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THE NATIONAL ARCHIVES OF THE UNITED STATES
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1934

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
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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.

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

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

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

[3410-02-M]

Title 7—Agriculture

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

[Orange, Grapefruit, Tangerine and Tangelo Reg. 2, Amdt. 7]

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

Limitation of Grapefruit and Tangerine Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment establishes a total limitation of shipment regulation for fresh Florida grapefruit and tangerines, during the period beginning at 6:00 p.m., e.s.t., December 21, 1978, and ending 12:01 a.m., e.s.t., December 27, 1978. The regulation is needed to assist in preventing the accumulation of excessive market supplies of grapefruit and tangerines during the Christmas Holiday period specified, in which it is anticipated there will be a greatly reduced market demand.

EFFECTIVE DATE: December 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

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

(2) The Department's crop Reporting Board estimates Florida's grapefruit crop at 51 million boxes, only about one-half percent lower than the record large 1976-77 season production. It estimates the tangerine crop at 3.8 million boxes, about 18 percent larger than the crop of 1977-78. Both fruits matured somewhat later than usual, but supplies of mature fruit meeting minimum grade and size requirements far exceed that which can be channeled through fresh markets in the period herein specified. Heavy shipments of both fruits are projected in the pre-Christmas period of December. Hence, markets will be abundantly supplied.

This amendment reflects the Department's appraisal of the marketing situation during the period immediately prior to the week in which Christmas Day occurs and for the period immediately following. It is anticipated that shipments of fresh grapefruit, tangerines, and other citrus prior to Christmas Day, will result in market supplies in excess of market needs. An accumulation of excessive quantities of any variety of citrus fruit in the markets during the period immediately prior to and following Christmas contributes to unstable marketing conditions. It is reported that, absent the shipping holiday, excessive shipments of fresh grapefruit and tangerines would occur, causing an accumulation of these varieties of fruit in the market prior to and during the post-holiday period, a period in which there is a drop in consumer demand. Hence, the curtailment of grapefruit and tangerine shipments, as hereinafter specified, would contribute to a better-managed supply situation and in turn to the establishement of orderly marketing.

(3) It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this amendment effective at the time specified. Shipments of Florida grapefruit and tangerines are currently regulated through October 14, 1979; determination as to the need for, and extent of, regulation under § 905.52(a)(3) must await the development of the crop and the availability of information about market supplies and the demand for such fruits; the recommendation and supporting information for such regulation, were promptly submitted to the Department after open meetings of the committee, after notice to growers, shippers and others, and interested persons were afforded an opportunity to submit information and views; information regarding specifications of the regulation has been provided to shippers, and the regulation is identical with the recommendations of the committee; and compliance with the regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time.

Accordingly, it is found that the provisions in paragraph (a) § 905.302 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 2; 43 FR 43013; 52197; 53027; 54617; 57139; should be and hereby are revised by adding a proviso applicable to shipments of grapefruit and tangerines reading as follows:

§ 905.302 Orange, Grapefruit, Tangerine, and Tangelo Regulation 2.

Order. (a) * * * unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table: *Provided,* That during the period beginning at 6:00 p.m., e.s.t., December 21, 1978, and ending 12:01 a.m., e.s.t., December 27, 1978, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit or tangerines, of the varieties or types, specified in paragraph (a) Table I of this section, grown in the production area.

* * * * *

This regulation has not been determined significant under the USDA cri-

teria for implementing Executive Order 12044.

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

Dated: December 11, 1978, to become effective 6:00 p.m., e.s.t., December 21, 1978.

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

[FR Doc. 78-34816 Filed 12-13-78; 8:45 am]

[3410-02-M]

[Navel Orange Reg. 444; Navel Orange Reg. 443, Amdt. 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 15-21, 1978, and increases the quantity of such oranges that may be so shipped during the period December 8-14, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective December 15, 1978, and the amendment is effective for the period December 8-14, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 11 and 12, 1978 to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is somewhat unsettled.

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

1. Section 907.744 is added as follows:

§ 907.744 Navel Orange Regulation 444.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 15, 1978 through December 21, 1978, are established as follows:

(1) District 1: 800,000 cartons;
(2) District 2: 43,504 cartons;
(3) District 3: Unlimited movement.

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

2. Paragraphs (a) (1), (2), and (3) in § 907.743 Navel Orange Regulation 443 (43 FR 57239), are hereby amended to read:

(1) District 1: 1,600,000 cartons;
(2) District 2: unlimited movement;
(3) District 3: unlimited movement;

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

Dated: December 13, 1978.

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

[FR Doc. 78-35031 Filed 12-13-78; 11:35 am]

[3410-02-M]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Qualification Requirements for Public Members of Commodity Committees

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This action amends the qualification requirements for public members of commodity committees to permit nominations from a wider range of potential candidates. The Pear, Plum, and Peach Commodity Committees are established under Marketing Order 917.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice was published in the November 14, 1978, issue of the FEDERAL REGISTER (43 FR 52728) that consideration was being given to a proposal by the Control Committee established under the marketing agreement and Order No. 917, both as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice provided that all written data, views, or arguments in connection with the proposal be submitted by November 29, 1978. No views were received. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

Section 917.122(a) provides that public members shall not have a direct financial interest or be closely associated with production, processing, financing, or marketing (except as consumers) of California agricultural commodities. Thus, nomination of persons who have any interest in agriculture is precluded. This requirement makes many persons ineligible for nomination who might otherwise be suitable. For example, a person with an interest in livestock would be ineligible for nomination as a public member on any of the commodity committees. This amendment is necessary to permit nomination for public member to be made from a wider range of potential candidates. To assure the character of the public member the amendment specifies that such members not have any financial interest in or association with the production, processing, financing, or mar-

keting (except as consumers) of the commodities regulated under this part.

After consideration of all relevant matter presented, including that in the notice and other available information, it is hereby found that the following amendment to § 917.122(a) of Subpart—Rules and Regulations (7 CFR 917.100-917.179) is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

Section 917.122(a) is amended to read as follows:

§ 917.122 Qualification requirements and nomination procedure for public members of Commodity Committees.

(a) Public members shall not have a financial interest in or be associated with the production, processing, financing, or marketing (except as consumers) of the commodities regulated under this part.

* * * * *

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

Dated: December 11, 1978.

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

[FR Doc. 78-34815 Filed 12-13-78; 8:45 am]

[3410-02-M]

[Amdt. 1]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This emergency amendment relieves the Sunday packaging prohibition on December 10, 1978, to allow the industry additional time to pack its marketable lettuce before an expected hard freeze damages the crop. It will promote orderly marketing and benefit consumers by making additional lettuce available.

EFFECTIVE DATE: December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made December 8 by the South Texas Lettuce Committee, which was established under the order and is responsible for its local administration. Because a hard freeze is predicted in the production area the industry needs additional time to salvage as much lettuce as possible. Therefore the committee requested relief on December 10, 1978, from the Sunday packaging prohibition.

EMERGENCY FINDINGS

It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act. It is further found that due to the emergency it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) this amendment must become effective immediately if producers and consumers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of lettuce grown in the production area.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

Regulation, as amended. In § 971.319 (43 FR 53704) the last sentence in the introductory paragraph is hereby amended by adding the following to it:

§ 971.319 Handling regulation.

* * *, except that the prohibition against the packing of lettuce on Sundays shall not apply on December 10, 1978.

* * * * *

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

Effective date. Dated December 8, 1978, to become effective December 10, 1978.

Dated: December 8, 1978.

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

[FR Doc. 78-34817 Filed 12-13-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instruction 424.1]

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Subpart A—Planning and Performing Development Work

NONDISCRIMINATION IN CONSTRUCTION FINANCED BY FMHA, AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation for planning and performing development work as they pertain to nondiscrimination in construction financed by FmHA. The action is taken to comply with the requirements of other FmHA regulations and an Executive Order. The intended effect of this action is to provide equal employment opportunity to minorities and women in Federal and Federally assisted construction contracts in excess of $10,000.

EFFECTIVE DATE: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel Ball, telephone (202) 447-3394.

SUPPLEMENTARY INFORMATION: The FmHA amends § 1804.4 (d) of Subpart A, Part 1804, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

(1) Section 1804.4 (d) (3) is amended to indicate compliance with § 1901.205 of Subpart E, Part 1901 and Executive Order 11246.

(2) Section 1804.4 (d) (6) (iv) is added to call attention to a new report required to be submitted after contracts or subcontracts in excess of $10,000 are let.

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 exemptions in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for comment as this action is needed for immediate implementation of Executive Order 11246. Failure to do so will be contrary to the public interest.

Therefore, § 1804.4 (d) (3) is amended and (d) (6) (iv) is added and read as follows:

§ 1804.4 Performing development.

* * * * *

(d) *Development performed by contract method.* * * *

(3) *Equal opportunity.* Section 1901.205 (b) of Subpart E Part 1901, Subchapter H, of this Chapter applies to all loans or grants involving construction contracts and subcontracts in excess of $10,000.

* * * * *

(6) *Awarding the contract.* * * *

* * * * *

(iv) Within 10 days after a borrower/contractor's contract or subcontract in excess of $10,000 is received in the FmHA County Office, the responsible FmHA official will send a report (similar in form and content to Exhibit C of Subpart E, Part 1901) to the Director, Office of the Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210

* * * * *

Pursuant to the National Environmental Policy Act of 1969 (42 USC 4321 et seq.), the Farmers Home Administration has prepared an Environmental Impact Assessment for these amended rules and has determined that they do not constitute a major Federal action significantly affecting the quality of the human environment, and an Environmental Impact statement is not required.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: November 14, 1978.

GORDON CAVANAUGH
Administrator,
Farmers Home Adminstration.

[FR Doc. 78-34812 Filed 12-13-78; 8:45 am]

[3410-07-M]

SUBCHAPTER H—GENERAL

[FmHA Instruction 1901-E]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements *C*

NONDISCRIMINATION IN CONSTRUCTION FINANCED BY FMHA

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations for nondiscrimination in construction financed by FmHA. The action is taken to fully comply with the requirements of an Executive Order. The intended effect of the action is to provide equal employment opportunity to minorities and women in Federal and Federally-assisted construction contracts in excess of $10,000.

EFFECTIVE DATE: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Ras L. Smith, telephone (202) 447-6120.

SUPPLEMENTARY INFORMATION: The FmHA amends Subpart E of Part 1901, Subchapter H, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

(1) Section 1901.205(a) is amended to indicate compliance with Executive Order 11246.

(2) Section 1901.205(b) is deleted.

(3) Section 1901.205(c) is renumbered § 1901.205(b). It is also revised to indicate the new requirements of applicants, contractors, and responsible FmHA officials.

(4) Section 1901.205(d) is renumbered § 1901.205(c).

(5) Section 1901.205(e) is renumbered § 1901.205(d).

(6) Section 1901.205(g) is renumbered § 1901.205(e), and revised to require that noncompliance to be reported to the agency charged with monitoring compliance rather than to the State Director.

(7) Section 1901.205(h) is deleted.

(8) Section 1901.205(i) is renumbered § 1901.205(g) and revised to require mailing complaints to the agency charged with handling such complaints.

(9) The Table of Contents is amended accordingly.

(10) Exhibits C, and D, are added.

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 exemptions in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for comment as this action is needed for immediate implementation of Executive Order 11246. Failure to do so would be contrary to the public interest.

Therefore, the Table of Sections and § 1901.205 are amended and Exhibits C and D are added as follows:

1. As amended, the Table of Sections reads as follows:

TABLE OF SECTIONS

Sec.
1901.201 Purpose.
1901.202 Nondiscrimination in FmHA programs.
1901.203 Title VIII of the Civil Rights Act of 1968.
1901.204 Compliance reviews.
1901.205 Nondiscrimination in construction financed with FmHA loan or grant.
1901.206-1901.250 [Reserved]
Exhibit A—Civil Rights Compliance Reviews.
Exhibit B—Summary Report of Civil Rights Compliance Reviews.
Exhibit C—FmHA Financed Contract.
Exhibit D—Goals and Timetables for Minorities and Women.

2. As amended, § 1901.205 reads as follows:

§ 1901.205 Nondiscrimination in construction financed with FmHA loan or grant.

Executive Order 11246 provides for equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by FmHA involving a construction contract of more than $10,000.

(a) *Compliance.* This section applies to Federal or Federally assisted construction contracts or subcontracts in excess of $10,000 for on-site construction. It also applies to invitations for bids published for such construction. If construction work of over $10,000 is partially financed by another Federal Agency, the County Supervisor will try to reach an agreement as to which agency will administer the nondiscrimination requirements. If unable to reach an agreement, the County Supervisor will refer the case to the State Director.

(b) *Requirements of applicants, contractors, or subcontractors and responsible FmHA officials.*—(1) *Applicant.* The applicant will be required to execute Form FmHA 400-1, "Equal Opportunity Agreement," at the time the loan is closed or before construction is started, whichever occurs first. If the applicant is an incorporated association, a resolution of the governing body will authorize execution of the form. Municipalities or other public bodies will have to incorporate references to this form in the loan resolution before it is adopted. If the applicant wants to publish for bids, the applicant must obtain Form FmHA 424-5, "Invitation for Bid (Construction Contract)" which is in compliance with Executive Order 11246, from the local FmHA County Supervisor.

(2) *Contractor or Subcontractor.* (i) The prospective contractor or subcontractor must submit Form FmHA 400-6, "Compliance Statement," to the County Supervisor before contract bid

negotiations, and comply with the requirements of Executive Order 11246, which are included with Form FmHA 424-6, "Construction Contract," during the performance of the contract. The contract will contain the required "Standard Federal Equal Employment Opportunity Construction Contract Specifications" goals and timetables as set forth in Exhibit D.

(ii) The contractor or subcontractor will prepare and submit Standard Form 257, "Monthly Employment Utilization Report" to the agency charged with monitoring compliance with EO 11246 on a monthly basis through completion of the contract.

(3) *The County Supervisor or the responsible FmHA official will:* (i) Deliver to the contractor the following forms, as appropriate:

(A) Form FmHA 400-3, "Notice to Contractors and Applicants," with an attached Equal Employment Opportunity Poster. Posters in Spanish will be provided when appropriate,

(B) Form FmHA 400-6, and

(C) Standard Form 257.

(ii) Deliver to the applicant Form FmHA 424-5 when contractors are to be invited to submit bids, and Form FmHA 424-6 to contract for construction.

(iii) Explain to applicant and contractor the requirements of Executive Order 11246, when needed.

(iv) Submit a report similar in form and content to Exhibit C ("FmHA Financed Contract") of this subpart to the Department of Labor within 10 days of the date a contract or subcontract in excess of $10,000 is awarded.

(c) *Contractors with 100 or more employees and contract over $10,000.* Contractors with 100 or more employees and contract over $10,000, will file the following with the Joint Reporting Committee, 1800 G Street NW., Washington, D.C. 20006:

(1) SF-100 "Employer Information Report EEO-1," within 30 days of contract award unless the report has been submitted within the past 12 months, and

(2) An annual report by March 31, so long as the contractor holds any FmHA financed contract in excess of $10,000.

(d) *Contractor with at least 50 employees and contract of $50,000 or more.* Each contractor or subcontractor with at least 50 employees and contract of $50,000 or more, must develop a written affirmative action compliance program for each project. This must be on file in each contractor's or subcontractor's personnel file within 120 days after the beginning of the contract. Form AD-425 provides guidelines for developing compliance programs.

(e) *Compliance during construction.* The County Supervisor will:

(1) Check to see that:

(i) Required posters are displayed.

(ii) There is no evidence of discrimination in employment.

(2) Record findings on Form FmHA 424-12, "Inspection Report."

(3) If there is any evidence of noncompliance, the County Supervisor will report all the facts to the agency charged with monitoring compliance with Executive Order 11246.

(f) *Hometown Plans.* All construction contracts and subcontracts in excess of $10,000, financed by FmHA, in areas which have Hometown Plans regarding affirmative action and equal employment, are subject to the conditions set forth in the applicable plan. Each State Director should seek the advice of the OGC as to compliance with any such plans in the State Director's jurisdiction.

(g) *Discrimination complaints.* (1) Complaints alleging discriminatory acts may be filed directly with the Director, Office of Federal Contract Compliance, Department of Labor, Washington, D.C. 20210, or with the County Supervisor or the State Director for subsequent forwarding to the above address, by any employee or applicant for employment with a contractor or subcontractor.

(2) Each complaint must be in writing and signed by the complainant (The FmHA official receiving the complaint will assist complainant when necessary). The complaint will include:

(i) Name, address, and telephone number of complainant.

(ii) Name and address of the person allegedly discriminating.

(iii) Date and place of the discrimination.

(iv) Description of the discrimination.

(v) Any other information that will assist in investigating and resolving the complaint.

(3) Complaints must be filed not later than 180 days after the alleged act unless the State Director extends the time, for good cause shown by the complainant.

(4) The receiving official will acknowledge receipt of the complaint and forward the complaint to the agency charged with monitoring compliance with Executive Order 11246.

3. As added, Exhibits C and D read as follows:

EXHIBIT C—FMHA FINANCED CONTRACT

TO: Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor (DOL), Washington, D.C. 20210.

We submit the following information relative to a construction contract in excess of $10,000:

1. Contractor's Name: _____
Address: _____
Telephone Number: _____
Employer's Identification Number: _____
2. Contract for: $ _____
Starting Date: _____
Completion Date: _____
Contract Number: _____
City: _____
DOL Region: _____

EXHIBIT D—GOALS AND TIMETABLES FOR MINORITIES AND WOMEN

The preamble to regulations establishing a new part 60-4 to 41 CFR chapter 60 published at 41 CFR 14888-14894, April 8, 1978, states that OFCCP contemplates proposing standards and goals for minorities within the very near future. Until that notice has been proposed and final action taken, construction contractors and subcontractors will continue to be subject to the goals and timetables for minority utilization on Federal and federally assisted construction existing now under Executive order 11246. Such goals are published in appendix B.

Now, therefore, based on the foregoing and 41 CFR part 60-4, each contracting agency, each applicant, and each contractor shall include the appropriate goal set forth in appendix A and Appendix B in all invitations for bids or other solicitations for federally involved construction contracts in excess of $10,000. The goals in appendix A hereby are established on a nationwide basis as the standards for female utilization for all trades.

Appendix B established the goals for minority utilization which shall be applicable for the respective areas set forth in appendix B.

Appendix A and appendix B shall be effective with respect to transactions for which the invitations for bids or other solicitations or amendments thereto are sent, on or after May 8, 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

MARCH 28, 1978.

APPENDIX A

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of $10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract.

AREA COVERED

Goals for Women apply nationwide.

GOALS AND TIMETABLES

Timetable	*Goals (percent)*
From Apr. 1, 1978 until Mar. 31, 1979	3.1
From Apr. 1, 1979 until Mar. 31, 1980	5.1
From Apr. 1, 1980 until Mar. 31, 1981	6.9

APPENDIX B

Until further notice, the following goals and timetables for minority utilization shall be included in all Federal or federally assisted construction contracts and subcontracts in excess of $10,000 to be performed in the respective covered areas. The goals are applicable to the contractor's aggregate onsite construction workforce whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract.

REGION [1]

BOSTON, MASS. AREA

Area covered—Arlington, Boston, Belmont, Brookline, Burlington, Cambridge, Canton, Chelsea, Dedham, Everett, Malden, Medford, Wakefield, Westwood, Winthrop, Winchester, Woburn, and the Islands of Boston Harbor, Mass.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	10.8 to 10.12.
	Boilermakers	9.6 to 12.0.
	Bricklayers	8.0 to 10.0.
	Carpenters	11.6 to 14.5.
	Cement masons	25.5 to 27.5.
	Electricians	6.0 to 7.0.
	Elevator constructors.	9.5 to 11.4.
	Glaziers	8.8 to 11.0.
	Ironworkers	5.9 to 6.9.
	Lathers	6.9 to 8.9.
	Operating engineers.	14.1 to 15.0.
	Painters	9.1 to 11.1.
	Pipefitters	11.0 to 12.1.
	Plasterers	20.5 to 22.5.
	Plumbers	9.8 to 11.8.
	Roofers	8.4 to 10.5.
	Sheetmetal workers.	10.1 to 12.1.
	Sprinkler fitters	12.3 to 15.6.
	All other trades	10.3 to 12.3.

STATE OF RHODE ISLAND AREA

Area Covered—Statewide.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.0.

REGION II

BUFFALO, N.Y. AREA

Area covered—Erie County and Buffalo, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.6 to 13.2.

CAMDEN, N.J. AREA

Area covered—Camden, N.J., area of Camden, Salem, and Gloucester Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	11.6 to 14.5.
	Boilermakers	10.8 to 13.5.
	Bricklayers	17.8 to 20.0.
	Carpenters	11.2 to 13.0.
	Cement masons	12.0 to 15.0.
	Electricians	14.9 to 17.8.
	Elevator constructors.	10.8 to 13.5.
	Glaziers	16.0 to 20.0.
	Lathers	10.8 to 13.5.
	Operating Engineers.	10.0 to 12.5.
	Painters/ Decorators/ Paperhangers.	8.8 to 12.8.
	Plasterers	17.0 to 19.0.
	Plumbers/ Pipefitters/ Steamfitters.	8.4 to 10.5.
	Roofers	8.4 to 10.5.
	Sheetmetal Workers.	11.2 to 14.0.
	Sprinkler Fitters..	10.8 to 13.5.
	Structural Metal Workers.	12.9 to 15.3.
	Wharf 7 Dock Builders.	10.8 to 13.5.

ELMIRA, N.Y. AREA

Area covered—Chemung, Steuben, Schuyler, Tioga, and Yates Counties, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	4.0 to 5.0.

LONG ISLAND, N.Y. AREA

Area covered—Nassau and Suffolk Counties, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.0 to 8.0.

WESTCHESTER, N.Y. AREA

Area covered—Westchester County, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	11 to 13.

REGION III

STATE OF DELAWARE AREA

Area covered—State of Delaware.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	11 to 13.

PHILADELPHIA, PA., AREA

Area covered—Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Ironworkers	22 to 26.
	Plumbers and pipefitters.	20 to 24.
	Steamfitters	20 to 24.
	Sheetmetal workers.	19 to 23.
	Electrical workers	19 to 23.
	Elevator construction workers.	19 to 23.

PITTSBURGH, PA., AREA

Area covered—Allegheny County, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	24.3 to 27.8.
	Boilermakers	33.8 to 37.7.
	Bricklayers	11.9 to 13.0.
	Carpenters	11.8 to 12.9.
	Cement masons	16.3 to 18.1.
	Electricians	17.0 to 20.3.
	Glaziers	26.9 to 30.4.
	Ironworkers	25.5 to 29.9.
	Lathers	12.7 to 13.8.
	Operating engineers.	44.2 to 48.3.
	Painters	16.4 to 17.9.
	Plasterers	34.3 to 38.0.
	Plumbers	7.8 to 9.2.
	Roofers	47.1 to 50.1.
	Sheetmetal workers.	26.0 to 26.9.
	Steamfitters	10.1 to 12.9.
	Tile setters	13.6 to 16.0.
	All other	27.6 to 31.5.

WASHINGTON, D.C., AREA

Area covered—District of Columbia; the Virginia cities of Alexandria, Fairfax, and Falls Church; the Virginia counties of Arlington, Fairfax, Loudoun, and Prince William; and the Maryland counties of Montgomery and Prince Georges.

[1] Region refers to the 10 regions in which the U.S. Department of Labor has offices. These Regions are headquartered in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle, which are numbers I through X respectively.

GOALS AND TIMETABLES

Timetables	Trade	Goal (percent)
Until further notice.	Electricians	28.0 to 34.0.
	Painters and paperhangers.	35.0 to 42.0.
	Plumbers, pipefitters and steamfitters.	25.0 to 30.0.
	Iron workers	35.0 to 43.0.
	Sheetmetal workers.	25.0 to 31.0.
	Elevator constructors.	34.0 to 40.0.
	Asbestos workers..	26.0 to 32.0.
	Lathers	34.0 to 40.0.
	Boilermakers	24.0 to 30.0.
	Tile and terrazzo workers.	28.0 to 34.0.
	Glaziers	28.0 to 34.0.

REGION IV

ATLANTA, GA., AREA

Area covered—Atlanta, Ga., Standard Metropolitan Statistical Area which includes Fulton, DeKalb, Cobb, Clayton, and Gwinnett Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	8.6 to 10.3.
	Bricklayers	16.3 to 18.2.
	Carpenters	11.0 to 12.8.
	Electricians	10.9 to 12.2.
	Glaziers	10.2 to 12.2.
	Ironworkers	14.0 to 16.0.
	Metal Lathers	10.0 to 12.0.
	Painters	10.3 to 12.0.
	Plumbers	9.4 to 10.9.
	Pipefitters	9.4 to 10.9.
	Plasterers	24.4 to 25.8.
	Roofers	18.0 to 20.0.
	Sheetmetal workers.	9.5 to 11.3.
	Sprinkler fitters	8.3 to 9.9.
	Operating engineers.	24.0 to 27.7.
	Elevator installers.	9.6 to 11.5.

BIRMINGHAM, ALA., AREA

Area covered—Jefferson, Shelby, and Walker Counties, Ala.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 24.

CHARLOTTE, N.C., AREA

Area covered—Mecklenburg and Union Counties, N.C.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	24 to 30.

JACKSONVILLE, FLA., AREA

Area covered—Drival County, Fla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 23.

LOUISVILLE, KY. AREA

Area covered—Adair, Barren, Bullitt, Carrol, Edmundson, Grayson, Green, Hardin, Hart, Henry, Jefferson, Larue, Meade, Nelson, Oldham, Shelby, Spencer, Taylor, Trimble, Warren, and Washington Counties, Kentucky; and Clark, Floyd and Harrison Counties, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.0 to 16.0.

MIAMI, FLA., AREA

Area covered—Dade County, Fla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20.0 to 40.0

NASHVILLE, TENN., AREA

Area covered—City of Nashville, Tenn.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	16.0 to 20.0.

REGION V

AKRON, OHIO, AREA

Area covered—Summit, Portage, and Medina Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.0 to 12.5.

CANTON, OHIO, AREA

Area covered—Carroll, Holmes, Stark, Tuscarawas, and Wayne Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	7.0 to 8.4.

CHICAGO, ILL., AREA

Area covered—Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	08.6 to 10.3.
	Bricklayers	16.3 to 8.2.
	Carpenters	11.0 to 12.8.
	Electricians	10.9 to 12.2.
	Elevator installers.	09.6 to 11.5.
	Glaziers	10.2 to 12.2.
	Ironworkers	14.0 to 16.0.
	Metal lathers	10.0 to 12.0.
	Painters	10.3 to 12.1.
	Plumbers	09.4 to 10.9.
	Pipe fitters	09.4 to 10.9.
	Plasterers	24.4 to 25.8.
	Roofers	18.0 to 20.0.
	Sheetmetal workers.	09.5 to 11.3.
	Sprinkler fitters	08.3 to 09.9.
	Operating engineers.	15.7 and above.

CINCINNATI, OHIO, AREA

Area covered.—Ohio counties of Clermont, Hamilton, and Warren and in the Kentucky counties of Boone, Campbell, and Kenton, and in the Indiana county of Dearborn.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	09.3 to 12.2.
	Boilermakers	08.0 to 08.4.
	Carpenters	09.0 to 10.7.
	Elevator constructors.	10.2 to 12.7.
	Engineers (stationary).	26.9 to 28.4.
	Floor layers	09.0 to 10.5.
	Glaziers	09.1 to 11.1.
	Lathers	09.3 to 10.6.
	Marble, tile and terrazzo workers and helpers.	08.3 to 09.9.
	Millwrights	09.1 to 10.3.
	Painters	11.0 to 13.5.
	Pipefitters	10.0 to 12.0.
	Plasterers	08.7 to 09.6.
	Plumbers	10.0 to 12.7.
	Sheetmetal workers.	10.1 to 11.3.
	All other	11.0 to 11.8.

CLEVELAND, OHIO, AREA

Area covered.—Ashland, Ashtabula, Crawford, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Sandusky, and Seneca Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Art glass workers	25.4 to 28.6.
	Asbestos workers	20.9 to 23.9.
	Boilermakers	16.3 to 18.9.
	Bricklayers	28.8 to 29.5.
	Carpenters	08.0 to 08.6.
	Cement masons	41.1 to 42.2.
	Electricians	15.1 to 18.1.
	Elevator constructors.	28.9 to 32.5.
	Glaziers	35.8 to 40.0.
	Ironworkers	11.4 to 13.2.
	Painters	17.7 to 18.4.
	Pipefitters	15.7 to 17.9.
	Plasterers	21.6 to 23.2.
	Plumbers	20.8 to 23.4.
	Roofers	28.9 to 31.8.
	All other	17.0 to 18.8.

DAYTON, OHIO, AREA

Area covered.—Greene, Miami, Montgomery, and Preble Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.6 to 11.8.

DETROIT, MICH., AREA

Area covered.—Wayne, Oakland, and Macomb Counties, Mich.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Electricians	17.0 to 19.0.
	Operating engineers.	16.9 to 18.0.
	Lathers	18.6 to 19.6.
	Painters	15.0 to 17.7.
	Riggers	16.8 to 17.7.
	Roofers	15.3 to 16.6.
	Tile, terrazzo marble workers.	15.0 to 17.8.
	Tile and marble helpers.	16.0 to 18.5.
	Terrazzo helpers	17.8 to 19.5.
	All other	18.6 to 20.4.

EVANSVILLE, IND., AREA

Area covered.—Vanderburgh County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.3 to 7.6.

FORT WAYNE, IND., AREA

Area covered.—Adams, Allen, DeKalb, Huntington, LaGrange, Noble, Steuben, Wells, and Whitley Counties, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Plumbers	05.2 to 05.5.
	Steamfitters	05.2 to 05.5.
	Carpenters	05.7 to 05.2.
	Bricklayers	09.3 to 10.4.
	Electricians	05.2 to 05.9.
	Sheetmetal Workers.	04.4 to 05.2.
	Ironworkers	07.3 to 08.4.
	Operating engineers.	05.2 to 06.0.
	Painters	11.0 to 12.0.
	All other	07.1 to 08.0.

INDIANAPOLIS, IND., AREA

Area covered.—Marion County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	32.2 to 37.7.
	Bricklayers	17.4 to 19.5.
	Electricians	06.6 to 07.8.
	Elevator constructors.	15.5 to 18.0.
	Glaziers	25.2 to 28.6.
	Ironworkers	11.6 to 14.0.
	Lathers	21.1 to 22.0.
	Operating engineers.	07.7 to 08.8.
	Painters	22.4 to 25.0.
	Plasterers	27.5 to 30.4.
	Plumbers	25.5 to 30.0.
	Roofers	15.9 to 18.1.
	Sheetmetal workers.	09.3 to 10.9.
	Steamfitters	14.9 to 17.1.
	All other	14.1 to 16.2.

PEORIA, ILL., AREA

Area covered.—Peoria, Fulton, Tazewell, Woodford, Knox, Stark, Marshall, Hancock, Mason, McLean, McDonough, Henderson, Warren, Livingston, Bureau, Henry, and Putnam Counties, Ill.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.0 to 6.0.

ROCKFORD, ILL., AREA

Area covered.—Boone, Winnebago, Stephenson, De Kalb, Ogle, Lee, and Jo Daviess Counties; Cherry Grove, Shannon, Rock Creek, Lima, Wysox, and Elkhorn Townships in Carroll County; Genesee, Jordan, Hopkins, Sterling, Hume, Montmorency, Tampico, and Hahnaman Townships in Whiteside County, Ill.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.0 to 12.0.

SOUTH BEND, IND., AREA

Area covered.—St. Joseph, County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	8.0 to 10.0.

TOLEDO, OHIO, AREA

Area covered.—Defiance, Fulton, Hancock, Henry, Lusas, Ottawa, Williams, and Wood Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.7 to 12.3.

YOUNGSTOWN, OHIO AREA

Area covered.—Columbiana, Mahoning, and Trumbull Counties, Ohio; and Lawrence and Mercer Counties, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.0 to 7.1.

REGION VI

EL PASO, TEX., AREA

Area covered—El Paso County, Tex.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	55.1 to 66.2.

LAWTON, OKLA., AREA

Area covered—Commanche County, Okla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	15.8 to 16.8.

LITTLE ROCK, ARK., AREA

Area covered—Pulaski County, Ark.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	25.6 to 30.6.

NEW ORLEANS, LA.

Area covered—Parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John, Lafourche, Plaquemines, Washington, Terrebonne, Tangipahoa,[1] Livingston,[2] and St. James.[3]

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 23.

TULSA, OKLA.

Area covered—Tulsa, Creek, Mayes, Rogers, Okfuskee, Washington, Nowata, Craig, Ottawa, Delaware, Okmulgee (northern half), dividing line Highway 16; Osage (eastern half), dividing line Highway 18; Pawnee (eastern half), and Payne (eastern half) Counties, Okla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Bricklayers	24.0 to 25.0.
	Carpenters	17.0 to 18.0.
	Cement masons	21.5 to 22.5.
	Floor covers	12.0 to 14.0.
	Glaziers, glass workers.	14.7 to 17.3.
	Operating engineers.	22.0 to 24.0.
	Painters	18.0 to 20.0
	Pipefitters	10.0 to 12.0.
	Plumbers	11.6 to 13.2.
	Roofers	12.0 to 14.0.
	Sheetmetal workers.	08.0 to 10.0.
	All other trades	12.0 to 14.4.

REGION VII

KANSAS CITY (KANS.) AND (MO.)

Area covered—Clay, Platte, Jackson, Bates, Carroll, Lafayette, Ray, Johnson, Henry, and Cass Counties, Mo., and Wyandotte, Johnson, and Miami Counties, Kans.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	10.3 to 11.7.
	Boilermakers	05.9 to 06.4.
	Bricklayers	19.4 to 20.7.
	Carpenters	05.9 to 06.9.
	Carpet, linoleum and resilient floor decorators.	05.5 to 06.4
	Cement masons	25.5 to 26.5.
	Elevator constructors.	09.2 to 10.7.
	Electricians	08.0 to 09.4.
	Glaziers	09.8 to 10.5.
	Lathers	14.5 to 15.6.
	Marble masons, tile layers and terrazzo workers.	07.5 to 09.0.
	Marble and tile helpers.	04.8 to 05.6.
	Operating engineers.	09.0 to 10.9.
	Painters	14.3 to 15.0.
	Pipefitters	06.9 to 07.7.
	Plasterers	19.0 to 20.4.
	Plumbers	08.3 to 09.3.
	Roofers	14.0 to 15.0.
	Sheetmetal workers.	07.0 to 08.0.
	Teamsters	25.0 to 26.0.
	All other trades	11.4 to 12.5.

OMAHA, NEBR.

Area covered—Sharpy and Douglas Counties, Nebr., Council Bluffs, Iowa (city limits only).

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	9.0 to 10.0.

ST. LOUIS, MO.

Area covered—City of St. Louis, Mo., and St. Louis, Mo.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	05.2 to 05.7.
	Boilermakers	34.0 to 37.7.
	Bricklayers	12.6 to 14.2.
	Carpenters	08.2 to 08.9.
	Cement and concrete finishers.	13.3 to 16.6.
	Electricians	13.6 to 16.1.
	Elevator constructors.	08.7 to 09.3.
	Glaziers	28.7 to 34.5.
	Ironworkers	09.0 to 10.4.
	Lathers and plasterers.	24.2 to 29.7.
	Operating engineers.	13.2 to 15.7.
	Painters and paperhangers.	25.1 to 29.3.
	Plumbers and pipefitters.	13.2 to 15.4.
	Roofers and slaters.	17.1 to 19.6.
	Sheetmetal workers.	22.5 to 27.0.
	Tilesetters and terrazzo workers.	08.8 to 10.4.

TOPEKA, KANS.

Area covered—Shawnee County, Kans.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	08.8 to 10.5.

REGION VIII

COLORADO

Area covered—State of Colorado

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	13 to 14.

REGION IX

ALAMEDA COUNTY, CALIF., AREA

Area covered—Alameda County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	28.5 to 33.0.

ARIZONA

Area covered—State of Arizona.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	25.0 to 30.0.

CONTRA COSTA COUNTY, CALIF.

Area covered: Contra Costa County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.0 to 19.5.

FRESNO COUNTY, CALIF.

Area covered.—Fresno, Madera, Kings, and Tulare Counties, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20.0 to 27.0.

LAS VEGAS, NEV.

Area covered.—Area of jurisdiction of the Building & Construction Trades Council of

[1] Area covered is east of the Illinois Central RR.

[2] Area covered is southeast of the line from a point off the Livingston and Tangipahoa Parish line adjacent from New Orleans and Baton Rouge.

[3] Area covered is southeast of a line drawn from the town of Gramercy to the point of intersection of St. James, Lafourche, and Assumption Parishes.

Clark, Lincoln, Nye and Esmeralda Counties, Nev.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	17.7 to 20.2.
	Bricklayers	18.8 to 21.3.
	Carpenters	16.2 to 17.5.
	Glaziers, floorcoverers, painters, tapers and wallcoverers.	16.3 to 17.7.
	Plasterers	24.6 to 27.2.
	Plumbers and pipefitters..	15.2 to 16.2.
	Sheet metal workers.	16.2 to 17.7.
	Wood, wire and metal lathers.	18.1 to 19.3.
	All other trades	18.0 to 19.5.

LOS ANGELES COUNTY, CALIF.

Area covered.—Area of jurisdiction of the Los Angeles Building & Construction Trades Council.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	21.7 to 25.1.

MONTEREY, CALIF.

Area covered.—Monterey County, Calif., and within the jurisdiction of the Monterey County Building & Construction Trades Council, AFL-CIO.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	27.0 to 29.8.

NORTH BAY, CALIF.

Area covered.—Solano, Napa, Lake, Marin, Mendocino, and Sonoma Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.5 to 12.6.

SACRAMENTO, CALIF.

Area covered.—Sacramento, Yolo, Amador, Placer, El Dorado, Nevada, and Sierra Counties, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.5 to 20.0.

SAN DIEGO COUNTY, CALIF.

Area covered.—San Diego County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	24.0 to 30.0.

SAN FRANCISCO CITY AND COUNTY, CALIF.

Area covered.—City and County of San Francisco, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Electricians	17.0
	Plumbers, pipefitters and steamfitters.	14.0
	Structural metal workers.	20.0
	Sheet metal workers.	19.0
	Asbestos workers.	40.0

SAN MATEO COUNTY, CALIF.

Area covered.—San Mateo County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.0 to 14.0.

SANTA CLARA COUNTY, CALIF.

Area covered.—Santa Clara County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	18.0 to 21.7.

SANTA CRUZ COUNTY, CALIF.

Area covered.—Santa Cruz County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.0 to 20.4.

REGION X

ALASKA

Area covered.—State of Alaska.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	26.4 to 28.0.
	Carpenters	25.7 to 28.0.
	Electricians	25.7 to 28.0.
	Ironworkers	25.7 to 28.0.
	Operating engineers.	26.1 to 28.0.
	Painters	25.8 to 28.0.
	Pile drivers	25.1 to 28.0.
	Plumbers and steamfitters.	25.4 to 28.0.
	Roofers	27.6 to 28.0.
	Sheetmetal workers.	25.6 to 28.0.
	Teamsters	25.6 to 28.0.
	All other	26.1 to 28.1.

PASCO, WASH.

Area covered.—The area of jurisdiction of the Southeastern Washington Building & Construction Trades Council as follows: all of Benton, Franklin, and Walla Walla Counties, Grant County to Highway 2 and the southwest corner of Adams County, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Boilermakers	12.5 to 15.0.
	Bricklayers	11.0 to 13.5.
	Carpenters	09.8 to 12.3.
	Cement finishers..	11.5 to 14.0.
	Electricians	10.0 to 12.5.
	Ironworkers	10.0 to 12.5.
	Operating engineers.	10.2 to 12.7.
	Painters	10.0 to 12.5.
	Plumbers and fitters.	0.9. to 12.4.
	Sheetmetal workers.	10.8 to 13.3.
	Laborers	09.5 to 13.3.
	All other	10.0 to 12.5.

PORTLAND, OREG.

Area covered—Multnomah, Clackamas, and Washington Counties, Oreg.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.5 to 6.5.

SEATTLE, WASH.

Area covered—King County, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	8.8 to 11.5.

SPOKANE, WASH.

Area covered—Washington Counties: Spokane, Whitman, Lincoln, Adams, Stevens, Pend Oreille, Columbia, Garfield, Asotin,

Ferry, Okanogan, Chelan, Douglas and Grant (north of Highway 2), and in connection with Indian employment, parts of any other counties included in reservations incorporating portions of the above area; Idaho: Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, and Idaho, and in connection with Indian employment, any other territory included in reservations, part of which are in the above counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	2.0 and above.

TACOMA, WASH.

Area covered—Pierce, Thurston, Mason, Lewis, Grays Harbor, and Pacific Counties, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.2 to 15.0

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 42 U.S.C. 2942; Sec. 10 Pub. L. 93-357. 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

NOTE.—Pursuant to the National Environmental Policy Act of 1969 (424 SC 4321 et seq.), the Farmers Home Administration has prepared an Environmental Impact Assessment for these amended rules and has determined that they do not constitute a major Federal action significantly affecting the quality of the human environment, and an Environmental Impact Statement is not required.

Dated: November 14, 1978.

GORDON CAVANAUGH
Administrator, Farmers Home Administration.

[FR Doc. 78-34813 Filed 12-13-78; 8:45 am]

[3410-07-M]

SUBCHAPTER J—REAL PROPERTY

PART 1933—LOAN AND GRANT PROGRAMS (GROUP)

Subpart A—Community Facility Loans

ADVANCEMENT OF LOAN FUNDS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning the advancement of loan funds under the community facilities and water and waste disposal programs. The intended effect of this action is to permit the single advance of all FmHA loan funds when necessitated by State law or when public exigency dictates the need for a single advance. Present regulations provide that in the event interim commercial financing is not legally permissible or not available, multiple advances of FmHA loan funds are required. Such advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Occasionally, certain borrowers are unable to complete financial arrangements under such restrictive advance requirements. Therefore, in order not to deny financing to such borrowers, this change in procedure is being implemented to prevent undue delay, hardship and escalation of project construction costs.

EFFECTIVE DATE: December 14, 1978. However, comments are requested and must be received on or before February 12, 1979.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Sewell Feddiman, (202) 447-5718.

SUPPLEMENTARY INFORMATION: Section 1933.17(a)(13)(iii) of Subpart A of Part 1933, Chapter XVIII, Title 7, Code of Federal Regulations is amended. This change will pemit the single advance of the total FmHA loan when necessitated by State law or when public exigency dictates the need for a single advance. 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 amendment is giving additional benefits and is not published for proposed rulemaking because any delay in implementing this change would cause undue economic and social hardship. Accordingly, as amended, § 1933.17(a)(13)(iii) reads as follows:

§ 1933.17 Appendix A—Community facilities.

(a) * * *

* * * * *

(13) *Closing loans and fund delivery.* * * *

(iii) *Multiple advances.* In the event interim commercial financing is not legally permissible or not available, multiple advances of FmHA loan funds are required. An exception to this requirement may be granted by the National Office when a single advance is necessitated by State law or public exigency. Multiple advances will be used only for loans in excess of $50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Advances should not exceed 24 in number nor extend longer than two years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure construction completion will be included in the last advance.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190 an Environmental Impact Statement is not required.

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

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: December 8, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-34814 Filed 12-13-78; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I — IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 108—ASYLUM

PART 236—EXCLUSION OF ALIENS

Asylum; Filing of Application in Exclusion Proceedings

AGENCY: Immigration and Naturalization Service, Justice Department.

ACTION: Final Rule; clarification of rulemaking proceeding.

SUMMARY: This document is being published in order to clarify the status of the rulemaking proceedings relative to the filing of asylum applications in exclusion proceedings before the immigration judge. This document is necessary to prevent publication of the material published at 43 FR 40801-03 on September 13, 1978 in the annual compilation of the Code of Federal Regulations. That document should be considered as a notice of proposed rulemaking. It is currently under review by the Service pursuant to the proposed rulemaking provisions of the Administrative Procedure Act.

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

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 376-8373.

SUPPLEMENTATARY INFORMATION: On September 13, 1978, at 43 FR 40801, the Immigration and Naturalization Service published "final" rules amending 8 CFR 108.1, 108.2, and 8 CFR 236.3, 236.6, and 236.7 relating to the filing of asylum applications in exclusion proceedings. These rules were published to become effective immediately upon publication. However, as the result of restraining orders entered September 8, 1978 and October 11, 1978, in the United States District Court for the Southern District of Florida, the operation of these "final" rules was enjoined and the rules were not permitted to become effective. On October 19, 1978, the Service published an order in the FEDERAL REGISTER at 43 FR 48620 for the purpose of staying the "final" rule of September 13, 1978 and to request comments from the public for a period of 60 days, to expire on December 18, 1978.

The Office of the Federal Register has advised the Service that the order published October 19, 1978 does not prevent the publication of the "final" regulations of September 13, 1978 in the Code of Federal Regulations revised as of January 1, 1979. This order, therefore, is published for the sole purpose of withdrawing the "final" rules of September 13, 1978 to prevent their publication in the annual compilation of the Code of Federal Regulations effective as of Janurary 1, 1979. The service desires and requests that the "final" rules of September 13, 1978 be considered as proposed regulations and indexed as such by the Office of the Federal Register. The final date on the comment period for the receipt of public comment on the regulations appearing at 43 FR 40801 through 40803 published September 13, 1978 remains December 18, 1978. All relevant comments received on or before December 18, 1978 will be considered before final action is taken on the implementation of the proposed rules.

Accordingly, final rules amending 8 CFR 108.1, 108.2 and 8 CFR 236.3, 236.6 and 236.7 published on September 13, 1978 at 43 FR 40801 are withdrawn.

Dated: December 12, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-34891 Filed 12-13-78; 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

[Regulation Q; Docket No. R-0172]

PART 217—INTEREST ON DEPOSITS

Penalty for Early Withdrawals

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: On July 12, 1978, the Board of Governors of the Federal Reserve System invited public comment on an amendment to Regulation Q (Interest on Deposits) that would modify the interest forfeiture penalty required to be imposed when funds are withdrawn from time deposits prior to maturity under certain circumstances (43 FR 32140). The period for receipt of public comment on the proposed amendment expired on August 30, 1978. After consideration of the comments, the Board has determined to adopt the amendment substantially as proposed, effective immediately. The amendment reduces the minimum required early withdrawal penalty as applied to Individual Retirement Account (IRA) or Keogh (H.R. 10) Plan time deposits and other time deposit agreements that provide that if additional funds are deposited to the account, such deposits extend the maturity of the existing funds on deposit. The amendment also applies to time deposits that may not be withdrawn prior to the expiration of a specified period of notice (notice accounts). Under the amendment, the minimum early withdrawal penalty period for such accounts is reduced from the current requirement to no more than the maturity or notice period specified for the deposit. Under the Board's current regulations, in the event of a withdrawal of funds prior to maturity from time deposit agreements which provide that subsequent deposits to the account extend the term of all of the funds on deposit, or in the event of a withdrawal from a notice account prior to the expiration of the required notice period, a member bank generally is required to impose an interest forfeiture on the funds withdrawn back to their original date of deposit.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Anthony F. Cole, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3711).

SUPPLEMENTARY INFORMATION: Section 217.4(d) of the Board's Regulation Q (12 CFR 217.4(d)) provides that where all or a portion of a time deposit is paid prior to maturity, the member bank must reduce the rate of interest paid on the amount withdrawn to a rate not to exceed the rate currently prescribed for a savings deposit plus a forfeiture of three months' interest. Under the present requirement, where additional deposits to a time deposit account by the terms of the deposit agreement reset the maturity of all previous deposits to the account, a member bank generally is required to impose an interest forfeiture on any funds withdrawn prior to maturity back to the original date of deposit of those funds regardless of how long the funds have remained on deposit. Similarly, if a depositor withdraws funds from a time deposit that is payable only after expiration of a required period of notice without giving such notice, or withdraws the funds prior to the expiration of such notice period, a member bank is required to impose the interest forfeiture penalty on the funds withdrawn back to the original date of deposit of those funds.

The amendment modifies these requirements by reducing the period of time over which the penalty must be calculated to a period of no more than the maturity or notice period specified for the deposit. The principal effect of the amendment is generally to equalize the early withdrawal penalty as applied to such accounts with the penalty applied to automatically renewable and single maturity time deposits. In particular, the amendment will reduce the potentially severe impact of the penalty on notice accounts and on long-term Individual Retirement Accounts (IRAs) and Keogh (H.R. 10) Plan accounts, many of which have

been established in the form of time deposit, open accounts (TDOAs) which allow subsequent or additional deposits to the account without the necessity of issuing a new instrument.

