, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-32282 Filed 11-15-78; 8:45 am]

Federal Register

THURSDAY, NOVEMBER 16, 1978
PART VII



OFFICE OF MANAGEMENT AND BUDGET

■

RESCISSIONS AND DEFERRALS

Cumulative Report

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

NOVEMBER 1978.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of November 1, 1978, of 30 deferrals contained in the first special message for fiscal year 1979. This message was transmitted to the Congress on October 2, 1978.

RESCISSIONS

As of November 1, 1978, no rescission proposals were before the Congress.

DEFERRALS

As of November 1, 1978, $1,169.8 million in 1979 budget authority was being deferred from obligation and another $1.8 million in 1979 obligations was being deferred from expenditure. The following table summarizes the status of deferrals reported by the President, and the attachment shows the history and status of each deferral reported during fiscal year 1979.

INFORMATION FROM SPECIAL MESSAGES

The special message containing information on each of the deferrals covered by the cumulative report is contained in the FEDERAL REGISTER of: Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III).

JAMES T. MCINTYRE, JR.,
Director.

PAGE 1 ATTACHMENT - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 11/06/78 18:17

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-78
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78				415
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				3,530
Forest Service									
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				32,225
Restoration of forest lands	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		36,218						36,218
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D79- 5	9,830		10 2 78				9,830
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,000			7,060
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				5,429
DEPARTMENT OF COMMERCE TOTAL	BA		27,319			-5,000			22,319

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-78
DEPARTMENT OF DEFENSE-MILITARY								
Military Construction								
Military construction, all services								
BA	D79- 8	548,451		10 2 78				548,451
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		548,451						548,451
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Alaska hydroelectric power development fund								
BA	D79-10	5,450		10 2 78				5,450
Miscellaneous Accounts								
Wildlife conservation, etc., military reservations								
BA	D79- 9	458		10 2 78				458
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		5,908						5,908
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		29,302						29,302

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-78
DEPARTMENT OF THE INTERIOR								
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D79-13	30,000		10 2 78				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D79-14	36		10 2 78				36
Bureau of Mines								
Drainage of anthracite mines								
BA	D79-15	1,700		10 2 78				1,700
Office of Territorial Affairs								
Trust territory of the Pacific Islands								
BA	D79-16	12,000		10 2 78				12,000
DEPARTMENT OF THE INTERIOR TOTAL BA		43,736						43,736
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D79-17	25,300		10 2 78				25,300
DEPARTMENT OF JUSTICE TOTAL BA		25,300						25,300
DEPARTMENT OF STATE								
Other								

PAGE 4 ATTACHMENT - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 11/06/78 18:17

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-78
Emergency refugee and migration assistance fund	BA	D79-18	2,750		10 2 78				2,750
DEPARTMENT OF STATE TOTAL BA			2,750						2,750
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)	BA	D79-20	290,176		10 2 78				290,176
Federal Highway Administration									
Trust fund share of other highway programs	BA	D79-21	40,000		10 2 78				40,000
Overseas highway	BA	D79-22	13,100		10 2 78				13,100
DEPARTMENT OF TRANSPORTATION TOTAL BA			343,279						343,279
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund	BA	D79-23	2,205		10 2 78	-4			2,201
State and local government fiscal assistance fund	BA	D79-24	78,489		10 2 78				78,489
	O	D79-25	2,404		10 2 78	-556			1,848

ATTACHMENT - STATUS OF DEFERRALS - FISCAL YEAR 1979

AS OF 11/06/78 18:17

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-78
Bureau of the Mint								
Construction of mint facilities								
BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY								
TOTAL BA		86,424			-4			86,420
TOTAL O		2,404			-556			1,848
GENERAL SERVICES ADMINISTRATION								
Property Management and Disposal Activities								
Rare silver dollar program								
BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency								
State and local preparedness								
BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION								
TOTAL BA		2,203						2,203
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D79-29	10,945		10 2 78	-1,051			9,894
Interstate Commerce Commission								
Payment of directed rail service								
BA	D79-30	13,990		10 2 78				13,990
OTHER INDEPENDENT AGENCIES								
TOTAL BA		24,935			-1,051			23,884
TOTAL BA		1,175,825			-6,055			1,169,770
TOTAL O		2,404			-556			1,848

[FR Doc. 78-32310 Filed 11-15-78; 8:45 am]

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