The amendment substantially conforms application of the Board's penalty rule with application of the penalty required to be imposed on premature withdrawals from similar accounts by nonmember commercial banks, mutual savings banks and insured savings and loan associations under regulations promulgated by the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board. The amendment establishes a minimum penalty for early withdrawal, and member banks are permitted to specify an additional penalty in their deposit agreements. Examples of the application of the amended penalty rule are as follows:

EXAMPLE 1

A depositor establishes an IRA in the form of a time deposit, open account with an original maturity of three years. The deposit agreement provides that subsequent deposits to the account reset the maturity of all funds on deposit in the account for an additional three years from the date of any subsequent deposit. The depositor then deposits $1,000 per year into the account for 10 years. The depositor closes the account at the end of the eleventh year and withdraws all of the funds.

Under the Board's current regulation, since each subsequent deposit resets the maturity of all previous deposits for an additional three years, none of the individual deposits to the account matures, and a member bank is required to impose the interest forfeiture penalty back to the date of original deposit of each component of the account. For example, in the case of the initial $1,000 deposited to the account, the penalty would consist of a reduction in the rate of interest paid to the savings rate over the entire period the funds had been on deposit plus the forfeiture of 90 days' interest at the savings rate.

Under the regulation as amended, for purposes of calculating the minimum required penalty, a member bank may regard funds that have remained on deposit for a period in excess of three years (the term specified in the deposit agreement) as having matured and been redeposited every three years. Accordingly, the initial $1,000 deposited to the account in the case above is treated as if it had matured and "rolled-over" in years three, six, and nine, and the penalty is assessed only for a period of two years (back to year nine), rather than back to the original date of deposit.

The minimum required penalty on the additional components of the account is calculated in a similar manner. For example, with respect to the second $1,000 deposited to the account, that amount is treated as if it had matured and "rolled-over" in years four, seven and ten, and the penalty is assessed for a period of one year (back to the "roll-over" date in year ten).

EXAMPLE 2

A depositor establishes a time deposit that is payable only upon the expiration of a one-year period of notice required to be given by the depositor. Five years later the member bank permits the depositor to withdraw all of the funds in the account without giving the bank the required notice. Under the Board's current regulation, the member bank is required to impose an interest forfeiture on the funds withdrawn back to the date of original deposit. The penalty would consist of a reduction in the rate of interest paid to the savings rate over the entire five-year period plus a forfeiture of 90 days' interest at the savings rate. Under the regulation as amended, the required minimum interest forfeiture would be calculated over a period of one year, which is the notice period required.

This amendment is adopted effective immediately since it relieves an existing regulatory restriction. Therefore, pursuant to § 19 of the Federal Reserve Act (12 U.S.C. 371b), effective immediately, § 217.4(d) of Regulation Q (12 CFR 217.4 (d)) is amended by adding the following two sentences as a new paragraph at the end of 217.4(d)(3) as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty for early withdrawals.* * * *

(3) * * *

Under a time deposit agreement where subsequent deposits reset the maturity of the entire account, each deposit maintained in the account for at least a period equal to the original maturity of the deposit may be regarded as having matured individually and been redeposited at intervals equal to such period. When a time deposit is payable only after notice, for funds on deposit for at least the notice period, the penalty for early withdrawal shall be imposed for at least the notice period.

* * * * *

Board of Governors of the Federal Reserve System, December 6, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-34772 Filed 12-13-78; 8:45 am]

[6210-01-M]

[Reg. Q; Docket No. R-0149]

PART 217—INTEREST ON DEPOSITS

Withdrawal of Interest

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has issued an interpretation regarding the treatment of interest earned on time deposit funds for purposes of the Board's Regulation Q. Pursuant to this interpretation, a member bank may permit a depositor to withdraw interest earned on a time certificate of deposit at any time before maturity without penalty, irrespective of the basis upon which the member bank compounds or credits the interest to the depositor's account. Previously, member banks had been advised that interest became part of the underlying principal deposit and, thus, was subject to Regulation Q early withdrawal penalty requirements when that interest was credited or posted to the depositor's account.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel (202/452-3625) or Anthony F. Cole, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective immediately, § 217.154 (12 CFR § 217.154) is added to read as follows:

§ 217.154 Withdrawal of Interest.

(a) The Board has been asked to review the question of when interest earned on a time deposit becomes part of the principal deposit for purposes of the early withdrawal penalty requirements contained in § 217.4(d) of Regulation Q. As noted in the requests, the Board's staff has previously advised that interest becomes part of the underlying principal when it is credited or posted to the depositor's account. Under this position, where a depositor is permitted to make an early withdrawal of time deposit funds, the depositor will incur an early withdrawal penalty pursuant to § 217.4(d) on all of the funds with-

drawn to the extent that the amount withdrawn reflects the original principal and any earned interest that has been credited or posted to the account.

(b) The Board does not believe that the frequency of compounding or the method of crediting or posting interest to the account is necessarily determinative of when interest should be viewed as part of the underlying principal for purposes of application of the Regulation Q early withdrawal restrictions. Adoption of such a position is unnecessary to effectuate the purposes of interest rate control, deposits. In addition, the Board notes that the outstanding position that interest becomes part of the underlying principal when credited or posted to the account and, thus, is subject to Regulation Q early withdrawal restrictions, places member banks at a competitive disadvantage with respect to nonmember insured commercial banks that are permitted to pay accrued interest on a time deposit at any time during the initial term of the deposit contract.

(c) In view of the above considerations, the Board has concluded that a member bank may permit a depositor to withdraw the interest earned on a time deposit at any time before maturity, irrespective of the method that the bank uses to compound or credit (post) interest to the depositor's account. The Board has concluded, however, that if a time deposit is renewed upon its original maturity or if a depositor takes action to extend the maturity of the time deposit during the original maturity period, interest earned to the date of renewal or extension, unless withdrawn, must be viewed as part of principal subject to Regulation Q withdrawal restrictions.

(d) This interpretation does not affect the treatment of interest as principal for purposes of assessing required reserves under Regulation D (12 CFR Part 204). For purposes of determining required reserves, interest that has been credited or posted to a time deposit account will continue to be viewed as a deposit on which reserves must be maintained at the appropriate time deposit level.

The Board has issued this interpretation based upon its statutory authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461, 371b.

Board of Governors of the Federal Reserve System, December 6, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-34773 Filed 12-13-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18510; SFAR No. 38]

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

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Special Federal Aviation Regulation No. 38; Certificate Requirements: General

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In response to the Airline Deregulation Act of 1978 (Pub. L. 95-504) and recent actions by the Civil Aeronautics Board, this Special Federal Aviation Regulation (SFAR) simplifies the certificate issuance procedures for air carriers and other operators engaged in air commerce. The FAA is hereby providing for the issuance of (1) an FAA air carrier operating certificate to each air carrier, as defined in the Federal Aviation Act of 1958, as amended, which will cover all operations that operator conducts under Parts 121, 127, and 135 of the Federal Aviation Regulations (FARs), and (2) an FAA operating certificate to any operator who is not an air carrier which will cover all non-air carrier operations conducted by that operator under Parts 121, 123, and 135 of the FARs. Under this SFAR, only one operating certificate will be issued to an air carrier. Each type of operation an air carrier is authorized to conduct and the regulations applicable to each type operation will be specified in the air carrier's operations specifications. The impact of this SFAR is to eliminate both an immediate and future unnecessary burden on attached aircraft operations.

DATES: Effective date: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Federal Aviation Regulations were designed for the issuance of one FAA operating certificate to each air carrier based on the type of operations it conducted. This regulatory plan was consistent with the economic regulations of the Civil Aeronautics Board and has worked well in the past with respect to air carrier operations conducted under certificates of public convenience and necessity or other appropriate economic authority issued by the CAB. However, the initiation by the CAB of a liberalization of its policy and regulations concerning the grant of economic authority and route authorizations together with the congressional establishment of all-cargo air services authority and the implementation of the Airline Deregulation Act of 1978 has resulted in the issuance of multiple CAB certificates, exemptions and authority authorizations with individual air carriers being granted CAB authority to conduct a variety of operations. In some cases, operators have received authority to conduct operations both as an air taxi and as an all-cargo air carrier. In other cases, domestic and flag air carriers have been granted authority to also engage in all-cargo air service operations and/or air taxi operations and some supplemental air carriers have received authority to provide scheduled domestic and/or flag service.

An operator who receives CAB authority to perform a new type of service must also apply for an FAA operating certificate and/or operations specifications. Since different Parts of the FARs are applicable to the different types of operations and each part contains its own certification and operating rules, the issuance of multiple FAA certificates has led to duplication of requirements, unnecessary paperwork, and confusion. Moreover, the authorization of the additional authority may require the grant of exemptions from mutually exclusive requirements of the different parts. Pending a detailed review and amendment of the Federal Aviation Regulations, the FAA is adopting this Special Federal Aviation Regulation to simplify the certificate issuance procedures and eliminate the undue administrative burden the current procedur-

al requirements place on affected operators and FAA field offices.

Under the SFAR, each air carrier, as defined under the Federal Aviation Act of 1958, as amended, will be issued an FAA air carrier operating certificate which will cover all operations that operator conducts under Parts 121, 127, and 135 of the Federal Aviation Regulations. Non-air carriers conducting operations under Parts 121, 123, and 135 will be issued an FAA operating certificate. The specific types of operation authorized under a certificate and the certification and operating rules applicable to each type of operation will be specified in the operator's operations specifications. The holder of an "Air Carrier Operating Certificate" may be authorized to conduct under that certificate any of the following air carrier or non-air carrier operations specified in the current FARs, except operations under Part 123 which is applicable only to air travel clubs. The holder of an "Operating Certificate" will be limited to either those operations specified in the current regulations noted below for commercial operations or those specified for an air travel club.

Air Carrier Operating Certificate

Domestic Air Carrier Operations—Part 121.
Flag Air Carrier Operations—Part 121.
Supplemental Air Carrier Operations—Part 121.
All-Cargo Air Service Operations—Part 121.
Scheduled Helicopter Operations—Part 127.
Air Taxi Operations—Small and Certain Large Aircraft—Part 135.

Operating Certificate

Commercial Operations—Large Aircraft—Part 121.
Commercial Operations—Small and Certain Large Aircraft—Part 135.
Air Travel Club Operations Using Large Airplanes—Part 123.

Although the certificate is no longer identified with a particular type of operation (e.g. domestic air carrier, air taxi operator, etc.), or with a specific Part of the Federal Aviation Regulations (e.g. Part 121 certificate holder, Part 135 certificate holder, etc.), the types of operations authorized will be identified in the operations specifications; and, the regulations applicable to each type of operation will be specified from the currently applicable regulations.

The operations specifications will be issued based on the type of aircraft the operator intends to use in the conduct of its operations. For example, an air carrier operating aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less, and a maximum payload capacity of 7,500 pounds or less will be issued operations specifications under the provisions of Revised Part 135, effective December 1, 1978, (43 FR 46742, October 10, 1978) applicable to commuter and air taxi operations. However, in accordance with the grandfather provisions of § 135.2(d), the holder of a current air taxi operator's certificate who, on December 1, 1978, conducted its operations in those aircraft under the rules of Part 121 applicable to domestic or supplemental air carriers may elect to continue to operate those aircraft under operations specifications issued under the provisions of Part 121. Air carriers operating larger aircraft will be issued operations specifications under the provisions of Part 121. It should be noted that, depending on the type of aircraft used, an air carrier's operations specifications may include those issued under Parts 121, 127, and 135. This is consistent with the current pass-through provisions of §§ 121.9 and 135.2. Section 121.9 requires the holder of a "Part 121" certificate who conducts any operations in small and certain large airplanes to conduct those operations under the requirements of Part 135 applicable to air taxi operators. Likewise, § 135.2 requires the holder of a "Part 135" air taxi certificate who conducts any operations in certain large airplanes to conduct those operations under the applicable requirements of Part 121.

No change in the substantive requirements applicable to the aircraft listed in the operation specifications of operators who currently hold certificates is made by this SFAR. All certificate holders will continue to comply with the provisions and limitations under which they are certificated and/or operating with respect to the type of aircraft listed in their current operation specifications.

In order to provide for the orderly transition and consolidation of the multiple certificates held by some operators, the FAA operating certificates currently held by each operator will continue to be valid until such time as an operating certificate is issued to that operator under this SFAR. Present certificate holders need not apply for the new certificates which may be issued to them in connection with applications for certificate renewals and changes in their operating authority and authorizations which require amendments to their operating certificates or operations specifications. In any event, all operators will be issued the new certificates by June 30, 1980. In this connection it should also be noted that a certificate number presently held by an operator may be transferred to the new certificate if the operator wants to retain the number.

NEED FOR IMMEDIATE ACTION

In order that air carriers issued authority by the CAB pursuant to certain provisions of the Airline Deregulation Act of 1978 may commence service pursuant to such authority within the time required by that Act, and since this special SFAR is administrative in nature and relieves an unnecessary burden on the FAA and applicants for operating certificates and changes to those certificates, I find that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days. However, the FAA intends to review the certification procedure experience under this SFAR and interested persons are invited to participate in this process by submitting such written data, views, or arguments as they may desire regarding this SFAR. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before January 31, 1979, will be considered by the Administrator and this SFAR may be changed in the light of the 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.

THE AMENDMENT

Accordingly, Special Federal Aviation Regulation No. 38 is adopted, effective December 14, 1978, to read as follows:

SPECIAL FEDERAL AVIATION REGULATION NO. 38

Contrary provisions of Parts 121, 123, 127, and 135 of the Federal Aviation Regulations notwithstanding—

1. Persons authorized to conduct operations as an air carrier, as defined in the Federal Aviation Act of 1958, as amended, will be issued an Air Carrier Operating Certificate. All other persons except those holding an Air Carrier Operating Certificate, authorized to conduct operations under those parts will be issued an Operating Certificate. The operations specifications associated with each certificate will prescribe the type of operations and the conditions and limitations and Federal Aviation Regulations under which each type of operation shall be conducted.

2. Except as provided in paragraphs (c) and (d) of this section, each person authorized to conduct operations as an air carrier, as defined in the Federal Aviation Act of 1958, as amended, who applies for an Air Carrier Operating Certificate or for an amendment to its operations specifications to add—

(a) Aircraft having a passenger seating configuration, excluding any pilot seat, of more than 30 seats or a payload capacity of more than 7,500 pounds shall comply with the certification requirements in, and conduct its air carrier operations in those aircraft in accordance with, the requirements of Part 121, and shall be issued operations specifications under Part 121.

(b) Aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, shall comply with the certification requirements in, and conduct its air carrier operations in those aircraft in accordance with, the requirements of Part 135, and shall be issued operations specifications under Part 135.

(c) An air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board when engaging in scheduled interstate air transportation using helicopters within the 48 contiguous States and the District of Columbia shall comply with the certification requirements in, and conduct its air carrier operations in those aircraft in accordance with, the requirements of Part 127, and shall be issued operations specifications under Part 127.

(d) An air carrier, whose operations on December 1, 1978, in large aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less, and a maximum payload capacity of 7,500 pounds or less, were conducted under the rules of Part 121 applicable to domestic or supplemental air carriers, may continue to conduct its operations in such aircraft under those rules as provided in § 135.2(d) if it has given written notice to the FAA.

3. Except as provided in paragraph (c) of this section, each person who is not an air carrier as defined in the Federal Aviation Act of 1958, as amended, who applies for an Operating Certificate or for an amendment to its operation specifications to add—

(a) Aircraft having a passenger seating configuration, excluding any pilot seat, of more than 30 seats or a payload capacity of more than 7,500 pounds shall comply with the certification requirements in, and conduct its operations in those aircraft in accordance with the requirements of Part 121, and shall be issued operations specifications under Part 121.

(b) Aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, shall comply with the certification requirements in, and conduct its operations in those aircraft in accordance with, the requirements of Part 135, and shall be issued operations specifications under Part 135.

(c) An air travel club, as defined in Part 123 of the Federal Aviation Regulations, shall comply with the certification requirements in, and conduct its operations in accordance with, the requirements of Part 123, and shall be issued operations specifications under Part 123.

4. Whenever in the Federal Aviation Regulations the term domestic air carrier operating certificate, flag air carrier operating certificate, supplemental air carrier operating certificate, ATCO operating certificate, or commuter air carrier operating certificate, appears, it shall be deemed to mean "Air Carrier Operating Certificate" issued under this SFAR. All other references to operating certificates shall be deemed to mean an "Operating Certificate" issued under this SFAR unless the context indicates the reference is to an air carrier operating certificate.

5. The "Air Carrier Operating Certificate" and "Operating Certificate" specified in this SFAR will be issued to applicants for new certificates, certificate renewals and additional operating authority, and, without application, to present certificate holders.

6. After June 30, 1980, no person may conduct operations under Part 121, 123, 127, or 135 of the Federal Aviation Regulations without, or in violation of a certificate issued under this SFAR.

This Special Federal Aviation Regulation terminates January 1, 1985, unless sooner superseded or rescinded.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE: The FAA has determined that this document is not 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 Washington, D.C., on December 12, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-34892 Filed 12-13-78; 8:45 am]

[4910-22-M]

Title 23—Highways

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 630—PRECONSTRUCTION PROCEDURES

Traffic Safety in Highway and Street Work Zones

AGENCY: Federal Highway Administration, DOT.

ACTION: Technical amendment to preamble.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this document in order to amend the citation to the FHWA notice mentioned in the preamble to the final rule published at 43 FR 47138 (October 12, 1978). The correct citation to this internal document is "FHWA Notice 5000.7" entitled Traffic Safety in Highway and Street Work Zones.

EFFECTIVE DATE: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Daves, Office of Highway Operations (202/426-4847); or Mrs. Kathleen S. Markman, Office of the Chief Counsel (202/426-0346), Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are Monday-Friday from 7:45 a.m. to 4:15 p.m.

Issued on: December 1, 1978.

LORENZO CASANOVA,
Chief Counsel, FHA.

[FR Doc. 78-34839 Filed 12-13-78; 8:45 am]

[4310-02-M]

Title 25—Indians

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

APPENDIX—EXTENSION OF TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Extension of Trust or Other Restrictions on Indian Land.

SUMMARY: This notice will serve to extend the period of trust or other restrictions against alienation of certain Indian lands which would otherwise expire during the calendar years 1979 through 1983.

EFFECTIVE DATE: Upon signature of the Secretary of the Interior, November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Louis H. White, Realty Specialist, Bureau of Indian Affairs, 1951 Constitution Ave., NW., Washington, D.C., 20245, telephone (202) 343-7574.

SUPPLEMENTARY INFORMATION: Various Executive Orders and orders of the Secretary of the Interior extended the trust periods on Indian

lands expiring during the calendar years 1949 through 1978. Orders of the Secretary of the Interior issued pursuant to authority delegated by Executive Order No. 10250 of June 5, 1951, as amended by Executive Order No. 10732 of October 10, 1957, have in recent years, been issued at five year intervals.

APPENDIX TO CHAPTER I—EXTENSION OF TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Trust Periods Expiring During Calendar Years 1979 Through 1983, Inclusive.

By virtue of and pursuant to the authority delegated by Executive Order No. 10250 of June 5, 1951, as amended by Executive Order No. 10732 of October 10, 1957, and pursuant to section 5 of the Act of February 8, 1887 (24 Stat. 388, 389), the Act of June 21, 1906 (34 Stat. 325, 326), and the Act of March 2, 1917 (39 Stat. 969, 976), and other applicable provisions of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended, would expire during the calendar years 1979 through 1983, inclusive, be, and the same are hereby extended until January 1, 1984.

This order is not intended to apply to any case in which Congress has specifically reserved to itself authority to extend that period of trust on tribal or individual Indian lands.

CECIL D. ANDRUS,
Secretary.

NOVEMBER 24, 1978.

[FR Doc. 78-34771 Filed 12-13-78; 8:45 am]

[4810-31-M]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-54]

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Redenaturation of Recovered Spirits on User Premises Without Supervision

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule (Treasury decision).

SUMMARY: This document deletes the requirement for assigning an ATF officer to supervise the redenaturation of recovered denatured alcohol or specially denatured rum on user premises. The amended regulations will allow supervision to be optional. The specific changes made by this document are discussed below under "Supplementary Information."

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Edward J. Sheehan, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: This final rule is being issued in keeping with ATF's policy of implementing regulations that will pose the least administrative burden to industry members while providing the most protection to Federal revenues and to consumers.

The current regulations in 27 CFR 211.213, 211.214 and 211.216 require ATF supervision for redenaturation of recovered spirits at the premises of a denatured alcohol or specially denatured rum user. Based on an internal review of the regulations, the Bureau concludes that the regional regulatory administrator can determine whether Government supervision will be required for redenaturation of recovered spirits on SDA user premises. Upon implementation of this final rule, the requirement for assigning an ATF officer is at the option of the regional regulatory administrator.

This final rule, also, redesignates existing Form 1483, Redenaturation of Recovered Denatured Alcohol or Specially Denatured Rum, as Form 5110.34 to conform with the Bureau's standard subject classification system.

These regulations will provide manpower savings to the Government, be more convenient for industry, and improve the quality of our regulation of industry. Removal of government supervision for the recovery and restoration of denatured distilled spirits will not result in increased costs to manufacturers.

DRAFTING INFORMATION

The principal author of this document is Edward J. Sheehan of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing the document, both on matters of substance and style.

ISSUANCE

Because this Treasury decision is liberalizing, operates to the benefit of the regulated industry and requires no public initiative, it is found to be unnecessary to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b).

Except as otherwise noted, these regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Accordingly, 27 CFR Part 211 is amended as follows:

1. The table of sections to 27 CFR Part 211 is amended to read as follows:

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

* * * * *

Subpart K—Recovery of Denatured Alcohol, Specially Denatured

* * * * *

Sec.
211.213 * * *
211.214 Redenaturation of recovered spirits.
211.215 Denaturants.
211.216 [Revoked].
211.217 Shipment for restoration or redenaturation.
211.218 * * *

* * * * *

2. Section 211.213 is amended to make ATF supervision optional for the redenaturation of recovered denatured alcohol or specially denatured rum. As amended, § 211.213 reads as follows:

§ 211.213 Reuse of recovered spirits.

(a) If the denatured alcohol or specially denatured rum is recovered in its original denatured state, or practically so, or contains substantial quantities of the original denaturants and other ingredients which render it unfit for beverage or internal human medicinal use, it may be reused in any approved process without further redenaturation. The regional regulatory administrator shall require samples of the recovered product to be taken from time to time for the purpose of determining whether the product requires redenaturation.

(b) If the denatured alcohol or specially denatured rum is not recovered in its original denatured state, or does not contain substantial quantities of the original denaturants and other ingredients which render it unfit for beverage or internal human medicinal use, it shall be redenatured at the premises of the manufacturer or a denaturer before being used. The regional regulatory administrator may require an ATF officer to supervise the redenaturation of recovered spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended (26 U.S.C. 5273))

3. Section 211.214 is amended to make ATF supervision optional for the redenaturation of recovered denatured alcohol or specially denatured rum. As amended, § 211.214 reads as follows:

§ 211.214 Redenaturation of recovered spirits.

(a) A manufacturer desiring to redenature on his premises recovered denatured spirits shall submit Form 5150.34, Redenaturation of Recovered Denatured Alcohol or Specially Denatured Rum, to the regional regulatory administrator.

(b) The regional regulatory administrator may approve Form 5150.34 authorizing the manufacturer to redenature the recovered denatured alcohol or specially denatured rum with or without the supervision of an ATF officer.

(c) In accordance with the regional regulatory administrator's approval, the manufacturer shall redenature the recovered spirits by adding the proper quantity of denaturants to meet the requirements of the formula and thoroughly mix the denaturants with the spirits. After redenaturation of the recovered spirits, the manufacturer shall complete Form 5150.34 in accordance with the instructions on the form.

§ 211.216 [Revoked]

4. Section 211.216 is revoked.

Signed: November 9, 1978.

JOHN G. KROGMAN,
Acting Director.

Approved: November 30, 1978.

RICHARD J. DAVIS,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 78-34818 Filed 12-13-78; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Reimbursement for Organ Procurement and Histocompatibility Testing and for Home Dialysis Equipment

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule with comment period.

SUMMARY: This regulation amends the Medicare regulations for the End Stage Renal Disease program by:

1. Establishing procedures for reasonable cost reimbursement of organ procurement and histocompatibility testing; and

2. Providing for optional 100% reimbursement of the reasonable cost incurred by providers or facilities to purchase, install, maintain and recondition equipment to be used in home dialysis.

The regulation is necessary to implement certain provisions of the End Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292). The purpose is to specify the rules for cost-based reimbursement.

DATES: This regulation is effective as of October 1, 1978. However, we will consider written comments received by February 12, 1979, with a view to making any necessary changes.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20012.

When commenting, please refer to file code MAB-80-RC. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week, from 8:30 a.m. to 5 p.m. (telephone 202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Mr. Hugh McConville, Medicare Bureau, Health Care Financing Administration, Room 412, East Building, 6401 Security Boulevard, Baltimore, Md. 21234, (301) 594-9430.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Social Security Amendments of 1972 (Pub. L. 92-603) provided Medicare coverage for kidney transplant and dialysis services furnished to entitled individuals suffering from end-stage renal disease. After reviewing the operation of the ESRD program since its inception in 1973, the Congress enacted the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292) to improve certain features of the program. A major objective of these amendments is to encourage the use of home dialysis and transplantation, the least expensive forms of ESRD treatment.

This regulation implements two provisions of Pub. L. 95-292—one requiring that organ procurement agencies and histocompatibility laboratories be reimbursed under Medicare on a cost basis and the other authorizing 100% reimbursement for home dialysis equipment. It is the fourth in a series of regulations implementing Pub. L. 95-292. The first, amending the Medicare regulations on beneficiary entitlement, was published on September 29, 1978 (43 FR 44802). The second amended the requirements ESRD providers and facilities must meet in order to be certified. It was published on October 19, 1978 (43 FR 48948). The third deals with Medicare coverage of ESRD benefits and was published on October 24, 1978 (43 FR 49720). There will be at least two more regulations implementing Pub. L. 95-292 after this one.

MAJOR PROVISIONS

A. ORGAN PROCUREMENT AGENCIES AND HISTOCOMPATIBILITY LABORATORIES

There are two basic methods for treating patients with kidney failure, through dialysis or transplant of a kidney. The repetitive nature of dialysis treatments in high cost institutional settings has placed emphasis on encouraging transplants whenever possible. In most kidney transplants, a hospital needs the services of two additional organizations—an organ procurement agency and a histocompatibility laboratory—to obtain kidneys from donors and to obtain information needed to insure compatibility between the donor and the recipient.

At the present time, services furnished by such organizations, if they are not part of the transplant hospital, are billed to hospitals, which pay the charges shown on the bill. The charges then become allowable costs of the hospitals. Transplant hospitals have no authority or basis for determining the reasonableness of the charges made by the organ procurement agency (OPA) or the histocompatibility laboratory. Moreover, at present the charge made by the OPA or laboratory is not reviewed by the Medicare intermediary to determine whether it is excessive. The potential, therefore, exists that the Medicare program is paying too much for these services.

Congress dealt with this situation in Pub. L. 95-292 by requiring that reimbursement for the services of OPA's and histocompatibility laboratories in procuring and furnishing organs for transplantation shall not exceed the cost actually incurred by that agency or laboratory. (See section 1881(b)(2)(A) of the Act, 42 U.S.C. 1395rr(b)(2)(A).)

The legislative history of Pub. L. 95-292 indicates that Congress intended

for the Secretary to apply already established principles of cost reimbursement, obtain periodic cost reports, and provide for an intermediary hearing for an agency or laboratory which disagrees with a cost determination. (See S. Rep. No. 95-714, 95th Cong., 2d Sess., 12-13 (1978); H. Rep. No. 95-549, 95th Cong., 1st Sess., 14 (1977).) It is further evident that Congress expected that the cost of these services would continue to be reimbursed through the hospital, but that the Secretary would be authorized to institute a system whereby agencies and laboratories could be reimbursed directly if such a system seems appropriate. We are implementing section 1881(b)(2)(A) and this legislative intent as follows:

1. Reasonable Cost Reimbursement

For services furnished after September 30, 1978 by organ procurement agencies and histocompatibility laboratories, the Medicare program will reimburse only the reasonable cost of these services. In order to do this, the Medicare fiscal intermediaries must obtain cost information from the OPA's and laboratories.

No change will be necessary in the methods for determining the reasonable cost of services provided by a hospital-based OPA or hospital-based histocompatibility laboratory, since their services are currently included in the hospital's cost report and are reimbursed based upon reasonable cost. The current procedures for establishing interim payments and filing and auditing a cost report will remain the same.

However, the procedures for reimbursing OPA's and histocompatibility laboratories that are independent of a hospital will have to be changed, since they have not previously been required to supply cost information or been reimbursed based upon reasonable cost. The absence of such cost information in the past also means that a new mechanism will be necessary to establish an initial interim reimbursement rate in order to maintain the cash flow to such agencies and laboratories prior to the submission and review of their first cost report.

2. Definitions

For the purpose of this provision, an organ procurement agency has the same definition as that specified in 42 CFR § 405.2102(q). A histocompatibility laboratory is a laboratory meeting standards and providing the services set forth in 42 CFR § 405.2171(d). An organ procurement agency or a histocompatibility laboratory is "independent", for purposes of this provision, *unless* it

(i) Performs services exclusively for one hospital; and

(ii) Is subject to the control of the hospital in regard to the hiring, firing, training and paying of employees; and

(iii) Is considered as a department of the hospital for insurance purposes (including malpractice insurance, general liability insurance, worker's compensation insurance, and employee retirement insurance).

3. Reimbursement Mechanism

Services of independent organ procurement agencies and histocompatibility laboratories furnished after September 30, 1978 will be reimbursed in the following way. Any independent OPA or laboratory wishing to receive Medicare reimbursement must sign an agreement with the Secretary, as described in part 4, below. For each kidney transplant performed on a Medicare beneficiary, the transplanting hospital shall receive a prescribed amount of reimbursement from Medicare for the pretransplantation services of an OPA or laboratory having such an agreement. The OPA or laboratory will receive its reimbursement from the hospital. The amount paid to the hospital is an interim reimbursement rate and is subject to a reconciliation based on a final cost report.

An interim rate shall be established by a Medicare intermediary for each agency or laboratory at the beginning of its fiscal year. This rate shall be the average cost per service incurred by that agency or laboratory during its prior fiscal year associated with procuring an organ for transplantation. (For those agencies and laboratories which do not currently have cost data for this purpose, the initial interim rate will be based on a statement of projected costs. However, once an independent OPA or histocompatibility laboratory has filed its first cost report, the interim rate for the services provided by that agency or laboratory will be based upon the previous year's cost report, adjusted if necessary for anticipated changes in costs.)

Once this interim reimbursement rate has been established by the intermediary, it will be disseminated to all transplant hospitals and all other intermediaries, so they will know how much the hospital should be reimbursed. The interim reimbursement rate for any OPA or histocompatibility laboratory may be adjusted by the intermediary during a cost reporting period, if the agency or laboratory submits evidence showing to the intermediary's satisfaction that its actual costs in providing covered services are or will be higher than the interim rate which has been computed. The intermediary may also adjust the interim reimbursement rate if it has evidence that actual costs may fall significantly below the computed rate.

Any independent OPA or laboratory which has an agreement with the Secretary must file a cost report within three months after the end of each fiscal year. (For agencies and laboratories currently being reimbursed under Medicare, and wishing to remain in the program, the first cost report will be due for the first fiscal year ending after September 30, 1978, and will cover the period from October 1, 1978, to the end of the fiscal year.) A cost report must provide a complete accounting of the cost incurred by the agency or laboratory in providing covered services, the total number of Medicare beneficiaries for whom services were furnished by the agency or laboratory, and any other necessary data to enable the intermediary to determine the reasonable cost of covered services to Medicare beneficiaries. The cost report would have to conform to existing regulations on data and accounting requirements for provider cost reports (42 CFR 405.453(a)-(e)).

These cost reports will be handled by the intermediary in the same way other provider cost reports are handled. As quickly as possible, the retroactive adjustment, if any, will be made in the total payments for the cost reporting period and a new interim rate will be determined for the succeeding reporting period. For this purpose, costs will be accepted as reported, unless there are obvious errors or inconsistencies, subject to later audit. When an audit is completed, any further adjustments will be made.

If the intermediary determines that the interim rate payments exceeded the reasonable cost of the services furnished, then the OPA or histocompatibility laboratory must pay the excess amount per Medicare patient to the intermediary. If the intermediary determines that the interim rate payments to the hospital was less than the reasonable cost per service, then an additional amount will be paid directly to the agency or laboratory by the intermediary.

4. Required Agreements

Any independent OPA or histocompatibility laboratory that wishes to have the cost of its pretransplant services reimbursed under the Medicare program must file an agreement with the Secretary. Those agencies and laboratories that are currently reimbursed under Medicare, and wish to continue, must file an agreement within 30 days after the effective date of these regulations. These agreements will be made effective as of October 1, 1978.

The agreement will require that the agency or laboratory agree:

(a) to file a cost report within three months after the end of each fiscal year;

(b) to permit the Secretary to designate an intermediary to determine the interim reimbursement rate payable to the transplant hospitals for services furnished by organ procurement agencies and histocompatibility laboratories and to make a determination of reasonable cost based upon the cost report filed by the agency or laboratory;

(c) to provide such budget or cost projection information as may be required to establish an initial interim reimbursement rate;

(d) to pay to the Secretary amounts which have been paid by the Secretary to transplant hospitals and which are determined to be in excess of the reasonable cost of the services furnished by the organ procurement agency and histocompatibilty laboratory; and

(e) not to charge any individual for items or services for which such individual is entitled to have payment made under section 1881 of the Act.

5. Appeals

Any OPA or histocompatibility laboratory which disagrees with an intermediary's cost determination shall be entitled to an intermediary hearing, in accordance with the procedures specified in 42 CFR §§405.1811 through 405.1833, if the amount of reimbursement in controversy is $1,000 or more.

B. REIMBURSEMENT FOR HOME DIALYSIS EQUIPMENT

In 1972, over 40 percent of ESRD patients receiving renal dialysis were dialyzing at home. However, by 1976 less than ten percent of dialysis patients used home dialysis. Recognizing that home dialysis is the least costly form of dialysis, Congress included several provisions in Pub. L. 95-292 modifying and extending coverage of home dialysis services. Among them is section 1881(e) of the Act (42 U.S.C. 1395rr(e)), which creates incentives for the purchase of home dialysis equipment. Under the prior statute, Medicare paid beneficiaries (or their assignees) 80 percent of the rental charge or purchase price of the equipment. Because the equipment is very expensive and most patients were not able to afford the large initial expense for their share in buying this equipment, few beneficiaries bought dialysis machines. The total Medicare rental payments for dialysis equipment made over the life of the equipment in some cases amounted to several times its purchase price.

To solve this problem and to encourage home dialysis, section 1881(e) authorizes HCFA to pay 100 percent of the reasonable costs incurred by ESRD facilities, having agreements with HCFA, for purchasing, installing, maintaining, and reconditioning dialysis equipment for beneficiaries dialyzing at home. Thus, the beneficiaries will not be required to pay the usual Medicare deductible and coinsurance amounts, and facilities will not have to seek these amounts from beneficiaries and other payors. This is an optional method of reimbursement, and ESRD facilities may choose between this method or the method currently used. However, in order to make these payments, HCFA must have formal agreements with ESRD facilities, to assure that they meet certain statutory conditions. We are implementing section 1881(e) as follows:

1. Required Agreements Between HCFA and ESRD Facilities

Section 1881(e) requires that HCFA have an agreement with each ESRD provider and facility wishing to be reimbursed under that section. The terms of these agreements are set forth in a new § 405.690 of the regulations and incorporated by reference in a new § 405.438.

These agreements require that a facility make equipment reimbursed under the agreement available only for use by Medicare beneficiaries on home dialysis. Thus, equipment purchased pursuant to an agreement may not be used to furnish institutional dialysis services or be used by home patients who are not Medicare beneficiaries.

After purchasing a machine under an agreement, a facility is required to continue to use the equipment for home-dialyzing beneficiaries for its full operating life. We recognize that a machine purchased under these provisions may be returned to a facility because of a patient's transplantation, return to institutional dialysis, or death. However, as explained below, we have included provisions in the agreement and the regulations designed to ensure that machines for which Medicare has made full reimbursement remain in use to the maximum extent feasible.

The agreement requires that a facility notify HCFA, or an agency designated by HCFA for this purpose, as soon as any machine purchased under agreement ceases to be used by home-dialyzing beneficiaries. This notification must include the type, brand, and model of the machine, the identification number affixed to the machine by the facility or manufacturer and the reason it is no longer in use. This notification will allow HCFA or its designee to keep current data on machines purchased by Medicare and available for use by home dialysis beneficiaries.

The agreement also requires that before purchasing new equipment, a facility make reasonable efforts to locate a machine or used machine that is suitable for the beneficiary. Before purchasing new equipment, ESRD facilities would be expected to contact HCFA or its designee to try to locate suitable and available equipment. ESRD facilities would also have to examine any equipment they own, but is not in current use, to determine if it could economically be reconditioned to make it suitable for the home dialysis patient. These provisions are intended to ensure that machines purchased under agreements are used economically and effectively and to prevent unnecessary purchases of this expensive equipment.

Facilities must also agree to recover and recondition equipment for reuse throughout its operating life. Facilities are required to maintain equipment so as to assure its availability to beneficiaries during this time and to continue to use equipment so long as it is adequate for the medical needs of home beneficiaries. To further assure continuous use of equipment by beneficiaries, the facility or provider must agree not to subject equipment to liens or other encumbrances and must obtain adequate insurance coverage on the equipment.

The remaining provisions of the agreement require that a facility distinctively identify equipment, keep complete records relating to the purchase and continued use of the equipment, and give HCFA access to all such information. In addition, each facility must agree to submit such reports data and information as HCFA may require with respect to the cost, management and use of the equipment.

2. Ownership of Equipment

Section 405.438 provides that HCFA will reimburse providers and facilities that have agreements with HCFA for the full reasonable cost of purchasing, installing, maintenance, and reconditioning of home dealysis equipment. The regulation provides that ownership of this equipment is vested in the facility which purchases it. However, if a facility has on hand unused equipment purchased under this section, it may transfer ownership of the equipment to another facility having an agreement with HCFA. The transferring facility must notify HCFA or its designee of equipment transfers. Notification under this section and notification required from facilities and providers by their agreements (see § 405.690(a)(6)) will provide HCFA with necessary data on the ongoing use and management of equipment purchased under this section.

Section 405.438 also specifies that if a provider or facility terminates its agreement with HCFA or uses equipment in contravention of the terms of the agreement, HCFA may either direct the facility to transfer ownership of the equipment to another fa-

cility having an agreement with HCFA or may require the facility to repay the program the fair market value of the equipment. We believe this provision is necessary to implement the statute's requirement that equipment be used exclusively for home-dialyzing beneficiaries and to prevent diversion of equipment purchased under this section from use by home beneficiaries at the expense of the program.

HCFA will determine the fair market value of used home dialysis equipment for purposes of this regulation. Usually fair market value is the price at which bona fide sales of similar assets have been made. However, since Medicare is virtually the sole payor of costs of dialysis equipment, an independent, competitive market for this equipment does not exist. Thus, meaningful market data on sales of equipment will probably be unavailable. Under these circumstances, HCFA will develop its own data to approximate the value of used equipment.

3. Computation of Allowable Cost

Costs for purchase, installation, maintenance, and reconditioning of equipment will be accumulated in a separate cost center on Medicare cost reports. Current Medicare regulations for determining allowable cost will apply, as relevant, to limit reimbursement for equipment purchased pursuant to agreements. For example, payment must be based on the reasonable cost of covered services related to the care of beneficiaries (see 42 CFR § 405.451). Discounts and allowances received on the purchase and servicing of equipment are treated as reductions to cost (see § 405.425). Goods or services provided to ESRD facilities by related organizations are included in allowable cost at the cost of the related organization (see § 405.427). Interest paid on borrowed funds will be allowed (see § 405.419). However, since Medicare will pay the full reasonable cost of equipment in a lump-sum payment, the regulation specifically provides that no allowance for depreciation (see § 405.415) may be taken on equipment purchased under agreements, and that the cost of such equipment cannot be used in the computation of equity capital (§ 405.429).

The regulation also provides that Medicare reimbursement will be made only for equipment that is sufficient to meet the medical needs of the patient and that is neither excessive nor extravagant. Reimbursement may not be made for equipment which is substantially more expensive than a medically appropriate alternative. Amounts attributable to machine features of an aesthetic nature or to features of a medical nature that are not required by a patient's condition will not be reimbursed. These rules necessarily require some judgments on the part of Medicare intermediaries, using guidance furnished by HCFA, in determining whether costs are reasonable. In seeking payment under these regulations, facilities must identify the type of equipment purchased as well as the cost and specifications of the equipment. If the intermediary determines that the equipment is excessive or extravagant, the facility will be paid only that amount which would have been paid by a prudent buyer for medically appropriate equipment generally in use for home dialysis patients. Payment will be made for more expensive or specialized equipment only if a physician certifies that such equipment is medically necessary for treatment of the condition of the particular patient for whom the machine was purchased.

The statute recognizes that used and reconditioned machines are suitable for use by home dialyzing patients. Accordingly, this regulation includes specific rules for reimbursement to ESRD facilities for purchase of used equipment. These rules specifically cover facility purchase of machines formerly in use by home beneficiaries under lease agreements, as well as purchase of machines which have been used to furnish institutional dialysis and are made available for used by home beneficiaries. However, the regulation prohibits reimbursement under this method of payment for the purchase of equipment that has been used for institutional dialysis for five years or more. We have adopted this measure because of our concern that such equipment may not be suitable for extended use by a person dialyzing at home and our concern that we will not be able to establish a reasonable approximation of its fair market value.

A facility may be reimbursed under this provision for equipment that it already owns and has been leasing to a home dialysis patient. In this instance, the reimbursable amount may not exceed the lower of the original price of the equipment less the total lease payments already made on the equipment or the fair market value of the equipment on the date it requested reimbursement. If a facility purchases equipment that was owned by someone else and had been leased to a home dialysis patient, the reimbursement under this method may not exceed the lower of the fair market value at the time of purchase or the cost of purchase in accordance with any terms specified in the lease. With respect to equipment previously used in institutional dialysis, for which Medicare reimbursement was made on a cost or cost-related basis, reimbursement under this method may not exceed the lower of the net book value of the equipment or the fair market value on the date reimbursement is requested.

4. Conforming Changes

We are also amending sections 405.544 and 405.601 to conform those sections to the new sections being added. We have also taken the opportunity to redraft section 405.544, without other substantive changes, in order to make it clearer.

WAIVER OF PROPOSED RULEMAKING; EFFECTIVE DATE

Pub. L. 95-292 was enacted on June 13, 1978. Both of the provisions being implemented by this action—sections 1181(b)(2)(A) and 1881(e)—became effective October 1, 1978. Because of the short time between enactment and the legislative effective date, we were unable to publish these regulations as a notice of proposed rulemaking. Moreover, we believe that it is particularly important to implement the liberalized payment provisions of section 1881(e), allowing full reimbursement to providers and facilities and relieving beneficiaries of liability for the 20 percent coinsurance amount, as quickly as possible. Accordingly, we find that good cause exists to waive the notice of proposed rulemaking and not to have a delayed effective date. Recognizing, however, that the full reimbursement option is both new and dissimilar from current Part B payment mechanisms, we invite comments on these regulations, which we will consider in making any future amendments to these regulations.

For both of the provisions being implemented by this amendment, we will make agreements effective as of October 1, 1978 in order to implement the statute properly and avoid adverse impact on people who relied in good faith on the statute.

42 CFR Part 405 is amended as follows:

1. Section 405.436 is added to read as follows:

§ 405.436 Reimbursement of independent organ procurement agencies and histocompatibility laboratories

(a) *Principle.* Covered services furnished after September 30, 1978 by organ procurement agencies (OPA's) and histocompatibility laboratories in connection with kidney acquisition and transplantation will be reimbursed under the principles for determining reasonable cost contained in this subpart. Services furnished by independent OPA's and histocompatibility laboratories, that have an agreement with the Secretary in accordance with paragraph (c) of this section, will be reimbursed by making an interim payment to the transplant hospitals using these services and by making a retroactive

adjustment, directly with the OPA or laboratory, based upon a cost report filed by the OPA or laboratory. (The reasonable costs of services furnished by hospital based OPA's or laboratories will be reimbursed in accordance with the principles contained in §§ 405.405 and 405.454.)

(b) *Definitions.* For purposes of this section:

(1) "Organ procurement agency" means an organization that meets the definition in § 405.2102(q).

(2) "Histocompatibility laboratory" means a laboratory meeting the standards and providing the services set forth in § 405.2171(d).

(3) "Independent"—An organ procurement agency or a histocompatibility laboratory is independent unless it:

(i) Performs services exclusively for one hospital; and

(ii) Is subject to the control of the hospital in regard to the hiring, firing, training and paying of employees; and

(iii) Is considered as a department of the hospital for insurance purposes (including malpractice insurance, general liability insurance, worker's compensation insurance, and employee retirement insurance).

(c) *Agreements with independent OPA's and laboratories.* (1) Any independent OPA or histocompatibility laboratory that wishes to have the cost of its pretransplant services reimbursed under the Medicare program must file an agreement with the Secretary, under which the OPA or laboratory agrees:

(i) to file a cost report in accordance with § 405.453(f) within three months after the end of each fiscal year;

(ii) to permit the Secretary to designate an intermediary to determine the interim reimbursement rate payable to the transplant hospitals for services provided by the OPA or laboratory and to make a determination of reasonable cost based upon the cost report filed by the OPA or laboratory;

(iii) to provide such budget or cost projection information as may be required to establish an initial interim reimbursement rate;

(iv) to pay to the Secretary amounts that have been paid by the Secretary to transplant hospitals and which are determined to be in excess of the reasonable cost of the services provided by the OPA or laboratory; and

(v) not to charge any individual for items or services for which that individual is entitled to have payment made under section 1881 of the Act.

(2) An independent OPA or histocompatibility laboratory whose services were being reimbursed under Medicare on October 1, 1978 and that wishes to continue being reimbursed under Medicare must file an agreement by [30 days after the date of publication].

(3) The initial cost report due from an OPA or laboratory shall be for its first fiscal year ending after September 30, 1978, during any portion of which it had an agreement with the Secretary under paragraph (c) of this section. The initial cost report shall cover only the period covered by the agreement.

(d) *Interim reimbursement.* (1) Hospitals eligible to receive Medicare reimbursement for renal transplantation will be paid for the pretransplantation services of an independent OPA or histocompatibility laboratory, that has an agreement with the Secretary under paragraph (c) of this section, on the basis of an interim rate established by an intermediary for that OPA or laboratory.

(2) The interim rate shall be based on the average cost per service incurred by an OPA or laboratory, during its previous fiscal year, associated with procuring a kidney for transplantation. This interim rate may be adjusted if necessary for anticipated cost changes. If there is not adequate cost data to determine the initial interim rate, it will be determined according to the OPA's or laboratory's estimate of its projected costs for the fiscal year.

(3) Payments made on the basis of the interim rate will be reconciled directly with the OPA or laboratory after the close of its fiscal year, in accordance with paragraph (e) of this section.

(4) Information on the interim rate for all independent OPA's and histocompatibility laboratories shall be disseminated to all transplant hospitals and intermediaries.

(e) *Retroactive adjustment.* (1) *Cost reports.* Information provided in cost reports by independent organ procurement agencies and histocompatibility laboratories must meet the requirements for cost data and cost finding specified in § 405.453(a)-(e). These cost reports must provide a complete accounting of the cost incurred by the agency or laboratory in providing covered services, the total number of Medicare beneficiaries who received those services, and any other data necessary to enable the intermediary to make a determination of the reasonable cost of covered services provided to Medicare beneficiaries.

(2) *Audit and adjustment.* A cost report submitted by an independent OPA or histocompatibility laboratory will be reviewed by the intermediary and a new interim reimbursement rate for the succeeding fiscal year will be established based upon this review. A retroactive adjustment in the amount paid under the interim rate will be made in accordance with § 405.454(f). If the determination of reasonable cost reveals an overpayment or underpayment resulting from the interim reimbursement rate paid to transplant hospitals, a lump sum adjustment shall be made directly between the intermediary and the OPA or laboratory.

(f) *Appeals.* Any OPA or histocompatibility laboratory that disagrees with an intermediary's cost determination under this section shall be entitled to an intermediary hearing, in accordance with the procedures contained in §§ 405.1811 through 405.1833, if the amount in controversy is $1,000 or more.

2. Section 405.438 is added to read as follows:

§ 405.438 Reasonable cost for purchase, installation, maintenance and reconditioning of home dialysis equipment furnished under agreement by providers and dialysis facilities.

(a) *Principle.* Effective October 1, 1978, approved providers of services and renal dialysis facilities that have an agreement with HCFA under § 405.690 of this part will be reimbursed under Part B of Medicare for the full reasonable cost (without regard to the deductible and co-insurance) of the purchase, installation, maintenance, and reconditioning for subsequent use of artificial kidney and automated peritoneal dialysis machines, including supportive equipment (see 405.231 (p)), which are used exclusively by beneficiaries dialyzing at home.

(b) *Ownership of Equipment.* (1) Ownership of dialysis equipment purchased under this section is vested in the provider or renal dialysis facility that purchased the equipment. However, if a facility owns equipment purchased under this section that is not expected to be used in the immediate future, the facility may transfer ownership of the equipment to another facility, having an agreement with HCFA under this section, for use by home-dialyzing beneficiaries. The transferring facility must give notice of the transfer to HCFA or its designee.

(2) If an agreement with a provider or facility is terminated (see § 405.690(b)) or if a provider or facility ceases to use equipment purchased under the agreement in accordance with the terms of the agreement, HCFA will either recover the current fair market value of the equipment (as determined by HCFA) or direct the facility to transfer ownership of the equipment to another facility having an agreement with HCFA.

(c) *Computation of allowable cost.* (1) All costs attributable to purchase, installation, maintenance, and reconditioning of dialysis equipment under

this section must be accumulated in a separate cost center designated on the cost report of the provider or facility.

(2) The facility must use prudent and sound business practices in the purchase of equipment under this section.

(3) Allowable cost for purchase of equipment under this section includes costs for equipment that is medically appropriate for treatment of the particular patient for whom it is purchased and that is neither excessive nor extravagant. Amounts attributable to equipment features of an aesthetic nature or of a medical nature not required by the patient's condition are not allowable. Costs of specialized equipment purchased are allowable only if a physician has certified that such equipment is medically necessary for treatment of a particular beneficiary.

(4) Determinations of allowable costs associated with equipment purchased under this section will be made in accordance with the applicable principles of reimbursement of this subpart.

(5) No allowance for depreciation may be taken on equipment purchased under this section (see § 405.514).

(6) The cost of equipment purchased under this section cannot be used in the computation of equity capital (see § 405.429).

(7) If the equipment is used at the time of purchase, allowable cost shall not exceed the lesser of the fair market value of the equipment on the date of purchase (as determined by HCFA) or the amount calculated as follows:

(i) If the provider or facility owned and leased the equipment to beneficiaries dialyzing at home prior to October 1, 1978 the original cost of the equipment less the total lease payments already received by the facility for such equipment;

(ii) If the equipment was leased by a beneficiary for home dialysis from a person or corporation other than a provider or facility owning the equipment, the cost of purchase in accordance with the terms, if any, specified in the lease, or

(iii) If equipment has been used for institutional dialysis by a facility reimbursed on a cost or cost-related basis, the book value of the equipment. However, payment will not be made under this section for purchase of equipment used in institutional dialysis for five years or more.

3. Section 405.544 is revised to read as follows:

§ 405.544 Payment for durable medical equipment and supplies for home dialysis.

(a) Providers of services that furnish durable medical equipment are reimbursed on a reasonable cost basis in accordance with Subpart D of this part. Renal dialysis facilities having agreements with HCFA for purchase, installation, maintenance, and reconditioning of home dialysis equipment are also reimbursed on a reasonable cost basis in accordance with § 405.438.

(b) When other suppliers furnish durable medical equipment and supplies necessary for home dialysis, payment shall be made on a reasonable charge basis in accordance with § 405.502(a) through (d). However, if the suppliers and the facility which furnishes support services agree to have the supplies routed through that facility, the reimbursement for the necessary supplies will be made to the facility on a reasonable cost basis.

4. Section 405.601 is revised to read as follows:

§ 405.601 Scope of subpart.

The provisions of §§ 405.602–405.626 discuss provider agreements which an eligible provider of services must file with the Secretary in order to qualify for participation in the health insurance program for the aged. Sections 405.651–405.663 and §§ 405.670–405.678 discuss agreements under which Part A intermediaries and Part B carriers will perform specified functions necessary in the administration of the hospital insurance and supplementary medical insurance programs. Section 405.685 discusses agreements which the Secretary shall enter into with any State for the purpose of assisting the Secretary in determining whether an institution or agency situated in such State is a hospital, skilled nursing facility, or home health agency, and whether an independent laboratory meets the conditions for coverage of services, or whether a clinic, rehabilitation agency or public health agency meets the requirements of section 1861(p)(4). Section 405.690 discusses agreements that HCFA will enter into with approved providers of services and renal dialysis facilities for full reimbursement of the reasonable cost of purchase, installation, maintenance, and reconditioning of home dialysis equipment.

5. Section 405.690 is added to read as follows:

§ 405.690 Agreements with ESRD facilities for reimbursement of home dialysis equipment without regard to deductibles and coinsurance.

As provided by section 1881(e) of the Act and section 405.438 of this part, HCFA may make agreements with approved ESRD providers and facilities to reimburse them for the reasonable cost of furnishing home dialysis equipment and supplies specified in § 405.231(p)(1), without regard to deductible and coinsurance provisions of this part.

(a) *Terms of agreement.* The terms of these agreements require that the facility agree to:

(1) Make the equipment available for use only by Medicare beneficiaries dialyzing at home;

(2) Show that it is purchasing the equipment for a patient in dialysis training who is expected to dialyze himself at home;

(3) If the manufacturer or supplier has not done so, inscribe, or attach by plate, a distinctive identification number on the equipment;

(4) Show, for each machine purchase, that, prior to purchase, it made reasonable efforts to locate equipment that was suitable and available for use by home beneficiaries or to adapt available equipment where adaptation is more economical than purchasing new equipment;

(5) Recover and recondition the equipment, as appropriate, for reuse by beneficiaries throughout the operating life of the equipment, including modification of the equipment consistent with advances in research and technology to make the equipment suitable for the intended beneficiary.

(6) Notify HCFA, or its designee, when equipment purchased under the agreement ceases to be used in accordance with the terms of the agreement and comply with directions from HCFA regarding disposition of equipment;

(7) Keep equipment purchased under the agreement free from any liens or other encumbrances and carry adequate insurance thereon;

(8) Keep complete financial records and other information relating to the purchase, maintenance, and use of the equipment, and provide HCFA full access to these records and information;

(9) Submit such reports, data, and information as HCFA may require with respect to the cost, management, and use of the equipment.

(b) *Termination of agreement.* (1) *Termination by the facility.* An ESRD facility having an agreement with HCFA under this section may terminate the agreement after giving notice to HCFA, making a final accounting for all equipment purchased under its agreement, and complying with directions from HCFA regarding disposition of the equipment (see § 405.438(b)(2)).

(2) *Termination by HCFA.* If HCFA finds that a facility has failed to perform its obligations under paragraph (a) of this section, HCFA may terminate its agreement with the facility. HCFA will notify the facility of its intention to terminate the agreement and state the reasons for the termination. The facility will be given the op-

portunity to submit a statement and evidence as to why the agreement should not be terminated. If no statement or evidence is received within 30 days after the date of notification, the termination will be effectuated. At that time, the facility must make a final accounting for all equipment purchased under its agreement and comply with directions from HCFA regarding the disposition of equipment so purchased (see § 405.438(b)(2)).

(Sections 1102, 1814(b), 1833, 1861(v)(1), 1871, and 1881 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395l, 1395x(v)(1), 1395hh, and 1395rr.)

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: November 13, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: November 30, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-34683 Filed 12-13-78; 8:45 am]

[1505-01-M]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 64—MUSEUM SERVICES PROGRAM

Final Rules

Correction

In FR Doc. 78-27284, appearing at page 45166 in the issue of Friday, September 29, 1978 §§ 64.15-64.20 were inadvertently printed twice and the duplicate sections should be deleted.

[1505-01-M]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802—3a]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs

Correction

In FR Doc. 78-31760 appearing on page 52438 in the issue of Thursday, November 9, 1978, on page 52445, after the entry under "Seattle", the center heading was inadvertently omitted. It should have been included to read as follows:

APPENDIX C—COUNTIES WITH 24.5%—35% LOW-INCOME FAMILIES (1970)

REGION	STATE	COUNTY	% OF FAMILIES BELOW LOW-INCOME LEVEL

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

PART 1048—COMMERCIAL ZONES

Waiver of Accounting and Reporting Requirements for Certain Class I and Class II Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission's Bureau of Accounts is announcing by this Notice that it will consider requests for relief from the Class I and Class II accounting and reporting regulations for motor carriers of property which operate principally within the boundaries of their commercial zone. The objective of our granting relief from the reporting and/or accounting regulations to such carriers is to relieve the burden on the carrier and to reduce the paperwork burden on the Commission.

ADDRESSES: Submit written requests to Mr. Bryan Brown, Jr., Chief, Section of Accounting, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr. Tel: (202) 275-7448.

SUPPLEMENTARY INFORMATION:

As a result of the expanded exempt commercial zones in Ex Parte 37 (Sub-No. 26), effective April 9, 1977, a large portion of some carriers' revenues changed from intercity-to local. Many shorthaul carriers whose transportation service is performed principally within their commercial zone will now have practically all local revenue. Since the Commission is primarily interested in the data furnished by carriers for intercity operations, the reporting burden placed on these carriers outweighs the benefits derived from the limited intercity data included in Class I and Class II reports by carriers in this category. The Commission, Accounting and Valuation Board, has allowed a number of carriers to file Class III reports, regardless of total operating revenues, when the circumstances warranted.

The Bureau of Accounts has established a policy to grant relief for carriers operating principally within exempt commercial zones. The objective of our granting relief from the reporting and/or accounting regulations to such carriers is to relieve the burden on the carrier and to reduce the paperwork burden on the Commission. Carriers in this situation may request relief from the accounting and reporting regulations applicable to Class I and Class II carriers. Carriers desiring such relief should submit their request with the following information:

(1) Estimated revenues from intercity operations during current year (Accounts 3100, 3200, and 3400, for I-27 and I-28A carriers), or estimated revenues from intercity household goods operations during current year (Subdivisions of the 3000 series of accounts under activities 1, Interstate, and 2, Intrastate for (I-28B carriers);

(2) Estimated revenues from local cartage service during current year (Account 3300 for all carriers);

(3) Total estimated carrier operating revenues.

Carriers who are granted relief will be required to file annual report form M-3.

Dated: December 11, 1978.

JAMES B. THOMAS, Jr.,
Director, Bureau of Accounts.

[FR Doc. 78-34653 Filed 12-13-78; 8:45 am]

proposed rules

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

[4410-10-M]

IMMIGRATION AND NATURALIZATION SERVICE

Department of Justice

[8 CFR Parts 108, 236]

ASYLUM; FILING OF APPLICATION IN EXCLUSION PROCEEDINGS

CROSS REFERENCE: For a document concerning proposed rules on the subject of asylum and filing of application in exclusion proceedings, see FR Doc. 78-34891 in the "Rules and Regulations" section of this issue. Refer to the Table of Contents under Immigration and Naturalization Service for the correct page number.

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Chapter I]

GENERIC RULEMAKING TO IMPROVE NUCLEAR POWER PLANT LICENSING

Interim Policy Statement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Interim Policy Statement.

SUMMARY: An interim policy is presented to govern the consideration of preliminary proposals and plans by the Nuclear Regulatory Commission to pursue rulemaking on generic licensing issues as one of several initiatives to improve the effectiveness and efficiency of licensing of nuclear power plants. Although planning for expanded rulemaking of this nature was initiated with an NRC study group recommendation of June 1977, the present interim statement fully supports Executive Order 12044 of March 23, 1978, requesting improvement of existing and future government regulations so as to be as simple and clear as possible and avoid imposing unnecessary burdens on the economy, on individuals, on public and private organizations, or on State and local governments. Comments received by February 12, 1979, will be considered before adopting and implementing the final policy and plan for such expanded rulemaking.

DATE: Comments due on or before February 12, 1979.

ADDRESS: Written comments or suggestions for consideration in connection with the proposed Interim Statement on Rulemaking Policy should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Miller B. Spangler, Office of Nuclear Reactor Regulation, Division of Site Safety and Environmental Analysis, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone 301-492-7305.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is proposing this interim policy statement as a means of receiving public and industry comment on the interim policy and plans for expanded rulemaking to improve and simplify the licensing process for nuclear power plants. Ten individual proposals for rulemaking are selected for presentation to illustrate the kinds of generic licensing issues the Commission feels might be treated more effectively by rulemaking. The purpose of announcing this interim policy is to obtain comments that will: Help the Commission decide which, if any, of these ten issues should be considered further for rulemaking; identify other issues suitable for rulemaking; develop a better perspective as to the likely scope or nature of any proposed rulemaking on any of the identified issues; and assist in the development of an overall plan for proceeding with generic rulemakings, especially public comment which would assist in determining relative priorities for each candidate issue for rulemaking.

The NRC recognizes that, in many instances, flexibility is required in the licensing process to accommodate changes in technology and analytical techniques as well as differences in specific design and site characteristics. However, the NRC also foresees a gain in licensing efficiency and simplification by placing, as appropriate, more of its analysis techniques and decision criteria into rules rather than Regulatory Guides and Standard Review Plans and relying on case-by-case analysis and litigation. By treating licensing issues generically, Federal, State, public, and applicant resources could be more effectively focused on site-specific and design-specific issues of importance and the NRC's licensing process would be more effective and better understood.

The brief description of the ten potential candidates for rulemaking appended to the following Interim Policy Statement provides only the general character of the intent of the proposed rule. Further information regarding these ten issues and procedures for their selection is presented in "Preliminary Statement on General Policy for Rulemaking to Improve Nuclear Power Plant Licensing," NUREG-0499. Single copies are available by writing to the Distribution Services Branch, Division of Technical Information and Document Control, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The NRC has no prejudgment and precommitment to the exact nature of any subsequent proposed rule and invites creative contributive inputs by parties with a desire to aid in improving the licensing process through rulemaking. To aid its decisions on which issues to take to rulemaking and the establishment of schedule priorities, the NRC invites quantitative estimates on cost savings (manpower and financial resources) anticipated to result from generic rulemaking rather than individual case treatment of the issue using examples, as appropriate, from licensing experience to provide hard data on avoidable costs. These cost estimates should give consideration to the various types of proceedings which may be followed for individual rulemaking actions, namely: Adjudicatory hearings; opportunity for comment; or hybrid hearings (e.g., S-3 table, GESMO, ACCESS rulemaking).

INTERIM STATEMENT OF POLICY AND PLANS

A. STATEMENT OF PURPOSE

On April 20, 1977, the Commission directed that recently completed licensing actions be reviewed by the staff for the purpose of identifying ways to improve the effectiveness of NRC nuclear power plant licensing activities. The Study Group's report, *Nuclear Power Plant Licensing: Opportunities for Improvement* (NUREG-0292, June 1977) presented eleven recommended measures for improving licens-

ing effectiveness. Recommendation No. 10 of this study (Increased Use of Rulemaking) provided the following statement suggesting certain basic purposes of rulemaking:

> The Study Group recommends that rulemaking should be considered to resolve, or to assist in the resolution of, major issues, which are routinely litigated in individual licensing proceedings. A system should be established for the continuing identification of major issues that are frequently raised in individual licensing cases, and for which, considering all relevant circumstances, the initiation of rulemaking would improve the overall licensing process.

The Commission, on October 28, 1977, requested the staff to prepare a paper defining the issues and the scope of the proposal to make increased use of rulemaking proceedings. Pursuant to this request, a Steering Committee on Reactor Licensing Rulemaking was established with the initial function of developing definitive criteria for identifying issues amenable to rulemaking and to recommend issues that should be considered further for rulemaking.

The Commission recognizes that there are potential advantages to the handling of certain safety and environmental issues by rulemaking, which depend on the specific issue being considered. These advantages are: (a) Enhance stability and predictability of the licensing process by providing regulatory criteria and requirements in discrete generic areas on matters which are significant in the review and approval of license applications; (b) enhance public understanding and confidence in the intergrity of the licensing process by bringing out for public participation important generic issues which are of concern to the agency and to the public; (c) enhance administrative efficiency in licensing by removing, in whole or in part, generic issues from staff review and adjudicatory resolution in individual licensing proceedings and/or by establishing the importance (or lack of importance) of various safety and environmental issues to the decision process; (d) assist the Commission in resolving complex methodology and policy issues involved in recurring issues in the review and approval of individual licensing applications; and (e) yield an overall savings in the utilization of resources in the licensing process by the utility industry, those of the public whose interest may be affected by the rulemaking, the NRC, and other Federal, State, and local governments with an expected improvement in the quality of the decision process.

Accordingly, rulemaking is perceived as an instrument for improving the effectiveness of the licensing process. Rulemaking would appear to serve the societal purposes reflected in the above advantages whenever this procedure would lead to a dispositive generic treatment of certain safety and environmental issues in a more cost-effective manner than the current approach which treats these issues repetitively for each individual licensing action.

B. CRITERIA FOR RULEMAKING ISSUES

Certain preliminary criteria were developed by the Steering Committee and utilized by the staff in identifying candidate environmental and safety issues and evaluating their suitability for rulemaking procedures. Each candidate issue will remain under consideration for rulemaking if it reasonably meets each of the following mandatory criteria:

1. *The issue must be generic.* This means that the topic must arise frequently in case review and/or at licensing hearings (not necessarily *all* hearings), with little added to the state-of-the-art and no significant differences in outcome in each instance. In other words, repetitive administrative litigation of the subject appears unproductive. Such issues might involve broad policy matters which are really not most efficiently addressed in specific plant licensing procedures, or might involve the establishment of criteria with which to measure the acceptability of an analytical or forecasting procedure or the importance of an issue in specific plant licensing procedures.

2. *There must be a likelihood of useful, definitive rule.* This means that the final rule should reasonably be expected to do one or more of the following:

a. Arrive at a dispositive finding regarding the generic issue so that the issue would not be addressed at all or in a simplified way in subsequent individual licensing cases where threshold or other generic criteria established by rulemaking are met.

b. Establish generic acceptance criteria which can then be applied to the issue in subsequent individual licensing cases.

c. Establish the relative importance of the generic issue to the decisional process for subsequent individual licensing cases; i.e., criteria to determine the relative significance of the issue.

d. Establish analytical criteria or methodology to be utilized in subsequent individual licensing cases. While many criteria and methodologies are already in Regulatory Guides and Standard Review Plans, in some instances it might be useful to incorporate these in NRC's rules in a more specific form.

If culmination of rulemaking would likely result in one or more of the above, then this would reduce subsequent controversy, strengthen the bases for NRC licensing decisions, and improve the quality and efficiency of staff review.

3. *There must be a likelihood of a stable rule.* This means that the information base and analytical or forecasting procedures should be sufficient to reach a reasonable generic conclusion and should be expected to remain relatively unchanged for some reasonable period of time after implementation of the rule.

Those candidates for rulemaking which meet the above criteria shall have the following value-impact criteria applied in their evaluation.[1]

Their beneficial values, on balance, should outweigh the additional impacts or costs of the licensing process in order to be considered further for rulemaking.

Near-term priorities for the scheduling of action for the accepted candidates for rulemaking will be made principally in accordance with the degree of favorability of benefits over costs and the level and availability of NRC resources including contractual services.

VALUE CRITERIA

a. Achievement of more effective public input and improved public understanding of NRC's analytical procedures and decision criteria in treating potential environmental and safety issues in the licensing process for nuclear power plants.

b. Improvement of the stability and predictability of the licensing process, including the provision of orderly and clear procedures for State-Federal cooperation in treating generic licensing issues.

c. Accomplishement of an overall savings of manpower and financial resources of the NRC, the public, the utility industry, and other local, State, and Federal agencies involved in the nuclear licensing process.

IMPACT CRITERIA

a. The short-term increase in dollar costs of the various participants in the rulemaking action, including contractual support.

b. The additional impacts (i.e., opportunity costs) of diverting manpower and other resources to the rulemaking process and away from other productive uses for a temporary period.

PLAN FOR THE DEVELOPMENT OF RULEMAKING ON SPECIFIC ISSUES

The plan for the development and implementation or rulemaking on specific generic issues involves the following steps:

1. Identification and description by the NRC staff of candidate issues for

[1] In NRC usage, the meaning of "values" and "impacts" includes external and intangible effects as well as internal and quantifiable ones.

generic rulemaking. Brief descriptions of candidate issues for rulemaking as proposed by the staff are set forth in the Appendix.

2. Invitation and receipt of comments by the utility industry, the public, and other governmental agencies on staff-proposed rulemaking issues, including additional suggestions for rulemaking as well as information useful in assessing the scope, benefits, and costs of specific rulemaking issues.

3. Formalization of rulemaking plans upon receipt of comments and further development of implementation strategies and schedules.

4. Preparation of specific proposed rulemaking on the selected issues in accordance with the formalized plan.

PRELIMINARY APPROACHES FOR TREATING RULEMAKING DIFFICULTIES

There would appear to be three basic problems in achieving an effective implementation of rulemaking on generic issues: (i) Achieving effective input from public and industry sources; (ii) schedule conflicts with other NRC staff assignments; and (iii) developing rules for treating a number of the generic issues that will improve, rather than hinder, cooperative relations with those State agencies performing parallel functions.

In achieving effective input to rulemaking from public and industry sources, particularly on complex issues about which there are a diversity of views, the normal FEDERAL REGISTER Notice procedure of proposed rulemaking will be appropriately supplemented by the use of workshops or conferences. The preparation of staff papers before and after such workshops could serve as a useful basis for structuring the assimilation of comments and expertise in the development of generic methodological procedures and decision criteria.

In minimizing schedule conflicts with other staff assignments, it is contemplated that only a few of the more complex and difficult rulemaking actions would be scheduled in a given calendar year. The use of consultants to aid in the preparation of background studies for rulemaking would also be of assistance in easing schedule conflicts with staff efforts.

One of the greatest difficulties, however, is developing rules for treating a number of the generic issues that will improve, rather than hinder, cooperative relations with those State agencies performing parallel functions. Some States have been quite active in assessing the need for and siting of nuclear power plants, while other States are just beginning to get deeply involved. In addition to varying levels of experience among State agencies are problems arising from differences between States in the form of legal authorities, administrative structures, and policies and procedures affecting the treatment of licensing issues. These do not appear to be insurmountable difficulties, however, and the NRC has already begun to develop cooperative agreements in review and hearing efforts with several States in the areas of water-related impacts, and need-for-baseload facility methodology. Rules and guidelines can be developed that provide an appropriate blend of flexibility and specific procedural requirements. State officials can be involved in workshops and conferences to aid in formulating the rules. Indeed, this rulemaking process conducted at an early date could have a substantial impact on those States which are just beginning to formulate licensing review programs, thus making State-Federal cooperation easier to accomplish and more effective.

APPENDIX

DESCRIPTION OF CANDIDATE ISSUES FOR GENERIC RULEMAKING

NRC staff efforts have produced the following preliminary identification of candidate issues for generic rulemaking upon which public comment is invited:[1]

● *Future availability and price of uranium*—Forecasting the availability and price of uranium is a complex, uncertain, and controversial issue that often arises in comparing the costs and benefits of proposed nuclear power plants with alternative energy sources. The subject is highly generic since the future outlook in the availability and price of uranium is both national and international in analytical content with insignificant variations for case-by-case treatment. The sources of information are outside the NRC. The principal output of rulemaking would be to accept the uncertainties as a given (i.e., not attempt to narrow them) and establish: (i) Criteria regarding availability and costs to be used in reactor facility licensing decisions, and (ii) thresholds for review of the rule at a later time to update the criteria for decision making, when warranted by substantial changes in the information base.

● *Alternative energy sources to the nuclear option*—Alternatives for central station electric power generation dealt with in hearings include coal, oil, geothermal, solar, wind, tidal, biomass, and municipal waste. Their administrative litigation in reactor licensing cases is largely generic with repetitive outcomes, making these suitable candidates for rulemaking. Many of these alternative energy sources have substantial uncertainty regarding their technology, future cost, and market acceptance. The DOE, NRC, EPRI and other institutions have prepared studies with additional research underway on alternative energy sources which collectively provide an adequate basis for NRC decisions. The rulemaking would seek to establish: (i) Criteria to determine when new energy sources should be considered as viable alternatives to a baseload nuclear power plant; (ii) criteria to judge when a viable alternative should be judged superior to the proposed nuclear power plant; and (iii) the criteria for any review of the rule at a later time.

● *Need for adding baseload generating capacity*—Power systems planning by utilities, including intra-pool sales, involves analysis of numerous factors to determine the optimal mix by fuel type and size as well as the timing of baseload generating additions to system capacity. A wide variety of demand forecasting methodologies are employed whose accuracy is impractical to demonstrate. A legion of conservation, cogeneration, and energy substitution options exist that are often highly speculative as to timing of implementation and their contributive importance. Experience has demonstrated that economic advantages and benefits of improved fuel mix, in some instances, can be even more persuasive criteria for justifying additional baseload capacity than need for power analysis which matches demand growth projections and planned unit additions and retirements against system reliability requirements. The possible asymmetry of cost penalties due to overforecasting or underforecasting demand appears a fruitful line of research being sponsored by the NRC that would aid in developing generic decision criteria and procedures for dealing with need for baseload facility analysis. Rulemaking would seek to establish: (i) Criteria by which the applicant's demonstration of need can be judged including criteria regarding demand forecasting methodologies, optimal fuel mix, and system economics; (ii) generic decision criteria regarding the extent to which the applicant's evaluation of need must agree with the NRC's evaluation of need, which inherently considers forecasting error and the asymmetry of cost penalties; (iii) the criteria, if any, which would determine the issues to be brought to NRC hearings relative to the adequacy of need for baseload addition analyses; and (iv) the degree to which the NRC could utilize previous reviews of State or Federal agencies.

● *Alternative siting methodology and information requirements*—Considerations important to the analysis of nuclear power plant siting alternatives vary between regions and even between certain site options within a region. Moreover, there are a variety of site screening and assessment methodologies in use among utilities which differ in their fundamental approach, the types of factors considered, and the level of information supplied to support the analyses. The cost of additional information for the siting analyses must be weighed against expected benefits. That is to say, a judgment needs to be made as to whether the cost of the extra information would likely be compensated for by its social value in significantly reducing the probability that a superior site will not have been identified in the screening process or ultimately rejected in the comparative analysis because of inadequate or inaccurate appraisal of adverse or beneficial impacts. The chief output of rulemaking would: (i) Clarify the rules regarding the concept of "obviously superior" as set forth by the Commission in the *Seabrook* case;[1]

[1] The Commission has not arrived at any final position as to the nature of any subsequent proposed rule(s) or even as to whether, after receipt of public comment and further staff development, any of the proposed candidates will be pursued further.

[1] *Memorandum and Order of the U.S. Nuclear Regulatory Commission in the Matter of Public Service Company of New Hamp-*

Footnotes continued on next page

(ii) prescribe rules for establishing criteria regarding the implementation of the "obviously superior" concept and the kinds and extent of information required so as to achieve an appropriate blend of flexibility and specificity which would be cost-effective for different types of licensing/siting situations; and (iii) develop a record regarding variations and the relative merits of different site screening and evaluation methodologies and their associated costs, benefits, and uncertainties focusing on a spectrum of historical cases wherein controversial issues arose.

● *Criteria for assessment of nuclear plant impacts and mitigative measures*—Early Site Review (ESR) procedures have increased attention to site suitability concepts involving the acceptability of environmental and socioeconomic impacts of nuclear power plants. Regulatory Guides and Standard Review Plans developed by the NRC as they now exist are often too general in form to establish appropriate specific procedures and decision criteria to make a clear determination that a plant design/siting alternative is acceptable in regard to certain types of environmental and socio-economic impacts without additional mitigative measures, or that certain minor or major mitigative modifications are of reasonable cost when compared to the averted or reduced impacts. In the exploration of these concepts rulemaking would: (i) Provide a review of the types of issues encountered in the licensing process involving acceptability of impacts with and without mitigative measures in relation to their importance to the overall licensing decision process; (ii) develop acceptance criteria for various kinds of impacts in the construction and operation of nuclear power plants; and (iii) establish the acceptability of costs of mitigative measures to meet these or related criteria.

● *Generic procedural criteria to define more concretely NRC responsibility in assessments and decisions regarding certain water-related impacts in relation to the statutory authorities of EPA and permitting States*—NRC responsibility in assessments and decisions regarding water quality and resultant ecological impacts of nuclear power plant construction and operation derives principally from the NEPA of 1969 (Pub. L. 91-190) as modified by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500) and the Clean Water Act of 1977 (Pub. L. 95-217). The 1975 agreement between EPA and NRC entitled "Second Memorandum of Understanding Regarding Implementation of Certain Nuclear Regulatory Commission and Environmental Protection Agency Responsibilities under the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969" serves to provide mechanisms for coordinating the respective responsbilities of the two agencies. Despite these efforts, substantial diversity in interpretation of these respective roles has been demonstrated among a number of EPA Regions and among NRC licensing boards in their initial decisions affecting certain water-related issues. While NRC has no authority to establish in specific terms the roles of the EPA or permitting States in these cooperative licensing review efforts on certain water-related impacts, a greater specificity of NRC's procedures could lead to a substantial improvement in the effectiveness of nuclear power plant licensing actions. The output of rulemaking would: (i) Develop dispositive rules on procedural criteria for the NRC role in assessments and decisionmaking involving certain water-related impacts of nuclear power plants; and (ii) provide a record through a review of licensing problems in multiagency coordination in dealing with water-related impact issues to establish clearer NRC responsbilities and insights useful to other cooperating agencies to improve the effectiveness of their own regulatory procedures. NRC would need to maintain close coordination with the EPA in the development of any proposed rule.

● *NEPA decision criteria for operating license (OL) reviews*—Current NRC regulations regarding OL licensing review procedures (10 CFR 51.23-e) declare that "a draft environmental impact statement prepared in connection with the issuance of an operating license will cover only matters which differ from or which reflect new information in addition to those matters discussed in the final environmental impact statement prepared in connection with the issuance of the construction permit." This instruction makes no differentiation in the relevance of individual cost-benefit considerations to licensing decisions at the OL versus the Construction Permit (CP) stage. For example, the staff believes the need for constructing new baseload generating capacity, a factor considered in a CP decision, normally is no longer a significant factor in the OL decision because the plant has already been constructed. The staff believes that in order to be forward-looking, the OL decision should ignore investment costs and the controlling cost-benefit criterion at this stage is whether the operation of a nuclear plant once constructed is a less expensive option for society in terms of incremental system and environmental costs than the use of any equivalent baseload capacity available within the system or the purchase of energy from other utilities in the power pool. Likewise, construction of new alternative energy sources and construction of the plant proposed in the application on an alternative site do not appear to be significant to an OL decision. Also, external and irretrievable impacts on the environment or community-level socioeconomic effects that have already occurred after having been found acceptable at the time of the CP decision do not appear to be relevant to an OL decision.

Rulemaking would improve licensing effectiveness at the OL stage through: (i) Establishing for some cases a clear differentiation between impact issues admissible for review at the CP and OL stages of licensing decision; and (ii) developing for others acceptance criteria as to whether new information on impacts germane to an OL decision are sufficiently significant to societal interests to require re-review at the OL stage.

Currently, there is under review a petition for rulemaking in this area (PRM-51-4). While the staff believes that rulemaking in this general area would be productive, this Interim Policy Statement should not be considered as impacting the Commission's decision relative to the legal and technical merits of the petition.

● *Occupational radiation exposure control*—Analysis of occupational radiation exposure data has identified activated corrosion products (crud) as the principal source of worker exposures at nuclear power plants. Man-rem exposure, plant down-time, and operating and maintenance costs may be substantially increased without appropriate exposure control of these depositional processes. The industry has been exploring methods of reducing occupational radiation exposures due to these sources. At such time in the future as information becomes sufficient to justify specific regulatory requirements in this area, rulemaking could achieve a specific annual radiation exposure design objective for control of occupational radiation exposures from crud buildup, analogous to 50.34a for effluent control. More immediately, it would appear desirable to conduct rulemaking surrounding the development of additional design criteria in Appendix A of Part 5 involving two separate considerations: (i) Crud formation, solution, and deposition, including design criteria for the primary coolant system for decontamination of crud; and (ii) aspects of plant layout and design to reduce occupational radiation exposure from this source in keeping with ALARA criteria in Regulatory Guide 8.8.

● *Generic radiological impact for normal LWR radionuclide releases*—Radiological impact estimates are currently prepared through an engineering evaluation of the radioactive waste treatment system that produces an inventory of radionuclides released to the environment, a calculation of the available atmospheric and hydrologic dilution, and a calculation of the dose to individual receptors in the immediate site environs and to the population within 50 miles of the site and the total United States. A generic treatment of these radiological impacts would be appropriate because: (1) There is a regulatory requirement that radioactive effluents result in calculated doses within 10 CFR Part 50, Appendix I, design objective values, and (2) technical specifications are imposed on nuclear plants which hold them to or below these values. This results in operating criteria that always limit the impact to a value below a specified value. The proposed rulemaking would be based, in part, on a survey of the calculated impacts in environmental statements to determine appropriate ranges of doses for categorizing radiological impacts from radionuclide releases. The upper end of this range of doses would be the Appendix I design objective values. An empirical study of the relation between observed and calculated impacts would establish a more reliable lower bound for radiological impacts than that presently calculated and would obviate the need for calculating radiological impacts of normal radionuclide releases for each individual licensing case.

● *Threshold limits for generic disposition of cooling tower effects*—The potential environmental and socioeconomic effects of cooling tower operation have raised contentions at a substantial number of case hearings. These issues include weather modification (increased rain, snow, fog, tornadoes and floods), deposition, interactions of cooling tower operation with other plant effluents (radiological and chemical), noise, and aesthetics. In a sizeable fraction of these cases a detailed examination of these issues in supplemental testimonies supports the conclusion that the impacts are of negligible societal importance. Accordingly, a useful objective of rulemaking would be to seek to establish threshold limits for each

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shire, et al. (Seabrook Station, Units 1 and 2), Docket Nos. 50-443 and 50-444, March 31, 1977.

potential effect of cooling tower operation for a wide variety of designs and site-specific conditions which, if not exceeded, would be deemed to be inconsequential to societal interests. If these threshold limits were exceeded, then more detailed assessment would be required for the individual licensing action in lieu of generic disposition.

Dated at Washington, D.C., this 4th day of December 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-34488 Filed 12-13-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0058]

CPC INTERNATIONAL INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require an Englewood Cliffs, N.J. food products manufacturer and its wholly-owned Danville, Ill. subsidiary, Peterson/Puritan, Inc., to divest, within eighteen months from the date of the order, the aerosol packaging facility in Atlanta, Georgia acquired from the Capitol Packaging Company. Additionally, the order would prohibit the firms from competing with the facility for two years following divestiture, and bar them from acquiring any contract aerosol packaging concern without prior Commission approval for a five year period.

DATE: Comments must be received on or before Feb. 12, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 771 0058]

CPC INTERNATIONAL INC., AND PETERSON/PURITAN, INC.

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission having initiated an investigation concerning the acquisition by Peterson/Puritan, Inc., a wholly-owned subsidiary corporation of CPC International Inc., a corporation, of certain aerosol packaging facilities from the Capitol Packaging Company, a corporation, and it now appearing that proposed respondents CPC International Inc. and Peterson/Puritan, Inc. are willing to enter into an agreement containing a consent order,

It is hereby agreed by and between CPC International Inc. and Peterson/Puritan, Inc., by their duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed responsent CPC International Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at International Plaza, Englewood Cliffs, New Jersey 07632.

Proposed respondent Peterson/Puritan, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Hegeler Lane, Danville, Illinois 61832.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint attached hereto.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint attached hereto.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following order in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent CPC International Inc.'s address as stated in this agreement shall constitute service upon both proposed respondents. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law or each violation of the order after it becomes final.

ORDER

For the purposes of this Order, the following definitions shall apply:

(a) "Respondents" refers to CPC International, Inc., a corporation; Peterson/Puritan, Inc., a corporation; and said corporations' subsidiaries, affiliates, successors and assigns.

(b) "Person" means any individual, corporation, partnership, association, firm, or other business or legal entity.

(c) "Aerosol product" means any personal care product, household product, coating or finish, food product, insect spray, automotive product, or animal product that is packaged in a pressurized aerosol container together with a liquefied or compressed gas propellant necessary to expel the product from the container.

(d) "Aerosol packaging facilities" means any plant, machinery, or equipment used to package aerosol products in the United States, and also includes the whole or any part of the stock, share capital, or any interest in any person engaged in the packaging of aerosol products in the United States.

I

It is ordered, That, within eighteen (18) months after the date of this Order and subject to the prior approval of the Federal Trade Commission, respondents shall divest the aerosol packaging facility in Atlanta, Georgia (hereinafter "the Atlanta facility") acquired from the Capitol Packaging Company, together with any and all additions and improvements thereto, as a viable business concern.

II

It is further ordered, That, for a period of two (2) years after the Atlanta facility is divested, respondents shall not package aerosol products in the U.S. for:

(a) Any persons (other than the Alberto-Culver Co.) who, as of March 30, 1977, were customers of the Atlanta facility but were not aerosol packaging customers of respondents;

(b) Any persons who, between March 31, 1977 and March 31, 1978, were aerosol packaging customers of respondents at only the Atlanta facility; and

(c) Any persons who first became aerosol packaging customers of respondents after March 31, 1978 and for whom respondents packaged a greater number of aerosol units at the Atlanta facility between March 31, 1978 and the date of divestiture than at all of their other facilities combined.

III

It is further ordered, That, for a period ending two (2) years after the Atlanta facility is divested, respondents shall neither directly nor indirectly solicit any persons who have been customers of the Atlanta facility at any time since March 31, 1977 to divert any of their aerosol packaging requirements from the Atlanta facility to one or more of respondents' other facilities.

IV

It is further ordered, That the Atlanta facility shall not be divested to any person who, as of the date of divestiture, is an officer, director, employee or agent of respondents, or who directly or indirectly owns or controls more than one (1) percent of the outstanding stock of respondents.

V

It is further ordered, That, pending divestiture of the Atlanta facility, respondents shall neither make nor permit any deterioration in said facility, other than normal wear and tear, which may impair its market value on the date of this Order.

VI

It is further ordered, That, for a period of five (5) years from the date of this Order, respondents shall neither directly nor indirectly acquire, without the prior approval of the Federal Trade Commission, any aerosol packaging facilities from any person engaged in the business of packaging aerosol products for one or more persons that are unaffiliated with the owner of said facilities.

VII

It is further ordered, That, within sixty (60) days after the date of this Order and every sixty (60) days thereafter until the divestiture ordered by Paragraph I hereof is effected, respondents shall submit to the Federal Trade Commission a detailed written report setting forth the manner and form in which they have complied with this Order. All such compliance reports shall include, among other things that are from time to time required, a summary of all discussions and negotiations with any persons who are potential owners of the assets to be divested, the identity of all such persons, copies of all communications to and from such persons, and all internal memoranda, reports and recommendations concerning divestiture.

VIII

It is further ordered, That respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in their corporate structures, such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in said respondents which may affect compliance obligations arising out of this Order.

ANALYSIS TO FACILITATE PUBLIC COMMENT ON PROPOSED CONSENT ORDER

The Federal Trade Commission has accepted an agreement containing a proposed consent order from CPC International Inc. ("CPC") and its wholly-owned subsidiary Peterson/Puritan, Inc. ("Peterson/Puritan"). The agreement culminates an investigation conducted pursuant to File No. 771 0058.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during the period will become a part of this record. At the conclusion of the public record period, the Commission will review the agreement and all comments and determine whether to withdraw the agreement or make the order final.

After it had come to the attention of the Federal Trade Commission that Peterson/Puritan had acquired substantially all of the aerosol packaging assets of Capitol Packaging Company, a wholly-owned subsidiary of the Alberto-Culver Co., the Bureau of Competition conducted an investigation to determine whether the acquisition violated Section 5 of the Federal Trade Commission Act or Section 7 of the Clayton Act.

After an investigation, the staff drafted a complaint charging that the acquisition violated both the Federal Trade Commission Act and the Clayton Act. CPC and Peterson/Puritan have agreed to a consent order that requires them:

(a) Within eighteen (18) months to divest as a viable business concern the aerosol packaging plant in Atlanta, Georgia acquired from the Capitol Packaging Company, together with all additions and improvements to that plant;

(b) For a period of (2) years after divestiture to refrain from competing with the Atlanta, Georgia aerosol packaging plant;

(c) To prevent deterioration of the Atlanta plant prior to divestiture; and

(d) For a period of five (5) years after the order to refrain from acquiring any contract aerosol packaging facilities without prior approval of the Federal Trade Commission.

To ensure that the order is obeyed, CPC and Peterson/Puritan must, within sixty (60) days after the date of the order and every sixty (60) days thereafter until divestiture is effected, file with the Commission a written report showing in detail the manner and form of their compliance with the order. Moreover, CPC and Peterson/Puritan must notify the Commission thirty (30) days prior to any proposed change in their corporate structures which might affect their obligations under the order.

This analysis is intended to encourage public comments; it does not constitute an official interpretation of the agreement and proposed order or a modification of their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34776 Filed 12-13-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 101]

GENERAL PROVISIONS

Proposed Changes in the Field Organization of the Customs Service

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

ACTION: Proposed rule.

SUMMARY: This notice proposes to change the field organization of the Customs Service by: (1) extending the existing port limits of the Puget Sound, Washington, port of entry to include Renton Municipal Airport and Seaplane Base on Lake Washington; (2) extending the existing port limits of the Buffalo-Niagara Falls, New York, port of entry to include the townships of Porter, Lewiston, and Wheatfield, located in Niagara County, New York; (3) establishing a combined port of entry in Owensboro and Paducah, Kentucky; (4) extending the existing port limits of the Providence, Rhode Island, port of entry to include the townships of East Greenwich and North Kingstown, Rhode Island; and (5) abolishing the present port of entry of South Bend-Raymond, Washington, and extending the existing port limits of the port of entry of Aberdeen, Washington, to include the territory currently encompassed by the port of South Bend-Raymond.

These proposed changes are part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before: February 12, 1979.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FUR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, the Customs Service proposes to make the following changes in its field organization:

PUGET SOUND, WASH.

Prior to a recent extension of the port limits of the Puget Sound port of entry, the only place where seaplanes entering the United States in the Pacific Northwest from Canada could be processed by Customs was at Friday Harbor, Washington. Because of the volume of both seaplane and watercraft traffic in the area, an extension of the port limits was necessary to ease the traffic congestion and prevent the possibility of a seaplane and small boat collision. Therefore, on July 14, 1978, Treasury Decision 78-241 was published in the FEDERAL REGISTER (43 FR 30288), extending the Puget Sound port of entry to include Kenmore Air Harbor on Lake Washington to provide an alternate site for Customs processing of seaplanes.

The recent increase in seaplane traffic in the Puget Sound area has made it necessary to provide another location where Customs may process seaplanes entering the United States from Canada in the Pacific Northwest. Accordingly, it is proposed to further extend the existing port limits of Puget Sound, Washington, to include Renton Municipal Airport and Seaplane Base, located on the southern end of Lake Washington, to provide for seaplanes comparable services to those available at Kenmore Air Harbor, located on the northern end of the lake, and to provide services to general aviation facilities located there.

As extended, the geographical boundaries of the Puget Sound, Washington, port of entry (Region VIII) would include the following:

The ports of Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Kenmore Air Harbor (sections 1, 2, 12, and 13 of Township 26 North, Range 3 East, West Meridian, and sections 1 to 18, inclusive, of Township 26 North, Range 4 East, West Meridian), Neah Bay, Olympia, Port Angeles, Port Townsend; Renton Municipal Airport and Seaplane Base (sections 7 and 18, Township 23 North, Range 5 East, West Meridian); and the territory in Tacoma beginning at the intersection of the westernmost city limits of Tacoma and The Narrows and proceeding in an easterly, then southerly, then easterly direction aling the city limits of Tacoma to its intersection with Pacific Highway (U.S. Route 99), then proceeding in a southerly direction along Pacific Highway to its intersection with Union Avenue Extended and continuing in a southerly direction along Union Avenue Extended to its intersection with the northwest corner of McChord Air Force Base, then proceeding along the northern, then western, then southern boundary of McChord Air Force Base to its intersection, just west of Lake Mondress, with the northern boundary of the Fort Lewis Military Reservation, then proceeding in an easterly direction along the northern boundary of the Fort Lewis Military Reservation to its intersection with Pacific Avenue, then proceeding in a southerly direction along Pacific Avenue to its intersection with National Park Highway, then proceeding in a southeasterly direction along National Park Highway to its intersection with 224th Street, East, then proceeding in an easterly direction along 224th Street, East, to its intersection with Meridian Street, South, then proceeding in a northerly direction along Meridian Street to the northern boundary of Pierce County, then proceeding in a westerly direction along the northern boundary of Pierce County to its intersection with Puget Sound, then proceeding in a generally southwesterly direction along the banks of the East Passage of Puget Sound, Commencement Bay, and The Narrows to the point of intersection with the westernmost city limits of Tacoma, including all points and places on the southern boundary of the Juan de Fuca Strait from the eastern port limits of Neah Bay to the western port limits of Port Townsend, all points and places on the western boundary of Puget Sound, including Hood Canal, from the port limits of Port Townsend to the northern port limits of Olympia, all points and places on the southern boundary of Puget Sound from the port limits of Olympia to the western port limits of Tacoma, and all points and places on the eastern boundary of Puget Sound and contiguous waters from the port limits of Tacoma north to the southern port limits of Bellingham, all in the State of Washington.

BUFFALO-NIAGARA FALLS, N.Y.

To meet the expanding needs of the Buffalo-Niagara Falls, New York, area, and to provide for the most efficient use of available Customs manpower and other resources, it is proposed to extend the existing port limits of the port of Buffalo-Niagara Falls to include the townships of Porter, Lewiston, and Wheatfield, located in Niagara County, New York.

The proposed expansion would enable Customs to provide service for a ferry operation which transports passengers between Canada and Youngstown, New York, located in Porter Township, as well as to private vessels arriving from Canada during the boating season. Service also would be provided for a cruise ship operation that plans to transport passengers from Canada to various places within the United States, with its first United States stop being a location in Porter Township. In addition, service would be provided to a newly created foreign trade zone in Porter and a new warehouse complex located in Lewiston Township.

Presently, the boundaries of the port of Buffalo-Niagara Falls include parts of both Wheatfield and Lewiston townships in Niagara County. The proposed extension of the port limit of the Buffalo-Niagara port of entry would encompass the entire townships of Lewiston and Wheatfield, as well as Porter, so that the boundaries of the

port of Buffalo-Niagara Falls would remain continguous.

As extended, the geographical boundaries of the Buffalo-Niagara Falls, New York, port of entry (Region I) would include the following:

All the territory within the corporate limits of the cities of Buffalo, Niagara Falls, Lewiston, Lackawanna, Tonawanda, and North Tonawanda, and the townships of Grand Island, Tonawanda, Amherst, Cheektowaga, Hamburg, West Seneca, and Orchard Park in the county of Erie, and the townships of Porter, Lewiston, Wheatfield, and Niagara, in the county of Niagara, all in the State of New York.

OWENSBORO-PADUCAH, KY.

Presently, Louisville is the only Customs port of entry in Kentucky. To help alleviate an excessive workload in the port and to meet the expanding needs of the importing community in the area, Customs proposes to establish a new combined port of entry in Owensboro and Paducah, Kentucky.

Owensboro, located near the center of the western Kentucky coal fields, is an established industrial complex in need of increased service. Industries involved with tobacco, aluminum, heavy machinery, leather, rubber, liquor, floral products, and underwear, are located in the area. In addition, the area has excellent highway, water, air, and railroad facilities available for the distribution of finished goods. It is estimated that local industries would present over 1,650 entries annually at a new port of entry.

Paducah, situated where the Tennessee River forms a junction with the Ohio River, is in close proximity to Owensboro. A major part of the Paducah port is designed to handle import and export cargoes, particularly heavy metals and general industrial goods. At present, imported merchandise arriving in the port either must be offloaded at some point where Customs service is availbale, or a Customs officer must be detailed from Louisville to Paducah on a temporay basis. Both these options cause delay and increase expenses.

The establishment of a combined port of entry in Owensboro-Paducah will reduce delays and improve service at reduced costs to the importing public. In addition to alleviating considerable inconvenience to the movement of international traffic in the area, granting of port of entry status to Owensboro-Paducah would aid many local industries to export their products.

The boundaries of the proposed Owensboro-Paducah port of entry would include the following:

The corporate limits of the cities of Owensboro and Paducah, and (Region XI) the connecting highway known as Green River Parkway, south from Owensboro to the junction of the Western Kentucky Parkway, west to U.S. Highway 62, and west to Paducah, all in the State of Kentucky.

PROVIDENCE, R.I.

There has been a substantial increase in the amount of business relating to international trade in the Providence, Rhode Island, area. However, this increase has extended to areas beyond the present limits of the Providence port of entry. Therefore, in the interest of improving service to the importing public, Customs proposes to extend the existing port limits to include the townships of East Greenwich and North Kingstown. The proposed extension would reduce out-of-port service charges to importers located in these townships.

As extended, the geographical boundaries of the Providence, Rhode Island, port of entry (Region I) would include:

All the territory within the corporate limits of the city of Providence and the townships of Central Falls, Cranston, East Providence, Barrington, Pawtucket, Warwick, Woonsocket, Cumberland, Johnston, North Smithfield, Smithfield, Lincoln, West Warwick, East Greenwich, and North Kingstown, all in the State of Rhode Island.

SOUTH BEND-RAYMOND AND ABERDEEN, WASH.

The Army Corps of Engineers no longer dredges the Willapa Harbor Channel in the port of South Bend-Raymond, Washington, leaving the channel unsuited for seagoing vessels. While some activity occasionally may be expected at the port from private boats and fishing vessels, no Customs business has been transacted there for 18 months. Because there is insufficient workload to justify its retention, Customs proposes to abolish the South-Bend Raymond, Washington, port of entry. However, to continue to provide service to private boats and fishing vessels, Customs proposes to extend the port limits of the Aberdeen, Washington, port of entry, to include the territory currently encompassed by the port of South Bend-Raymond.

As extended, the geographical boundaries of the Aberdeen port of entry (Region VIII) would include:

The corporate city limits of Aberdeen, Hoquiam, and Cosmopolis; all the territory within the corporate limits of South Bend and Raymond; all points on the Willapa River lying between the corporate limits of South Bend and Raymond; and that part of U.S. Highway 101 which connects the city limits of Aberdeen, Hoquiam, and Cosmopolis to the corporate limits of South Bend and Raymond, all in the State of Washington.

If the proposed changes are adopted, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), would be amended accordingly.

COMMENTS

Before adopting this proposal, consideration will be given to any written comments timely submitted 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, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

AUTHORITY

These changes are proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 15 (43 FR 11884).

DRAFTING INFORMATION

The principal author of this document was Harold M. Singer, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 29, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-34808 Filed 12-13-78; 8:45 am]

[4810-22-M]

[19 CFR Part 153]

ANTIDUMPING

Proposed Amendments to the Customs Regulations Concerning Deposit of Estimated Dumping Duties for Merchandise Subject to a Dumping Finding and Use of Best Information Available

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

ACTION: Proposed rule.

SUMMARY: This document advises the public that Customs proposes to amend its antidumping regulations to require the deposit of estimated dumping duties at the time of entry for merchandise subject to a finding of dumping. The manner in which this requirement would be implemented is addressed in the document. The proposed amendments also would provide for the submission of information in

antidumping proceedings and specify when and how alternative "best" sources of information would be used if submissions are incomplete or untimely. The proposed amendments further provide that following the issuance of a finding, information necessary for the assessment of special dumping duties must be submitted promptly for entries subject to the finding.

DATES: Comments must be received on or before February 12, 1979.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Theodore Hume (202-566-5476), Office of Chief Counsel; Operational Aspects: David L. Binder (202-566-5492), Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Importers of merchandise subject to a withholding of appraisement notice issued pursuant to § 153.35, Customs Regulations (19 CFR 153.35), and thereafter a finding of dumping issued pursuant to § 153.43 (19 CFR 153.43), are required at the time of entry of the merchandise to post a bond in an amount deemed appropriate by the district director to cover potential dumping liability. However, after a dumping finding, if the importer is found to be related to the foreign producer within the meaning of section 207, Antidumping Act, 1921, as amended (19 U.S.C. 166) ("the Act"), and the resale price of the merchandise in the United States is not known at the time of entry, importers are required by § 153.51(b), Customs Regulations (19 CFR 153.31(b)), to post a bond "in an amount equal to the estimated value of the merchandise". The actual payment of dumping duties, however, occurs only after final ascertainment of all duties due.

It is proposed to amend § 153.50, Customs Regulations (19 CFR 153.50), to require importers to deposit estimated dumping duties at the same time the deposit of estimated regular Customs duties is required. The adoption of this procedure would provide substantial assurance that the actual amount of dumping duties assessed would be collected with minimal commitment of resources. This change also should provide a greater incentive for foreign manufacturers to adjust their prices to eliminate dumping margins because a failure to adjust prices would result in the importers having to deposit an additional amount, as well as incurring potential dumping duty liability. In addition, there should be greater incentive for those persons responsible for submitting the data upon which calculations of special dumping duties are based to make timely and complete submissions, because the amount of the deposits may be revised only when adequate data are provided timely.

The proposed amendments would apply to merchandise of a class or kind subject to a dumping finding and entered on or after the date the finding is published in the FEDERAL REGISTER. In the case of merchandise imported under the conditions described in section 208 of the Act, estimated dumping duties would be required in addition to the bond. However, a deposit of estimated dumping duties would not be required for importations of merchandise subject to a withholding of appraisement notice and entered prior to a dumping finding. Such merchandise would continue to be subject to the bonding requirements of § 153.51, Customs Regulations (19 CFR 153.51).

Under existing procedures, after the U.S. International Trade Commission ("the ITC") determines that sales at less than fair value cause or threaten injury to a domestic industry pursuant to section 201(a) of the Act (19 U.S.C. 160(a)), it so advises the Secretary of the Treasury. The advice is forwarded to Customs for preparation of the formal finding of dumping. If the proposed procedures requiring the deposit of estimated dumping duties become effective, dumping findings would be processed directly in the Department, without referral to Customs. These findings generally would be published in the FEDERAL REGISTER no later than 7 days after the affirmative injury determination is published in the FEDERAL REGISTER by the ITC.

DESCRIPTION OF PROCEDURES

Generally, the amount of the required deposit would correspond to the weighted average margin based upon total sales for a manufacturer as calculated for purposes of the determination of sales at less than fair value pursuant to §§ 153.36 or 153.37, Customs Regulations (19 CFR 153.36, 153.37). In the case of a manufacturer not investigated during the fair value phase of the proceedings, the initial deposit required for that manufacturer's entries would be equal to a weighted average of the margins for all manufacturers investigated. If one or more manufacturers investigated were found to have no margins, then a zero margin, appropriately weighted, would be averaged into the deposit calculation for a non-investigated manufacturer.

The first adjustments to the amounts required to be deposited as estimated dumping duties ordinarily would occur in conjunction with the prepartation of the first master lists. A master list is the form by which Customs Headquarters advises Customs field officers as to the manner in which the amount of dumping duties, if any, should be determined for a particular entry subject to a dumping finding. To expedite issuance, the first master list questionnaires would be sent to each known foreign manufacturer and related importer of merchandise subject to a finding no later than the time at which a finding is published in the FEDERAL REGISTER. The first master list request could cover all unappraised entries subject to the dumping finding. Manufacturers could, however, prepare their submissions in advance, because general questionnaires would be made available before a finding is published.

A period of 30 days to respond would be provided, with limited extensions in most cases not to exceed 60 days in total. As a general rule, a master list would be issued to Customs field officers no more than 6 months after complete responses were received and a verification, when appropriate, had been conducted.

If the response period does not correspond to a manufacturer's accounting cycle, a prompt issuance of the first master list would be contingent on a waiver by the manufacturer of any claim for adjustments for factors not finally determined at the time of its response (e.g., year-end discounts). Absent a waiver, the estimated dumping duties resulting from margins determined at the conclusion of the fair value phase would be applied until complete responses are received and a master list is issued.

Subsequent master list questionnaries generally would be distributed on an annual basis, with appropriate revisions in the deposit amounts made in the same time frame. If this schedule does not conform to the manufacturer's accounting cycle, the period of the second, and any subsequent, master list request would be adjusted to correspond to such accounting cycle. In situations where timely data is not supplied to permit updating of master lists, Customs would use the best information available in preparing new master lists and revising the deposit amounts.

While it would be the general intention to use the fair value results, Customs would consider expediting the first master list preparation and there-

by the initial deposit amount in any case where the fair value margin was greater than 10 percent. To implement this approach, foreign manufacturers potentially subject to a finding would have to submit master list information for the period up to the point of the determination of sales at less than fair value. Furthermore, this information must be received no later than 30 days after the determination of sales at less than fair value. Upon receipt, a master list analysis would be considered on an expedited basis to permit, in those instances, a revision of the fair value figures for purposes of the estimated deposits prior to the issuance of the finding. As revised, these figures would be used to determine the first deposit amounts.

This expedited master list procedure would not be considered for a manufacturer if its fair value phase margins were 10 percent or less. In those situations where the fair value phase margins were 10 percent or less, adjustments to the deposit amount would be considered only when the first master list is issued.

It is proposed that where master lists have been issued, the amount of the dumping duty deposit would be based initially upon the experience of the latest master list. If no master list has been issued, then the fair value phase margins would be used. The deposit requirement would apply to all merchandise subject to a finding of dumping as listed in § 153.46, Customs Regulations (19 CFR 153.46), which is entered or withdrawn from warehouse for consumption on or after the effective date of these proposed amendments.

It is intended under the proposed amendments that Customs Headquarters personnel would calculate the appropriate amount of the estimated dumping duty required to be deposited. This amount would be determined on a percentage basis for the class or kind of merchandise subject to the finding, with possible different amounts for particular manufacturers. These percentage figures would be distributed to Customs field officers. The field officers, in reviewing the appropriate documents, would advise the importer of the amount required for the deposit to cover the estimated dumping duty, as well as regular Customs duties.

Use of Best Information Available

It also is proposed to amend §§ 153.31(a) and 153.54, Customs Regulations (19 CFR 153.31(a), 153.54), insofar as they pertain to the use of "best information available". The proposed changes would specifically emphasize that Customs intends to utilize the best information available whenever responses are either untimely or incomplete and thereby would delay either the fair value investigation or the assessment process.

Under the proposed procedures, Customs would indicate in its request for information the appropriate time within which submissions of data should be made. If submissions are not made within that time period and extensions have not been granted, Customs would proceed to use the best information available. For example, the use of the best information available may mean relying upon previously submitted data without allowances specified in section 202 of the Act (19 U.S.C. 161). Similarly, in situations where some alternative method of calculating fair value or foreign market value is available, including cost figures or official reports of a company which can be used to derive appropriate prices or costs, that alternative method could be utilized.

Technical Amendment

It is proposed to further amend § 153.54 to provide that information necessary for the assessment of special dumping duties shall be submitted for all entries subject to the dumping finding instead of only for entries made from the date of publication of the Withholding of Appraisement Notice to the date of issuance of a finding. The purpose of this change is to clarify that unappraised entries made prior to the date of the publication of the Withholding of Appraisement Notice may be subject to special dumping duties.

Authority

The authority for the proposed amendments is R.S. 251, as amended (19 U.S.C. 66), section 407, 42 Stat. 18 (19 U.S.C. 173), sections 623, 624, 46 Stat. 759 (19 U.S.C. 1623, 1624), 77A Stat. 14, Tariff Schedules of the United States (19 U.S.C. 1202, General Headnote 11).

Comments

Customs invites written comments, preferably in triplicate, on the proposed amendments. 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, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

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, other personnel in the Customs Service and the Department of the Treasury assisted in its development.

Proposed Amendments

1. It is proposed to revise paragraph (a) of § 153.31, Customs Regulations (19 CFR 153.31), to read as follows:

§ 153.31 Full-scale investigation.

(a) *Initiation of investigation.* Upon publication of an "Antidumping Proceeding Notice", the Commissioner shall proceed by a full-scale investigation, or otherwise, to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by section 153.32. Customs will indicate in its request for information the appropriate time period within which the submissions of data must be made. If adequate submissions are not made within the specified time limits, Customs will proceed to use the best information available. To verify the information presented, or to obtain further details, investigations may be conducted by Customs representatives in foreign countries, unless the country concerned objects to the investigation. If an adequate investigation is not permitted, or if any information deemed necessary is withheld, the Secretary will reach a determination on the basis of the best information available.

In reaching a determination, the Secretary may utilize cost figures or official reports of a company or companies as necessary to determine appropriate costs or prices.

* * * * * *

2. It is proposed to revise § 153.50, Customs Regulations (19 CFR 153.50), to read as follows:

§ 153.50 Release of merchandise; bond; deposit of estimated duties.

When the district director, in accordance with section 153.35(c), has received a notice of withheld appraisement or when he has been advised of a finding provided for in section 153.43, and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding unless one of the following conditions is met:

(a) In the case of merchandise subject to a withholding of appraisement notice, the appropriate bond is filed or is on file, as specified in § 153.51.

(b) In the case of merchandise subject to a finding, estimated dumping duties have been deposited in accordance with subpart G of Part 141, Customs Regulations (19 CFR Part 141), and an appropriate bond which may be required by law or regulations is provided; or

(c) The merchandise covered by a specific entry will be appraised without regard to the Act.

3. It is proposed to revise § 153.54, Customs Regulations (19 CFR 153.54), to read as follows:

§ 153.54 Timely submission of information for dumping appraisement purposes.

Following the issuance of a finding of dumping, information necessary for the assessment of special dumping duties must be submitted as promptly as possible to the Commissioner, in such form as he may require, for entries subject to the finding. The necessary information shall be provided regularly on a periodic basis. Customs will indicate in its request for information the appropriate period for which data is being sought and the time within which the submissions should be made. If adequate submissions are not made within the specified time, Customs will use the best information available. In utilizing the best information available, information previously submitted by the same manufacturer may be used without the allowance of adjustments pursuant to section 202 of the Act (19 U.S.C. 161). Also, where an alternative method of calculating the foreign market value (19 U.S.C. 164) or the constructed value (19 U.S.C. 165) is available, that alternative method may be utilized as the best information available where submissions otherwise are deemed inadequate.

R. E. CHASEN,
Commissioner of Customs.

Approved: December 8, 1978.

HENRY C. STOCKELL, JR.,
Acting General Counsel of the Treasury.

[FR Doc. 78-34809 Filed 12-13-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Parts 222, 231]

GRAZING AND LIVESTOCK USE ON THE NATIONAL FOREST SYSTEM

Proposed Procedures for Determining Annual Grazing Fees

AGENCY: USDA, Forest Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the procedures for determining annual grazing fees on certain Federal lands administered by the Forest Service, U.S. Department of Agriculture. It would implement the grazing fees for the fee years 1979 through 1985 as prescribed in the Public Rangelands Improvement Act of 1978 for the National Forests in the 16 contiguous Western States.

DATES: Comments must be received by February 12, 1979.

ADDRESSES: Send comments to: Chief John McGuire (2200) Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

Comments received will be available for public inspection in Room 610, Rosslyn Plaza Building E, 1621 North Kent Street, Arlington, Va., 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Melvin Bellinger, Range Management Staff, Forest Service P.O. Box 2417, Washington, D.C. 20013, telephone, 703-235-8139.

SUPPLEMENTARY INFORMATION: This proposed rule supersedes the one published in the FEDERAL REGISTER at page 60108, November 3, 1977. This change was necessitated by the enactment of Pub. L. 95-514, which specifies a fee formula.

The Bureau of Land Management, U.S. Department of the Interior, is publishing similar information regarding their grazing fee.

Pub. L. 95-514, The Public Rangelands Improvement Act, Sec. 6, states:

> For the grazing years 1979 through 1985, the Secretaries of Agriculture and the Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service (sic)) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: Provided, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

DATA USED

Both the Senate and House of Representatives, while deliberating on Pub. L. 95-514, referred to the Technical Committee Report which is published as Appendix A in the Study of Fees for Grazing Livestock on Federal Lands, a report from Secretaries of the Interior and Agriculture, dated October 21, 1977. The report prepared by the Technical Committee was printed in the FEDERAL REGISTER, Vol. 42, No. 24, Friday, February 4, 1977. The same data sources and computations will be used in determining the grazing fees as were used in the Technical Committee Report.

The formula enacted into law by Congress follows:

$$EC = \$1.23 \times FVI + (BCPI-PPI)/100$$

EC = Economic value
FVI = Forage value index
BCPI = Beef cattle price index
PPI = Price paid index

BASE VALUE

The base of $1.23 is the difference between total costs associated with livestock grazing use of privately leased grazing lands and total nonfee costs associated with livestock grazing use of allotments on Federal lands administered by the Forest Service and by the Bureau of Land Management in the Western States. These costs include only those costs of grazing livestock on, and their movement to and from, the Federal land grazing allotment or the privately leased land used in the comparison. The general items of costs included are: Loss of animals, veterinary costs, movement of livestock to and from public or private grazing areas, herding and movement of livestock while on the grazing area, salting and feeding, travel by personnel to and from public or private grazing areas, pumping or hauling of water, horses used in movement and management of livestock, maintenance of fences and watering facilities, depreciation of users' investments in construction of fences and other permanent structures, other miscellaneous costs, and costs paid through associations. In addition, payments to the landlord (the private rental charge) are included in the cost of using private grazing lands.

FORAGE VALUE INDEX

Forage Value Index (FVI) represents the annual change in private grazing lease rates from the 1964-1968 base years as collected by USDA using the June Enumerative Survey. The private lease rate value of $3.65 per animal unit month from the base period of 1964-1968 will be the base value for the Forage Value Index. Values for the index are shown below.

Data Year	Private Grazing Lease Rate	Forage Value Index
1964-68 Avg	$3.65	100
1977	7.29	200
1978	7.11	195

BEEF CATTLE PRICE INDEX

The Beef Cattle Price Index (BCPI) represents the change in annual beef cattle prices in the 11 Western States compared with the base period (1964-1968 equals 100), the average price of $22.04 per hundred weight. This data is tabulated by USDA for a November through October year and is composed of weighted average prices for beef

cattle (calves excluded) for the 11 Western States. Values are shown below.

Data year	Beef Cattle Price ($ per hundred weight)	Beef Cattle Price Index
1964–68 Avg.	22.04	100
1969	27.00	123
1970	29.50	134
1971	29.50	134
1972	36.80	167
1973	43.00	195
1974	39.20	178
1975	35.20	160
1976	36.10	164
1977	36.00	163
1978	47.60	216

PRICE PAID INDEX

A special Price Paid Index (PPI) is developed from USDA's farm price indices of farm inputs, using only selected beef cattle production items; these are weighted according to their relative contribution. It is an index for a November through October year with a base period of 1964–1968 equal to 100. Values for the index are shown below.

Data Year	Price Paid Index
1964–68 Avg.	100
1969	113
1970	118
1971	124
1972	130
1973	140
1974	168
1975	198
1976	215
1977	230
1978	246

IMPLEMENTATION

Data for 1978 (November 1, 1977, through October 31, 1978) will be used to compute the fee for the 1979 fee year (March 1, 1979, through February 29, 1980).

Computation of economic value for the 1979 fee year using 1978 indices:

$$EC = \$1.23 \times 195 + (216-246) = \$2.03/100$$

The economic value of grazing for the 1979 fee year is $2.03 per animal unit month.

Annual increases or decreases shall be limited to 25 percent of the previous year's fee.

Grazing fees have varied from unit to unit on the National Forests since 1933, and use of the 25 percent limit will continue the differing fees until all fees equal the economic value. Fees are shown below.

Fee Year	Economic Value	Fee	
		Low	High
1976–78		$1.25	$1.94
1979	$2.03	$1.56	$2.03

Thus, nearly all grazing fees in 1979 will be between $1.56 and $2.03 per animal unit month. Any individual fee for 1979 can be computed by adding 25 percent to the fee paid in 1978, except that no fee will exceed the economic value of $2.03.

PUBLIC PARTICIPATION

Previous publication in the FEDERAL REGISTER on February 4, 1977, and November 23, 1977, together with public meetings in March and April of 1977 and Congressional Hearings during 1977 and 1978, have provided many opportunities for participation by many groups and individuals in the decision-making processes on grazing fees. Public comments on this proposed regulation will be accepted for a period of 60 days. Copies of the proposed regulation will be available to grazing permittees and other individuals and organizations at Forest Service field offices throughout the 16 western States. Because the fundamental aspects of this regulation are prescribed by law (Pub. L. 95-514, public comments should be directed primarily toward the manner of implementation and the clarity of the regulation.

NOTE.—The Department of Agriculture has determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to Section 102(2)(c) of the National Environment Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required. An approved Draft Environmental Assessment Report (includes Impact Analysis) is available from Range Management Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013.

RECODIFICATION

As part of an effort to correlate the numbering schemes used in 36 CFR Chapter II and the Forest Service Manual, regulations previously published in Part 231—GRAZING have been moved to Part 222—RANGE MANAGEMENT (42 FR 56730). Promulgation of this rule will complete the recodification by deleting 36 CFR Part 231 and establishing a new Subpart C in 36 CFR Part 222.

Accordingly, it is proposed to amend 36 CFR Chapter II as follows:

PART 231—GRAZING [DELETED]

1. By deleting 36 CFR Part 231 in its entirety.

PART 222—RANGE MANAGEMENT

2. By adding a new Subpart C to Part 222 to read as follows:

Subpart C—Grazing Fees

Sec.
222.50 General procedures.
222.51 National Forests in 16 Western States.
222.52 National Grasslands.
222.53 Other National Forest System Lands.

Subpart C—Grazing Fees

§ 222.50 General procedures.

(a) Fees shall be charged for all livestock grazing or livestock use of National Forest System lands, or other lands under Forest Service control. An exception is livestock authorized free of charge under provisions of § 222.3(c)(2)(ii) (B)–(G).

(b) Guiding establishment of fees are the law and general governmental policy as established by Bureau of the Budget (now, Office of Management and Budget) Circular A-25 of September 23, 1959, which directs that a fair market value be obtained for all services and resources provided the public through establishment of a system of reasonable fee charges, and that the users be afforded equitable treatment. This policy precludes a monetary consideration in the fee structure for any permit value that may be capitalized into the permit holder's private ranching operation.

(c) The fees shall be based on one (1) animal unit month which for grazing fee purposes is defined as the occupancy and grazing of one cow for one month, or five (5) ewes for one month, or the equivalent. Fees shall be charged on the basis of a base herd of cattle or sheep. The fee shall be charged for each paying animal unit, which is defined as each animal six (6) months of age or over at the time of entering National Forest System lands; all weaned animals regardless of age; and such animals as will become twelve (12) months of age during the permitted period of use.

(d) No additional charge will be made for the privilege of lambing upon National Forest System lands, or other lands under Forest Service control.

(e) Transportation livestock may be charged for at a special rate, and at a minimum established for such use. Fees for horses, mules, or burros associated with management of permitted livestock on an allotment, or for research purposes and administrative studies, and authorized on a charge basis, are determined under provisions of paragraph (b) of this section.

(f) The fees for trailing livestock across National Forest System lands will conform with the rates established for other livestock. Where practicable, fees for trailing permitted livestock will be covered in the regular grazing fee and the crossing period covered in the regular grazing period.

(g) All fees for livestock grazing or livestock use of National Forest System lands or other lands under Forest Service control are payable in advance of the opening date of the

grazing period, entry, or livestock use unless otherwise authorized by the Chief, Forest Service.

(h) Unauthorized grazing use rate will be determined by establishing a base value without giving consideration for those contributions normally made by the permittee under terms of the grazing permit. The base will be adjusted annually by the same indices used to adjust the regular fee. This rate also will apply in case of excess numbers of livestock grazed by permittees.

(i) Refunds or credits may be allowed under justifiable conditions and circumstances as the Chief, Forest Service, may specify.

(j) The fee year for the purpose of charging grazing fees will be March 1 through the following February.

(k) The data year for the purpose of collecting data for computing indices will be November 1 through the following October and apply to the following fee year.

§ 222.51 National Forests in 16 Western States

(a) Grazing fees are established on lands designated National Forests and Land Utilization Projects in the 16 contiguous Western States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. (National Grasslands are excluded, see § 222.52.)

(b) The fee for domestic livestock grazing on public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index, added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100.

(c) Starting on March 1, 1979, and continuing through February 28, 1985, fees shall be adjusted each year to the fee as computed by formula in paragraph (b) of this section, subject only to the provision that no fee shall be increased of decreased by more than 25 percent over the fee charged the previous year.

§ 222.52 National Grasslands.

Grazing fees for National Grasslands will be established under concepts and principles similar to those § 222.51(b).

§ 222.53 Other National Forest System Lands.

Grazing fees for all other National Forest System lands not listed in § 222.51(a), or § 222.52, will be established under concepts and principles similar to those in § 222.51(b), except that in some instances fees may be negotiated.

M. RUPERT CUTLER,
Assistant Secretary.

DECEMBER 4, 1978.

[FR Doc. 78-34777 Filed 12-13-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1024-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the Louisiana Air Control Commission to Pelican State Lime

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Louisiana Air Control Commission to Pelican State Lime. The order requires the company to bring air emissions from its plant in Amelia, Louisiana, into compliance with certain regulations contained in the federally-approved Louisiana State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement of citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before January 15, 1979.

ADDRESSES: Comments should be submitted to Howard Bergman, Director, Enforcement Division, EPA, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. James Veach, Legal Branch, Enforcement Division, U.S. Environmental Protection Agency, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270 (214)—767-2760.

SUPPLEMENTARY INFORMATION: Pelican State Lime operates a lime production plant at Amelia, Louisiana. The order under consideration addressed fugitive dust at the facility, which is subject to Section 19.3 of the Louisiana Air Control Commission Regulations. The regulation limits the emissions of particulate matter, and is part of the federally approved Louisiana State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of appropriate equipment and control apparatus. Pelican State Lime has consented to the terms of the order and has already completed certain increments of progress. Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The necessary elements of subsection 113(d) have been met: the order contains a schedule and timetable for compliance; the order provides for final compliance with the Louisiana Implementation Plant as expeditiously as practical and no later than July 1, 1979; the order requires compliance with the best practicable system of interim emission reduction; the order finds that no interim emission monitoring is reasonable or practicable; the order notifies the source that it will be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979; and there has been notice to the public of the order by the State, and a public hearing was held.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Louisiana SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Adminis-

trator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: December 5, 1978.

MYRON O. KNUDSON,
Acting Regional Administrator, Region 6.

[FR Doc. 78-34689 Filed 12-13-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Payment for Durable Medical Equipment

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would establish criteria and procedures for payment for new and used durable medical equipment for beneficiaries under Part B, (Supplementary Medical Insurance), of the Medicare program. It implements Section 16 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142). Section 16 provides for purchase of durable medical equipment when purchase would be less costly or more practical than rental, and authorizes the Secretary to take necessary administrative steps to encourage the availability of this equipment to beneficiaries on a lease-purchase basis. The purpose is to reduce program costs caused by long and costly rentals of equipment and reduce undue expenses of beneficiaries who must pay annual deductibles and coinsurance when equipment is rented over an extended period of time.

DATE: Consideration will be given to written comments or suggestions received by February 12, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to file code MAB-62-P. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202-245-0950).

FOR FURTHER INFORMATION, CONTACT:

Paul Riesel, Medicare Bureau, Health Care Financing Administration, Room 190, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235 (301-594-9595).

SUPPLEMENTARY INFORMATION:

INTRODUCTION

Before the enactment of Pub. L. 95-142, Medicare beneficiaries could decide whether to rent or purchase durable medical equipment. However, lump sum payments by the Medicare program for purchased durable medical equipment were limited to items for which the reasonable charge did not exceed $50. (See section 4105 of the Medicare Carriers Manual (HIM-14, part III).) These provisions resulted in far more rentals than purchases, and the rentals often were for such long periods that payments exceeded the purchase price of the items. Moreover, since beneficiaries are liable for a 20-percent coinsurance amount, they also shared a large part of the financial burden imposed by unnecessarily long rental periods.

The primary objective of section 16 of Pub. L. 95-142 (section 1833(f) of the Social Security Act) is to protect the Medicare program and beneficiaries against excessive expenditures resulting from prolonged rentals of durable medical equipment. This is achieved by authorizing the Secretary and Medicare carriers to (1) determine whether purchase would cost less and be more practical than rental and, if so, to reimburse on a purchase basis unless purchase would cause the beneficiary undue hardship; (2) facilitate purchase by lifting or easing program restrictions on lump sum purchase payments by the Medicare program; (3) enter into agreements with suppliers of durable medical equipment that establish equitable, economical, and feasible reimbursement procedures; (4) encourage lease-purchase arrangements; and (5) offer an incentive to purchase used equipment.

MAJOR PROVISIONS

1 CARRIER DETERMINATION OF METHOD OF PAYMENT

The proposed regulation would establish three methods of payment—lease-purchase, lump sum purchase, and rental charges. The Medicare carrier would determine whether rental or purchase would be more economical and feasible, taking into account the expected period during which durable medical equipment obtained by a beneficiary would be needed, and the information it has about reasonable purchase and rental charges. Expected duration of need would be determined, in major part, on the basis of appropriate medical records or certification by the attending physician. Other factors, such as the costs of items, the average length of time for which they are normally used, and the frequency and cost of maintenance and servicing would also be taken into account in determining the practicality of purchase or rental.

HCFA and the carriers will review the possibility of advising the public that certain standard items of equipment that are used in large quantities by Medicare beneficiaries will be routinely paid for on the basis of lease-purchase or lump sum payment. If this is possible, beneficiaries and suppliers will know, at the time the beneficiary first obtains equipment, how reimbursement is likely to be made. This should facilitate their making satisfactory arrangements for payment of the beneficiary's deductible and coinsurance obligations.

2. LEASE-PURCHASE PAYMENTS

If the carrier determined that purchase would cost less and be more practical than rental, Medicare payment would be made pursuant to a lease-purchase agreement, if that method is more economical than lump sum purchase and an acceptable lease-purchase agreement is reasonably available to the beneficiary.

We are not proposing to prescribe in detail specific types of lease-purchase agreements that can be automatically accepted by carriers, since this arrangement is presently not widely available in the durable medical equipment field. Instead, we are proposing that HCFA and the Medicare carriers review lease-purchase arrangements to determine whether they are acceptable. Factors which will be considered in determining whether a lease-purchase is economical include: (1) The protection it offers against unnecessary expenditures because the medical need for the equipment ended earlier than expected; (2) the amount and timing of periodic payments; (3) conditions for transferring ownership of the equipment to the beneficiary when periodic payments reach an agreed-upon purchase price, and (4) the adequacy of warranties, maintenance, service, and repairs.

To encourage the availability of practical lease-purchase agreements in those areas in which suppliers of durable medical equipment do not offer such arrangements, HCFA (or carriers with the approval of HCFA) may, among other alternatives, establish and maintain a system of referrals to those suppliers willing to enter into lease-purchase agreements. We will also work with suppliers and consumer groups to develop acceptable standard lease-purchase agreements.

3. LUMP SUM PURCHASES

If the expected rental charge exceeds the purchase cost and a more economical lease-purchase agreement is not available, the carrier would consider the use of a lump sum purchase payment. We propose that lump sum purchase be used whenever the reasonable charge does not exceed $600 and be used for equipment costing more than $600 only if approved by HCFA.

We are proposing this procedure and the $600 figure for several reasons. It should result in our paying, in an economical manner, for most of the commonly furnished items for which there is not a substantial financial risk to the Medicare program if, because of changed circumstances, it turns out that rental charges would have cost less than purchase. We also believe that a $600 item will ordinarily not entail a significant burden on beneficiaries for deductible and coinsurance payments, particularly since the regulation authorizes the payment of reasonable interest and carrying charges for installment payments of deductibles and coinsurance. The $600 figure will be subject to review and revision based on program experience.

If a lump sum payment for an item costing $600 or less would impose a hardship on the beneficiary, the carrier would delay making a lump sum payment, and would make reasonable rental payments, for up to three months. During that time, the beneficiary would be expected to make arrangements for a lease-purchase agreement, for installment payments for the deductible and coinsurance, or for another solution to the problem.

These interim rental payments and undue financial hardship on the beneficiary are discussed more fully below.

4. RENTAL PAYMENTS

The carrier would pay for equipment on the basis of rental charges whenever it concluded that the total rental charges for the expected period of medical need would cost less or be more practical than purchase. Rental payments would also be used if the carrier determined that payment should be made by lease-purchase or lump sum purchase, but the beneficiary continued to rent the equipment instead. In this instance, the total rental charges paid by the carrier would not exceed its determination of a reasonable purchase charge. If the beneficiary decided later to purchase the equipment, any rental charges paid by the carrier would be deducted from the purchase charge.

If the beneficiary decided to purchase the equipment but the carrier concluded that Medicare payment should be made on the basis of rental charges, the carrier would continue to pay on the basis of rental charges. The total payments would be made only until the beneficiary's medical need for the equipment ended or until the payments equaled those allowable for purchase, whichever came first. Thus, the beneficiary would run the risk that his decision to buy the equipment was erroneous because rental charges would have been less expensive. On the other hand, the Medicare program would not have to pay more than due for the purchase charge if the carrier's determination that rental charges would cost less turned out to be incorrect.

Payment would also be made on the basis of rental charges, of course, if the equipment cost more than $600, a suitable lease-purchase agreement were not available, and HCFA did not agree to a lump sum purchase.

5. INTERIM RENTAL PAYMENTS

Since beneficiaries will obtain items of equipment prior to submitting a bill to the carrier, and since the carrier may need some time to decide which method of payment is appropriate, we propose authorizing the carrier to make interim payments on a rental basis pending its determination of the proper method of payment. However, in order to encourage beneficiaries to submit bills promptly, and to avoid unnecessary rental charges being paid under Medicare, we are proposing to limit the interim rental payments made for bills not submitted in a timely manner, when the carrier concludes that payment should be made by purchase. If the claim is submitted within 30 days after the beneficiary began renting the equipment, and the carrier determines that purchase will cost less than rental, interim rental payments would be made for the month in which the beneficiary began renting the equipment through the month following the month in which the carrier notified the beneficiary of its determination. If the claim is not submitted within 30 days, and the carrier determines purchase is proper, interim rental payments would be limited to a period beginning with the month in which the claim is received by the carrier. If the carrier determines that the method of payment should be by rental charges rather than purchase, it would pay rental charges beginning with the month the beneficiary began renting the equipment.

Thus, if the claim is not submitted within 30 days, the beneficiary would run the risk that the carrier will determine that payment should be on a purchase basis and will not reimburse the beneficiary for all of his rental charges.

If the supplier did not agree to credit the beneficiary's rental payments toward the purchase price, these interim payments would be made in addition to the purchase payment.

As noted above, interim rental charges would also be authorized, for up to three additional months, if the carrier determines that payment should be by lump sum purchase but this causes the beneficiary an undue financial hardship. The purpose is to permit the beneficiary to make suitable arrangements to resolve the financial hardship.

The carrier's finding that lump sum purchase imposes an undue financial hardship on the beneficiary is based, in part, on the supplier's statement that it will not arrange installment payments for the beneficiary. If the beneficiary subsequently buys the equipment from the same supplier that originally furnished it and that refused to work out installment payments, the supplier should not be advantaged by receipt of the additional three months of rental charges. In order to avoid this result, we are proposing that, in this case, the interim payments would be deducted from the reasonable purchase price. If the beneficiary finds a different supplier who will resolve his financial hardship, the interim rental payments would not be deducted from the reasonable charge for the purchase price.

6. UNDUE FINANCIAL HARDSHIP

As discussed above, the proposed regulation deals with instances in which equipment purchase would cost less, but would cause beneficiaries financial hardship because they are unable to pay the applicable Medicare Part B deductible and coinsurance amounts. It would permit interim rental payments in such instances, if both the beneficiary and the supplier of the equipment state that the supplier will not arrange installment payments. Payment would be limited to a 3-month period, on the assumption that the beneficiary will, in that time, be able to obtain the equipment from another supplier, to arrange for payment of deductible and coinsurance amounts in installments, or to reach some other resolution.

In order to facilitate purchase arrangements and avoid financial hardships, the regulation would permit Medicare payments for reasonable interest or carrying charges for deductibles and coinsurance.

7. WAIVER OF COINSURANCE FOR PURCHASE OF USED EQUIPMENT

In accordance with section 16, the proposed regulation also provides for waiver of the Part B coinsurance amount for the purchase of used equipment, if the purchase price is at least 25 percent less than the reason-

able charge that would be allowed for comparable new equipment. If the used equipment is purchased from a commercial supplier, the regulation would require certifications and warranties regarding the condition of such used equipment, to protect beneficiaries against the purchase of items that will not meet their needs (or items that are worn out or in poor condition). if the equipment is purchased from a private source, the beneficiary would have to state that he is satisfied the equipment is in satisfactory condition. Carriers would not be required to examine the used item, since this would be an impractical, cumbersome, and a costly administrative burden for them.

These provisions for waiving coinsurance, if the purchase price is at least 25 percent less than the reasonable charges for new equipment, do not affect the rules under which reasonable charges for used equipment are determined. The carrier is required to calculate the reasonable charge for used equipment in accordance with Medicare regulations and guidelines.

42 CFR Part 405 is amended by adding a new § 405.514 to read as follows:

§ 405.514 Payment for durable medical equipment.

(a) *Purpose.* This section specifies criteria and procedures that will be used to determine payments for the purchase or rental of new and used durable medical equipment for beneficiaries under Part B of the Medicare program. It implements section 1833(f) of the Social Security Act, as amended by section 16 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142).

(b) *Definition.* "Durable medical equipment" means equipment which (1) can withstand use; (2) is primarily and customarily used to serve a medical purpose; (3) generally is not useful to a person in the absence of an illness or injury; and (4) is appropriate for use in the home.

(c) *General provisions.* (1) Payment for durable medical equipment under Part B of the Medicare program will be made on the basis of a lease-purchase, a lump sum purchase, or rental charges, in accordance with this paragraph and paragraphs (e) through (h) of this section. (2) The Medicare carrier shall determine whether a lease-purchase or lump sum purchase is more economical or practical than rental charges, based on:

(i) The expected period during which equipment obtained by a beneficiary would be medically needed, as evidenced by appropriate medical records or certification by the patient's attending physician;

(ii) The criteria for reasonable charges specified in § 405.502 of this part.

(iii) whether required maintenance makes purchase impractical and more costly to the beneficiary than rental; and

(iv) whether the administrative costs for renting inexpensive items makes purchase more practical or less expensive.

(3) The carrier shall notify the beneficiary of its determination of the method of payment and the maximum amount payable under Medicare.

(d) *Payment procedures.* The Secretary may make agreements with suppliers to establish equitable, economical, and feasible procedures for payment for durable medical equipment.

(e) *Payment by lease-purchase.* (1) Except as specified in paragraphs (f) and (g)((1) of this section, Medicare payments for durable medical equipment will be made on a lease-purchase basis whenever:

(i) Purchase of the equipment would be more practical or cost less than the total reasonable rental charge for the equipment during the period it is expected to be medically needed by the beneficiary; and

(iii) There is a supplier reasonably available to the beneficiary who will offer a lease-purchase agreement that offers protection against unnecessary expenditures if the medical need for the equipment ends earlier than expected and provides adequate warranties, maintenance, service and repairs.

(2) HCFA (or carriers with the approval of HCFA) will review proposed lease-purchase arrangements offered by suppliers and approve those that comply with paragraph (e)(1)(ii) of this section. HCFA will also encourage suppliers to develop and offer alternatives to lump sum purchase. (For example, HCFA may establish and maintain a system of referrals to suppliers willing to enter into practical lease-purchase agreements.)

(f) *Payment by lump sum purchase.* (1) Payment for durable medical equipment will be made by lump sum purchase if:

(i) Purchase of the equipment would be more practical and cost less than the total expected reasonable rental charge;

(ii) A more equitable and economical lease-purchase agreement under paragraph (e) of this section is not available; and

(iii) The reasonable charge does not exceed $600.

(2) If lump sum purchase would cause the beneficiary an undue financial hardship (see paragraph (j) of this section), the lump sum purchase will be deferred for up to 3 months. Interim rental payments will be made during this period in accordance with paragraph (h) (2) of this section.

(3) If the reasonable charge for equipment is greater than $600, payment may be made by lump sum purchase only with the approval of HCFA.

(g) *Payment for rental charges.* (1) Payment for durable medical equipment will be made on the basis of reasonable rental charges, for the period the equipment is medically needed, if:

(i) Purchase of the equipment would not be practical or would cost more than the total reasonable rental charge for the period it is expected to be medically needed by the beneficiary; or

(ii) the beneficiary continues to rent equipment after a carrier determines that payment should be made on the basis of lease-purchase or lump sum purchase.

(2) If a beneficiary continues to rent equipment after a carrier determines that payment should be made by lease-purchase or lump sum purchase, the total reasonable rental charges paid under Medicare will not exceed the reasonable charge for purchase of the equipment. If the beneficiary later purchases the equipment, the total reasonable rental charges previously paid will be deducted from the purchase payment.

(3) If a beneficiary purchases an item, but the carrier determines that payment should be made on the basis of rental charges, payment will be made on a rental basis until the medical necessity for the equipment ends, or until the reasonable lump-sum purchase price has been paid, whichever occurs first.

(h) *Interim payments for rental charges.* (1) The following rules apply to rental charges incurred by a beneficiary prior to a determination by the carrier as to the method of payment:

(i) If the carrier determines that payment should be made by a lease-purchase or lump-sum purchase, and if the claim is submitted within 30 days after the beneficiary begins renting the equipment, interim rental payments will be made for the month in which the beneficiary began renting the equipment through the month following the month in which the carrier notified the beneficiary of its determination. These interim payments will be made in addition to the purchase payment unless, under the terms of the purchase agreement, rental payments apply towards the purchase price.

(ii) If the carrier determines that payment should be made by a lease-purchase or lump-sum purchase, and if the claim is *not* submitted within 30 days after the beneficiary begins renting the equipment, interim rental payments will be made for the month in

which the claim is received by the carrier through the month following the month in which the carrier notified the beneficiary of its determination. These interim payments will be made in addition to the purchase payment unless, under the terms of the purchase agreement, rental payments apply towards the purchase price.

(iii) If the carrier determines that payment should be made on a rental basis, rental payments will be made for the period of time the equipment is medically needed and rented by the beneficiary.

(2) No interim rental charge will be paid if the carrier has determined and notified the public that the item of equipment will be paid for only by lump sum purchase.

(3) If the carrier determines that payment should be made by lump sum but has concluded, in accordance with paragraph (j) of this section, that requiring purchase would cause the beneficiary an undue financial hardship, interim payments will be made on a rental basis for up to 3 months after the month in which the carrier notified the beneficiary of its conclusion.

(i) If the beneficiary subsequently purchases the equipment from the same supplier that originally furnished it, these interim rental payments will be deducted from the purchase payment.

(ii) If the beneficiary subsequently purchases the equipment from a different supplier, these interim rental payments will not be deducted from the purchase payment.

(i) *Payment for interest and carrying charges.* Payments for lump sum purchases under this section may include reasonable charges for interest and carrying charges imposed when Medicare deductible and coinsurance amounts are paid in installments if:

(1) The interest or carrying charge is separately identified on the supplier's bill or on the Medicare request for payment;

(2) It is the usual and accepted practice in the locality for suppliers to make an extra charge;

(3) The practice of making an extra charge for installment payments applies to non-Medicare purchasers as well as Medicare beneficiaries; and

(4) The additional amount charged does not exceed any applicable State or local government interest limit.

(j) *Undue financial hardships.* Requiring the purchase of durable medical equipment will be considered to create an undue financial hardship on the beneficiary only if:

(1) The beneficiary states in writing that he cannot afford to pay the deductible or coinsurance amount to the supplier in a lump sum and is unable to arrange with the supplier to pay in installments; and

(2) The supplier states in writing that it is its business practice not to enter into installment payment arrangements with customers.

(k) *Waiver of coinsurance for purchase of used equipment.* (1) The 20 percent coinsurance that Medicare Part B beneficiaries are required to pay under § 405.240 will be waived for the purchase of used durable medical equipment if:

(i) The carrier has determined that payment should be made by lease-purchase or lump sum purchase, rather than by rental charges;

(ii) The purchase price is at least 25 percent less than the reasonable charge that would currently be allowed for comparable new equipment; and

(iii) The requirements of paragraph (k)(2) of this section are met.

(2)(i) If the used equipment is purchased from a commercial supplier, the supplier must certify that the used equipment has been fully reconditioned and is in good working order and that reasonable service and repair expenses will not exceed those for new equipment.

The supplier must give the beneficiary the same warranty that is given buyers of comparable new equipment.

(ii) If the used equipment is purchased from a private source rather than from a commercial supplier, the beneficiary must state that he is satisfied that the equipment is in good working order and that he believes it can be expected to give satisfactory service for its anticipated period of use.

(Secs. 1102, 1833(f), Social Security Act (42 U.S.C. 1302, 1395(f)))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 31, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: December 2, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-34413 Filed 12-13-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1067]

[Instruction 6004-5]

FUNDING OF CSA GRANTEES

Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is filing a proposed rule which would require that CSA-funded grantees and their delegate agencies establish a process and make known procedures for review of denial of assistance under CSA-funded programs to any persons or households. CSA has determined that applicants for assistance should have a right at the operating level for review of a decision which denies Federal benefits. This proposed rule would provide for a standard procedure to be used by all CSA grantees.

DATE: CSA welcomes comments on this rule. Comments received by January 15, 1979, will be considered in writing the final rule.

ADDRESS: Please send all comments to: Ms. Jacqueline G. Lemire, Community Services Administration, Office of Community Action, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ms. Jacqueline G. Lemire, telephone 202-254-5047; 202-254-6218; teletypewriter.

The provisions of this subpart are issued under the authority of Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

WILLIAM W. ALLISON,
Deputy Director.

45 CFR 1067 is proposed to be amended by adding the following:

Subpart —Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs

Sec.
1067.6-1 Definition.
1067.6-2 Applicability.
1067.6-3 Policy.
1067.6-4 Requirement to Notify CSA.

Subpart —Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs

§ 1067.6-1 Definition.

A local administering agency, is any agency, organization or other group, whether grantee or delegate agency, which conducts or carries out project activities at the local level.

§ 1067.6-2 Applicability.

This subpart is applicable to all grants funded under the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.6-3 Policy.

(a) Within 45 days of the effective date of this subpart each local administering agency shall establish and make known to all applicants proce-

dures for review of the denial of assistance under CSA-funded programs to any household or person. These procedures will include at a minimum:

1. Written application forms.

2. Notification in writing of the reasons for denial of assistance and the opportunity to submit additional written information which the applicant believes would warrant a favorable determination of eligibility.

3. Provision for review of a denial of an application for assistance by the local administering agency's executive officer, or his/her designee, and an opportunity for provision of any additional information by the applicant.

4. Notice in writing of the local administering agency's decision on review.

(b) A written description of these review procedures shall be maintained on file by the local administering agency and available for public inspection.

§ 1067.6-4 Requirement to notify CSA.

Each grantee shall append a copy of the notice(s) of final decision, and those resulting from any of its delegate agency operations, to its next regularly scheduled Project Review Report (CSA Form 440). CSA will consider the proper functioning of the review procedures in evaluating and refunding the grantee.

[FR Doc. 78-34577 Filed 12-13-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 157]

[CGD 77-062]

MANNING OF TOWING VESSELS

Proposed Interpretative Rule; Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice—public hearings; extension of comment period.

SUMMARY: The Coast Guard intends to hold two public hearings concerning the proposed interpretative rule on manning of towing vessels (CGD 77-062). Requests in writing from interested persons who raised genuine issues on which they desired to comment orally at a public hearing were received by the Coast Guard. This document grants the requests for public hearings and sets out a new deadline for the receipt of written comments because of the considerable interest shown in the proposal.

DATES: 1. Written comments must be received on or before February 2, 1979.

2. The Coast Guard will hold two public hearings concerning this proposal. The first will be held on January 10, 1979 beginning at 9:30 a.m. in Portland, Oreg. The second will be held on January 17, 1979 beginning at 9:00 a.m. in Washington, D.C.

ADDRESSES: 1. Written comments should be submitted to Commandant (G-CMC/81), (CGD 77-062), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

2. Public hearings will be held at the following locations:

a. January 10, 1979, 9:30 a.m., Thunderbird Motor Inn, Jantzen Beach, Klamath Room, 1401 North Hayden Island Drive, Portland, Oreg.

b. January 17, 1979, 9:00 a.m., Department of Transportation, Nassif Building, 400 Seventh Street SW., Room 2230, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Commander Scott D. McCowen, Merchant Vessel Manning Branch (G-MVP-5/82), Room 8214, U.S. Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2240.

SUPPLEMENTARY INFORMATION: Interested persons are invited to attend the public hearings and present oral or written statements on the proposed interpretative rule which was published in the September 14, 1978 issue of the FEDERAL REGISTER (43 FR 41178). It is requested that anyone desiring to make an oral statement at the public hearings notify the Executive Secretary, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477, at least 10 days before the scheduled date of each public hearing. In this notification, it is requested that the approximate length of time needed for the presentation be specified. It is urged that a written summary or copy of the oral presentation be included with this notification.

DRAFTING INFORMATION

The principal persons involved in drafting this supplemental notice are: Commander Scott D. McCowen, Project Manager, Office of Merchant Marine Safety, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

(53 Stat. 1049 (46 U.S.C. 224a); Pub. L. 92-339, 86 Stat. 423 (46 U.S.C. 405(b)); 38 Stat. 1169, as amended (46 U.S.C. 672); 38 Stat. 1164, as amended (46 U.S.C. 673); 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Dated: December 6, 1978.

W. D. MARKLE, Jr.,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-34784 Filed 12-13-78; 8:45 am]

[3640-01-M]

CANAL ZONE GOVERNMENT—PANAMA CANAL COMPANY

[35 CFR Part 10]

ACCESS TO INFORMATION CONCERNING INDIVIDUALS

Proposed General Routine Use

AGENCY: Canal Zone Government and Panama Canal Company.

ACTION: Proposed rule to establish new general routine use.

SUMMARY: The Canal Zone Government and the Panama Canal Company propose to amend their Privacy Act rules by establishing a new general routine use applicable to all systems of records maintained by these agencies. The routine use, set out below, would permit release of information from their systems of records to other agencies of the United States, and to officials of the Government of the Republic of Panama, for the purpose of planning the implementation of the Panama Canal Treaty of 1977 and related agreements.

EFFECTIVE DATE: January 13, 1979, unless comments are received requiring modification of the proposed general routine use, in which case these agencies will publish a notice to that effect, containing the amended text of the general routine use.

COMMENTS SHOULD BE RECEIVED BY: January 3, 1979.

ADDRESS FOR COMMENTS: Joseph J. Wood, Chief, Administrative Services Division (Agency Records Officer), Panama Canal Company, Box M, Balboa Heights, Canal Zone.

FOR FURTHER INFORMATION, CONTACT:

Mrs. Hazel M. Murdock, Assistant to the Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004 (Telephone: 202-628-6411).

SUPPLEMENTARY INFORMATION: The Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama will take effect no later than October 1, 1979. The treaty contemplates that, on its taking effect, the Canal Zone Government will cease to exist and the

Panama Canal Company will be replaced by a new United States agency, the Panama Canal Commission. By the terms of the treaty, the Commission will be precluded from performing many significant functions of the existing Canal agencies; these agencies and the Republic of Panama are now planning the transfer of some of these functions to Panamanian administration. It is apparent that in planning an orderly transfer of these functions, the Canal agencies will be required to dislcose to officials of the Government of Panama information the disclosure of which, in the absence of a routine use, would apparently be prohibited by the Privacy Act of 1974.

Several of the services now provided by the Canal Zone Government, such as provision of schools and medical facilities, will be provided after the treaty takes effect by other United States agencies such as the Department of Defense. Planning the transfer of these functions will also require the Canal agencies to disclose to these other agencies information the disclosure of which, in the absence of a routine use, would apparently be prohibited by the Privacy Act of 1974.

Accordingly, the Canal Zone Government and the Panama Canal Company propose to establish the following general routine use, to be added to the general routine uses in Appendix A to Part 10 of Title 35, Code of Federal Regulations:

APPENDIX A—GENERAL ROUTINE USES

Information pertaining to individuals which is maintained in any system of records under the control of the Panama Canal Company or Canal Zone Government is subject to disclosure, as a routine use of such information, to any of the following persons or agencies under the circumstances described:

* * * * *

7. To the extent necessary for planning the implementation of the Panama Canal Treaty of 1977 and related agreements, information may, upon approval by the Chief, Administrative Services Division (Agency Records Officer) or that official's designee, be disclosed to officials of the Government of the Republic of Panama and to U.S. Government agencies which will, under the treaty, assume functions now performed by the Panama Canal Company or the Canal Zone Government.

Dated: November 24, 1978.

H. R. PARFITT,
Governor of the Canal Zone,
President, Panama Canal Company.

[FR Doc. 78-35032 Filed 12-13-78; 11:58 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

WOLF PLANNING UNIT; KOOTENAI NATIONAL FOREST LINCOLN AND FLATHEAD COUNTIES, MONT.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement for the Wolf Planning Unit Land Managment Plan. This plan will allocate land to various uses, specify which activities are permissible, desirable, and/or necessary according to use, and prescribe measures to be taken in order to mitigate any environmental impacts caused by projects undertaken in accordance with each allocation.

Wolf is presently being managed under the 1967 Multiple Use Plan for the Fisher River Ranger District, which assigns approximately 80 percent of the federally-administered land within the unit to Timber Optimization. Some provision has been made for viewing, recreation, and protection of fragile soils.

In formulating new guidelines for this unit, comments from other government agencies and from public organizations and individuals have been solicited by the Forest Service. The Wolf Planning Unit mailer was published and distributed to interested parties in February 1978 and a public meeting was held February 23 at the Supervisor's Office in Libby.

Roughly half of the Wolf Planning Unit is owned either by St. Regis Paper Company or by Burlington Northern Railroad. Therefore, coordination of timber harvesting and road planning among owners, the desirability of land adjustments, prevention of water quality deterioration, and consideration of the recreational value of the area are all items of special concern.

Robert H. Torheim, Regional Forester, is the responsible official and Floyd J. Marita, Forest Supervisor, and his staff will prepare the statement.

The Draft Environmental Statement for the Wolf Planning Unit is scheduled for completion by March 1979, with a 60-day minimum review period. The Final Environmental Statement is scheduled for filing with the environmental Protection Agency in October 1979.

Comments on the Notice of Intent or on management proposals for the unit should be sent to Floyd J. Marita, Forrest Supervisor, Kootenai National Forest, Libby, Montana 59923.

JAMES E. REID,
Acting Regional Forester.

DECEMBER 6, 1978.

[FR Doc. 78-34693 Filed 12-13-78; 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[Amdt. 4]

PEANUTS, NONFAT DRY MILK

Sales of Certain Commodities; Monthly Sales List (Period June 1, 1978 Through May 31, 1979)

The CCC Monthly Sales List for the period June 1, 1978 through May 31, 1979, published at 43 FR 29819 (July 11, 1978), as amended at 43 FR 35737 (August 11, 1978), at 43 FR 46354 (October 6, 1978) and at 43 FR 51693 (November 6, 1978) is hereby amended as follows:

1. The first sentence of Section 27 entitled "Nonfat Dry Milk—Unrestricted

Use Sales (Instore—Carlot Quantities)" is revised to read as follows:

Market price, but not less than 81 cents per pound for U.S. Extra Grade spray process in 50 pound bags.

2. Section 31 is added which reads as follows:

31. Peanuts Farmers Stock (Quota)—Crushing or Export Sales—Oil Unrestricted 1 Lots—FLB Origin

(1) The minimum sales price is the market price but not less than the formula price which is 100 percent of the 1978 quota price support value for the applicable location, type and quality, plus $25.00 per ton of farmers stock for storage, handling and inspection. On December 3, 1978, a markup will begin to accumulate at the rate of $1.20 per net ton per week (farmers stock basis).

(2) Sales are made under Announcement PR-1. When stocks are available, lot lists or invitations will be issued by the Peanut Associations for submission of competitive bids to the Producer Associations Division, Washington, D.C.

(3) Permissable uses of the peanuts, which are listed in more detail in Announcement PR-1, include the export of "shelled peanuts of any type which grade U.S. splits or U.S. No. 1 or better or with splits or Virginia No. 2s as defined in Marketing Agreement for Peanuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with Announcement PR-1."

3. Section 32 is added which reads as follows:

Peanuts Farmers Stock (additional)—Crushing or Export Sales—Oil Unrestricted—Segregation 1 Lots—FOB Origin.

(1) The minimum sales price is the market price, but not less than $400.00 per ton.

(2) Sales are made under Announcement PR-1. When stocks are available, lot lists or invitations will be issued by the Peanut Associations for submission of competitive bids to the Producer Associations Division, Washington, D.C.

(3) Permissible uses of the peanuts, which are listed in more detail in Announcement PR-1, include the export of "shelled peanuts of any type which grade U.S. splits or U.S. No. 1 or better or with splits or Virginia No. 2s as defined in Marketing Agreement for Peanuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with Announcement PR-1."

4. Section 33 is added which reads as follows:

Peanuts Farmers Stock (additional)—Sales for Domestic Crushing or Export as Fragmented—Oil Unrestricted—Segregation 2 and 3.

(1) The minimum sales price is the market price, but not less than the formula price which is 100 percent of the 1978 crop additional price support value plus $25.00 per ton of farmers stock peanuts for storage, handling and inspection, basis FOB storage location or formula price plus $12.00 per ton of farmers stock peanuts or the rate specified in the lot list if sold FOB buying point. On December 3, 1978, a markup will begin to accumulate at the rate of .06 cents per TKC pound per week.

(2) Sales are made under Announcement PR-1. When stocks are available, lot lists or invitations will be issued by the Peanut Associations for submission of competitive bids to the Producer Associations Division, Washington, D.C.

Permissible uses of the peanuts, which are listed in more detail in Announcement PR-1, are restricted to Domestic Crushing with the resulting oil unrestricted or exporting for crushing if fragmented in accordance with Announcement PR-1.

5. Section 34 is added which reads as follows:

Peanuts Farmers Stock (additional and quota) sales for Domestic Crushing and Domestic Use of Oil—Segregation 1, 2, and 3.

(1) Competitive offer basis under Announcement PR-DCR-1. Adjustments in the sales price of oil, free fatty acid, and ammonia content will be made after delivery. Proof of domestic use of the peanut oil will be required per Announcement PR-DCR-1. For segregation III peanuts, meal use restrictions is subject to PPB count for aflatoxin.

(2) When stocks are available, lot lists or invitations will be issued by the Peanut Associations for submission of competitive bids to the Producer Associations Division, Washington, D.C.

(3) Permissible uses of the peanuts, which are listed in more detail in Announcement PR-DCR-1, are for Domestic Crushing with the resulting oil for Domestic Use Only.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective Date: October 31, 1978, 2:30 p.m. (EST).

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

RAY FITZGERALD
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 78-34768 Filed 12-13-78; 8:45 am]

[3410-11-M]

Forest Service

LANDMARK PLANNING UNIT, BOISE NATIONAL FOREST, VALLEY COUNTY, IDAHO

Extension of Review Period

The review period for the draft environmental statement and land management plan on the Landmark Planning Unit, Boise National Forest, Idaho, has been extended. The new extension date is December 15, 1978, rather than December 1, 1978, as originally reported.

The Forest Service report number for these documents is USDA-FS-DES (Adm) R4-78-10.

Dated: December 5, 1978.

VERN HAMRE,
Regional Forester,
Intermountain Region.

[FR Doc. 78-34780 Filed 12-13-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-12-29 Docket 33091]

FLORIDA SERVICE CASE

Order

DECEMBER 7, 1978.

Issued Under Delegated Authority.

By Order 78-11-15, November 2, 1978, the Board expanded the issued in the *Florida Service Case*, Docket 33091, to add Ft. Myers, Sarasota-Manatee, Daytona Beach and Gulfport-Biloxi to the list of cities to which new or improved service will be considered.

In addition, the Board delegated to the administrative law judge the authority to consolidate additional applications which conform to the revised issued and to dismiss the applications of the parties who no longer wish to participate in this proceeding.

The following listed applications conform to the revised scope of the issues in the *Florida Service Case:*

Air Florida, Inc., Docket 33272 (as amended).

Allegheny Airlines, Inc., Docket 33255 (Amendment No. 1).

American Airlines, Inc., Docket 33256 (Amendment No. 1).

Braniff Airways, Inc., Docket 33246 (Amendment No. 1).

Delta Air Lines, Inc., Docket 33222 (Amendment No. 1).

Eastern Air Lines, Inc., Docket 34095.

North Central Airlines, Inc., Docket 33259 (Amendment No. 1).

Northwest Airlines, Inc., Docket 33198 (Amendment No. 1).

Ozark Air Lines, Inc., Docket 33282 (Amendment No. 1).

Southern Airways, Inc., Docket 31680 (Amendment No. 2).

Texas International Airlines, Inc., Docket 33194 (Amendment No. 1).

Western Air Lines, Inc., Docket 33251 (Amendment No. 1).

The above listed applications conform to the scope of the issues in the *Florida Service Case*, and it is found that consolidation of those applications will be conducive to the proper dispatch of the Board's business and to the ends of justice and will not unduly delay the proceeding.

Finally, Frontier Airlines, Inc., and National Airlines, Inc., have requested leave to withdraw their previously consolidated applications in Dockets 33273 and 33271. Upon consideration of the requests of Frontier and National it is concluded that no party will be adversely affected by the withdrawal of the applications of Frontier and National and it is in the public interest to permit those carriers to withdraw.

Accordingly, it is ordered:

1. That the following applications be and they hereby are consolidated for hearing and decision with the *Florida Service Case*, Docket 33091: Air Florida, Inc., Docket 33272 (as amended); Allegheny Airlines, Inc., Docket 33255 (Amendment No. 1); American Airline, Inc. Docket 33256 (Amendment No. 1); Brainiff Airways, Inc., Docket 33246 (Amendment No. 1); Delta Air Lines, Inc., Docket 33222 (Amendment No. 1); Eastern Air Lines, Inc., Docket 34095; North Central Airlines, Inc., Docket 33259 (Amendment No. 1); Northwest Airlines, Inc., Docket 33198 (Amendment No. 1); Ozark Air Lines, Inc., Docket 33282 (Amendment No. 1); Southern Airways, Inc., Docket 31680 (Amendment No. 2); Texas International Airlines, Inc., Docket 33194 (Amendment No. 1); and Western Air Lines, Inc., Docket 33251 (Amendment No. 1);

2. That the applications of Frontier Airlines, Inc., and National Airlines, Inc., Dockets 33273 and 33271, respectively, be and they hereby are dismissed;

3. Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order; and

4. This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34797 Filed 12-13-78; 8:45 am]

[6320-01-M]

[Order 78-12-58; Docket 34115]

IRAN NATIONAL AIRLINES CORP.

United States-Iran Fare Revisions; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of November, 1978.

By tariff revisions filed for effectiveness December 9, 1978,[1] Iran National Airlines Corporation (Iran Air) proposes to increase the U.S.-Iran first-class fare by about two percent, normal economy fare by about three percent, and promotional fares by various amounts. The Appendix outlines these revisions for the New York-Tehran market. The increases would apply to both peak-season and basic-season levels.[2]

We find that the proposed increases in the first-class and normal economy fares may be unlawful, and so we will suspend them pending investigation. We will take no action against the revisions to promotional fares.

Since Iran Air continues to use a weight-based baggage system with

[1] Tariff C.A.B. No. 71, issued by Air Tariffs Corporation, Agent. The tariffs contain no expiration date.

[2] The peak season is May 15 through September 14 for eastbound travel and June 15 through October 14 for westbound travel; the basic season is September 15 through May 14 for eastbound travel and October 15 through June 14 for westbound travel (Appendix Filed with the Original).

excess-baggage charges tied to the first-class fare, the proposed increases in this fare would result in increases in excess-baggage charges already found unlawful by the Board. We explored the merits of a weight-based baggage system in Docket 24869,[3] and concluded that space, not weight, is the principal factor determining the value of baggage services; weight may not be the sole determinant of the amount of baggage a passenger may carry without additional charge; and an excess-baggage charge assessed at the rate of one percent of the first-class fare per kilogram is unjust and unreasonable and in violation of section 404(a) of the Federal Aviation Act of 1958. We have reaffirmed these findings many times.[4] Yet, Iran Air continues to use the weight system and to assess unreasonably high charges. Because use of the weight system subjects passengers to unjustified baggage-allowance restrictions and exorbitant excess-baggage charges tied to first-class fares, we will not permit increases in these fares.

We have previously suspended other proposed increases in transatlantic normal economy fares by Orders 78-9-38, August 23, 1978, and 78-10-61, October 5, 1978. In those orders, we discussed our reasons for suspension at great length. The factors that led to our decisions—chiefly, the virtual absence of price competition in normal economy fares, the fact that these fares contain generous allowances for facilities unrelated to direct, point-to-point service (e.g., stopover and circuity privileges), and the lack of alternative "on-demand" fares—apply equally in Iran Air's markets and we incorporate our earlier findings here. There has been no change in market conditions or the carrier's pricing strategy, and Iran Air has not proposed on-demand alternatives as we have suggested to all carriers in the past. Consequently, we will suspend the proposed increases in the normal economy fare.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801 and 1002(j) thereof,

1. We shall institute an investigation to determine whether the proposed First Class and normal Economy Class Fares between New York, New York, on the one hand, and Abadan, Ahwaz and Tehran, Iran, on the other, on 4th Revised Page 507 in Transatlantic Passenger Fares Tariff No. A-1, C.A.B. No. 71, issued by Air Tariffs Corporation, Agent, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in paragraph 1 above and defer their use from December 9, 1978, to and including December 8, 1979, unless otherwise ordered by the Board, and shall permit no changs to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[5] and it shall become effective on December 9, 1978;

4. We shall file a copy of this order in the aforesaid tariffs and serve it upon Iran National Airlines Corporation.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34798 Filed 12-13-78; ? am]

[3] *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation Case*, Order 76-3-81, served March 12, 1976.

[4] See, for example, Orders 78-4-80, April 14, 1978; 78-1-68, January 17, 1978; 77-4-97, April 20, 1977; 77-3-36, March 7, 1977; and 76-5-26, May 10, 1976.

[5] We submitted this order to the President on November 28, 1978.

[6] All members concurred.

[6320-01-M]

[Order 78-12-33; Docket 31704]

NORDAIR LTEE—NORDAIR LTD.

Application For Amendment and Renewal of Foreign Air Carrier Permit; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 7th day of December, 1978.

BACKGROUND

Nordair Ltee—Nordair Ltd. (Nordair), a Canadian carrier, holds three foreign air carrier permits, one of which is of indefinite duration and authorizes foreign air transportation of persons, property and mail between the coterminal points Toronto and Hamilton, Ontario, Canada, and the terminal point Pittsburgh, Pennsylvania.[1] The carrier also holds two charter permits,[2] one of which is indefinite and conditional upon the continuation of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974. That permit authorizes charter flights of persons and their accompanied baggage, and planeload charter flights of property between any point or points in Canada and any point or points in the United States. A second charter permit,[3] and the one to be amended, authorizes, subject to conditions: Circle tour charter flights inclusive tour charters) with respect to persons and their accompanying baggage which originate and terminate at a point or points in Canada and serve a point or points in the United States and a point or points in any country other than Canada and the United States.

By application filed on November 17, 1977, Nordair requested either by amendment of its second charter permit or issuance of a new permit, authority for an indefinite period to provide (a) circle tour charter flights originating and terminating in Canada and serving a point or points in the United States and a point or points in a third country; (b) charter flights originating at a point or points in 20 named European countries[4] and serving any point or points in the United States; and (c) circle tour charter flights originating and terminating at the same point or points in 20 named European countries and serving a point or points in the United States and a point or points in any country other than the named European countries and the United States. These charters would carry persons and their accompanied baggage, subject to conditions. Nordair states that the amended permit would allow it to meet competition of other Canadian carriers and that expanded authority is essential to allow better utilization of aircraft and to reduce the number of wasteful ferry legs. On June 14, 1978, Nordair filed a Petition for Order to Show Cause why the proposed amended permit should not be issued without an oral evidentiary hearing.

No answers to Nordair's application or petition have been filed.

OWNERSHIP AND CONTROL

In support of its application, Nordair states that it was incorporated under the laws of Canada in 1947 under the name Boreal Airways and that its name was changed in 1956 to its present style. It holds all necessary licenses issued by the Canadian Transport Commission and is substantially owned and controlled by citizens of

[1] Order 75-6-137 approved June 26, 1975.

[2] Order 75-1-29 approved November 27, 1974.

[3] This permit was due to expire December 31, 1977. The authority to continue operations under this permit was automatically extended under 5 U.S.C. 558(c) through timely filing for renewal.

[4] Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia.

Canada.[5] All of its directors and officers are Canadians, with the exception of two, who are citizens of the United States. Nordair owns two wholesale tour operators, Treasure Tours (Canada, Ltd.) and Treasure Tours International Ltd. Nordair also has interests in other Canadian companies—Sudair and Nordair (Ontario) Ltd., which are wholly owned subsidiaries of Nordair Ltee, and Cross Canada Flights, Ltd., a non-operating company with real estate holdings in Canada, in which Nordair Ltee owns 550 of a total of 1,100 shares issued.[6] The applicant states that the possible acquisition of a controlling interest in Nordair by Air Canada, which may occur by April 30, 1979, would not affect maintenance of Nordair as a separate corporate entity and would not involve significant changes in its operations or activities. Nordair has its headquarters and main base of operations in Montreal.

FINANCIAL AND OPERATIONAL FITNESS

Financial statements submitted by the applicant indicate that Nordair is fit and able to operate the proposed service. Income Statements for 1976 and 1977 show increased earnings from Canadian $1,243,000 in 1976 to Canadian $3,155,000 in 1977. Its total assets as of December 31, 1977 were Canadian $51,981,000.[7] Nordair states it has not defaulted on its transportation commitments during those years and has not been refused liability insurance coverage in whole or in part of its assets. Nordair owns or leases 12 aircraft—6 Boeing 737-200, 1 DC-8-61,[8] 2 Electras L-188 and 3 Fairchild FH-227. Nordair planned to operate approximately 650 charter flights between Canada and the United States during 1978. It expected a certain small demand for Canadian or European originating circle tours through the United States, and/or charters to the United States originating in countries other than Canada. Nordair expected demand for the latter type of operations not in excess of 12 flights during the first year, and has not yet determined which U.S. airports will be used. It has submitted an environmental evaluation report pursuant to section 312.12(c) of the Board's Economic Regulations, indicating that the proposed amended permit involves operation of only a few additional flights annually to any one U.S. airport [9] and that the environmental impact would be minimal. An accident report was submitted by Nordair with the comment that the relatively few accidents it has had in the past 17 years were minor and occurred chiefly in Arctic operations with small aircraft.[10]

PUBLIC INTERST

The type of authority requested by Nordair in the proposed amended permit is not covered by the Nonscheduled Air Service Agreement between the United States and Canada,[11] and the public interest finding with respect to third country originating fifth freedom flights rests primarily on principles of comity and reciprocity.[12] Although the Government of Canada maintains a liberal policy with respect to similar authority requested by U.S. air carriers, we are limiting the effectiveness of the permit to five years to give us an opportunity to reevaluate its terms in 1983/84.

On the basis of the foregoing and all the facts of record, we tentatively find and conclude that:

1. It is in the public interest to amend and renew the foreign air carrier charter permit of Nordair Ltee-Nordair Ltd. in the form attached for a period of five years;

2. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions and limitations required by the public interest as may be prescribed by the Board;

3. Nordair Ltee-Nordair Ltd. is fit, willing and able properly to perform the transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board;

4. The public interest does not require an oral evidentiary hearing on the application; [13]

5. The amendment and renewal of Nordair's foreign air carrier charter permit would not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of the Board's Regulations; [14] and

6. Except to the extent granted, the application of Nordair Ltee-Nordair Ltd. in Docket 31704 should be denied.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions; and (2) issue an amended and renewed foreign air carrier charter permit to Nordair Ltee-Nordair Ltd. in the specimen form attached, subject to the disapproval of the President, pursuant to section 801 of the Act;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than December 26, 1978, file with the Board and serve on the persons named in paragraph 5, a statement of objections specifying the part or parts of the findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings. Any interested person who wishes to answer these objections shall file such answers not later than January 5, 1979;

3. If timely and properly supported objections are filed, we will give consideration to the matters and issues raised by the objections before we take further action: *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing; [15]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tenta-

[5] The only significant portion not owned and controlled by Canadian citizens is an 8.5% ownership by U.S. nationals. (See Exhibit 5 of Petition to Show Cause).

[6] See Exhibit 9 of application.

[7] Exhibit 14, 1977 Annual Report, p. 5.

[8] The DC-8 has been sold recently and will be replaced by two smaller DC-8's.

[9] We agree with Nordair's evaluation that the proposed increase in aircraft operations will have a minimal effect on the environment and that the additional fuel consumption will be less than 10 million gallons.

[10] See Exhibit 13 of application. The Federal Aviation Administration agrees that adverse climatic conditions over the Arctic could have been the basic cause.

[11] 25 U.S.T. 787, TIAS 7826, May 8, 1974.

[12] See Exhibits 1 and 2 of Petition to Show Cause. The Board found that the grant of similar requests by Wardair Canada (1975) Ltd. and Pacific Western Airlines, Ltd. (Orders 76-1-28 and 77-6-80) was in the public interest.

[13] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed 15 days in which to respond from the date of service of this order. Answers to objections shall be filed no later than 10 days thereafter.

[14] Our tentative findings are based on the fact that amendment of Nordair's permit will not result in either a significant increase in civil aviation operations or in an annual increase of more than 10 million gallons of fuel.

[15] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

tive findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, shall issue an amended and renewed foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving a copy of this order upon Nordair Ltee-Nordair Ltd., the Embassy of Canada, in Washington, D.C., and the Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board: [16]

PHYLLIS T. KAYLOR,
Secretary.

[Specimen Permit]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Nordair LTEE-Nordair Ltd. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations of the Board, to engage in charter foreign air transportation as follows:

a. Circle tour charter flights of persons and their accompanied baggage which originate and terminate at a point or points in Canada and serve a point or points in the United States and a point or points in any country other than Canada and the United States.

b. Charter flights of persons and their accompanied baggage between a point or points in Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and any points or points in the United States, limited to charter flights which originate in a named European country.

c. Circle tour charter flights with respect to persons and their accompanying baggage which originate and terminate at the same point or points in Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and serve a point or points in the United States and a point or points in any country other than a named European country and the United States.

This permit shall be subject to the following terms, conditions and limitations:

(1) With respect to the authorization contained in paragraph a. above, the holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada or transport any person whose journey, by any means of transportation, includes a prior, subsequent, or intervening movement to or from a point not in the United States or Canada: *Provided*, That this condition shall not prevent the holder, under the authorization container in paragraph a. above, from serving a point or points in any foreign country between the point of origin and point of termination of the charter flight in Canada, or prevent the holder from carrying between a point or points in Canada and a point or points in the United States charters originating in one of the European points named in paragraph c. above.

(2) The authority of the holder to perform circle tour charters originating in Canada shall be subject to the terms, conditions, and limitations contained in licenses to be issued by the Air Transport Committee of the Canadian Transport Commission authorizing the performance of such charters.

(3) The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those in effect for any U.S. air carrier in the same foreign air transportation: *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

(4) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(5) The authority of the holder to exercise the privileges granted by this permit shall be subject to the provisions of Parr 214 of the Board's Economic Regulations, other regulations of the Board governing tour or charters, and all amendments and revisions adopted by the Board.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) The holder shall not operate any aircraft under the authority granted by this permit unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(8) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(9) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAG Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(10) The holder (a) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under his permit and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (b) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of insurance syndicate in lieu of the names and addresses of the member insurers.

(11) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(12) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on ————, and shall terminate five years thereafter: Provided, however, that if during the period this permit shall be effective, the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on————.

Secretary.

[FR Doc. 78-34799 Filed 12-13-78; 8:45 am]

[16] All Members concurred.

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will meet to: (1) Review status reports on development of fishery management plans; (2) consider foreign fishing applications, if any; and (3) conduct other fishery management business.

DATES: The meeting will convene on Tuesday, January 9, 1979, at 1:30 p.m. and adjourn at approximately 12:00 noon on Friday, January 12, 1979. The meeting is open to the public.

ADDRESS: The meeting will take place in the Riverfront Room of the Holiday Inn, 111 West Fortune Street, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228-2815.

Dated: December 11, 1978.

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

[FR Doc. 78-34787 Filed 12-13-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL'S JACK MACKEREL ADVISORY SUBPANEL

Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: The Jack Mackerel Advisory Subpanel of the Pacific Fishery Management Council established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has changed its meeting time (F.R. Vol. 43, No. 235, dated December 6, 1978, 43 FR 57173).

DATES: The Jack Mackerel Subpanel will now meet from 10:00 a.m. to 5:00 p.m. on January 10, 1979.

ADDRESS: The Jack Mackerel Advisory Subpanel will meet at the Shelter Island Inn located at 2051 Shelter Island Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: December 11, 1978.

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

[FR Doc. 78-34788 Filed 12-13-78; 8:45 am]

[3510-08-M]

MASSACHUSETTS COASTAL MANAGEMENT PROGRAM

Intent To Approve Refinements

Notice is hereby given of the intent by the Office of Coastal Zone Management (OCZM) to approve the refinement of the Massachusetts Coastal Management Program by the addition of regulations that cover five areas:

1. New Part II of the Department of Environmental Quality Engineering Wetlands Protection Regulations.
2. New Department of Environmental Quality Engineering Waterways Regulations.
3. New Chapter J of the Energy Facilities Siting Council Regulations.
4. New Department of Environmental Management Ocean Sanctuaries Regulations.
5. New regulations for Water Quality Certification for Dredging, Dredged Material Disposal and Filling in the Waters of the Commonwealth.

Comment Period. Interested parties have 30 days from date of issuance of this notice to submit comments. If no serious disagreement of that action is raised during this comment period, the Assistant Administrator for Coastal Zone Management intends to give formal approval to these refinements on January 11, 1979. Comments should be addressed to:

Dick O'Conner, Deputy North Atlantic Regional Manager, Office of Coastal Zone Management, Page Building No. 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634-4235.

A full text of the proposed refinements to the Massachusetts Coastal Management Program has been distributed to all Federal agencies. Interested parties wishing to obtain copies of the refinements may request copies from OCZM at the above address.

Dated: December 8, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 78-34769 Filed 12-13-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

IMPROVING CSA REGULATIONS UNDER EXECUTIVE ORDER 12044

AGENCY: Community Services Administration.

ACTION: Final notice.

SUMMARY: The Community Services Administration is publishing its final rule for improvement of its rulemaking process and enlistment of public participation in that process, in accordance with Executive Order 12044 of March 23, 1978.

EFFECTIVE DATE: This notice becomes effective December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

John H. Sowders, 202-254-6208.

SUPPLEMENTARY INFORMATION: On May 25, 1978 CSA filed in the FEDERAL REGISTER a Notice for improving its regulations policies, procedures, planning and implementations. Public comments were requested by July 24, 1978. However, by that date only four responses had been received, with a request for extension from a fifth, an economic development grantee. The decision was made to grant the extension in hope that more public comment would also develop. Only this fifth organization finally responded so we now proceed with formulation and issuance of the final notice. One respondent directs comments exclusively at CSA regulations on composition and membership of governing grantee boards, and notes related conflicts with state statutes and other Federal regulations but also the CSA and other enabling legislation. Some of these points will be studied for governmentwide resolution under Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977. However, this respondent's comments have been seriously considered in formulating the final CSA rule.

Another grantee stresses the need for community-level inputs to regulations and urges grantee participation in the decision process on formulation, revision and approval of regulations that affect them. This respondent identifies a need for legislative update, specifically on grantee salary levels specified in this Agency's Act. He also agrees that a review of *all* regulations is needed. Another offers suggestions for improving the indexing, cross referencing and distribution of CSA regulations and is critical of the FEDERAL REGISTER as a medium for dissemination of regulation applied to grantees. CSA is conscious of the index problems and has plans underway for their resolution. The Agency has just published a final rule requiring grantees to budget and subscribe to the FEDERAL REGISTER for use in identifying and responding to *proposed* CSA rules.

A fourth grantee respondent is critical of the distribution of *all* Agency regulations to every grantee rather than selective distribution of only those applicable to the particular grantee, but agrees that *all* regulations need review.

Comments and recommendations were received from the U.S. Depart-

ment of Justice Task Force on Sex Discrimination, transmitted and specifically annotated by the Chairperson of the CSA Task Force on Sex Discrimination. We agree with the intent and purpose of these suggestions and reflect this in our final notice. CSA has decided to review each of its existing regulations (regardless of whether or not they are considered "significant") to determine, for example, need, currency, conflicts, or need for consolidation.

In the opinions of CSA and respondent grantees, the regulations that are currently most important or most in need of revision are the following:

(1) OEO Instruction 6400-01, "The Organization of Community Action Agency Boards and Committees".

(2) OEO Instruction 6402-02, "Standards of Eligibility for Members of Governing Bodies and Policy Advisory Committees of Community Action Agencies and Single Purpose Agencies".

(3) CSA Instruction 6710-3a, "Federal Project Notification and Review System".

(4) OEO Instruction 6900 Series, "Personnel Policies and Procedures".

(5) OEO Instruction 6903-1, "Policies and Procedures on Salary".

AUTHORITY: The provisions of this notice are issued under Section 602, 78 Stat. 530, 42 U.S.C. 2942.

WILLIAM W. ALLISON,
Deputy Directors.

Sec.
(1) Purpose.
(2) Definitions.
(3) Applicability.
(4) Policy.
(5) What is a significant regulation?
(6) CSA's process for developing regulations and determining their significance.
(7) Regulatory analysis.
(8) How CSA selects existing regulations for review.
(9) Sunset provision.

1. *Purpose.* The purpose of this rule is to implement Executive Order 12044, which requires that each Federal Agency adopt procedures to improve existing and future regulations.

2. *Definitions.* (a) Regulation. A community Services Administration rule or instruction issued in a standard publication to interpret or prescribe law or policy and related procedures for CSA-funded organizations and beneficiaries.

(b) Office of Primary Responsibility: The Office of the Assistant or Associate Director of CSA responsible for the functional subject matter.

3. *Applicability.* This rule applies to the review of existing regulations by the Community Services Administration, and to the development of significant new and revised regulations.

4. *Policy.* All CSA rules and regulations shall be developed through a process which insures that: (a) the need for and purposes of the regulation are clearly established; (b) heads of agencies and policy officials exercise effective oversight; (c) opportunity exists for early participation and comment by other Federal agencies, State and local governments, businesses, organizations and individual members of the public; (d) meaningful alternatives are considered and analyzed before the regulation is issued; (e) compliance costs, paperwork and other burdens on the public are minimized, and (f) sex-neutral language is used unless gender-specific references are necessary.

5. *What is a significant regulation?* The Director will make final determination as to the significance of the regulation on the basis of the criteria listed below. The classification of each regulation's relative significance will be identified in the preamble of each FEDERAL REGISTER issuance.

A regulation significance will be determined by application of the following criteria:

(1) It may substantially affect the general public or a large segment of the public including individuals, businesses, and organizations;

(2) It is likely to involve a heavy compliance and reporting burden on grantees or the poor served by CSA programs, or if its administration will involve considerble expense to CSA;

(3) It will have substantial impact on State or local governments or on their relationship to CSA programs;

(4) It will substantially affect the regulations and programs of another agency or the relationship between their regulations and programs and CSA's regulations and programs;

(5) It is likely to have a very substantial effect on all or most of CSA grantees, or if it is likely to have a major effect on a significant group of CSA grantees, e.g., CDC's State Economic Opportunity Offices;

(6) It may substantially affect the eligibility of the poor for benefits under CSA programs or the quality and quantity of the participation of the poor in the conduct of these programs.

6. *CSA's Process for Developing Regulations* (a) Overview. After the possible need for the development of a regulation has been identified or an existing regulation has been selected for review, the following minimum steps will be taken in developing the new regulation.

ACTIVITIES-SEQUENCE OF STEPS BY RESPONSIBLE CSA OFFICIAL

ASSISTANT DIRECTOR FOR MANAGEMENT

(1) The Assistant Director for Management requests from all CSA offices, their plans regarding update, review and development of new and revised regulations.

OFFICE OF PRIMARY RESPONSIBILITY

(2) Forwards information on the regulation to be considered to the CSA official responsible for compiling the semiannual agenda (the Assistant Director for Management).

ASSISTANT DIRECTOR FOR MANAGEMENT

(3) Compiles material received from agency officials, reviews for completness and compliance with this rule and forwards to the Director.

CSA DIRECTOR

(4) Reviews and approves publication of agenda in the FEDERAL REGISTER

OFFICE OF PRIMARY RESPONSIBILITY

(5) Analyzes legislation; researches legislative history, past agency positions, results of evaluations of issuance to be revised (if applicable), complaints received and suggestions submitted by the public. Develops, or assures development of all information to enable Director to carry out oversight activities.

Assistant Director for Policy, Plans and Evaluation, and Associate Director for Interagency and External Affairs

(6) This shall include development of an evaluation plan by the Assistant Director for Policy, Plans and Evaluations, and development by the Associate Director for Interagency and External Affairs of a specific plan for consultation with state and local governments if any state or local government or any national organization representing these entities has indicated that the regulation would have major intergovernmental significance. (Plan for consultation will be developed in staff instructions.)

CSA DIRECTOR

(7) Performs oversight functions; determines further action.

OFFICE OF PRIMARY RESPONSIBILITY

(8) Takes action(s) approved by Director to obtain citizen participation.

ASSOCIATE DIRECTOR FOR INTERAGENCY AND EXTERNAL AFFAIRS

(9) Consults with national organizations representing general purpose state and local governments as appropriate.

OFFICE OF PRIMARY RESPONSIBILITY

(10) Develops proposed regulation.

OFFICE OF PRIMARY RESPONSIBILITY

(11) Circulates proposed regulation for clearance by the Assistant Director for Community Action, Policy, Plan-

ning and Evaluation; Management; Legal Affairs and General Counsel; the Associate Director for Interagency and External Affairs; and the Associate Director for Economic Development, if applicable.

APPROPRIATE ASSISTANT/ASSOCIATE DIRECTOR

(12) After obtaining all clearances, forwards proposed regulation to Director; with sufficient information to permit the Director to make determinations detailed in (c) below.

DIRECTOR

(13) Approved proposed regulation for publication in the FEDERAL REGISTER.

OFFICE OF PRIMARY RESPONSIBILITY

(14) Following 60-day comment period, reviews comments received, revises/modifies proposed regulation if warranted; drafts as final rule noting comments received and disposition.

OFFICE OF PRIMARY RESPONSIBILITY

(15) Circulates for final clearance by same officials as noted in (11) above.

APPROPRIATE ASSISTANT/ASSOCIATE DIRECTOR

(16) Submits to Director for final approval.

OFFICE OF PRIMARY RESPONSIBILITY

(17) Files in the FEDERAL REGISTER as a final rule.

ASSISTANT DIRECTOR FOR MANAGEMENT

(18) Publishes same rule in the format of a CSA Instruction, distributes to all current grantees, and maintains stock for distribution upon request by the public and new grantees.

(b) Publication of a Semi-Annual Agenda of Regulations.

(1) In order to give the public adequate notice, CSA will publish semi-annually an agenda of regulations under development or review which shall be approved by the Director. If necessary, supplements to the agenda will be published at other times during the year. CSA's semi-annual agendas will be published in the FEDERAL REGISTER the first week in November and the first week in May of each year beginning in November 1978.

(2) Appendix A to this notice is a sample of the format which will be used in publishing the agenda.

(c) Director's Oversight. Prior to approving the development of new regulations noted on the semi-annual agenda or if an emergency need for development of a regulation not on the agenda arises, the Director shall review documents which identify and define the issues to be considered, the alternative approaches to be explored, a tentative plan for obtaining public comment, and target dates for completion of steps in the development of the regulation.

(d) Opportunity for Public Particpation. (1) Ways to include the public in development of regulations. CSA will provide an early and meaningful opportunity for the public to participate in the development of its regulations. Following are some of the ways the agency will consider for each document in order to accomplish this:

(i) Publish an advance notice of proposed rulemaking in the FEDERAL REGISTER;

(ii) In addition to FEDERAL REGISTER publication, notify interested parties, e.g. Board Chairpersons, grantee staff, program beneficiaries, associations of public interest groups, statewide and national associations representing poverty groups directly. We will, as appropriate, consult with state and local governments directly. The public interest groups will be consulted in the drafting of new regulations. We will also particularly consult with and invite the participation of State Economic Opportunity Offices in both the review and development of regulations.

(iii) Hold open conference or public hearings;

(iv) Invite grantees, poor people, representatives of specific groups affected to participate in drafting sessions;

(v) Send notices of proposed regulations to publications likely to be read by those affected, e.g. Economic Opportunity Report, the National Center Reporter;

(vi) Include in Agency newsletter distributed to all grantees, ("UPWORD.")

(2) Public comments on proposed significant regulations. The period provided for comments on proposed significant regulations will be at least 60 days. In cases where this is not possible, CSA shall indicate in the FEDERAL REGISTER preamble to the proposed rule the reasons for a shorter time period, e.g. It would have been impractical and contrary to the public interest to have a comment period in the case of the one-time Emergency Energy Assistance Program which implemented the fiscal year 1978 Supplemental Appropriation passed on February 21, 1978 since congressional intent was that the program terminate May 1, 1978.

(e) Approval of Significant Regulations. The Director shall approve all significant final regulations prior to publication in the FEDERAL REGISTER. At a minimum, the Director will determine that:

(1) The regulation is needed;

(2) The direct and indirect effects of the regulations have been adequately considered;

(3) Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) Public comments have been considered and an adequate response has been prepared;

(5) The regulation is written in plain English and is understandable to those who must comply with it;

(6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) The name, address and telephone number of a knowledgeable agency official is included in the publication; and

(8) A plan for evaluating the regulation after its issuance has been developed.

7. *Regulatory analysis.* A regulation to be considered for a regulatory analysis must meet the following criteria of major economic impact:

(a) An estimated effect on the economy as a whole of $100 million or more, or

(b) A major increase in costs or prices for individual industries, levels of government or geographic regions, or

(c) Other major effects on the poor which, at the Director's discretion, justify the preparation of a regulatory analysis. If regulatory analysis should be required, it shall be developed by the office within CSA which is primarily responsible for developing the regulation and shall be reviewed and signed by the Director. Each regulatory analysis shall briefly and clearly describe the purpose and need for the regulation and consideration of the alternative approaches to achieving this purpose. It shall contain an analysis of the economic consequences of each approach and a detailed explanation of the reasons for selecing the alternative chosen.

8. *How CSA selects existing regulations for review.* In preparation for the semi-annual report to be published each year in the first weeks of May and November, CSA will select regulations to be reviewed within the following year which will be noted on the agenda. The selection will be made based on the following criteria:

(a) The continued need for the regulation;

(b) The type and number of complaints or suggestions received;

(c) The burdens imposed on those directly or indirectly affected by the regulations;

(d) The need to simplify or clarify language;

(e) The need to eliminate overlapping and duplicative regulations;

(f) The need to eliminate unnecessary gender-specific language and to

revise existing regulations based on an evaluation of their impact on women.

(g) The length of time since the regulation has been evaluated or the degree to which economic conditions or other factors have changed in the area affected by the regulations; and

(h) The results of the evaluation conducted after its issuance (if applicable).

9. Unless extended, the procedures and policies noted herein will expire on June 30, 1980.

APPENDIX A.—*Semi-Annual Agenda for Community Services Administration*

Type of Regulation		Subject and Description	Reason for Development or Revision	Legal Basis	Status of Proposed Regulation		Current Status	For Further Information Contract
New	Revised				Initial Announcement	Previously Announced; When		

[FR Doc. 78-34601 Filed 12-12-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on January 4-6, 1979, at the Naval Training Center, Orlando, Florida. The meeting will consist of five sessions. The first session will commence at 8:00 a.m. and terminate at 12:00 noon on January 4, 1979. The second session will commence at 1:30 p.m. and terminate at 5:00 p.m. on January 4, 1979. The third session will commence at 8:00 a.m. and terminate at 1:00 p.m. on January 5, 1979. The fourth session will commence at 1:00 p.m. and terminate at 5:00 p.m. on January 5, 1979. Finally, the fifth session will commence at approximately 9:00 a.m. on January 6, 1979, and continue to completion. The first and third sessions of the meeting will be held in the auditorium, Building 2091. The second and fourth sessions will be held in the Naval Training Center Commander's Conference Room. The fifth session, which is a classified tour, will be held at the Kennedy Space Center, Cape Canaveral, Florida. The morning session on January 4, 1979 (the first session), and the morning session on January 5, 1979 (the third session), will be open to the public. The remaining three sessions will be closed to the public.

The purpose of the meeting is to discuss basic and advanced military training in the Navy. The two open sessions will generally cover these topics. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires the second, fourth, and fifth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact:

Commander Warson, Office of Deputy Assistant Secretary of the Navy (Research and Advanced Technology), Room 4D745, Pentagon, Washington, D.C. 20350, telephone number 202-695-2204.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

DECEMBER 6, 1978.

[FR Doc. 78-34694 Filed 12-13-78; 8:45 am]

[3810-70-M]

Defense Mapping Agency

PRIVACY ACT OF 1974

New System of Records

AGENCY: Defense Mapping Agency (DMA).

ACTION: Notice of a new record system.

SUMMARY: The Defense Mapping Agency is adding a new system of records to its inventory of record systems subject to the Privacy Act. This new sytem is identified as B0609-11 HQ,HT,A, entitled: "Repromotion Eligibility Files." The record system notice is set forth below in its entirety.

DATES: This system shall become effective as proposed without further notice on January 13, 1979, unless comments are received on or before January 13, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary Jane Stafford, Director of Administration, Defense Mapping Agency, Bldg. 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone 202-254-4401.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency record system notice as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50671) September 28, 1977.
FR Doc. 78-25819 (43 FR 42375) September 20, 1978.

The Defense Mapping Agency has submitted a new system report on November 13, 1978 on this system of records under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.

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

DECEMBER 8, 1978.

B0609-11 HQ,HT,A

System name:

Repromotion Eligibility Files.

System location:

Defense Mapping Agency Headquarters (HQ DMA), Building 56, U.S. Naval Observatory, Washington, D.C.

20305; DMA Hydrographic/Topographic Center (HT), Washington, D.C. 20315; DMA Aerospace Center, St. Louis Air Force Station, Missouri 63118.

Categories of individuals covered by the system:

Any HQ DMA, DMAHTC, or DMAAC civilian employee who has been downgraded noncompetitively and through no fault of their own.

Categories of records in the system:

Personal information consisting of name, title, grade, and positions for which employees meet minimum qualification requirements. Documents pertaining to employees demoted without personal cause and eligible for placement in former or higher grade.

Authority for maintenance of the system.

Executive Order 10577—"Amending the Civil Service Rules and Authorizing a New Appointment System for Competitive Service" (11/23/54); and 5 U.S.C. 3101—"Authority for Employment."

Routine uses of records maintained in the system, including categories or users, and the purposes of such uses:

Internal users, uses, and purposes: Personnel Office, supervisors, selecting officials.

Personnel Office to advise and assist supervisors and selecting officials in determining if a downgraded employee meets minimum qualification requirements for a vacant position.

External users, uses, and purposes: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, computer printouts, or cardex files.

Retrievability:

Paper records filed in file folders retrieved by name, pay plan, and grade for which eligible.

Safeguards:

Records are stored in locked containers.

Retention and disposal:

Records are retained until employee is placed in a former or higher graded position, then destroyed.

System manager(s) and address:

Defense Mapping Agency Headquarters (HQ DMA), ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4066.

Notification procedure:

Information may be obtained from the System Manager.

Record access procedures:

Requests should be addressed to the System Manager.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

Record source categories:

Information pertaining to individuals in the system is either supplied by the individual or extracted from the Official Personnel Folder.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-34820 Filed 12-13-78; 8:45 am]

[3810-70-M]

Office of the Secretary

PRIVACY ACT OF 1974

New System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of a new record system.

SUMMARY: The Office of the Secretary of Defense is adding a new system of records to its inventory of record systems subject to the Privacy Act. This new system is identified as DWHS P35, entitled: "Defense Meritorious Service Medal Files." The record system notice is set forth below in its entirety.

DATES: This system shall become effective as proposed without further notice on January 13, 1979 unless comments are received on or before January 13, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Mr. James S. Nash, Chief, Records Management Division, Room 5C-315, The Pentagon, Washington, D.C. 20301, telephone 202-697-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense record system notice as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50731) September 28, 1977.
FR Doc. 78-25819 (43 FR 42375) September 20, 1978.

The Office of the Secretary of Defense has submitted a new system report on November 9, 1978 on this system of records under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.

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

DECEMBER 8, 1978.

DWHS P35

System name:

Defense Meritorious Service Medal Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, Pentagon, Washington, DC 20301.

Categories of individuals covered by the system:

Military personnel recommended for the Defense Meritouious Service Medal.

Categories of records in the system:

Master log, copy of approved award signed by the Secretary of Defense which contains name, grade, social security account number, duty title, duty activity and period of assignment.

Authority for the maintenance of the system:

10 USC 133(b), "The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 401 of title 50, he has authority, direction, and control over the Department of Defense."; Executive Order 12019, "Establishing the Defense Meritorious Service Medal," dated November 3, 1977; and Department of Defense Directive 1348.26, "Defense Meritorious Service Medal," February 16, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Authorized personnel of the Office of the Secretary of Defense and Washington Headquarters Services for the purposes of insuring that certificate, citation, orders and medal are obtained for the individual receiving the award.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Manual records are maintained in file folders and stored in metal file cabinets with locks.

Retrievability:

Filed by case number in master index, listing name, award title, and organizational entity of the nominee.

Safeguards:

Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent. Will be retained for approximately two years then transferred to Federal Records Center.

System manager(s) and address:

Director of Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B 347, Pentagon, Washington, DC 20301.

Notification procedure:

Information may be obtained from the Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B 347, Pentagon, Washington, DC 20301. Telephone: 202-697-5271.

Records access procedures:

Requests from individuals should be addresed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Records source categories:

Recommendations received from Office of the Secretary of Defense, Washington Headquarters Services and related activities.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-34821 Filed 12-13-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

November 13 Through November 17, 1978

Notice is hereby given that during the period November 13 through November 17, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice (12-14-78) of the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

DECEMBER 6, 1978.

PROPOSED DECISIONS AND ORDERS

CHARTER OIL COMPANY, JACKSONVILLE, FLORIDA, DEE-0456, MOTOR GASOLINE

Charter Oil Company filed an Application for Exception from the provisions of 10 CFR 212.83. The exception request, if granted, would permit Charter to allocate to the prices of motor gasoline during the months of February 1978 through April 1978 an amount of increased product cost which significantly exceeds the product costs allocable to gasoline under 10 CFR 212.83(c). On November 17, 1978, the Department of Energy issued a Decision and order in which it determined that the exception request be denied.

CHEVRON U.S.A., INC., SAN FRANCISCO, CALIFORNIA, DEE-0848, CRUDE OIL

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of § 211.67(a)(4) of the Entitlements Program. The exception request, if granted, would result in the issuance of additional entitlements to Chevron equal in value to the reduction in entitlements benefits which the firm experienced as a result of the provisions of § 211.67(a)(4) which were in effect during the period from January through May 1978. On November 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

CRAFT PETROLIUM COMPANY, INC., WILKINSON COUNTY MISSISSIPPI, DEE-1886, CRUDE OIL

Craft Petroleum Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Craft to sell the crude oil produced from the Craft-Rosenblatt lease for the benefit of the working interest owners at market prices. On November 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part and that Craft be permitted to sell 69.86 percent of the crude oil produced and sold for the benefit of the working interest owners from the Craft-Rosenblatt lease at upper tier ceiling price levels.

DEPCO, INC., DENVER, COLORADO, DEE-1953, DEE-1954, CRUDE OIL

DEPCO, Inc. filed two Applications for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception requests, if granted, would permit DEPCO to receive upper tier ceiling prices for the crude oil which the firm produces and sells from the Johnson No. 1 and Neshem No. 2 wells. On November 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

GREEN PIPE AND SUPPLY COMPANY, TULSA, OKLAHOMA, DEE-1829, CRUDE OIL

The Green Pipe and Supply Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Green Pipe and Supply to sell the crude oil produced from the Nora Bruner lease for the benefit of the working interest owners at upper tier ceiling prices. On November 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

OSAGE TRIBE OF INDIANS PAWHUSKA, OKLAHOMA, DEE-0939, CRUDE OIL

The Osage Tribe of Indians filed an Application for Exception from the refund provisions contained in certain Consent Orders and a Remedial Order which were issued to lessees of the Osage mineral interest. The exception request, if granted, would relieve the Tribe of the obligation that it refund the portion of the lessees' overcharges which had been passed through to the Tribe. On November 17, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

PENNZOIL PRODUCING COMPANY, HOUSTON, TEXAS, DXE-1877, CRUDE OIL

The Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to the firm and would permit the working interest owners to sell the crude oil produced from the Perry Sand Waterflood Unit-North Segment, at the upper tier ceiling prices. On November 16, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

PENNZOIL PRODUCING COMPANY, HOUSTON, TEXAS, DXE-0938, CRUDE OIL

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit Pennzoil to continue to sell the crude oil which it produces from the Perry Sand Waterflood Unit-North Segment, at upper tier ceiling prices during the period from April through September 1978. On November 15, 1978, the DOE issued a Proposed Decision and Order which determined that the Pennzoil exception request should be granted in part.

TEXACO, INC., POINTE COUPEE PARISH, LOUISIANA, DXE-1871, CRUDE OIL

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Texaco to receive upper tier ceiling prices for the crude oil which it produces and sells from the BF Reno RA Sand Unit. On November 13, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

[FR Doc. 78-34702 Filed 12-13-78; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

November 20 Through November 24, 1978

Notice is hereby given that during the period November 20 through November 24, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice (12-14-78) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

DECEMBER 6, 1978.

PROPOSED DECISIONS AND ORDERS

AMERICAN PETRO-FINA, INC., DALLAS, TEXAS, DEE-0867, REFINED PRODUCTS

American Petrofina, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Petrofina of its obligation to purchase entitlements pursuant to the *Delta-Beacon* standard. On November 21, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

CHARTER OIL COMPANY, HOUSTON, TEXAS, DEE-1475, RESIDUAL FUEL OIL

The Charter Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) in which it requested that it be issued entitlements for each barrel of residual fuel oil which it purchases in California for resale into the East Coast market. On November 20, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the Charter request should be granted and that Charter should receive $1.51 in entitlements benefits for each barrel of California residual fuel oil which it purchases and resells into the East Coast market.

COLOGNE PRODUCTION COMPANY, SAN ANTONIO, TEXAS, DXE-1946, CRUDE OIL

The Cologne Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the working interest owners to continue to sell the crude oil which is produced at the Algoa Unit 4-2 and Algoa Unit 6 located in Galveston County, Texas, at upper tier ceiling prices. On November 22, 1978, the DOE issued a Proposed Decision and Order which tentatively denied exception relief for the Algoa Unit 6 and granted an extension of relief for the Algoa Unit 4-2.

MILLS BENNETT ESTATE, HOUSTON, TEXAS, DEE-1675, CRUDE OIL

Mills Bennett Estate filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which if granted would permit Mills Bennett to sell at upper tier ceiling prices the crude oil produced for the benefit of the working interests from the Wilburn B Lease located in Barbers Hill Field, Chambers County, Texas and the J. F. Barclay Lease located in South Martha Field, Liberty County, Texas. On November 24, 1978 the DOE issued a Proposed Decision and Order tentatively granting Mills Bennett permission to sell 66.95 percent of the working interest share of production from the Wilburn B Lease and 44.01 percent from the J. F. Barclay Lease at upper tier ceiling prices.

NEW ENGLAND POWER COMPANY, WASHINGTON, D.C., DPI-0021

FLORIDA POWER & LIGHT COMPANY, MIAMI, FLORIDA, DPI-0022

TEXACO, INC., WHITE PLAINS, NEW YORK, DPI-0024

NEW ENGLAND PETROLEUM CORPORATION, WASHINGTON, D.C., DPI-0025, RESIDUAL FUEL OIL

New England Power Company, Florida Power & Light Company, Texaco, Inc. and New England Petroleum Corporation filed Applications for Exception from the Mandatory Oil Import Program of the DOE. The exception requests, if granted, would permit the firms to import specified quantities of residual fuel oil into District I on a license fee-exempt basis during the current allocation period. On November 22, 1978, the DOE issued a Proposed Decision and Order to the firms in which it tentatively determined that they should be granted sufficient fee-exempt authority to permit them to import 81.2 percent of their projected imports of residual fuel oil into District I during the current allocation period on a fee-exempt basis subject to certain conditions.

TIPPERARY OIL AND GAS CORPORATION, MIDLAND, TEXAS, DEE-1354, CRUDE OIL

On June 13, 1978, the Tipperary Oil and Gas Corporation (Tipperary) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Tipperary to sell at exempt prices all of the crude oil produced and sold for the benefit of the working interest owners from the Peggy #1 well which is located on the Peggy Lease in Lea County, New Mexico. On November 24, 1978, the DOE issued a Proposed Decision and Order which granted Tipperary's request in proposed form.

WAYNE OPERATING SERVICE, WAYNESBORO, MISSISSIPPI, DEE-1358, CRUDE OIL

The Wayne Operating Service filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request if granted, would permit the working interest owners to sell the crude oil produced from the T. F. Hodge Well at upper tier prices. On November 20, 1978, the DOE issued a Proposed Decision and Order granting in part the Wayne request.

[FR Doc. 78-34703 Filed 12-13-78; 8:45 am]

[6450-01-M]

STORAGE OF SPENT POWER REACTOR FUEL

Availability of Draft Environmental Impact Statements and Supplement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued two draft Environmental Impact Statements (EIS), DOE/EIS-0040-D, Storage of Foreign Spent Power Reactor Fuel, and DOE/EIS-0041-D, Charge for Spent Fuel Storage, and a Supplement to the draft EIS, DOE/EIS-0015-D, Storage of U.S. Spent Power Reactor Fuel, that was issued by DOE in August 1978. These generic draft EIS's were prepared in compliance with the National Environmental Policy Act of 1969, to assess the environmental impacts of various options for storage of U.S. and foreign spent fuel and the fee to be charged by the Federal Government for U.S. storage and disposal of both U.S. and foreign spent fuel.

In April 1977, President Carter announced that the United States would indefinitely defer reprocessing of spent fuel for the recovery of useable uranium and plutonium. In October 1977, a Presidential policy on the interim management of spent fuel was announced. Under this policy the Federal Government would offer to accept and take title to spent fuel from domestic nuclear power reactors for a one-time charge. Limited quantities of foreign spent fuel would be accepted on the same terms as domestic spent fuel when it would contribute to nonproliferation goals. The three related EIS's on spent fuel storage will provide environmental input into decisions on whether, and if so how, this spent fuel storage policy should be implemented. Specifically, the charge EIS analyzes the environmental impacts of implementing the spent fuel storage policy with alternative charge methodologies. The Supplement to the domestic spent fuel storage EIS assesses the environmental impact of the additional alternative of expanded storage of spent fuel in basins at reactor sites. It also includes other appropriate information intended to expand, correct and update material in the original draft EIS.

Alternatives that are assessed in the foreign fuel EIS include: (1) Fuel remaining in foreign countries with (a) no U.S. support, (b) U.S. support of multinational interim storage, and (c) U.S. support of national interim storage; and (2) fuel shipped to U.S. for storage with (a) ultimate disposal in U.S. geologic repository with three optional fuel schedules, (b) later return to originating country for reprocessing, (c) later reprocessed and fissile material recycled in the U.S., and (d) later reprocessed in the U.S. and the plutonium and uranium returned to the originating country.

These draft EIS's do not address the environmental impacts of the options for the ultimate disposition of spent fuel, which will be assessed in a separate statement.

Copies of the draft EIS have been distributed for review and comment to those who received copies of DOE/EIS-0015-D including appropriate Federal agencies, the 50 States, and other organizations and individuals who are known to have an interest in this activity and those who requested the document.

Copies of the statement are available for public inspection at the DOE public document rooms located at:

Public Reading Room, GA-152, 1000 Independence Avenue, SW, Washington, DC.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Opeations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Richland Operations Office, Federal Building, Richland, Washington.
Energy Information Center, 215 Fremont Street, San Francisco, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Comments and views concerning the draft EIS's are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Mail Station E-201, U.S. Department of Energy, Washington, D.C. 20545, (301) 353-4241. Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft EIS's should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft EIS. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft EIS will be placed in the above referenced locations for inspection and will be considered in the preparation of the final EIS if received by February 15, 1979, the closing date for comments on the domestic fuel EIS (DOE/EIS-0015-D, August 1978).

All comments on document DOE/ET-0055, Preliminary Estimates of the Charge for Spent Fuel Storage and Disposal Services, July 1978, should also be submitted by February 15, 1979. This report was prepared to provide background and stimulate discussion among a widerange of interested parties concerning a one-time charge by the U.S. Government for disposal, or interim storage and disposal, of spent fuel. DOE would like to consider comments on this report in conjunction with the comments on the draft EIS's.

Dated at Washington, D.C., this 7th Day of December 1978.

For the U.S. Department of Energy.

RUTH C. CLUSEN,
Assistant Secretary for Environment.

[FR Doc 78-34778 Filed 12-13-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. R-406]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 1, 1978.

Take notice that on November 21, 1978, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 33 Superseding First Revised Sheet No. 33 and

Second Revised Sheet No. 34 Superseding First Revised Sheet No. 34.

These revised tariff sheets are to become effective as of January 1, 1979.

Alabama-Tennessee states that such revised sheets are required to conform the PGA provisions of its tariff to the requirements of Order No. 13 issued by the Federal Energy Regulatory Commission on October 18, 1978.

Alabama-Tennessee states that copies of the filings have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34733 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-77]

Alabama-Tennessee Natural Gas Co.

Proposed PGA Rate Adjustment

DECEMBER 6, 1978.

Take notice that on November 21, 1978, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet:

Twenty-Ninth Revised Sheet No. 3-A
Superseding Twenty-Eighth Revised Sheet No. 3-A

This revised tariff sheet is proposed to become effective as of January 1, 1978.

Alabama-Tennessee states that the purpose of such revised tariff sheet is to reflect the effect of Tennessee Gas Pipeline Company's Twenty-Third Revised Sheet No. 12-A, of its FERC Gas Tariff Ninth Revised Volume No. 1, filed with the Commission on November 16, 1978 to be effective January 1, 1979.

The revised sheet to Alabama-Tennessee's tariff provides for the following rates:

Rate Schedule	Twenty-Ninth Revised Sheet No. 3-A
G-1	
Demand	$ 2.69
Commodity	134.72
SG-1	
Commodity	154.37
I-1	
Commodity	143.56

Alabama-Tennessee states that the purpose of such revised tariff sheet is to reflect the rate decrease of Tennessee Gas Pipeline Company issued November 16, 1978.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34716 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

ALGONQUIN GAS TRANSMISSION CO.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 7, 1978.

Take notice that on *November 30, 1978* Algonquin Gas Transmission Company ("Algonquin Gas") tendered for filing 1st Revised Sheet No. 125, 1st Revised Sheet No. 127, 2nd Revised Sheet No. 129 and Original Sheet No. 129-A.

Algonquin Gas states that the tarrif sheets relating solely to the Purchased Gas Adjustment Clause Provision in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1, were filed to comply with Order No. 13 in Docket No. R-406 issued October 18, 1978, as amended.

The proposed effective date of the filing is January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34735 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

ARKANSAS LOUISIANA GAS CO.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 7, 1978.

Take notice that Arkansas Louisiana Gas Company (Arkla) on November 30, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 3, Rate Schedule No. X-26, as follows:

2nd Revised Sheet No. 187
2nd Revised Sheet No. 188
1st Revised Sheet No. 188A
1st Revised Sheet No. 188B
1st Revised Sheet No. 188C

These proposed changes, to be effective January 1, 1979, are being filed pursuant to Order No. 13, issued by the Federal Energy Regulatory Commission on October 18, 1978. These revised tariff sheets limit Arkla to two PGA filings annually by eliminating the pipeline tracking provision at periods of time other than the semiannual dates (April 1 and October 1) and provides for interest calculated on the prior months ending balance of the Unrecovered Purchased Gas Cost Account, exclusive of accumulated interest, and after reflecting interperiod income tax allocations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 21, 1978. Protests will be considered by the Commission in de-

termining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34736 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-87]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Filing

DECEMBER 7, 1978.

Take notice that on November 30, 1978, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement dated November 20, 1978 covering the sale of 50 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning December 1, 1978. CLECO states that GSU desires to purchase this capacity for its system needs and CLECO agrees to provide this capacity and that Agreement will be beneficial to both systems. CLECO further states that deliveries will be made over existing interconnection facilities.

CLECO proposes an effective date of December 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to GSU.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34737 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 768]

COLORADO SPRINGS, COLORADO, CITY OF

Issuance of Annual License(s)

DECEMBER 5, 1978.

On February 27, 1978, the City of Colorado Springs, Colorado, Licensee for the Ruxton Park-Manitou Springs Project No. 768, located on Ruxton and Catamount Creeks and their tributaries in El Paso and Teller Counties, Colorado, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 768 was issued effective August 2, 1927, for a period ending August 1, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the City of Colorado Springs, Colorado.

Take notice that an annual license has been issued to the City of Colorado Springs, Colorado, for the period August 2, 1977, to August 1, 1978, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Ruxton Park-Manitou Springs Project No. 768, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license has not taken place within 1 year from the date of the first annual license, a new annual license is issued each year thereafter, effective August 2 of each year, until such time as a new license is issued, without further notice being given by the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34717 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP78-19 and RP78-20]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

INFORMAL SETTLEMENT CONFERENCE

DECEMBER 6, 1978.

Take notice that on December 18, 1978, at 10:00 A.M. an informal conference of all interested persons will be convened with a view toward resolving all issues in this proceeding. The conference will be held at a meeting room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to disuss the merits of the issues arising in this proceeding and to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34738 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

DECEMBER 7, 1978.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on November 27, 1978, tendered for filing, proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations. The revised tariff sheets are proposed to be effective December 1, 1978.

The revised tariff sheets, First Revised Sheet Nos. 69, 70 and 71 and Original Sheet No. 71-A, propose the inclusion of that part of Consolidated's pipeline production which qualifies for area, national, or statutory rate treatment in the definition and computation of purchased gas costs from producer suppliers in the purchased gas adjustment clause (Section 12) of Consolidated's tariff.

Consolidated requests a waiver of § 154.38 and any other part of the Commission's Regulations in order to permit these revised tariff sheets to become effective December 1, 1978, to coincide with the date prescribed by Congress for the effectiveness of maximum rates under the Natural Gas Policy Act of 1978.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8. 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34739 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 659]

CRISP COUNTY POWER COMMISSION

Issuance of Annual License(s)

DECEMBER 5, 1978.

On January 30, 1978, Crisp County Power Commission, Licensee for the Lake Blackshear Project No. 659, located on the Flint River in the counties of Crisp, Dooly, Lee, Sumter, and Worth, Georgia, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 659 was issued for a period ending August 9, 1978. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Crisp County Power Commission.

Take notice that an annual license has been issued to Crisp County Power Commission for the period August 10, 1978, to August 9, 1979, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Lake Blackshear Project No. 659, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before August 9, 1979, a new annual license will be issued each year thereafter, effective August 10 of each year, until such time as a new license is issued, without further notice being given by the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34718 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP71-15 and RP75-28]

EAST TENNESSEE NATURAL GAS CO.

Revision to Rate Filing Pursuant to Tariff Rate Adjustment Provisions

DECEMBER 6, 1978.

Take notice that on November 30, 1978, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Twenty-Eighth Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1979.

East Tennessee states that the sole purpose of this revised tariff sheet is to revise its November 16, 1978 filing in these dockets to reflect the change in rates filed by its supplier Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on November 30, 1978. East Tennessee states that in all other respects the instant filing reflects the same rate adjustments as were reflected in its November 16, 1978 filing.

East Tennessee also states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34719 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP74-289, CP73-334 and CP75-360]

EL PASO NATURAL GAS CO.

Petition to Amend

DECEMBER 4, 1978.

Take notice that on November 17, 1978, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket Nos. CP74-289, CP73-334 and CP75-360 [1] a petition to amend the orders issued in the instant dockets (Opinion Nos. 800, issued May 23, 1977; 800-A, issued July 20, 1977; and 800-B, issued December 30, 1978) pursuant to Section 7(c) of the Natural Gas Act to the extent necessary to authorize the continued restitution of natural gas, on and after November 1, 1978, pursuant to the plan approved in Opinion 800-B; Petitioner further requests that its tariff filing of August 30, 1978, relating to the implementation of the plan approved in Opinion 800-B, be made effective concurrently with the issuance of the certificate authorizations requested in the instant dockets, all as more fully set forth in the petition to amend filed with the Commission and open for public inspection.

It is stated that certain of Petitioner's East of California (EOC) customers have substantial remaining entitlements to payback gas under Opinion No. 800-B, and further, that a large portion of said remaining entitlements is not covered by either Petitioner's proposal to store payback gas through the Clay Basin Interim Storage Arrangements in Docket No. CP77-289, or its proposal to transport and deliver, on a direct-sale basis, volumes of payback gas relinquished by certain customers as reflected in Docket No. CP78-500. Consequently, Petitioner is concerned that it may now lack the requisite certificate authority under Section 7 of the Act to continue on and after November 1, 1978, to divert Pacific Gas and Electric Company's (PG&E's) otherwise scheduled deliveries to the designated EOC customers.

Accordingly, Petitioner requests that if it is the Commission's view that additional certificate authority is required to continue the restoration to the designated EOC customers of their remaining entitlements to payback gas on and after November 1, 1978, to the extent that such remaining volumes are not covered by the pending certificate applications in Docket Nos. CP77-289 and CP78-500, then the certificates previously issued in Docket Nos. CP74-289, *et al.*, be amended as necessary to provide such additional certificate authority. Further, Petitioner requests that the Commission waive the requirements of Section 154.22 of its Regulations so as to permit the tariff sheets filed by Petitioner on August 30, 1978, to be made effective on a date concurrent with the issuance of the certificate authorizations requested herein. It is stated that concurrent effective dates for the tariff and the requested authorization would have the effect of applying the tariff's surcharge to only those EOC customers who have entitlements remaining after November 1, 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34706 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Payment of Refunds

DECEMBER 6, 1978.

Take notice that on December 1, 1978, El Paso Natural Gas Company ("El Paso") tendered for filing a Report of Refunds Made on October 13, 1978, to its interstate jurisdictional, nonjurisdictional keyed and nonjurisdictional customers. El Paso states that such refunds were made in accordance with El Paso's Stipulation and Agreement dated June 23, 1978, as approved by Commission letter order dated September 5, 1978, at Docket No. RP78-18.

El Paso further states that the refunds made are comprised of $12,898,934.65 in principal refunds, plus interest thereon of $187,974.02, computed through October 12, 1978, at the interest rate of 9% per annum, as provided in Article IV of the aforementioned Stipulation and Agreement and § 154.67(c) of the Commission's Regulations. The aggregate amount of refunds made by El Paso on October 13, 1978, was $13,086,908.67.

El Paso states that copies of the filing were served on all of El Paso's affected interstate transmission system customers, all parties of record in docket No. RP78-18, and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before December 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34720 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RI76-126]

ENERGY DEVELOPMENT CORP.

Final Decision

NOVEMBER 30, 1978.

Take notice that the Initial Decision issued September 26, 1978, in the above-docketed proceeding has become a final decision of the Commission.

Because no briefs on exceptions have been filed and the Commission has not initiated review within the 10 day period following the date for filing exceptions, the initial decision is a final decision under § 1.30(d)(2) of the Commission's Rules of Practice and Procedure (18 CFR 1.30(d)(2)).

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34740 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-59]

FITCHBURG GAS & LIGHT CO.

Filing

DECEMBER 6, 1978.

Take notice that Fitchburg Gas & Electric Light Company (Fitchburg) on November 2, 1978, tendered for filing an amendment to an agreement between Fitchburg and Public Service Company of New Hampshire (PSNH).

Fitchburg indicates that the only change in the agreement made by the amendment is the reduction of the amount of electric generating capability to be sold by Fitchburg from 15MW to 7MW for the 1978-79 power year.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34721 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Change in Tariff

DECEMBER 7, 1973.

Take notice that on November 29, 1978, Mississippi River Transmission Corporation ("Mississippi") tendered for filing First Revised Sheet No. 3C to its FERC Gas Tariff, First Revised Volume No. 1, to become effective on January 1, 1979.

Mississippi states that the instant filing is being made pursuant to Ordering Paragraph (B) of Opinion No. 30 issued September 21, 1978 in Docket No. RP78-76. This Opinion authorizes members of the Gas Research Institute ("GRI") to file RD&D cost adjustment provisions which would permit collection of 3.5 mills per Mcf of Program Funding Services for payment to GRI.

Mississippi states that copies of its filing have been served on all of its jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34741 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Tariff Filing

DECEMBER 7, 1978.

Take notice that on December 1, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, to be effective January 1, 1979.

NINTH REVISED VOLUME NO. 1

First Revised Sheet No. 213P

SIXTH REVISED VOLUME NO. 2

First Revised Sheet Nos. 250B, 264H, 265C, 266I, 279D and 280D

Tennessee states that the purpose of the revised tariff sheets is to (1) conform the Gas Research Institute Rate Adjustment provision in its tariff to the requirements of Opinion No. 30 and (2) to revise certain of its transportation rate schedules to indicate that the GRI Rate Adjustment is now applicable to those services.

Tennessee states that copies of the filing have been mailed to all it jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34742 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Tariff Filing

DECEMBER 7, 1978.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on December 1, 1978, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2 to become effective January 1, 1979.

Transco states that the purpose of this filing is:

1. To provide for a 3.4 mill per dekatherm (dt) Adjustment Charge applicable to sales and transportation deliveries to distributors for resale, to pipelines which are not members of the Gas Research Institute (GRI), and to ultimate consumers;

2. To reduce Transco's base tariff rates by 1.0 mill per dekatherm to eliminate from such rates the amounts associated with the American Gas Association (AGA) Utility Research and Coal Gasification Programs, which programs will be transferred to GRI; and

3. To revise Sheet No. 252 in order to include services to "ultimate consumers" in the services to which such Adjustment Charge is applicable.

Transco also states that on September 21, 1978, the Federal Energy Regulatory Commission (Commission) issued Opinion No. 30 in Docket No. RP78-76 which provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect, in advance of payments to GRI, 3.5 mills per Mcf (which on Transco's system equates to 3.4 mills per dt) on sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI and to ultimate consumers.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34743 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

GREAT LAKES GAS TRANSMISSION CO.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 1, 1978.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on November 16, 1978, tendered for filing the following revised tariff sheets to its FPC Gas Tariff, proposed to be effective January 1, 1979:

FIRST REVISED VOLUME NO. 1

Second Revised Sheet No. 52
Second Revised Sheet No. 53
Third Revised Sheet No. 54
Second Revised Sheet No. 55
First Revised Sheet No. 56

ORIGINAL VOLUME NO. 2

Second Revised Sheet No. 53-A
Fourth Revised Sheet No. 53-B
Second Revised Sheet No. 53-C
First Revised Sheet No. 53-D
First Revised Sheet No. 53-E

Great Lakes states that the revised tariff sheets incorporate the amendments to Great Lakes purchased gas cost adjustment tariff provisions required by Commission Order No. 13, issued October 18, 1978.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20425, in accordance with §§ 1.8 and 1.10 of the Commission's Rules and Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34732 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-10]

GREAT LAKES GAS TRANSMISSION CO.

Proposed Changes in FERC Gas Tariff

DECEMBER 7, 1978.

Take notice that on November 30, 1978, Great Lakes Gas Transmission Company ("Great Lakes") tendered for filing proposed changes to the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

FIRST REVISED VOLUME NO. 1

Seventh Revised Sheet No. 4
Thirtieth Revised Sheet No. 57

ORIGINAL VOLUME NO. 2

Thirteenth Revised Sheet No. 53
Fourth Revised Sheet No. 77
Eighth Revised Sheet No. 151

The proposed tariff changes would produce increased revenues of $17,108,254 based on sales and transportation volumes for the base period (twelve months ended July 31, 1978) as adjusted. The changes would also establish new Base Tariff Rates for future purchased gas cost adjustments.

Great Lakes states that the proposed rates are necessary because of increased operating expenses, increased depreciation expense resulting from increases plant in service, increased *ad valorem* and other taxes and increased return and income tax requirements. Great Lakes' proposed rates include an overall return of 11.01 percent reflecting its increased imbedded debt cost of 8.71 percent and a return on equity of 14.875 percent.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *December 22, 1978.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34744 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-13]

GREAT LAKES GAS TRANSMISSION CO.

Proposed Changes in FERC Gas Tariff

DECEMBER 7, 1978.

Take notice that on November 30, 1978, Great Lakes Gas Transmission Company ("Great Lakes") tendered for filing a proposed change to Seventh Revised Sheet No. 151 to its FERC Gas Tariff, Original Volume No. 2.

The proposed tariff change would establish interim rates for Great Lakes' Phase II transportation service for Michigan-Wisconsin Pipe Line Company rendered pursuant to Great Lakes' Rate Schedule T-6. Great Lakes requests that the interim rate become effective December 1, 1978, and continue until the effective date of the rate proposed for Rate Schedule T-6 in Great Lakes' general rate increase filing made concurrently on November 30, 1978.

Great Lakes states that the proposed interim rate is necessary because the presently effective rate was based on the Phase I service and does not reflect the increased costs of transporting the Phase II volumes which commenced on August 1, 1978. Great Lakes previously filed the interim rate for the Phase II service, but they were rejected by the Commission because Great Lakes did not file full cost of service support. Great Lakes states that it is concurrently filing full cost of service support for a general rate increase and that the proposed interim rate is being filed to allow Great Lakes to at least partially recover the costs of the Phase II service in the event the Commission suspends its general rate increase filing.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34745 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-80]

IOWA POWER AND LIGHT CO.

Filing of Transmission Service Agreements

DECEMBER 7, 1978.

Take notice that Iowa Power and Light Company, Des Moines, Iowa (Iowa Power) on November 27, 1978, tendered for filing Transmission Service Agreements with Iowa-Illinois Gas and Electric Company, Davenport, Iowa (Iowa-Illinois), Cedar Falls Electric Municipal Utility, Cedar Falls, Iowa (Cedar Falls), and Corn Belt Power Cooperative, Inc., Humboldt, Iowa (Corn Belt).

The Agreements facilitate transmission of each utility's share of Council Bluffs Generating Unit No. 3 capacity. These Agreements are proposed to become effective on the first of the month next following synchronization of the Unit, which is presently not anticipated to occur prior to November, 1978. Consequently, Iowa Power requests waiver of the Commission's notice requirements and proposes an effective date of December 1, 1978, subject to confirmation of the synchronization date.

Iowa Power states that the purpose of the proposed rates and charges is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

Iowa Power states that copies of the filing have been mailed to Iowa-Illinois, Cedar Falls, Corn Belt, and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34746 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-81]

KANSAS GAS AND ELECTRIC CO.

Filing

DECEMBER 7, 1978.

Take notice that Kansas Gas and Electric Company (KG&E) on November 27, 1978 tendered for filing proposed changes in its FPC Electric Service Tariff No. 32. KG&E indicates that the proposed Amendment changes the maximum and minimum amounts of power at delivery point Nos. 1, 2, 3 and 4 of the Kansas Power and Light Company.

The Amendment is necessary because the contract maximums have been exceeded. KG&E indicates that it has available capacity at these delivery points and has agreed to raise the maximum amount of power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 18, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34747 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP71-16 and RP74-29]

MIDWESTERN GAS TRANSMISSION

Rate Filing Pursuant to Tariff Rate Adjustment Provisions

DECEMBER 4, 1978.

Take notice that on November 16, 1978, Midwestern Gas Transmission Company (Midwestern) tendered for filing Twenty-Fourth Revised Sheet No. 5 and Seventh Revised Sheet No. 5A to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective January 1, 1979.

Midwestern states that the purposes of the revised tariff sheets are (1) to reflect adjustments to its rates pursuant to rate adjustments provisions in Articles XVII, XVIII, XIX and XXI of the General Terms and Conditions of its FERC Gas Tariff.

Midwestern states that as to the Southern System, Twenty-Fourth Revised Sheet No. 5 reflects (1) a Current Purchased Gas Cost Rate Adjustment of a negative 6.92 cents per Mcf pursuant to Section 2 of Article XVII which is based on rate changes reflected in the filing of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on November 16, 1978, in Docket Nos. RP73-114, *et al.;* (2) a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account, consisting of a negative $1.20 per Mcf for Midwestern's demand rates and a negative 10.56 cents per Mcf for the commodity rates, pursuant to Section 3 of Article XVII; and (3) a Current Rate Adjustment of a negative 0.81 cents per Mcf to reflect curtailment credits pursuant to Section 9 of Article XIX; and Midwestern further states that as to both systems the revised tariff sheets reflect a revised GRI Rate Adjustment of .35 cents per Mcf pursuant to Article XXI.

Midwestern states that as to the Northern System, Seventh Revised Sheet No. 5A reflects a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account of a negative 2.14 cents per Mcf as specified in Section 3 of Article XVIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 11, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34707 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-77]

MINNESOTA POWER & LIGHT CO.

Filing

DECEMBER 7, 1978.

Take notice that on November 24, 1978, Minnesota Power & Light Company (MP&L) tendered for filing Supplement No. 3 to MP&L's Export Rate Schedule FERC No. 122 with Minnkota Power Cooperative, Inc. and the Manitoba Hydro-Electric Board.

MP&L states that this Supplement amends Exhibit D revising Service Schedules B, H and I to conform to rates for similar service provided for the Mid-Continent Area Power Pool (MAPP) Agreement as supplemented by amendments thereto.

MP&L requests that the Supplement become effective as of May 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34748 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-149]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

DECEMBER 6, 1978.

Take notice that Mississippi River Transmission Corporation ("Mississippi") has submitted for filing Substitute Sixty-Ninth Revised Sheet No. 3A to its Federal Energy Regulatory Commission ("FERC") Gas Tariff, First Revised Volume No. 1, which bears a

proposed effective date of December 1, 1978.

Mississippi states that Substitute Sixty-Ninth Revised Sheet No. 3A is being filed pursuant to the Purchased Gas Cost Adjustment ("PGA") clause to its tariff and reflects a revision to a PGA tariff filing made by Mississippi on November 3, 1978 which also carried a proposed effective date of December 1, 1978. Mississippi states that the instant PGA tariff filing has been necessitated in order to track the general rate increase filing of United Gas Pipe Line Company ("United") at Docket No. RP78-68 pursuant to a motion filed by United with the FERC on November 13, 1978 to place such previously suspended rates into effect, subject to refund, on December 1, 1978.

Mississippi further states that the November 3, 1978 PGA tariff filing to become effective December 1, 1978 was made to track a general rate increase filing of Natural Gas Pipeline Company of America ("Natural") at Docket No. RP78-78. Mississippi states that the instant filing is being submitted solely for the purpose of incorporating United's increased rates, also to become effective on December 1, 1978. Mississippi has informed the FERC that United did not file revised rates with the FERC until November 13, 1978 and, therefore, it was not possible for Mississippi to comply with the thirty-day notice requirements of the FERC regulations and their tariff. Accordingly, Mississippi has requested waiver of the FERC notice requirements, to the extent necessary, in order that Substitute Sixty-Ninth Revised Sheet No. 3A may become effective on December 1, 1978, the same date as proposed by Natural and United.

Mississippi has informed the FERC that copies of its filing, including computations in support thereof, have been served on its jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34722 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-89]

MISSOURI PUBLIC SERVICE CO.

Proposed Tariff Change

DECEMBER 7, 1978.

Take notice that Missouri Public Service Company, (Missouri) on December 1, 1978, tendered for filing proposed changes in its FERC Electric Service Tariffs for Wholesale Firm Power Service to supersede and replace those rate provisions of contract rate schedules presently in effect and on file with the Commission which relate to eight (8) wholesale customers located in the State of Missouri as follows:

Wholesale Customer	Superseding and Replacing
1. City of El Dorado Springs	Supplement No. 1 to Supplement No. 2 to FERC Rate Schedule No. 35.
2. City of Galt	FERC Rate Schedule No. 28 and Supplements No. 1 and 2.
3. City of Gilman City	Supplements No. 1 and 2 to FERC Rate Schedule No. 29.
4. City of Harrisonville	Supplement No. 4 to FERC Rate Schedule No. 25 and Supplements No. 1 and 2.
5. City of Liberal	Supplement No. 1 to Supplement No. 2 to FERC Rate Schedule No. 36.
6. City of Odessa	Supplements No. 1 and 2 to FERC Rate Schedule No. 31.
7. City of Pleasant Hill	Supplement No. 1 to Supplement No. 2 to FERC Rate Schedule No. 34.
8. City of Rich Hill	Supplement No. 1 to Supplement No. 2 to FERC Rate Schedule No. 37.

Missouri states that the proposed changes would increase revenues from jurisdictional sales and service by $754,332 based on the twelve month period ending August 31, 1978.

Missouri further states that the purposes of the proposed Municipalities—Resale Rate Schedule are:

(1) This proposed increase is only the third increase ever requested in the Company's history for Municipalities—Resale. Since the Company's last rate increase, which was made effective October 1, 1976, and based on its cost of service for the year 1975, its cost of service including fuel, labor, materials, cost of money, taxes and environmental requirements have increased resulting in the need for a rate increase as evidenced by the cost of service for the year ended August 31, 1978.

(2) To increase revenues to produce a more reasonable rate of return of 5.58 percent on the Company's investment. Company earned no rate of return from municipalities—Resale for the test year ending August 31, 1978.

(3) To encourage Municipalities to improve their load factor in a manner that will help improve the Company's load factor thus tending to lower the system cost per KWH.

(4) To revise the fuel adjustment rider for the Municipalities of Galt, Gilman City, Harrisonville and Odessa to comply with FPC Order No. 517 issued November 13, 1974 in Docket No. R-479 and § 35.14 of the Commission's Regulations.

(5) To establish a uniform rate and fuel adjustment rider for all Municipalities—Resale customers.

Copies of the filing were served upon the eight (8) Municipalities—Resale customers whose rates and charges would be affected thereby, and upon the Public Service Commission of Missouri.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make prot-

estants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34749 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-76]

MONTANA LIGHT & POWER CO.

Filing

DECEMBER 7, 1978.

Take notice that Montana Light & Power Company (ML&P) on November 17, 1978, tendered for filing a request that the Commission reinstate Supplement No. 1 to ML&P's Rate Schedule FERC No. 2 as a proposed rate change for sale of non-firm thermal power to Pacific Power & Light effective November 1, 1978, in lieu of requiring an additional Supplement to said Rate Schedule.

ML&P indicates that pursuant to Paragraph 4 of the Service Agreement dated May 1, 1977, between ML&P & PP&L, the rate is determined solely by the buyer, PP&L, and may be altered by it unilaterally seven days after written notice to ML&P.

ML&P further requests that the Commission waive the requirements set in § 35.13(b)(1) of its Rules and Regulations comparing sales and revenues under its former rate of 3 mills per kWh and its present rate of 10 mills per kWh for the twelve months preceding and for the twelve months succeeding November 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34750 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-100 et al.]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

DECEMBER 6, 1978.

Take notice that on November 20, 1978, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twenty-Fourth Revised Sheet No. 4, Fifth Revised Sheet No. 35, Fifth Revised Sheet No. 36, Second Revised Sheet No. 36A, and Third Revised Sheet No. 37 proposed to be effective January 1, 1979.

National states that the purpose of these revised tariff sheets is to adjust National's rates pursuant to Section 17 (PGA) and section 18 (GRIA) of the General Terms and Conditions and to comply with FERC Opinion No. 30 issued September 21, 1978 in Docket No. RP78-76 and Opinion No. 13, issued October 18, 1978 in Docket No. R-406. National further states that Twenty-Fourth Revised Sheet No. 4 reflects an adjustment in National's rates of .11¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34723 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 2323]

NEW ENGLAND POWER CO.

Application for Approval of Change In Land Rights for Construction of Sewage System

DECEMBER 5, 1978.

Applicant is licensee of the Sherman Development of the Deerfield River Project in the Town of Rowe, Massachusetts.

Notice is given that an application has been filed by New England Power Company to grant an easement for an 0.87 acre of project land to the Yankee Atomic Electric Company to be used for the construction and operation of a septic tank, two leaching chambers, a pumping station, roads, electric cables, sewers, and appurtenances, in order to replace an existing sewage system, which no longer operates properly. The Town of Rowe Board of Health has ordered the situation be corrected as soon as possible. On November 21, 1978, the licensee submitted a supplement to its application describing the method of abandoning the existing septic system on project lands. The proposed septic system will be located approximately 800 feet southwest of the dam, downstream of the project powerhouse, and on the East side of the Deerfield River. No recreation facilities are located on the tract proposed to be used by Yankee Atomic; lands directly acrosss the Deerfield River from the proposed sewage system are used for hunting, hiking, nature studies, and scenic values.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 29, 1978. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34724 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP79-14 and RP78-76]

NORTHWEST PIPELINE CORP.

Proposed Rate Change

DECEMBER 7, 1978.

Take notice that on November 30, 1978, Northwest Pipeline Corporation ("Northwest") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets.

Twenty-First Revised Sheet No. 10
First Substitute Original Sheet No. 62

As more fully explained in the attached Statement, said Tariff Sheets will, when accepted for filing and permitted to become effective January 1, 1979, provide for rate adjustments to reflect increased payments to the Gas Research Institute ("GRI") and increased royalty payments and related production taxes on Northwest's pre-1973 leasehold production incurred as a result of NTL-5 (42 FR 22610) issued and interpreted by the United States Geological Survey and the Natural Gas Policy Act of 1978.

Northwest, as an alternate, proposes to defer collection of the amounts reflected in the rate adjustments tendered herein until April 1, 1979, the date of its next PGA adjustment, as explained in said statement. As part of the alternate proposal, Northwest tenders First Revised Sheet No. 62 which proposes, pursuant to Order No. 13 at Docket No. R-406, to synchronize the GRI rate adjustment with Northwest's PGA adjustment dates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.9, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34751 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-86]

OKLAHOMA GAS & ELECTRIC

Filing

DECEMBER 7, 1978.

Take notice that Oklahoma Gas and Electric Company (Oklahoma), on November 30, 1978, tendered for filing revised Rate Schedules for wholesale service to the Town of Mannford, Oklahoma, the Cities of Kingfisher and Perry, Oklahoma and the Wolf Creek Point of Delivery to Red River Valley Rural Electric Association. Oklahoma states that the proposed Rate Schedules cancel and supersede the existing Rate Schedules presently on file with the Commission.

Oklahoma further states that the proposed Rate Schedules are those accepted by the Commission by letter-order issued March 16, 1978, in Docket No. ER77-127.

Oklahoma proposes an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

According to Oklahoma copies of the proposed Rate Schedules have been mailed to Kingfisher, Mannford, Perry, Red River Valley, the Corporation Commission of the State of Oklahoma, and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34752 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 606]

PACIFIC GAS & ELECTRIC CO.

Issuance of Annual License(s)

DECEMBER 5, 1978.

On March 30, 1976, Pacific Gas and Electric Company, Licensee for the Kilarc-Cow Creek Project No. 606, located on Old Cow Creek and South Cow Creek, in Shasta County, California, filed and application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 606 was issued effective October 22, 1923, for a period ending March 27, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Company.

Take notice that an annual license has been issued to Pacific Gas and Electric Company for the period March 28, 1977, to March 27, 1978, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Kilarc-Cow Creek Project No. 606, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license has not taken place within one year from the date of the first annual license, a new annual license is issued each year thereafter, effective March 28 of each year, until such time as a new license is issued, without further notice being given by the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34725 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-17]

PACIFIC POWER & LIGHT CO.

Application

DECEMBER 7, 1978.

Take notice that on November 28, 1978, Pacific Power & Light Company (Applicant), a Maine Corporation qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing borrowings in an aggregate principal amount not to exceed $75,000,000 at any one time outstanding through drawings under a revolving standby loan facility (Loan Facility) evidenced by a letter agreement (Letter Agreement) between Applicant and Credit Suisse First Boston Limited as Agent for the banks listed in the Letter Agreement (Banks). The duration of the Loan Facility is to be 24 months, unless earlier terminated as provided in the Letter Agreement.

Proceeds from any borrowings to be made under the Loan Facility are to be used to finance temporarily current transactions, including certain of Applicant's estimated $579,837,000 1978-1979 construction expenditures, as well as a portion of its 1980 construction expenditures for which no estimate has yet been made.

Any person desiring to be heard or to make any protest with reference to this application should, on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application

is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34753 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

PANHANDLE EASTERN PIPE LINE CO.

Change in Tariff

DECEMBER 6, 1978.

Take notice that on November 22, 1978, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1:

Twenty-Sixth Revised Sheet No. 3-A
Third Revised Sheet No. 3-B

An effective date of January 1, 1978 is proposed.

Panhandle states that this filing is made pursuant to Ordering Paragraph (B) of Opinion No. 30 issued September 21, 1978 in Docket No. RP78-76. This Opinion authorizes members of the Gas Research Institute (GRI) to file RD&D cost adjustment provisions which would permit the collection of 3.5 mills per Mcf (3.4 mills when adjusted to Panhandle's pressure base) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34726 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-112]

PANHANDLE EASTERN PIPELINE CO.

Petition To Amend

NOVEMBER 30, 1978.

Take notice that on November 8, 1978, Panhandle Eastern Pipeline Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-112 a petition to amend the order issued April 26, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the recylindering of three compressor units situated at Petitioner's Ulysses Compressor Station, Grant County, Kansas, as opposed to the recylindering of six compressor units, all as more fully set forth in the petition which is on file with the Comission and open to public inspection.

Petitioner states that pursuant to the Commission's Order of April 26, 1977, in this proceeding, it was authorized to expend the total sum of $7,740,000, which included the recylindering of six compressor units at the Ulysses Compressor Station.

Petitioner asserts that the estimated cost involved in the recylindering of the compressor units situated at the Ulysses Compressor Station, exclusive of contingencies and interest during construction, would be $1,177,000.

On May 12, 1978, in Docket No. CP78-137, the Commission authorized Petitioner, among other things, to construct and operate the Cognac Compressor Station in Grant County, Kansas, it is said. Petitioner asserts it has determined that the presence of the Cognac Compressor Station on its pipeline system would alleviate the requirement of recylindering all six of the compressor units situated at the Ulysses Compressor Station. Petitioner has now concluded that the recylindering of only three compressor units at the Ulysses Compressor Station is required and that this can be accomplished at a cost of approximately $560,000. By foregoing the recylindering of the other three compressor units at the Ulysses Compressor Station Petitioner would avoid the expenditure of approximately $600,000 of facility cost, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 21, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Comission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34754 Filed 12-13-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. CP79-78]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

DECEMBER 5, 1978.

Take notice that on November 20, 1978, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) (hereinafter collectively referred to as Applicants), P.O. Box 1642, Houston, Texas 77001,[1] filed in Docket No. CP79-78 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that United has gas available from Cotton Petroleum Company (Cotton) from the Whitaker No. 1 and No. 2 wells in Hansford County, Texas, and that Applicants and United have entered into a transportation contract on October 9, 1978 (contract) to transport this gas.

Pursuant to the contract, it is proposed that Cotton deliver to Panhandle, for United's account, 1,200 Mcf of gas per day on a firm basis, and up to 800 Mcf of gas per day on a best efforts basis, at a proposed measuring station on Panhandle's facilities in Hansford County, Texas (delivery point). Trunkline would then redeliver the gas, less 10 percent for fuel usage, at an existing point of interconnection between the facilities of Trunkline and United at Exxon's plant near Garden City, Louisiana, or at another mutually agreeable point (redelivery point).

It is stated that the initial contract term would be five years from the date of first delivery, and that the contract would continue thereafter for an additional 5 years during which time United would have the option of re-

[1] Applicants have the same address.

ducing the transported firm volumes by up to 50 percent.

It is stated that the base rate charged United by Panhandle for this transportation service would be $6,948 per month; such charge would be adjusted upward or downward at a rate of 19.04 cents per Mcf [2] for any deviation from the daily firm contract volume (except for lesser volumes caused by United's failure to deliver); Trunkline would not charge for its services under the contract.

It is stated that Panhandle would install and operate pipeline and related metering facilities for the measurement of gas at the delivery point pursuant to Panhandle's budget authority in Docket No. CP78-83.[3]

It is further stated that Applicants have sufficient available excess capacity to transport these volumes as well as the volumes transported for their other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34708 Filed 12-13-78; 8:45 am]

[2] Although the application indicates this rate is 20.46 cents per Mcf, the contract attached to the application as Exhibit P indicates the figure quoted above.

[3] Panhandle has a 50 percent interest in the Whitaker No. 1 and No. 2 wells.

[6740-02-M]

[Docket No. ER79-78]

PENNSYLVANIA ELECTRIC CO. ET AL.

Filing

DECEMBER 7, 1978.

Take notice that on November 24, 1978, Pennsylvania Electric Company, Metropolitan Edison Company and Jersey Central Power & Light Company (collectively referred to as Companies) tendered for filing, proposed Schedule 5.04 to the existing Agreement among them, dated July 21, 1969.

The Companies state that that Schedule 5.04, Allocation of PJM 500 kV System Losses, proposes that the transmission losses for the delivery of the output of Three Mile Island Unit No. 2, be allocated among the Companies in proportion to their capacity entitlement in TMI Unit No. 2, and the 500 kV transmission system losses allocated to it under the k-C EHV Agreement shall be allocated among the Companies on a basis of ⅔ to the Keystone Conemaugh Generating Station function and ⅓ to the Inter-Area Tie function.

The Companies propose an effective date of December 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34755 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-7]

SOUTHERN NATURAL GAS CO.

Pipeline Rates: Suspension Intervention; Order Accepting for Filing and Suspending Proposed Rate Increase, Rejecting Proposed Tariff Sheets, Granting Intervention and Initiating Hearing

NOVEMBER 30, 1978.

On October 31, 1978, Southern Natural Gas Company (Southern) filed revised tariff sheets to its FERC Gas Tariff, Volume Nos. 1 and 2.[1] The revised tariff sheets contain rates that will increase annual jurisdictional revenues by $55.6 million over the rates in effect, subject to refund in underlying Docket No. RP78-36.

Public notice of Southern's October 31, 1978, filing was issued on November 8, 1978 providing for protests or petitions to intervene to be filed on or before November 20, 1978. Timely petitions to intervene were filed by Mississippi Valley Gas Company, Alabama Municipal Distributors Group, Gas Light Company of Columbus, and South Carolina Electric & Gas Company. The Commission finds that these petitioners have demonstrated an interest in this proceeding warranting their participation, and the petitions shall therefore be granted.

Southern states the proposed rate increase is based on increased costs related to increases in the delivery and price of regasified LNG, cost of temporary storage service to be provided by Mid-Continent Storage Company, transportation costs associated with increased domestic gas purchases, and tax payments on the Louisiana First Use Tax.[2]

The majority of the proposed increase is for the purchase of LNG volumes and is the result of a filing by Southern Energy in Docket No. CP71-68, *et al.*, to increase the commodity portion of its rates from $1.31 per MMBtu to $1.56 per MMBtu. Southern also states that the proposed rate increase is to recover cost increases experienced in all levels of company operations plus cost increases related to higher taxes and debt costs.

Based on a review of Southern's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise

[1] *Sixth Revised Volume No. 1*—Thirty-Second Revised Sheet No. 4A or Alternate Thirty Second Revised Sheet No. 4A. *Original Volume No. 2*—Sixth Revised Sheet No. 242.

[2] Sixth Revised Volume No. 1, Alternate Thirty-Second Revised Sheet No. 4A was filed in the event the Commission disallows the inclusion of the Louisiana First Use Tax Payments.

unlawful. Accordingly, the Commission shall accept Southern's proposed rate increase for filing, suspend its use for five months or until May 1, 1979, when it shall become eligible to become effective in the manner prescribed in Section 4 of the Natural Gas Act, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

The Commission finds that Southern should make the following revisions to its tariff sheets. First, Southern has included in its filing costs associated with certain facilities which have not been placed in service at this time. Consequently, Southern shall be required to file revised rates and supporting materials reflecting the elimination of costs associated with facilities not placed in service as of April 30, 1978, the effective date of the rates suspended by this order provided that Southern shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.[3] Second, Southern shall adjust its rates to reflect the actual balances of advance payments in Account 166 as of April 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. Third, Southern shall adjust its rates eliminating the storage service costs related to the certificate application in Docket No. CP78-327, if such storage service has not been approved by the Commission by the end of the suspension period.[4] Fourth, Southern shall adjust its rates to reflect any reductions in Research, and Development costs required by Opinion No. 30. Fifth, Southern's estimated purchases of 117,530,000 Mcf of LNG volumes from Southern Energy during the test period is based on a joint application filed on August 29, 1978, in Columbia LNG Docket No. CP71-68, *et al.*, by Southern Energy. This application is presently under review by the Energy Regulatory Commission (ERA).

Accordingly, Southern's proposed rate increase shall be accepted and suspended subject to Southern filing revised tariff sheets to reflect ERA's approval of any rate lower than Southern Energy's proposed rate. If Southern Energy's proposed rate increase is not approved by ERA by the end of the suspension period then Southern should file revised tariff sheets to reflect elimination of this cost. Sixth, since Congress recently adopted a tax measure which reduces the corporate federal income tax rate from 48% to 46% effective on January 1, 1979,[5] Southern shall be required to file revised tariff sheets reflecting the lower rate (46%). However, Southern shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

Southern requests a waiver of the filing requirements of § 154.63, Schedule H (1)-3 of the Commission's Regulations. Southern has priced its test year gas purchases at its currently effective PGA cost of gas and will recover all changes in purchased gas cost (except LNG purchases) through the PGA provisions of its tariff. Southern states that if the Commission modifies its proposed regulations in Docket No. RM79-1 or if the Commission Staff requests a schedule showing the cost of test year gas purchases by individual sources, Southern will provide such a cost and volume projection. Southern's method of filing in H (1)-3, complies with Order No. 16 in Docket No. RM79-1, and furthers the Commission's goal to reduce the time and effort spent reviewing filings to recover purchased gas costs, to reduce the number of filings which pipeline companies must prepare and prosecute and to provide more rate stability for distributors and ultimate consumers of natural gas. Accordingly, the Commission shall grant Southern's request for waiver of the filing requirements of § 154.63, Schedule H (1)-3.[6]

Southern further requests waiver of Order No. 10 in Docket No. RM78-23 to permit it to file tariff sheets which reflect the Louisiana First Use Tax. In the event the Commission denies the requested waiver, Southern has filed alternate tariff sheets, exclusive of the tax, to be placed into effect without prejudice to the company's position on the issue. Order No. 10 prohibits the inclusion of the Louisiana First Use Tax in general section 4 rate cases. The Commission on October 20, 1978, granted hearing of Order No. 10 in Docket No. RM78-23 for the limited purpose of further consideration, but the Commission did not stay the effectiveness of Order No. 10. Therefore, Southern's tariff sheet [7] reflecting the Louisiana First Use Tax shall be rejected and Southern's alternative tariff sheet [8] shall be accepted to become effective subject to refund, May 1, 1979.

On November 14, 1978, Mississippi Valley Gas Company (Mississippi Valley) filed a protest, comments and a motion to reject in part, Southern's rate filing. Mississippi Valley protests Southern's proposed rate increase and moves that the Commission reject Southern's Thirty-Second Revised Sheet No. 4A and/or Alternate Thirty-Second Revised Sheet No. 4A, and all other parts of Southern's filing relating to a so-called "phase-in" of a "one-zone system over a three-year period commencing on May 1, 1979."

Mississippi Valley contends that Southern's filing violates the requirements of § 154.63(f), Statement J, of the Regulations by not allocating costs to the three rate zones established in part rate proceedings. Mississippi Valley also contends that Southern's filing violates the agreement in Docket No. RP78-36 wherein all parties agreed to resolve all cost and zone allocation and rate design issues in that docket. Mississippi further contends that Southern's filing violates Section 4 of the Natural Gas Act by subjecting Zone 1 customers to discriminatory undue prejudice and disadvantage by forcing Zone 1 customers to subsidize the large Zone 3 customers.

The rates filed by Southern reflect the merging of Zones 2 and 3 into a single zone and a phase-out of its existing zones over a three year period commencing May 1, 1979. Southern notes that allocation, rate design, and zoning are issues in Docket No. RP 78-36 and that hearings are scheduled for November 28, 1978, and that the rates proposed in this filing will be presented as a rate alternative by Southern in those proceedings. Southern states that the merger is appropriate because the rate differential between zones 2 and 3 diminishes with the introduction of increased volumes of LNG in relating to the traditional gas supply during the test year in this rate proceeding.

Statement J requires the filing of justification of the methodology used to develop the proposed zone rates in a general section 4 rate filing. Nothing in Statement J precludes a company from proposing changes in rate zones in a rate change filing. Similarly, the proposed agreement in Docket No. RP78-36 provides only for hearing and resolution of the zoning issues, but does not restrict or preclude Southern from filing rates which reflect its position on such issues, and from collecting such rates, subject to refund, pending resolution of such issues. Accordingly, the Commission shall deny Mississippi Valley's motion to reject in part Southern's rate filing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commis-

[3] This condition is required by Section 154.63(e)(2)(ii) of the Regulations.

[4] This condition is required by Section 154.22 of the Regulations.

[5] H.R. 13511, PL 95-600 (1978).

[6] Waiver is necessary because Order No. 16 does not govern general Section 4 rate filings made prior to December 1, 1978.

[7] Sixth Revised Volume No. 1, Thirty-Second Revised Sheet No. 4A.

[8] Sixth Revised Volume No. 1, Alternate Thirty-Second Revised Sheet No. 4A.

sion enter upon a hearing concerning the lawfulness of the rates proposed by Southern and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Southern.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph C below, Southern's Alternate Thirty-Second Revised Sheet No. 4A to Sixth Revised Volume No. 1 and Sixth Revised Sheet No. 242 to Original Volume No. 2 are accepted for filing and suspended for five months until May 1, 1979, when they shall be permitted to become effective subject to refund, upon motion filed by Southern in accordance with the provisions of the Natural Gas Act.

(C) Southern shall file revised tariff sheets on or before May 1, 1979, reflecting:

(1) The elimination of all costs included in the proposed rates associated with facilities which have not been placed in service as of April 30, 1978. However, Southern shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other commission orders. Southern shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service;

(2) Actual advance payment balances in Account No. 166 as of April 30, 1979, provided that the inclusion of a higher advance payment balance shall not be permitted to increase the level of the original suspended rates;

(3) The elimination of all costs included in the proposed rates associated with the storage service certificate application in Docket No. CP78-327, if such storage service has not been approved by the Commission by the end of the suspension period;

(4) Any reduction in Research and Development cost as required by Opinion No. 30; and

(5) Any lower rates of Southern Energy approved by ERA or the elimination of Southern Energy's proposed increase if not approved by ERA by the end of the suspension period.

(6) The reduction in the corporate federal income tax rate from 48% to 46%. However, Southern shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(D) Southern's request for waiver of the Section 154.63 Schedule H(1)-3 filing requirements is granted.

(E) Southern's proposed Thirty-Second Revised Sheet No. 4A is rejected.

(F) The motion by Mississippi Valley to reject Southern's rate filing in part is denied.

(G) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and, *Provided, further,* that the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(H) The Commission Staff shall prepare and serve top sheets on all parties on or before March 5, 1979.

(I) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34756 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-64; (PGA79-1); (DCA79-1)]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

DECEMBER 4, 1978.

Take notice that Southern Natural Gas Company (Southern), on November 22, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective January 1, 1979. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would increase Southern's rates as a result of the following items:

(1) A Current Adjustment, factored to reflect recovery over all resale volumes, pursuant to Section 17.3 of the General Terms and Conditions of Southern's FPC Gas Tariff, for an increase in cost of purchased gas to jurisdictional customers of $96,304,072, or approximately 17.519¢ per Mcf.

(2) A Surcharge Adjustment, pursuant to Section 17.4 of the General Terms and Conditions of Southern's FPC Gas Tariff, for Unrecovered Purchased Gas Costs of 7.309¢ per Mcf which is a decrease of .506¢ below the present Surcharge Adjustment. The total of Unrecovered Purchased Gas Costs to be recovered is $20,652.906 and will be collected over the estimated sales for the six-month period commencing January 1, 1979.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to Section 9.6(3) of the General Terms and Conditions of Southern's FPC Gas Tariff of .004¢ per Mcf which is a decrease of 2.856¢ below the present Surcharge Adjustment.

Southern states that the Current Adjustment reflects the applicable Section 104 prices, as set out in Part 271 of the Notice of Proposed Rulemaking in Docket No. RM79-3-Regulations Implementing the Natural Gas Policy Act of 1978, but does not reflect costs attributable to categories of natural gas which require federal agency determination pursuant to Section 503 of the Natural Gas Policy Act of 1978.

Southern says it has also adjusted its Base Tariff Rates pursuant to Section V of the FERC Order in Opinion No. 30, Docket No. RP78-76, Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program to remove costs of funding the American Gas Association's Utility Research and Coal Gasification Programs which will now be funded by Gas Research Institute (GRI). Such adjustment reduces Southern's commodity and one part rates by .029¢ per Mcf. Also in accordance with Opinion No. 30, Southern is adjusting its GRI Surcharge Adjustment to .350¢ per Mcf effective January 1, 1979.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action

to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34709 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-73]

SOUTHERN NATURAL GAS CO.

Application

DECEMBER 4, 1978.

Take notice that on November 13, 1978, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-73 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on a best efforts basis, of up to approximately 2,000 Mcf of natural gas per day for Transcontiental Gas Pipe Line Corporation (Transco) acting individually and as agent of the owners of working interests in wells located in the Popcorn Bayou Field, Plaquemines Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Transco has arranged to purchase certain gas production from the Popcorn Bayou Field which is inaccessible to Transco's transmission facilities. Because Applicant maintains existing authorized transmission facilities in the vicinity of the said field, Applicant has agreed to transport the gas from a point on Applicant's 12-inch Black Bay Pipeline located at M.P. 27.56 in Plaquemines Parish, Louisiana (delivery point), to the authorized point of interconnection between the pipeline facilities of Applicant and Transco located near Jonesboro, Georgia (redelivery point), it is further stated.

It is asserted that Applicant would redeliver equivalent volumes, corrected for difference in Btu content between the delivery point and the redelivery point, less 3.5 percent of the volumes to account for fuel, company-used and lost or unaccounted-for gas upstream of the redelivery point.

It is stated that Transco has advised Applicant that the gas to be transported hereunder is:

(1) Gas attributable to working interests owned by participants in a joint venture known as the Transmac Exploration and Development Program (Transmac); and,

(2) gas to be purchased by Transco.

Applicant further states that transportation of such participants' gas to them for their use would help alleviate the effect on them of Transco's markets of the gas which Transco would purchase would help alleviate the curtailment on its system.

It is asserted that the permanent transportation arrangement described herein would be beneficial in that it would provide Transco with a means for taking delivery of an additional source of gas without having to construct and operate additional facilities duplicative of Applicant's existing pipeline facilities which are accessible to Transco's gas supply.

Applicant asserts that Transco has agreed to compensate Applicant for performing the transportation service described herein at a rate of 35.0 cents per Mcf at 14.73 psia of gas redelivered to Transco at Jonesboro, Georgia, and that Transco would also compensate Applicant for operating Transco's meter at the delivery point by paying Applicant $250.00 per month.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34710 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

SOUTHWEST GAS CORP.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 1, 1978.

Take notice that on November 17, 1978, Southwest Gas Corporation ("Southwest") filed, pursuant to Part 154 and particularly § 154.38(d)(4)(viii) of the Commission's Regulations under the Natural Gas Act, First Revised Sheet No. 27 and Original Sheet No. 32A of its FERC Gas Tariff, Original Volume No. 1. Southwest states that the purpose of its filing is to conform Southwest's existing Purchased Gas Adjustment Clause to §§ 154.38(d)(4)(iv)(a) and 154.38(d)(4)(iv)(b), as amended by the Commission in its Order No. 13 issued October 18, 1978 in Docket No. R-406.

As provided in the aforementioned order, Southwest has requested an effective date of January 1, 1979 for the proposed changes in its FERC Gas Tariff.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFT 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34731 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-67]

SOUTHWESTERN ELECTRIC POWER CO.

Filing

DECEMBER 7, 1978.

Take notice that on November 17, 1978, Southwestern Electric Company (SWEPCO) tendered for filing a letter agreement between SWEPCO and Central Louisiana Electric Company (CLECO) dated October 17, 1978 which provides for SWEPCO to offer to sell and CLECO to purchase 100 MW of capacity without reserves from Knox Lee Unit No. 5 during the period from January 1, 1979 through December 31, 1979.

SWEPCO proposes an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were sent to the Public Utility Commission of Texas, Louisiana Public Service Commission, Gulf States Utilities Company and Central Louisiana Electric Company, according to SWEPCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34757 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-81]

TENNESSEE GAS PIPELINE CO.

Application

DECEMBER 4, 1978.

Take notice that on November 21, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Filed in Docket No. 79-81 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the Connecticut Gas Company (Connecticut) all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Connecticut has entered into an Agreement, dated January 21, 1977, with Distrigas of Massachusetts Corporation (DOMAC), under which DOMAC would sell liquefied natural gas (LNG) to Connecticut. Temporary certificate authorization for such a sale was granted by the Commission in Docket No. CP77-216, *et al.*, it is said.

It is stated that Connecticut and Boston Gas Company (Boston) have entered into an Agreement, dated December 20, 1977, pursuant to which Boston would receive the aforesaid LNG from DOMAC for Connecticut's account.

It is further stated that, conditioned upon Tennessee's receipt of the authorization sought in Docket No. CP60-94, *et al.*, to execute a single gas sales contract with Connecticut, Tennessee has agreed with Boston and Connecticut to have released from Boston, an existing customer of Tennessee, daily volumes of natural gas as requested by Connecticut, up to 3,500 Mcf per day (maximum daily volume), and to transport and deliver equal volumes to Connecticut, also an existing customer. Receipt of such gas would be at Boston's and Tennessee's existing interconnection at the Arlington sales meter station delivery point, Middlesex County, Massachusetts, and delivery would be at Tennessee's and Connecticut's existing interconnection at the Derby sales meter station delivery point, Fairfield County, Connecticut. The volumes that Boston would make available to Tennessee for transportation to Connecticut would be volumes designated by Boston from its contracted demand purchases from Tennessee, it is said. It is indicated that the rate charged by Tennessee includes a monthly demand charge of 52.0 cents multipled by the maximum daily volume, plus a minus 1.71 cents for any excess or deficiency, and a volume charge equal to 6.44 cents multipled by the monthly total of the volumes which Tennessee daily agrees to receive, transport and deliver. In addition, there is proposed a minimum monthly bill, an annual minimum bill credit and an added volume charge.

It is stated that Tennessee can perform the proposed service by utilizing the capacity expected to be available in its pipeline system, and that its firm customers will not be affected.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a preceeding or to participate as a party in any hearing therein must file a petition to intevene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

FR Doc. 78-34711 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

DECEMBER 7, 1978.

Take notice that Texas Eastern Transmission Corporation on November 30, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Forty-fifth Revised Sheet No. 14
Substitute Forty-fifth Revised Sheet No. 14A
Substitute Forty-fifth Revised Sheet No. 14B
Substitute Forty-fifth Revised Sheet No. 14C
Substitute Forty-fifth Revised Sheet No. 14D

These sheets are being issued in substitution of sheets filed by Texas Eastern on October 17, 1978, due to a revision in United Gas Pipe Line Company's rates in its November 14, 1978 Motion in Docket No. RP78-68. The

above listed tariff sheets have also been revised to include the rates contained in Third Substitute Forth-fourth Revised Sheet Nos. 14, 14A-14D which were made effective on October 1, 1978, subject to refund, by Commission order dated November 28, 1978.

The proposed effective date of the above tariff sheets is December 1, 1978.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protestts should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34758 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

TEXAS GAS TRANSMISSION CORP.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 4, 1978.

Take notice that on November 29, 1978, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Original Sheet No. 106-A, First Revised Sheet Nos. 101 and 104 and Second Revised Sheet Nos. 105 and 106 to its FERC Gas Tariff, Third Revised Volume No. 1. This filing reflects the revision of Texas Gas' presently effective PGA clause to conform to the requirements of the Federal Energy Regulatory Commission's Order No. 13 issued October 18, 1978 in Docket No. R-406. The revised sheets reflect the seim-annual filing dates of February 1 and August 1 and the inclusion of carrying charges on the net balances of Accounts 190, 191 and 283.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34705 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-79]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 4, 1978.

Take notice that on November 20, 1978, Transcontinental Gas Pipe Line Corporation (Transco), 2700 South Post Oak Road, Houston, Texas 77056 and Texas Eastern Transmission Corporation (Texas Eastern), One Houston Center Building, Houston, Texas 77002 (Applicants) filed in Docket No. CP79-79, a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Texas Eastern has contracted with Marathon Oil Company and Aminoil USA, Inc. to purchase available natural gas reserves estimated at 43,720,000 Mcf in Block 331, Vermilion Area, South Addition, offshore Louisiana, in the Federal domain; and that Transco has purchase rights to reserves estimated at 25,000,000 Mcf of natural gas in Blocks 58 and 59, Chandeleur Sound Area, St. Bernard Parish, offshore Louisiana, owned by Amoco Production Company, McMoRan Exploration Company, Transco Exploration Company and Texas No. 2 Corporation.

Pursuant to a transportation and exchange agreement, (Agreement) dated November 2, 1978, Applicants propose to effect delivery of these gas reserves to their respective pipeline systems by the following arrangements:

1. Transco would transport up to 17,400 Mcf of natural gas per day for Texas Eastern, on a firm basis, through Transco's existing Southeast Louisiana Gathering System from Block 331, Vermilion to a point in Block 66, South Marsh Island Area (SMI); connecting facilities were constructed under authority granted in Docket No. CP77-453 on Sept. 23, 1977;

2. Transco would construct and operate the necessary pipeline facilities to connect Blocks 58 and 59, Chandeleur Sound with Texas Eastern's existing pipeline facilities in Block 7, Main Pass Area; authority for such construction would be sought in a separate application.

3. At the connection with its Main Pass facilities, Texas Eastern would receive up to 17,400 Mcf of natural gas per day on a firm basis from Transco. Transco and Texas Eastern would exchange equivalent volumes of gas, adjusted for Btu content, received by Transco at Block 66, SMI and by Texas Eastern at the Main Pass connection. Imbalances would be adjusted by deliveries by the pipeline owing gas to the other at the connection between the two pipeline systems at Ragley, Beauregard Parish, Louisiana, or any other mutually agreeable authorized delivery points.

Applicants state that the estimated initial demand charge for the proposed firm transportation service for Texas Eastern will be $121,626 monthly, and is based on preliminary estimates of the cost of completing the facilities authorized in Docket No. CP77-453 and a daily contract demand of 17,400 Mcf for Texas Eastern.

Under the Agreement, the Monthly Demand Charge would be adjusted, upward or downward, at a rate of 23 cents per Mcf, if the amount transported daily by Transco varies by more than 2 percent of the daily contract demand, it is said.

Applicants further state that the first year's demand charge will be adjusted prior to initial service to reflect actual costs of the facilities and that at the beginning of the second and third years of service, the demand charge would be redetermined to reflect the estimated aggregate volumes of gas to be handled through the facilities in those years, and the adjusted demand charge established at the beginning of the third year of service shall remain in effect thereafter, subject to Transco's right to file changes in its rate and charges, from time to time, for the service rendered.

Applicants assert that the proposed transportation and exchange arrangement would effect delivery of substantial natural gas reserves to their respective systems by utilizing existing capacity and thereby avoiding duplication's of expensive offshore pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34712 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76 and RP78-11]

TRUNKLINE GAS CO.

Change in Tariff

DECEMBER 6, 1978.

Take notice that on November 22, 1978, Trunkline Gas Company (Trunkline) tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 1:

Twenty-Fourth Revised Sheet No. 3-A

An effective date of January 1, 1979 is proposed.

Trunkline states that this filing is made pursuant to:

(1) Ordering Paragraph (B) of Opinion No. 30 issued September 21, 1978 in Docket No. RP78-76. This Opinion authorizes members of the Gas Research Institute (GRI) to file RD&D cost adjustment provisions which would permit the collection of 3.5 mills per Mcf (3.4 mills when adjusted to Trunkline's pressure base) of Program Funding Services for payment to GRI.

(2) Article VIII, Paragraph 1 in the Agreement As To Rates And Related Matters dated July 14, 1978 in Docket No. RP78-11. This Article requires Trunkline to reflect in its rates, changes from the 48% Federal Income Tax level. Section 301 in the Revenue Act of 1978 reduces the Federal Income Tax level to 46% effective January 1, 1979.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc. 78-34728 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

TRUNKLINE GAS CO.

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

DECEMBER 1, 1978.

Take notice that Trunkline Gas Company (Trunkline) on November 22, 1978, tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 21-D
Second Revised Sheet No. 21-E
Fifth Revised Sheet No. 21-F
Second Revised Sheet No. 21-G
Second Revised Sheet No. 21-H
First Revised Sheet No. 21-I
Second Revised Sheet No. 21-J

An effective date of January 1, 1979 is proposed.

Trunkline states that Order No. 13 in the subject docket requires pipelines to file revised tariff sheets to conform their existing PGA clauses to meet the criteria promulgated in the order. Trunkline has amended its tariff sheets to reflect:

(1) Semi-annual PGA effective dates of March 1 and September 1 pursuant to § 154.38(d)(4)(vi)(a) of the Commission's Regulations.

(2) Carrying charges computed pursuant to § 154.38(d)(4)(iv)(c) of the Commission's Regulations. Trunkline presently adheres to the principles of interperiod income tax allocation in connection with the balances recorded in the unrecovered purchased gas cost account. Therefore, Trunkline has fulfilled the Commission requirements of § 154.38(d)(4)(iv)(b).

Copies of this filing were served on Trunkline's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34734 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 906]

VIRGINIA ELECTRIC POWER CO.

Issuance of Annual License(s)

DECEMBER 5, 1978.

On August 15, 1977, Virginia Electric Power Company, Licensee for the Cushaw Project No. 906, located on the James River in Amherst County, Virginia, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 906 was issued in 1928, for a period ending June 15, 1978. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Virginia Electric Power Company.

Take notice that an annual license has been issued to Virginia Electric Power Company for the period June 16, 1978, to June 15, 1979, or until the

issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Cushaw Project No. 906, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before June 15, 1979, a new annual license will be issued each year thereafter, effective June 16, of each year, until such time as a new license is issued, without further notice being given by the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34729 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-82]

WASHINGTON WATER POWER CO.

Filing

DECEMBER 7, 1978.

Take notice that on November 28, 1978, The Washington Water Power Company (Washington) tendered for filing copies of an agreement between the Company and Pacific Power and Light Company (Pacific) which provides for a schedule of payments by Pacific to Washington in compensation for a series capacitor bank removed from jointly-owned transmission facilities by Pacific.

Pacific and Washington jointly constructed 230-kv transmission lines from Washington's Lolo substation to Pacific's Walla Walla substation and from Grant County Public Utility's Wanapum switching station to Walla Walla substation. Ownership of these facilities, which included a series capacitor bank at Walla Walla, was arranged to correspond to an equal investment cost.

Subsequent transmission developments reduced the need for the series capacitor bank in the Wanapum-Walla Walla line but made it desirable that the bank be installed in Pacific's Walla Walla-Enterprise 230-kv line. With Washington's permission, the bank was removed from the jointly owned Wanapum-Walla Walla line on November 11, 1976, and reinstalled in Pacific's Walla Walla-Enterprise line.

The subject agreement provides for compensation to Washington from Pacific for Washington's interest in the series capacitor bank and for additional payments in compensation for operation and maintenance costs and taxes which Washington will incur in the resulting imbalance of remaining facilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34759 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-41 (PGA 79-1)]

WESTERN TRANSMISSION CORP.

Proposed Changes

DECEMBER 6, 1978.

Take notice that Western Transmission Corporation (Western), on November 1, 1978, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheet:

Tenth Revised Sheet No. 3-A, superseding Ninth Revised Sheet No. 3-A

The proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the proposed provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Because of the brief time available subsequent to the Commission's adoption of its new rules relating to Purchased Cost Adjustment Clauses, Western requests that the notice provision otherwise applicable be waived so as to permit the proposed rates to become effective December 1, 1978.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34730 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-41; (PGA 79-1)]

WESTERN TRANSMISSION CORP.

Proposed Changes

DECEMBER 6, 1978.

Take notice that Western Transmission Corporation (Western), on November 1, 1978, and on November 29, 1978, tendered for filing in the alternative as part of its FERC Gas Tariff, Original Volume No. 1, two versions of the following sheet:

Tenth Revised Sheet No. 3-A, superseding Ninth Revised Sheet No. 3-A

The proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Because this is an alternative filing, Western requests that the notice provision otherwise applicable be waived so as to permit the proposed rates to become effective December 1, 1978 or January 1, 1979 depending on whether the Commission accepts the filing under its new Purchased Gas Cost Adjustment Clause, or under the existing clause.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34713 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Project No. 2855]

TOWN OF WINDSOR VT.

Application for Preliminary Permit

DECEMBER 5, 1978.

Public notice is hereby given that on June 23, 1978, an application for a preliminary permit was filed by the Town of Windsor, Vermont, for the proposed Hart Island Hydroelectric Project No. 2855. The project would be located on the Connecticut River, a navigable water of the United States, in Windsor County, Vermont and Sullivan County, New Hampshire, approximately 400 feet downstream from Hart Island, 1.5 river miles downstream from Hartland, Vermont, and 12 river miles downstream from the existing Wilder Project, FERC No. 1892, near the town of North Hartland, Vermont. Correspondence regarding the application should be sent to: Mr. Douglas C. Delano, Town Manager, Town of Windsor, 147 Maine Street, Windsor, Vermont 05089 and Mr. John D. Paterson, Paterson, Gibson, Noble & Brownell, P.O. Box 159, Montpelier, Vermont 05602.

According to the application, the proposed project, with an installed capacity of 15,000 kW, would consist of: (1) a 1,200-foot-long concrete dam across the main river channel, having a height to be determined in light of preliminary permit studies, and creating a gross head of 20 to 24 feet; (2) a storage reservoir; (3) a powerhouse; and (4) all other facilities and interests appurtenant to the operation of the project.

The Applicant proposes that the power developed would be used or marketed to meet present and future electric energy requirements of the residential members served by the Applicant. Any surplus capacity and/or energy would be sold to, or exchanged with, electric utilities in the area, for public utility purposes.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 9, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34727 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. EL79-3]

WISCONSIN PUBLIC SERVICE CORP.

Application To Sell Certain Electric Facilities

DECEMBER 6, 1978.

Take notice that Wisconsin Public Service Corporation (Applicant) on November 15, 1978, tendered for filing an application pursuant to Section 203 of the Federal Power Act for authority to sell certain facilities to the City of Sturgeon Bay, Wisconsin.

Applicant indicates that the purchase price of the facilities being sold which are subject to the jurisdiction of the FERC is $426,584.75, subject to adjustment as provided in paragraph 2 of the Purchase Agreement.

The facilities subject to the jurisdiction of FERC which are to be sold consist of plant and land comprising part of Applicant's Sawyer Substation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34714 Filed 12-13-78; 8:45 am]

[6740-02-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

DECEMBER 7, 1978.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and date
State of California, Department of Conservation, Division of Oil and Gas, December 4, 1978.
State of Colorado, Department of Natural Resources, Oil and Gas Conservation Commission, December 5, 1978.
State of Wyoming, Office of Oil and Gas Conservation Commission, December 4, 1978.

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34704 Filed 12-13-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1024-6]

SCIENCE ADVISORY BOARD, SUBCOMMITTEE ON ARSENIC AS A POSSIBLE HAZARDOUS AIR POLLUTANT

Meeting

Under Public Law 92-463, notice is hereby given of a meeting of the Subcommittee on Arsenic As a Possible Hazardous Air Pollutant. This is the Subcommittee's second meeting, and will be on January 10, 1979, in Room 1112A of Crystal Mall Building #2 (1921 Jefferson Davis Highway, Arlington, Virginia 22209), beginning at 9:30 a.m.

The purpose of the meeting will be to review revised scientific documents on arsenic. Public availability of these documents has not been determined as of the date of this announcement. The Offices of Research and Development and Air Quality Planning and Standards will issue FEDERAL REGISTER notices shortly as to public availability of

documents. Documents are not available from the Science Advisory Board.

The meeting is open to the public. Persons desiring to attend should preregister prior to close of business on January 5, 1979. Please contact Ms. Carolyn Osborne (703) 557-7710 to pre-register. Persons desiring to provide the Subcommittee with materials for consideration should provide ten (10) copies of materials prior to January 3, 1979 to assure distribution. Materials should be documented and scientifically substantive, but bulky references should be avoided. If other arrangements are needed, please contact the Subcommittee Officer, Dr. Joel L. Fisher (703) 557-7710 as soon as possible.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

DECEMBER 8, 1978.

[FR Doc. 78-34687 filed 12-13-78; 8:45 am]

[6560-01-M]

[FRL 1024-8]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHOD DESIGNATIONS

Horiba Models AQM-10, AQM-11, AQM-12 Ambient CO Monitoring Systems

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of carbon monoxide. The new reference method is an automated method (analyzer) which utilizes a measurement principle based on nondispersive infrared spectrometry. The method is:

FRCA-1278-033, Horiba "Models AQM-10, AQM-11, and AQM-12 Ambient CO Monitoring Systems" operated on the 0-50.0 ppm range, with a response time setting of 15.5 sec., and with or without any of the following options:

(a) AIC-101 Automated Indication Corrector
(b) VIT-3 Non-Isolated Current Output
(c) ISO-2 and DCS-3 Isolated Current Output.

These analyzers are available from Horiba Instruments, Inc., 1021 Duryea Avenue, Irvine Industrial Complex, Irvine, California 92714.

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 43, March 29, 1978, page 13094.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method.

The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of § 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (*e.g.*, operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under § 51.17(a)(f) (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (*e.g.*, by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modifed) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

STEPHEN J. GAGE,
Assistant Administrator for
Research and Development.

DECEMBER 8, 1978.

[FR Doc. 78-34688 Filed 12-13-78; 8:45 am]

[6560-01-M]

[FRL 1025-2; PP 6G1811/T176]

OXAMYL

Pesticide Programs; Establishment of a Temporary Tolerance

E. I. duPont de Nemours Co., Inc., Wilmington, DE 19898, has submitted a pesticide petition (PP 6G1811) to the Environmental Protection Agency (EPA). This petition requests that a

temporary tolerance be established for residues of the insecticide oxamyl (methyl-*N'*,*N'*-dimethyl-*N* [methylcarbomoyl) oxy]-1-thiooxamimidate) in or on the raw agricultural commodity cottonseed at 0.2 part per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. E. I. duPont de Nemours Co., Inc. must immediately notify the EPA of any findings from the experimental use that have bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires November 9, 1979. Residues not in excess of 0.2 ppm remaining in or on cottonseed after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of, the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, East Tower, 401 M St., SW., Washington DC 20460 (202/426-9425).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: December 7, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-34823 Filed 12-13-78; 8:45 am]

[6560-01-M]

[FRL 1025-3; pp 3G1349 and 3G1316/T177]

OXAMYL

Pesticide Programs; Renewal of Temporary Tolerances

On September 20, 1977, the Environmental Protection Agency (EPA) announced (42 FR 47245) the renewal of temporary tolerances for residues of the insecticide oxamyl (methyl-*N'*,*N'*-dimethyl-*N*[(methylcarbamoyl) oxy]-1-thiooxamimidate) in or on raw agricultural commodities citrus fruits at 3.0 parts per million (ppm) and apples at 2.0 ppm (in response to Pesticide Petition (PP) 3G1349); peanut hulls at 0.2 ppm and peanuts and potatoes at 0.1 ppm (in response to PP 3G1316).

These tolerances were established (40 FR 13334) in response to the above pesticide petitions submitted by E. I. du Pont de Nemours Co., Inc., Wilmington, DE 19898. This renewal expired July 6, 1978.

E. I. de Pont de Nemours Co., Inc. requested a 16-month renewal of certain of these temporary tolerances to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. E. I. du Pont de Nemours Co., Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire November 8, 1979. Residues not in excess of 3.0 ppm in or on citrus fruits, 0.2 ppm in or on peanut hulls and 0.1 ppm in or on peanuts after expiration of these temporary tolerances will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of, the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460 (202/426-9425).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act 121 U.S.C. 346a(j)1.)

Dated: December 7, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-34824 Filed 12-13-78; 8:45 am]

[6560-01-M]

[FRL 1025-4; PF-116]

PESTICIDE AND FOOD ADDITIVE PETITIONS

Filing

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2134. American Cyanamid Co., PO Box 400, Princeton, NJ 08540. Proposes that 40 CFR 180.361 be amended by establishing a tolerance for the combined residues of the herbicide pendimenthalin (*N*-(1-ethylproply)-3,4-dimenthyl-2,6-dinitrobenzeamine) and its metabolite 4-[(1-ethylproply) amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on the raw agricultural commodity potato at 0.1 part per million (ppm). The proposed analytical method for determining residues is by thin layer chromatography and a liquid scintillation counter. PM25. (202/755-2196).

PP 9F2144. Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. Proposes that 40 CFR 180.249 be amended by establishing tolerances for the combined residues of the herbicide alachlor [2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide] and its metabolites (calculated as alachlor) in or on the raw agricultural commodities sugarcane and sugarcane fodder and forage at 0.2 ppm. The proposed analytical method for determining residues is by gas liquid chromatography using a flame ionization detector. PM25.

PP 9F2146. Rohm and Haas, Independence Mall West, Philadelphia, PA 19105. Proposes that 40 CFR 180 be amended by establishing tolerances for the combined residues of the fungicide indar (4-butyl-4*H*-1,2,4-triazole) and its metabolites containing the triazole moiety in or on the raw agricultural commodities wheat and wheat straw at 2.0 ppm; meat, fat, meat byproducts of cattle, goats, hogs, horses, sheep, milk, eggs, and poultry at 0.5 ppm. The proposed analytical method for determining residues is by gas chromatography with a flame ionization detector, PM21. (202/426-2454).

FAP 9H5200. Rohm and Haas. Proposes that 21 CFR 193 be amended by establishing a regulation permitting the residues of the fungicide indar (4-butyl-4*H*-1,2,4-triazole) and its metabolites containing the triazole moiety on the commodity wheat with a tolerance limitation of 8.0 ppm resulting in the food wheat bran. PM21.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 7, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-34825 Filed 12-13-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

CB & T BANCSHARES, INC.

Acquisition of Bank

CB & Bancshares, Inc., Columbus, Georgia, has applied for the Board's approval under Section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of Security Bank and Trust Company of Albany, Albany, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 2, 1979. Any comment on an application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34765 Filed 12-13-78; 8:45 am]

[6210-01-M]

CREDIT AND COMMERCE AMERICAN HOLDINGS, N.V. AND CREDIT AND COMMERCE AMERICAN INVESTMENT, N.V.

Formation of Bank Holding Company

Credit and Commerce American Holdings, N.V., Curacao, Netherlands Antilles, and Credit and Commerce American Investment, B.V., Amsterdam, Netherlands, have applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring up to 100 per cent of the voting shares of Financial Gereral Bankshares, Inc., Washington, D.C., a multi-bank holding company controlling the following banks: Community State Bank, Albany, New York; Bank of Commerce, New York, New York; Eastern Shore National Bank, Pocomoke City, Maryland; Chesapeake National Bank, Towson, Maryland; American Bank of Maryland, Silver Spring, Maryland; Union First National Bank of Washington, Washington, D.C.; First American Bank of Virginia, Fairfax County, Virginia; Peoples National Bank of Leesburg, Leesburg, Virginia; The Round Hill National Bank, Round Hill, Virginia; Valley National Bank, Harrisonburg, Virginia; First National Bank of Lexington, Lexington, Virginia; Shenandoah Valley National Bank, Winchester, Virginia, and Valley Fidelity Bank and Trust Company, Knoxville, Tennessee. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 8, 1979.

Any comment on an application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34762 Filed 12-13-78; 8:45 am]

[6210-01-M]

DENISON BANCSHARES, INC. OF HOLTON

Formation of Bank Holding Company

Denison Bancshares, Inc. of Holton, Holton, Kansas, 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 94.37 percent or more of the voting shares of The Denison State Bank, Holton, Kansas. 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 Kansas City. Any person wishing to comment on the application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34760 Filed 12-13-78; 8:45 am]

[6210-01-M]

LONGVIEW FINANCIAL CORP.

Formation of Bank Holding Company

Longview Financial Corporation, Longview, Tex., 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 Longview Bank and Trust Company, Longview, Tex. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 3, 1979. Any comment on an application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34763 Filed 12-13-78; 8:45 am]

[6210-01-M]

SECURITY BANCSHARES OF MONTANA, INC.

Acquisition of Bank

Security Bancshares of Montana, Inc., Billings, Montana, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of Rimrock Bank of Billings, Billings, Montana. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 8, 1979. Any comment on an application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34764 Filed 12-13-78; 8:45 am]

[6210-01-M]

WHITE OAK BANCSHARES, INC.

Formation of Bank Holding Company

White Oak Bancshares, Inc., White Oak, Texas, 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 White Oak Bank, White Oak, Texas. These 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1978. Any comment on an application that requests a hearing 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, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34761 Filed 12-13-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

CANADA DEVELOPMENT CORP.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Canada Development Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of stock in Texasgulf, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, 202-523-3404.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

FR Doc. 78-34819 Filed 12-13-78; 8:45 am]

[6750-01-M]

TRAVELERS CORP.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: The Travelers Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Keystone Custodian Funds, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by The Travelers Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc 78-34806 Filed 12-13-78; 8:45 am]

[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 accepted by the Regulatory Reports Review Staff, GAO on December 11, 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 FCC 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 January 2, 1979, 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.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of revisions to Form 400, Application for Radio Station Authorization in the Safety and Special Radio Services. All applications for new stations to be interconnected with the facilities of wire line common carriers are to include a complete description of the equipment, devices, and techniques to be used to accomplish interconnection to show compliance with applicable provisions of Subpart 89.951(e) of the Commission's Rules and Regulations. The FCC estimates that out of 156,000 respondents to Form 400, approximately 4,000 applications filed annually will involve interconnected systems and respondent burden for interconnected systems applications will average 15 minutes and for all other Form 400 applicants burden will average 4.3 hours per application.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc. 78-34803 Filed 12-13-78; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

ROUGH CANYON MARINA 1144, INC.

Intention to Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on January 15, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Rough Canyon Marina 1144, Inc., authorizing it to continue to provide concession facilities and services for the public at Amistad Recreation Area for a period of two (2) years from January 1, 1980, through December 31, 1981.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Rough Canyon Marina 1144, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed extension and a perference in the award of the contract, if, thereafter, the proposal of Rough Canyon Marine 1144, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Rough Canyon 1144, Inc. (as determined by the Secretary), is submitted, Rough Canyon Marina 1144, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Rough Canyon Marina 1144, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted on or before January 15, 1979 to be considered and evaluated.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: December 7, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director, National Park Service.

[FR Doc. 78-34690 Filed 12-13-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 35393]

NEW MEXICO

Application

DECEMBER 6, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 8 W., N.M.P.M.
Sec. 3, lot 1 and SE¼NE¼.

This pipeline will convey natural gas across 0.205 of a mile of public land in San Juan County, New Mexico.

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, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34785 Filed 12-13-78; 8:45 am]

[4310-84-M]

PRINEVILLE DISTRICT GRAZING ADVISORY

Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the newly formed Prineville District Grazing Advisory Board will be held January 30, 1979.

The meeting will begin at 10 a.m. in the conference room of the Bureau of Land Management Office at 185 East 4th Street, P.O. Box 550, Prineville, Oregon 97754.

The agenda will include: (1) Election of chairperson and vice chairperson for the calendar year of 1979. (2) Defining the functions and responsibilities of the Board as derived from the Federal Land Policy and Management

Act of 1976. (3) Abstraction and discussion of the Public Rangelands Improvement Act of 1978. (4) Range betterment expenditures in the Prineville District as proposed by the FY 79 Annual Work Plan. (5) Progress report and completion schedule for the Brothers Environmental Statement on livestock grazing.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager, at the above named address, at least 7 days prior to the meeting date.

Summary minutes of the board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

PAUL W. ARRASMITH,
District Manager.

DECEMBER 5, 1978.

[FR Doc. 78-34779 Filed 12-13-78; 8:45 am]

[4310-84-M]

[Wyoming 65913]

WYOMING

Application

DECEMBER 6, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma, filed an application for a right-of-way to construct a 6⅝-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 93 W.,
Sec. 12, S½NE¼, NW¼NE¼ and NE¼NW¼.

The proposed pipeline will transport natural gas from a point in section 7, T. 19 N., R. 92 W., in a northwesterly direction to a point of connection with an existing gathering line located in section 1, T. 19 N., R. 93 W., Carbon County, Wyoming.

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, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34781 Filed 12-13-78; 8:45 am]

[4310-84-M]

[Wyoming 65820]

WYOMING

Application

DECEMBER 6, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah, filed an application for a right-of-way to construct a road to provide access to its Main Line Valves 4-8 and 4L-8 affecting the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 108 W.,
Sec. 7, lots 2 and 3.
T. 14 N., R. 109 W.,
Sec. 1, SE¼NW¼ and NE¼SW¼;
Sec. 12, S½NE¼, NW¼NE¼ and NE¼SE¼.

The road is located in sec. 7, T. 14 N., R. 108 W., and will provide access to Northwest Pipeline Corporation's existing pipeline in the SW¼NE¼ sec. 12, T. 14 N., R. 109 W., all in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34782 Filed 12-13-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION; DISTRICT OF COLUMBIA PANEL

Meetings

The following is the schedule of meetings for the District of Columbia Panel of the United States Circuit Judge Nominating Commission. The first two meeting will be a preliminary screening of all applicants and the final two meetings will be devoted to interviewing prospective candidates. All meetings will be held in the offices of the Chairman, 1120 Connecticut Avenue, N.W., Washington, D.C.; they will be closed to the public pursuant to P.L. 92-463, Section 10(D) as amended. (CF. 5 U.S.C. 552b(c)(6).)

1. January 30, 1979 at 6:00 p.m.
2. February 20, 1979 at 8:00 a.m.
3. February 28, 1979 at 8:00 a.m.
4. March 1, 1979 at 8:00 a.m.

Dated: December 7, 1978.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc. 78-34695 Filed 12-13-78; 8:45 am]

[6820-36-M]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

AGENCY: National Transportation Policy Study Commission.

ACTION: Cancellation of Commission open meeting.

SUMMARY: Open meeting of the National Transportation Policy Study Commission is cancelled. Meeting was scheduled for December 14, 1978 to begin at 9:00 am in room 2167 of the Rayburn House Office Building.

FOR FURTHER INFORMATION CONTACT:

Joseph La Sala, 254-7453.

Dated: December 12, 1978.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 78-35011 Filed 12-13-78; 9:10 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-50]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

Availability

Special Investigation Report.—The National Transportation Safety Board has completed a special investigation of the wing failure of a Boeing 747-131 near Madrid, Spain, on May 9, 1976. The Imperial Iranian Air Force aircraft crashed as it approached Madrid. Witnesses observed lighning strike the aircraft, followed by fire, explosion, and separation of the left wing.

The report, No. NTSB-AAR-78-12 released December 6, details the factual findings of Safety Board investigators who assisted in the investigation conducted by the Imperial Iranian Air Force. Analysis is limited to development of alternate hypotheses as to the

nature of the wing failure based on investigative evidence, but the Safety Board did not choose between these hypotheses. The Board did not determine the probable cause or identify casual and contributing factors because it has no statutory authority to do so.

Included in the report are fire pattern studies, structural failure descriptions, trajectory analysis, fuel flammability calculations, gust loading analysis, and an analytical treatment of several hypotheses.

Responses to Safety Recommendations

Pipeline

P-74-1.—Letter of November 22 from the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, is in further response to a recommendation issued following Safety Board investigation of a pipeline failure at Coopersburg, Pa., February 21, 1973. The recommendation asked DOT to require pipeline operators to have definite procedures to protect their facilities affected by blasting operations—the regulations to consider, at a minimum, the age of the pipeline, the operating pressure, the type of weld or mechanical joint, the general condition of the facility, the type of soil, and the area geography.

RSPA's letter refers to DOT's initial response of March 29, 1974, which indicated that new rules would be proposed to clarify the intent of requirements for operating and maintenance and emergency plans. On March 31, 1976, an amendment was issued to 49 CFR Part 192 which required operators to take more prompt and effective action in responding to an emergency. This amendment clarified and delineated the requirements for emergency plans included in § 192.615; also, it required operators to establish procedures for responding to an explosion occurring near or directly involving a pipeline facility.

RSPA states that since this regulatory action only partially satisfies the intent of the recommendation, an amendment will be proposed to Part 192 to require that pipleline operators have definite procedures to protect their facilities affected by blasting operations. This project will be in DOT's 1979 regulatory agenda.

P-77-13 and 14.—Occupational Safety and Health Administration, U.S. Department of Labor, on November 27 responded to the Safety Board's inquiry of June 16 concerning status of implementation of these recommendations.

The two recommendations, issued following investigation of a pipeline accident in Buffalo, N.Y., March 26, 1977, in which two men were asphyxiated while working in a manhole, concerned the testing of atmosphere in a manhole or vault prior to entry for work and the testing for all possible toxic substances and hazardous materials that might be found in the manhole or vault.

OSHA reports that it is now reviewing the draft of a criteria document covering work in confined spaces. The document was prepared by the National Institute of Occupational Safety and Health (NIOSH) at OSHA's request. The final criteria document is expected from NIOSH in the near future, at which time an OSHA standard will be developed. OSHA requests that the Safety Board provide comments for the record when the proposal is published in the Federal Register.

P-77-34 through 36.—RSPA's letter of November 17 addresses recommendations resulting from Board investigation of the gas pipeline accident which occurred on December 7, 1976, near Robstown, Tex. The recommendations asked the Materials Transportation Bureau (MTB) to:

> Review compressor station accidents to determine if there have been similar problems with remote-control shutdown devices. If there have been reliability problems, survey to determine the optimum time between inspections and amend 49 CFR 192.731(c) by decreasing the time interval between inspection and testing from the current minimum of 1 year to reflect these findings. (P-77-34)
>
> Add to 49 CFR Part 192 a requirement for pneumatic-operated compressor station equipment, similar to the requirement in 49 CFR 192.167(3) for electric-operated equipment, to isolate instrument air supply to automatic facilities, and to provide backup or separate emergency pneumatic facilities. (P-77-35)
>
> Add to 49 CFR 192.729 a section to require the proper torquing procedures for studs, as specified by the compressor manufacturer, when reassembling compressors after maintenance work. Include periodic testing of these studs, by ultrasonic or other means, to insure their integrity during operation. (P-77-36)

RSPA reports in response to P-77-34 that MTB has initiated a study of all compressor station incidents occurring in 1975 and 1976—the latest two years of automated data in MTB's data bank. Because present leak report forms do not specify if compressor station incidents resulted from problems with remote-control shutdown devices, RSPA plans to contact each of these operators to ascertain the exact cause of the failure. This study will be completed this month. Also, RSPA plans to investigate future failures on compressor stations to determine if problems exist with remote-control shutdown devices, and 49 CFR 192.731(c) will be amended if necessary to decrease the time interval between inspection and testing from the current minimum of one year.

MTB completely concurs with recommendation P-77-35 and will incorporate this project in developing the regulatory schedule commencing in January 1979.

RSPA states that it agrees with the first part of recommendation P-77-36 and this project will be considered in its 1979 regulatory schedule. The second part—to include periodic testing of these studs—however, requires additional information which RSPA plans to gather in connection with the study relating to P-77-34. Appropriate regulatory action will be taken if a safety problem exists.

P-78-24.—RSPA's letter of November 17 is in response to a recommendation issued following investigation of a gas pipeline incident which occurred on December 1, 1977, in Atlanta, Ga. The recommendation called for MTB to amend 49 CFR 192.181(a) to specifically define the requirement for location and number of emergency valves. The Safety Board's July 6 letter issuing this recommendation (43 FR 30510, July 13, 1978) also made reference to recommendation P-73-4 resulting from investigation of a pipeline accident at Lake City, Minn., on October 30, 1972. The recommendation called on DOT to amend 49 CFR 192.181(a) to include requirements which express clearly the intent of the Office of Pipeline Safety concerning the number and the location of emergency valves in high pressure gas distribution systems and which treat the need for keys in the hands of local authorities.

RSPA states that after carefully reviewing recommendation P-77-24 and reconsidering P-73-4, it still does not feel that specific requirements concerning the location and number of emergency valves can be developed to apply to all the varying types of existing gas distribution systems. Each of these systems or parts of systems has been designed and constructed to fulfill a unique distribution need.

Considering the varied types of distribution systems, RSPA believes its present regulations satisfy the intent of the Board's recommendation. Under § 192.181, operators must have valves spaced to reduce the time needed to shut down a section of main in an emergency. Operators are also required to have each valve on a main installed for operating or emergency purposes, to be placed in a readily accessible location so as to facilitate its operations in an emergency. Also, RSPA states, § 192.615 requires each operator to establish a written procedure to minimize the hazard resulting from a pipeline emergency. These procedures require the operators to provide for a prompt and effective re-

sponse to each type of emergency. Each operator is required to have emergency shutdown and pressure reduction procedures for any section of its pipeline system necessary to minimize hazards to life or property.

Railroad

R-78-42.—Letter of November 30 from the Federal Railroad Administration concerns a recommendation issued last July 10 as a result of a Safety Board study of railroad pedestrian accidents. (See 43 FR 31248, July 20, 1978.) The Board found that some 280 trespassers were struck and killed by trains on railroad tracks and rights-or-way during the study period—March 1, 1976, to October 30, 1977. The recommendation asked FRA to develop criteria for the selection of fence sites, these criteria to consider the number of tracks, the frequency of trains on the tracks, and built-up areas nearby, as well as the direction and purpose of pedestrian movement and the topography of the site.

FRA reports that it has initiated an analysis of the potential cost benefits of fencing key portions of railroad rights-of-way, the findings to be incorporated in FRA's Hazards Analysis and Priority Determination System for comparative evaluation with other possible safety improvement projects. Conclusions will indicate whether fencing of railroad sites could be cost effective safety improvements and, if so, what criteria should be used for selecting suitable sites.

NOTE: The above notice summarizes 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.

DECEMBER 8, 1978.

[FR Doc. 78-34783 Filed 12-13-78; 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 December 7, 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 from 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

DEPARTMENT OF ENERGY

EIA-23 Sample Evaluation Survey
EIA-115
Single-time
500 potential oil & gas well operators
500 responses; 9 hours
Hill, Jefferson B., 395-5867

INTERNATIONAL COMMUNICATION AGENCY

Certificate of Eligibility for Exchange Visitor
(J-1) Status
IAP-66
On occasion
50,000 exchange students, teachers, scholars & trainees
50,000 responses; 12,250 hours
Marsha Traynham, 395-3773

DEPARTMENT OF ENERGY

Insulation Retailers Pilot Study
EIA-34
Monthly
8,000 retail lumberyards
8,000 responses; 4,000 hours
Hill, Jefferson B. 395-5867

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Key question determining continuing eligibility for Supplemental Security Income Payments
SSA-8202
Annually
Aged, blind, and disabled SSI recipients 2,220,000 responses; 222,000 hours, Reese B. F., 395-3211

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-34766 Filed 12-13-78; 8:45 am]

[3110-01-M]

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 December 6, 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 thru 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

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service
Effects of nonpoint pollution control in Georgia
Single-time
Operators of sample points of rural land
600 responses, 300 hours
Office of Federal Statistical Policy and Standard, 673-7956

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service
Energy used in food and fiber processing and marketing
Single-time
Food processing and marketing establishments
8,000 responses, 8,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

Forest service
Contractor's financial statement (work for Forest Service)
FS-6300-25
On occasion
Contractors
1,000 responses, 1,000 hours
Ellett, C.A., 395-6132

Forest Service
Plan and equipment questionnaire (Forest Service contractors)
FS-6300-26
On occasion
Contractors
4,120 responses, 8,240 hours
Ellett, C.A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Locally administered public-employee retirement systems
F-11
Annually
Finance officers of locally-administered ret. systems
1,010 responses, 1,010 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Annual survey of state-administered public-employee retirement systems
F-12
Annually
Finance office of State-admin. retirement systems
197 responses, 197 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development
AFDC WIN Grant Reductions and Certifications Report
HDS-WIN-117, parts A & B
Monthly
State WIN program SAU & IMU offices
6,600 responses, 1,650 hours
Reese B. F., 395-3211

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-34767 Filed 12-13-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15336; File No. SR-NSCC-78-10]

NATIONAL SECURITIES CLEARING CORPORATION

Summary Effectiveness of a Proposed Rule Change

NOVEMBER 16, 1978.

National Securities Clearing Corporation ("NSCC") has requested that the Commission, pursuant to Section 19(b)(3)(B) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, extend the effectiveness of an NSCC rule from November 15, 1978 to January 6, 1978. That rule, initially approved by the Commission on May 15, 1978, authorized NSCC to act on behalf of other clearing agencies in clearing transactions at its NCC Division.[1]

The rule was designed to permit NSCC's SCC Division to interpose itself in the interfaces for processing over-the-counter ("OTC") transactions that NSCC was then about to establish with Midwest Clearing corporation ("MCC") and Stock Clearing Corporation of Philadelphia ("SCCP"). NSCC interposed its SCC Division in those interfaces so that MCC and SCCP would have to relate only to NSCC's SCC Division, with whom they already had interfaces for listed transactions, and would not have to establish separate interfaces with NSCC's NCC Division. At that time, the SCC Division processed only listed transactions and the NCC Division only OTC transactions.

Subsequent to the Commission's approval of this rule, NSCC, as part of the consolidation of its operations, began switching the processing of OTC transactions from its NCC Division to its SCC Division. Once that switchover is completed, NSCC no longer will need to maintain the clearing arrangements with MCC and SCCP in the form contemplated by this rule. Rather, all of NSCC's interfaces for OTC transactions will be conducted pursuant to a rule change approved by the Commission on September 13, 1978.[2] The switchover, however, is not scheduled to be completed until early January 1979 while the rule in question expires on November 15, 1978. To deal with the interim period, NSCC proposes an extension of the effectiveness of the rule from November 15, 1978 to January 6, 1978.

In initially approving this rule, the Commission indicated its belief that NSCC's prompt establishment of OTC ubterfaces with MCC and SCCP was an essential step in the development of the national clearance and settlement system, which, in turn, is one of the fundamental elements of the national market system.[3] Continued operation of those OTC interfaces is just as important. Discontinuance, prior to completion of the transfer of OTC processing from NSCC's NCC Division to its SCC Division, would cause serious disruption and expense to NSCC, MCC, SCCP and their participants.

Accordingly, on preliminary consideration, it appears to the Commission that sumary effectiveness is in the public interest and in accordance with the standards set forth in Section 19(b)(3)(B) of the Act. No public comment was received when the Commission initially considered the rule.

The foregoing rule change has been put into effect summarily, pursuant to Section 19(b)(3)(B) of the Securities Exchange Act of 1934 (the "Act"). At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Section 19(b)(3)(B) of the Act requires that any proposed rule change put into effect summarily shall be filed promptly thereafter in accordance with the provisions of Section 19(b)(1).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.78-34802 Filed 12-13-78; 8:45 am]

[1] Securities Exchange Act Release No. 14772 (May 18, 1978), 43 FR 23063 (May 30, 1978).

[2] Securities Exchange Act Release No. 15142 (September 13, 1978), 43 FR 42325 (September 20, 1978).

[3] Securities Exchange Act Release No. 14772 (May 18, 1978), 43 FR 23063 (May 30, 1978).

[4710-07-M]

DEPARTMENT OF STATE

[Pub. Notice CM-8/136]

STUDY GROUP 7 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 10, 1979, at the U.S. Naval Observatory, 34th Street and Massachusetts Avenue, Washington, D.C., in Building 52, Room 300. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocom-

munications. The main purpose of the meeting will be review of the results of the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and preparation of the work plan for the next CCIR Plenary cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: December 6, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-34696 Filed 12-13-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

Public Hearing

The Federal Railroad Administration (FRA), as required by 45 U.S.C. § 431(c) and in accordance with 49 CFR 211.41, issued a public notice that several railroads had submitted waiver petitions to FRA requesting temporary or permanent waivers of compliance with 49 CFR Part 221 (Rear End Marking Devices—Passenger Commuter and Freight Trains). That public notice was published in the FEDERAL REGISTER on September 18, 1978 (43 FR 41447).

In that public notice FRA advised that waiver petitions had been filed by the following railroads: (1) Family Lines System (FRA Waiver Docket RSRM-78-8); (2) Norfolk and Western Railway (FRA Waiver Docket RSRM-78-9); (3) Florida East Coast Railway (FRA Waiver Docket RSRM-78-10); (4) Union Pacific Railroad (FRA Waiver Docket RSRM-78-11); (5) Pittsburgh and Lake Erie Railroad (FRA Waiver Docket RSRM-78-16); and (6) Detroit, Toledo and Ironton Railroad (FRA Waiver Docket RSRM-78-17). The precise nature of these waiver requests is described in the public notice which also contained a brief discussion of the facts involved in each proceeding.

FRA invited interested persons to participate in these proceedings by submitting written data, views or comments. The notice also indicated that a public hearing would be provided in connection with these waiver petitions if requested by an interested person. FRA has received such a request and consequently is scheduling a public hearing prior to taking action on these waiver petitions.

The Railroad Safety Board (Board) of the FRA, which has been delegated the responsibility for determining whether to grant such waivers of compliance, will conduct the requested public hearing on January 16, 1979. The public hearing will be held in Room 3201 of the Trans Point Building, located at 2100 Second Street in Washington, D.C. and will begin at 10:00 a.m.

The hearing will be an informal one and will be conducted by a representative designated by the Board. The hearing will be conducted in accordance with the provisions of § 211.25 of the FRA Rules of Practice (49 CFR 211.25) and will not be an adversary proceeding. The Board's representative will make an opening statement outlining the scope of the hearing and will announce any additional procedures, if necessary, at the start of the hearing.

AUTHORITY: Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431); § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).

Issued in Washington, D.C. on December 8, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-34791 Filed 12-13-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, January 11, 1979
Thursday, January 25, 1979
Thursday, March 22, 1979

The meetings will convene at 2:30 p.m. and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: December 7, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-34789 Filed 12-13-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 57]

DECISION-NOTICE

Decided: December 4, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register.* Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted

below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute 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 if 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 expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed on or before January 12, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority 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 3, Members Hill, Fortier, and Parker.

H. G. Homme, Jr.,
Secretary.

MC 1494 (Sub-25F), filed October 10, 1978. Applicant: GROSS COMMON CARRIER, INC., 660 West Grand Avenue, Wisconsin Rapids, WI 54494. Repesentative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Wisconsin Rapids and Vesper, WI, from Wisconsin Rapids over WI hwy 13/73 to junction WI Hwy 186, then along WI Hwy 186 to Vesper, and return over the same route, serving all intermediate points, and (2) between Wisconsin Rapids, WI, and Vesper, WI, over Wood County Trunk F for operating convenience only. (Hearing site: Wisconsin Rapids or Stevens Point, WI.)

MC 4405 (Sub-584F), filed November 1, 1978. Applicant: DEALERS TRANSIT, INC., 4141 South 68th East Avenue, P.O. Box 236, Tulsa, OK 74145. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting *self-propelled articles,* and *equipment, parts, and attachments* for self-propelled articles, between Tulsa, OK, 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 facilities of Crane Carrier Co. in Tulsa, OK.

MC 7228 (Sub-43F), filed November 14, 1978. Applicant: COAST TRANSPORT, INC., 1906 S.E. 10th Avenue, Portland, OR 97202. Repesentative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting *bananas,* from Los Angeles and Long Beach, CA, to points in WA. (Hearing site: Seattle, WA, or Portland, OR.)

MC 16503 (Sub-11F), filed October 23, 1978. Applicant: GUEX TRUCKING, INC., P.O. Box 359, Shawano, WI 54166. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting *canned goods,* from Brillion, Cambria, Cedar Grove, Fond du Lac, Fort Atkinson, Green Bay, Hortonville, and Waldo, WI, to points in AL, FL, GA, KS, MO, and NE, under a continuing contract with The Larsen Co., of Green Bay, WI. (Hearing site: Milwaukee or Madison, WI.)

MC 29642 (Sub-10F), filed September 18, 1978. Applicant: FIVE TRANSPORTATION CO., a corporation, P.O. Box 1635, Brunswick, GA 31520. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Jacksonville, FL, and Mount Vernon, GA: from Jacksonville, FL, over U.S. Hwy 23 to Hazelhurst, GA, then over U.S. Hwy 221 to Mount Vernon, GA, and return over the same route, serving all intermediate points, (2) between Folkston, GA, and Jesup, GA: from Folkston, GA over U.S Hwy 301 to Jesup, GA, and return over the same route, serving all intermediate points, (3) between Waycross, GA, and Brunswick, GA: from Waycross, GA over U.S Hwy 84 to Brunswick, GA, and return over the same route, serving all intermediate points, (4) between Waycross, GA, and Jesup, GA: from Waycross, GA over U.S. Hwy 82 to Jesup, GA, and return over the same route, serving all inter-

mediate points, (5) between Lyons, GA, and junction U.S. Hwy 1 and U.S. Hwy 23, approximately 5 miles north of Alma, GA: From Lyons, GA over U.S. Hwy 1 to junction U.S. Hwy 1 and U.S. Hwy 23, and return over the same route, serving all intermediate points, and (6) between Jesup, GA, and Alamo, GA: from Jesup, GA over U.S. Hwy 341 to McRae, GA, then over U.S. Hwy 280 to Alamo, GA, and return over the same route, serving all intermediate points. (Hearing site: Waycross, GA.)

MC 29910 (Sub-197F), filed October 18, 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 (1) *asbestos cement pipe, couplings, and fittings*, and (2) *such commodities as are used in the installation of the commodities named in (1)*, (except commodities in bulk), from the facilities of CertainTeed Corporation, at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

MC 41116 (Sub-56F), filed October 4, 1978. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products*, from the facilities of Union Camp Corporation, at or near Lafayette, LA, to points in the United States in and east of MT, WY, CO, and NM, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under a continuing contract with Union Camp Corporation, of Wayne, NJ. (Hearing site: New Orleans or Baton Rouge, LA.)

MC 44783 (Sub-8F), filed October 23, 1978. Applicant: THE MAHONING EXPRESS CO., a corporation, P.O. Box 557, Union Street, Mineral Ridge, OH 44440. Representative: Earl N. Merwin, 85 East Gray Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *culverts, guard rails, retaining walls, sound barrier systems, highway signs, safety products, rolling mill shapes, and feed-lot mats*, and (b) *accessories* for the commodities named in (1)(a) above, from Girard, OH, and Neville Island, PA, to points in DE and MD, and DC; (2)(a) *accessories* for the commodities named in (1)(a) above, and (b) *sound barrier systems, highway signs, safety products, rolling mill shapes, and feed-lot mats*, from Girard, OH, and Neville Island, PA, to points in IL, IN, KY, MI, NJ, NY, OH, PA, WV, and WI, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in DE, IL, IN, KY, MD, MI, NJ, NY, OH, PA, WV, WI, and DC, to Girard, OH, and Neville Island, PA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 48221 (Sub-18F), filed October 4, 1978. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. 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 *malt beverages*, from Milwaukee, WI, to Fremont, NE. (Hearing site: Omaha, NE.)

MC 48958 (Sub-165F), filed November 3, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by wholesale or retail drug stores, grocery stores, and department stores, from the facilities of Warner-Lambert Co., at or near Elk Grove and Rockford, IL, to the facilities of Warner-Lambert Co., at or near Anaheim, CA. (Hearing site: Washington, DC, or Chicago, IL.)

MC 49368 (Sub-104F), filed November 9, 1978. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, MI 48013. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *motor vehicles*, in initial and secondary movements, in truckaway service, from the facilities of General Motors Corporation, at Shreveport, LA, to points in the United States (except AK and HI), under contract with General Motors Corporation, of Warren, MI. (Hearing site: Detroit, MI.)

MC 65658 (Sub-5F), filed November 6, 1978. Applicant: H. E. WAMSLEY TRUCKING, INC., 1660 Jefferson Davis Highway, Colonial Heights, VA 23834. Representative: Donald M. Schubert, 200 West Grace Street, Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *steel reinforcement materials for concrete*, (2) *metal lathe and metal floor anchors*, and (3) *iron and steel bar joists, supports, and expansion points*, from Richmond, VA, to points in TN, under contract with Bethlehem Steel Corporation, of Bethlehem, PA. (Hearing site: Richmond, VA.)

MC 80430 (Sub-169F), filed October 4, 1978. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *heat exchangers and heat equalizers*, (2) *equipment used for heating, cooling, humidifying, and dehumidifying*, and (3) *such commodities as are used in the installation of the commodities named in (1) and (2)*, between the facilities of The Thrane Company, in La Crosse County, WI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NY, OH, PA, and TN. (Hearing site: Washington, DC, or Minneapolis, MN.)

MC 82063 (Sub-94F), filed October 19, 1978. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, between the facilities of Dow Chemical U.S.A., at points in Brazoria County, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Houston or Dallas, TX.)

MC 100666 (Sub-412F), filed September 15, 1978. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *commodities* which because of size or weight require the use of special equipment, (2) *general commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), when moving in mixed shipments with the commodities in (1) above, (3) *self-propelled articles*, from the facilities of Riley Beaird, Inc., at or near Shreveport, LA, to points in the United States (except AK and HI), and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1), (2), and (3) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 106398 (Sub-850F), filed November 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building materials*, and *materials and supplies* used in the manufacture, distribution, and installation of building materials (except commodities in bulk), from Shreveport, LA, to points in IL, KS, KY, MS, NM, OK, TN, and TX. (Hearing site: Boston, MA.)

NOTE.—In view of the findings in No. MC-106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106398 (Sub-851F), filed November 13, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *buildings*, complete, knocked-down, or in sections, from the facilities of Amercian Steel Buildings, at Houston, TX, to points in the United States (including AK, but excluding HI). (Hearing site: Houston, TX.)

NOTE.—In view of the findings in No. MC-106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106401 (Sub-53F), filed October 11, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Repesentative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier* by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Greenville, TX, as an off-route points in connection with carrier's otherwise authorized regular-route operations between Atlanta, GA, and Ft. Worth, TX, restricted to the transportation of traffic moving to, from, or through Atlanta, GA. (Hearing site: Dallas, TX, or Washington, DC.)

MC 106603 (Sub-188F), filed October 19, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting (1)(A) *building and construction materials*, (except commodities in bulk), from the facilities of The Celotex Corporation, at (a) Dubuque, IA, (b) Chicago and Wilmington, IL, (c) Lockland, OH, (d) Paris, TN, (e) Sunbury, PA, and (f) Chester, WV, to points in NY, PA, IL, IN, KY, MI, MO, OH, WV, WI, IA, and MN and (B) *materials, equipment, and supplies* used in the manufacture and installation of the commodities named in (1)(A) above, in the reverse direction, and (2)(A) *building and construction materials*, (except commodities in bulk), from the facilities of The Celotex Corporation, at Largo, IN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (B) *materials, equipment, and supplies* used in the manufacture and installation of the commodities named in (2)(A) above, in the reverse direction. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 106603 (Sub-190F), filed October 19, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel articles, and building and construction materials*, (except commodities in bulk), from Kokomo and Fort Wayne, IN, Joliet and Blud Island, IL, Columbus and Toledo, OH, and Grand Rapids and Lansing, MI, to points in DE, KS, MD, MN, NE, NJ, NY, VA, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of Penn Dixie Steel Corporation. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107064 (Sub-129F), filed October 10, 1978. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fiedelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid petroleum, petroleum products*, and *chemicals*, in bulk, in tank vehicles, (1) from points in NM, to points in AZ, CA, CO, ID, KS, LA, NE, OK, TX, UT, and WY, and (2) from those points in TX on and south of U.S. Hwy 66, and on and west of U.S. Hwy 83, to points in AZ, CO, ID, KS, NE, NM, OK, UT, and WY. (Hearing: Amarillo, TX, or Albuquerque, NM.)

MC 107403 (Sub-1123F), filed October 19, 1978. Applicant: MATLACK, INC., Ten West, Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Albany, NY, to points in VT and MA. (Hearing site: Washington, DC.)

CONDITION.—Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F).

MC 107403 (Sub-1124F), filed October 19, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *synthetic plastic*, in bulk, in tank vehicles, from Xenia, OH, to Goshen, IN. (Hearing site: Washington, DC.)

CONDITION.—Pursuant to the Decision in MC-107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-1101F).

MC 107403 (Sub-1130F), filed October 24, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *anhydrous ammonia*, in bulk, from Wilder, KY, to points in OH. Condition: Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F). (Hearing site: Washington, DC.)

MC 108119 (Sub-106F), filed November 9, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting (1)(a) *tractors, agricultural implements, and pumps*, and (b) *parts* for the commodities named in (1)(a) above, from the facilities of Steiger Tractor, Inc., at Fargo, ND, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of the commodities named in (1) (a) and (b) above, (except commodities in bulk), in the reverse direction restricted in (1) above, to the transportation of traffic originating at the named origin, and in (2) above, to the transportation of traffic destined to the named destination. (Hearing site: Minneapolis, MN, or Fargo, ND.)

MC 108633 (Sub-16F), filed September 13, 1978. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 800, Carrollton, GA 30117. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Birmingham, AL, and Memphis, TN, from Birmingham over U.S. Hwy 78 to Guin, AL, then over U.S. Hwy 278 to junction U.S. Hwy 45 and Alternate U.S. Hwys 45 and 278 to Tupelo, MS, then over U.S. Hwy 78 and TN Hwy 4 to Memphis, TN, and return over the same route, serving all intermediate points. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 109124 (Sub-53F), filed October 10, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *gypsum products, and materials and supplies* used in the installation or distribution of gypsum and gypsum products, (1) from the facilities of the Georgia-Pacific Corporation, at or near Buchanon, NY, to points in OH, PA, and MI, and (2) from the facilities of the Georgia-Pacific Corportation, at or near Wilmington, DE, to points in OH, MI, PA, VA, WV, those in TN on and east of Interstate Hwy 75, those in NC on and east of Interstate Hwy 77, and those in SC on and east of Interstate Hwy 26. (Hearing site: Washington, DC.)

MC 109533 (Sub-105F), filed October 23, 1978. Applicant: OVERNITE TRANSPORTATION CO., a corporation, 1000 Semmes Avenue, Richmond, VA 23224. Representative: E. T. Liipfert, Suite 1000, 1660 L Street NW., Washington, DC 20036. 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 Sarasota, FL, and Valdosta, GA; from Sarasota over U.S. Hwy 41 to Tampa, FL, then over Interstate Hwy 75 to Valdosta, and return over the same route, serving all intermediate points, (2) between Jacksonville, FL, and junction Interstate Hwy 10 and U.S. Hwy 27; from Jacksonville over Interstate Hwy 10 to junction U.S. Hwy 27, and return over the same route, serving all intermediate points, (3) between Fort Pierce, FL, and Jacksonville, FL; from Fort Pierce, FL, over Interstate Hwy 95, and/or U.S. Hwy 1 to Jacksonville, and return over the same route, serving all intermediate points, (4) between Fort Pierce, FL, and junction Interstate Hwy 75 and Florida Turnpike; from Fort Pierce over FL Hwy 70 to junction Floridas Turnpike, then over Floridas Turnpike to junction Interstate Hwy 75, and return over the same route, serving all intermediate points, (5) between Tampa, FL, and junction Interstate Hwy 4 and Interstate Hwy 95; from Tampa over Interstate Hwy 4 to junction Interstate Hwy 95, and return over the same route, serving all intermediate points, (6) between Tampa FL, and Albany, GA; from Tampa over U.S. Hwy 41 to Brooksville, FL, then over U.S. Hwy 98 to junction U.S. Hwy 19, then over U.S. Hwy 19 to Albany, and return over the same route, serving all intermediate points, (7) Between junction U.S. Hwy 19 and U.S. Hwy 27, and Columbus, GA; from junction U.S. Hwy 19 and U.S. Hwy 27 near Capos, FL, to Columbus, and return over the same route, (8) between Bainbridge, GA, and Birmingham, AL; from Bainbridge over U.S. Hwy 84 to Dothan, AL, then over U.S. Hwy 231 to Montgomery, AL, then over U.S. Hwy 31 to Birmingham, and return over the same route, serving all intermediate points, (9) between Columbus, GA, and Montgomery, AL, over U.S. Hwy 80, serving all intermediate points, (10) between Dawson, GA, and Montgomery, AL, over U.S. Hwy 82, serving all intermediate points, and (11) between Valdosta, GA, and St. Louis, MO; from Valdosta over Interstate Hwy 75 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction Georgia Hwy 55, then over Georgia Hwy 55 to junction U.S. Hwy 280, then over U.S. Hwy 280 to Birmingham, AL, then over U.S. Hwy 78 to Memphis, TN, then over U.S. Hwy 61 to St. Louis, and return over the same route, serving all intermediate points, and points in Cape Girardeau County, MO, as off-route points, in 1-11 above, serving the off-route points of (a) those points in FL on and north of a line beginning at FL Hwy 72 from Gulf of Mexico to junction FL Hwy 70, then over FL Hwy 70 to the Atlantic Ocean, and (b) those points in GA on and south of a line beginning at U.S. Hwy 80 from the AL-GA State line to Macon, GA, and on and west of a line beginning at U.S. Hwy 129 from Macon, GA, to the FL-GA State line. (Hearing site: Memphis, TN, and Jacksonville, FL.)

MC 110098 (Sub-172F), filed November 3, 1978. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AR, AZ, CA, CO, ID, IL, IN, IA, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, MO, or San Antonio, TX.)

MC 110988 (Sub-376F), filed November 8, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *chemicals*, in bulk, from points in OH to points in IL, IN, MI, and WI; (2) *rolling processing fluid*, from the facilities of The Ironsides Company, at Columbus, OH, to points in AL, AZ, CA, CO, FL, IL, IN, KY, MD, MI, MO, OH, PA, TX, UT, VA, and WV; and (3) *materials and supplies* used in the manufacture and distribution of rolling processing fluid, from points in AL, AZ, AR, CA, CO, FL, IL, IN, IA, KY, LA, MD, MI, MN, MO, NE, NJ, NY, NC, OH, PA, SC, TX, UT, VA, WV, and WI to Columbus, OH. (Hearing site: Chicago, IL.)

MC 111729 (Sub-748F), filed October 24, 1978, published in the FEDERAL REGISTER issue of November 24, 1978, as MC 111729 (Sub-148F). Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value,

classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between those points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, WA, and those points in OR in and west of Multnomah, Clackamas, Marion, Linn, Deschutes, Lane, Douglas, and Jackson Counties, OR, restricted against the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Seattle, WA.)

NOTE.—Dual operations may be at issue in this proceeding. This republication shows the correct docket number for this proceeding as MC 111729 (Sub-748).

MC 111812 (Sub-591F), filed October 6, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs*, except in bulk, 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, M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Austin, MN, and Huron, SD, to points in WV. (Hearing site: St. Paul, MN.)

MC 112492 (Sub-4F), filed October 4, 1978. Applicant: PARTS MOTOR LINES, INC., P.O. Box 90178, East Point, GA 30364. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *new automobile, truck*, and *tractor parts and accessories*, and *shipping supplies*, from points in AL, FL, MS, NC, SC, and TN to East Point and Hapeville, GA, under contract with Ford Motor Company, of Dearborn, MI. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 114211 (Sub-379F), filed September 28, 1978. Applicant: WARREN TRANSPORT, INC., a Nebraska corporation, P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of agricultural, industrial, and construction equipment, and lawn and leisure products, between points in the United States (except AK and HI). (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 114273 (Sub-476F), filed October 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from Middletown, OH, to Cedar Rapids, Council Bluffs, Mt. Pleasant, and Waterloo, IA, Beatrice, Fremont, Hastings, Lincoln, and Omaha, NE, and Chicago, IL. Condition: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-478F), filed October 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *automobile parts and tools*, and (2) *accessories* used in the distribution, sale, and installation of the commodities named in (1) above, from the facilities of Monroe Auto Equipment Co., at or near Cozad, NE, to Chicago, IL, Cleveland and Loraine, OH, Detroit, MI, Harrisonburg, VA, and Louisville, KY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. Condition: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-481F), filed October 23, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *furnaces, air conditioners, and solar collectors*, and (b) *parts* for the commodities named in (1)(a) above, and (2) *cooling pumps and compressors*, (A) from Marshalltown, IA, to Woburn, MA, Cornwell Heights, PA, Jessup, MD, and Boonton, NJ, and (B) from Marion and Sidney, OH, to Des Moines and Marshalltown, IA. Condition: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-482F), filed October 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *furnaces, range hoods, and charcoal filter exhaust fans*, and (2) *materials, equipment*, and *supplies* used in the installation of the commodities named in (1) above, (except commodites in bulk, in tank vehicles, and commodities which because of size and weight require special equipment), from Lafayette, IN, to points in CO, IA, KS, TX, and VA. Condition: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applciant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114334 (Sub-39F), filed October 10, 1978. Applicant: BUILDERS TRANSPORTATION CO., a corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from Memphis, TN, to points in AL. (Hearing site: Memphis, TN.)

MC 114896 (Sub-70F), filed October 3, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *currency, coin, securities, savings bonds, stock, and non-cash collection items*, between Apple Valley, Barstow, Boron, Hesperia, Los Angeles, Lucerne Valley, Victorville, and Wrightwood, CA, and Boulder City, Henderson, Las Vegas, Mesquite, Overton, and Pahrump, NV, under a continuing contract with the Federal Reserve Bank on San Francisco, of San Francisco, CA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115092 (Sub-72F), filed October 6, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *flat glass*, from Kingsburg and Fresno, CA, to Eugene and Portland, OR, and Seattle and Spokane, WA. (Hearing Site: Portland, OR.)

MC 115311 (Sub-311F), filed October 10, 1978. Applicant: J & M TRANS-

PORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building materials and insulation materials* (except commodities in bulk), from the facilities of Rmax, Inc., at or near Dallas, TX, to points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of building and insulation materials, (except commodities in bulk), from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Rmax, Inc., at or near Dallas, TX. (Hearing site: Dallas, TX.)

MC 115669 (Sub-173F), filed November 8, 1978. Applicant: DAHLSTEN TRUCK LINE, INC., P.O. Box 95, Clay Center, NE 68933. Representative: Howard N. Dahlsten (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fertilizer, fertilizer materials*, and *agricultural chemicals*, from the facilities of Chemical Enterprises, Inc., (a) in Adams County, NE, to points in CO, IA, KS, MN, MO, NE, OK, SD, TX, and WY, and (b) near Odessa, TX, to Garden City, KS, and the facilities of Chemical Enterprises, Inc., in Adams County, NE. (Hearing site: Omaha, NE.)

MC 116805 (Sub-7F), filed November 2, 1978. Applicant: REFINERS TRANSPORT, INC., 7921 Castleway Drive, P.O. Box 50854, Indianapolis, IN 46204. Representative: Michael V. Gooch, 777 Chamber of Commerce Building, 320 North Meridian Stret, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Bourbon, IL, to points in IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 118159 (Sub-297F), filed November 8, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *toilet preparations*, between Elizabethton, TN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 118610 (Sub-30F), filed October 3, 1978. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, Suite 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *contractors' heavy equipment*, (2) *machinery*, and (3) *tools, parts, and supplies for commodities named in (1)*, between the facilities of Rimpull Corporation, at or near (a) Olathe, KS, and (b) Bowling Green, KY, 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: Louisville, KY, or Kansas City, MO.)

MC 118610 (Sub-31F), filed October 16, 1978. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, Suite 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *contractors' heavy equipment*, (2) *machinery*, and (3) *parts and tools for the commodities named in (1)*, from the facilities of T & J Industries, Inc., at or near Kansas city, MO, to points in the United States (except AK and HI). (Hearing site: Louisville, KY, or Kansas City, MO.)

MC 119399 (Sub-86F), filed November 6, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *zinc oxide*, from Hillsboro, IL, to points in AL, AR, CO, FL, GA, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and WY. (Hearing site: Kansas City or St. Louis, MO.)

MC 119493 (Sub-239F), filed October 23, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fertilizer, tree and weed killing compounds, insecticides, and fungicides*, in containers, from the facilities of Swift Agricultural Chemicals Company, at or near East St. Louis, IL, to points in AR and OK. (Hearing site: St. Louis or Kansas City, MO.)

MC 119493 (Sub-240F), filed October 23, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *flour* (except in bulk), from points in MN, IA, and NE, to points in KS, MO, OK, and AR. (Hearing site: Wichita or Kansas City, MO.)

MC 119632 (Sub-79F), filed October 11, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *prepared foodstuffs* and *preserved foodstuffs* (except frozen foods and commodities in bulk), from those points in NY on and west of a line beginning at Port Ontario, NY and extending along NY Hwy 13 to junction U.S. Hwy 11 at Pulaski, NY, then along U.S. Hwy 11, to the NY-PA State line, to points in IL, IN, KY, MI and OH. (Hearing site: Buffalo or Rochester, NY.)

MC 121060 (Sub-80F), filed October 10, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *refractories and such commodities as are used in the installation of refractories* (except commodities in bulk), from the facilities of Corning Glass Works, at or near Buckhannon, WV, to points in IN, IL and MI; (2) *pipe, valves, fittings, hydrants, and gaskets*, (except commodities in bulk), and (3) *accessories for the commodities named in (2)*, (except commodities in bulk), from the facilities of Clow Corporation, at or near Buckhannon, WV, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 124078 (Sub-901F), filed November 9, 1978. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Chattanooga, TN, to points in AL, FL, GA, MS, NC, and SC. (Hearing site: Nashville, TN.)

MC 124078 (Sub-902F), filed November 13, 1978. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid plastic material*, in bulk, in tank vehicles, from

Savannah, GA, to points in NC and TN. (Hearing site: Atlanta, GA.)

MC 124170 (Sub-96F), filed June 30, 1978, and previously noticed in the FR issue of September 12, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in and used by producers and distributors of alcoholic beverages, liquors, and wines (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: New York, NY, or Washington, DC.)

NOTE.—This republication adds used by to the commodity description.

MC 124774 (Sub-107F), filed October 10, 1978. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., an Iowa corporation, 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic articles and packaging materials* from Mankato, MN, to DeWitt, NE. (Hearing site: Minneapolis, MN, or Omaha, NE.)

MC 124947 (Sub-115F), filed September 14, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *industrial furnaces*, and (2) *parts* for industrial furnaces, (except commodities in bulk), from the facilities of Midland-Ross Corp., Surface Division, at (a) Detroit, MI, and (b) Toledo, OH, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 127840 (Sub-80F), filed October 30, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Dr., P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, in bulk, from Jersey City and Hoboken, NJ, to points in CA, IL, IN, IA, KY, MI, OH, and PA. (Hearing site: Jersey City or Hoboken, NJ.)

MC 127840 (Sub-81F), filed November 1, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Dr., P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, and sound deadening compound*, in bulk, in tank vehicles, from Congo, WV, to points in CO, IL, IN, IA, KS, MN, MO, NE, and WI. (Hearing site: Oil City, PA.)

MC 127840 (Sub-82F), filed November 6, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Dr., P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal fats and animal oils*, in bulk, in tank vehicles, from Ft. Morgan, CO, to points in the United States (except AK and HI). (Hearing site: Ft. Morgan, CO.)

MC 133591 (Sub-51F), filed October 5, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 S. Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *paper and plastic cups, containers, dishes, plates, trays, and napkins*, (2) *plastic knives, forks, and spoons*, and (3) *plastic film and sheeting*, from Springfield, MO, to Denver, CO, and Franklinton, LA. (Hearing site: Kansas City, MO, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 134082 (Sub-14F), filed October 10, 1978. Applicant: K. H. TRANSPORT, INC., 4796 Linthicum Road, Dayton, MD 21036. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs*, and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (a) between Baltimore, MD, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, LA, ME, PA, MI, MN, MS, MO, NH, NJ, NY, NC, RI, SC, TN, TX, VT, VA, and WV, (b) between Bremen, South Bend, and Indianapolis, IN, on the one hand, and, on the other points in AR, AZ, CA, CO, CT, FL, GA, ID, IL, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, TN, TX, UT, WA, WV, WI, and WY, and (c) between Atlanta, GA, on the one hand, and, on the other, points in FL, MD, NJ, NY, PA, NC, SC, and VA, and (d) between Bedford, VA, on the one hand, and, on the other, points in MA, NY, NJ, PA, OH, KY, WV, IL, IN, LA, TN, MD, NC, SC, GA, and FL; and (2) *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs, from points in IL, WI, OH, and IN, to the facilities of McCormick & Company at Baltimore, MD. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 134375 (Sub-19F), filed September 21, 1978. Applicant: ELDON GRAVES, d.b.a. ELDON GRAVES TRUCKING, Box 9156, Yakima, WA 98909. Representative: Robert G. Gleason, 1127-10th East, Seattle, WA 98102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cedar shakes, shingles, and shake bolts*, from points in WA, to points in OR, CA, NV, and AZ. (Hearing site: Seattle, WA, or Portland, OR.)

MC 134644 (Sub-4F), filed October 10, 1978. Applicant: CLARA L. MARTIN d.b.a. MARTIN TRUCKING, Route 1, Box 219B, Sullivan, WI 53178. Representative: David V. Purcell, 1330 Marine Plaza, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by warehousers of agricultural, construction, industrial, internal combustion engine, medical, mining, self-propelled vehicular, and vending equipment, and parts and subassemblies for the commodities in part (except commodities in bulk and those requiring special equipment), (a) from Columbus, IN, and Milwaukee, WI, to the facilities of Sajac Company, Inc., at or near Rochelle, IL, (b) from points in the Lower Peninsula of MI, Aurora and Chicago, IL, and La Porte, IN, to the facilities of Sajac Company, Inc., in Dodge County, WI, and (c) from the facilities of Sajac Company, Inc., at or near Beaver Dam, WI, to Chicago, IL, under contract with Sajac Company, Inc., of Beaver Dam, WI. (Hearing site: Milwaukee or Madison, WI.)

MC 135082 (Sub-76F), filed October 3, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road. N.E., Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *metal products, roofing, roofing products, insulation materials*, and *supplies and equipment* for roofing, roofing products, and insulation materials (except commodities in bulk), (1) between points in AZ, CO, and NM, (2) from points in AZ, CO, and NM, to points in AZ, CA, KS, LA, NV, MT, OK, OR, TX, UT, WA, and WY, (3) from Memphis, TN, and points in AR, LA, MO, OK, and TX, to

points in AZ, CO, and NM, and (4) from points in CA, ID, MT, NV, OR, UT, WA, and WY, to points in AZ, CO, and NM. (Hearing site: Albuquerque, NM, or Houston, TX.)

MC 135542 (Sub-8F), filed October 10, 1978. Applicant: TIMOTHY D. SHAW, Stanton & Empire Streets, Wilkes-Barre, PA 18702. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cushions, pillows*, and *inserts*, from Wilkes-Barre, PA, to Elizabeth, NJ, Atlanta, GA, Dallas, TX, Kansas City, KS, and Columbus, OH. (Hearing site: Wilkes-Barre, PA, or Washington, DC.)

MC 135691 (Sub-25F), filed October 10, 1978. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, Box 34080, Dallas, TX 75234. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *shock absorbers*, from points in the United States (except AK and HI), to the facilities of Walker Manufacturing Company, at or near Batavia, IL, under a continuing contract with Walker Manufacturing Company, of Racine, WI. (Hearing site: Dallas, TX.)

MC 135732 (Sub-35F), filed October 5, 1978. Applicant: AUBREY FREIGHT LINES, INC., P.O. Box 503, Elizabeth, NJ 07207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paints* and *waxes, materials, equipment, and supplies* used in the manufacture and distribution of paints and waxes (except commodities in bulk), in temperature controlled vehicles, between the facilities of Minwax Corporation, at Flora, IL, on the one hand, and, on the other, points in ME, NH, VT, CT, RI, NJ, MA, NY, PA, DE, MD, VA, and DC, restricted to the transportation of traffic originating at and destined to the named facilities. (Hearing site: Washington, DC, or New York, NY.)

MC 136315 (Sub-42F), filed October 30, 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 (1) *lumber*, from the facilities of Weyerhaeuser Company, at or near Millport, AL, to points in IL, IN, KY, MI, MN, OH, PA, and WI, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Jackson, MS or Memphis, TN.)

NOTE.—Dual operations may be involved.

MC 138108 (Sub-1F), filed November 8, 1978. Applicant: GULF STATES TRUCKING SERVICE, INC., 206 Stephens Avenue, Laurel, MS 39440. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *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, petroleum, petroleum products and petroleum byproducts, (except commodities in bulk), between points in MS, on the one hand, and, on the other, points in TX. (Hearing site: Jackson, MS.)

MC 138144 (Sub-37F), filed October 11, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 10 S. LaSalle St., Ste. 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wrought iron pipe*, from the facilities of Unarco-Levitt Division, Unarco Industries, at or near Blue Island, Chicago, and Evanston, IL, to points in IA, IN, KS, KY, MO, NE, MN, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 138283 (Sub-6F), filed August 16, 1978, and previously published in the FEDERAL REGISTER issue of October 5, 1978. Applicant: DANA TRUCKING CORP., Round Lake, MN 56167. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *cookies*, from the facilities of Interbake Foods, Inc., at or near Battle Creek, MI, to points in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, MT, NE, NM, ND, OH, OK, PA, SC, SD, TN, TX, WI, and WY, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of cookies (except commodities in bulk), in the reverse direction, under a continuing contract with Interbake Foods, Inc., of Richmond, VA. (Hearing site: Richmond, VA.)

NOTE.—This republication is to include SD in the territorial description.

MC 138423 (Sub-2F), filed October 23, 1978. Applicant: MACDOUGALL & SON TRANSPORT, LTD., a corporation, P.O. Box 65, Erin, ON, Canada NOB 1TO. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wire, wire products, and fencing materials*, from ports of entry on the International Boundary line beween the United States and Canada, at or near Buffalo, NY, and Detroit, MI, to points in CT, DE, IN, IL, MA, MD, ME, NH, NJ, OH, PA, RI, VA, VT, and WV, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction, under a continuing contract with Lundy Steel Limited, a subsidiary of Ivaco Industries Ltd., of Dunnville, Ontario, Canada. (Hearing site: Buffalo, NY.)

MC 138438 (Sub-35F), filed November 6, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum and petroleum products*, from Baltimore, MD, and Fairfax, Newington, and Manassas, VA, to points in PA. (Hearing site: Hagerstown, MD.)

NOTE.—Dual operations are involved in this proceeding.

MC 138438 (Sub-36F), filed November 6, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bricks*, from Webster, VA, to points in MD and DC. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 138741 (Sub-56F), filed October 10, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *gypsum and gypsum products*, and (2) *materials and supplies* used in the manufacture, installation, and distribution of gypsum products, between the facilities of Georgia-Pacific Corporation, Gypsum Division, at Cuba, MO, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, and WI. (Hear-

ing site: Washington, DC, or St. Louis, MO.)

NOTE.—Dual operations are involved in this proceeding.

MC 138741 (Sub-57F), filed October 10, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fabricated metal products*, from the facilities of the United States Gypsum Company, at Franklin Park, IL, to points in IN, KY, MO, OH, and TN. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 138741 (Sub-59F), filed October 10, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in IN, IA, KS, MI, MO, NE, OH, and WI. (Hearing site: Washington, DC.)

MC 138741 (Sub-60F), filed October 10, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, pipe fittings, valves, hydrants, and castings*, and (2) *accessories* for pipe, from Birmingham and Pell City, AL, to Houston, TX, points in AR, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, WI, and those in TX on, east, and north of a line beginning at the OK-TX State line and extending over U.S. Hwy 281 to Mineral Wells, TX, then over U.S. Hwy 80 to the TX-LA State line. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 138882 (Sub-166F), filed October 12, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *machinery, equipment, materials, and supplies* used in the processing of lead scrap, from the facilities of Sanders Lead Co., Inc., at Troy, AL, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing Site: Montgomery or Birmingham, AL.)

MC 140033 (Sub-70F), filed October 6, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *artificial kidneys, dialysate solution, dialysis treatment machines, and equipment, materials, supplies* used or useful in the performance of dialysis treatment, (1) from McAllen, TX, to Toledo, OH, and Cinnaminson, NJ, and (2) from Cinnaminson, NJ, to Toledo, OH, Atlanta, GA, Miami, and Tampa, FL, New Orleans, Houston and Dallas, TX, and Costa Mesa, CA. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140033 (Sub-74F), filed October 23, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lime*, in containers, from Dallas, TX, to Charlotte, NC, Frankfort, IN, Kingsley, CT, and Denver, Co. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140601 (Sub-9F), 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 *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe, and fittings, and accessories* for plastic pipe, from the facilities of CertainTeed Corporation, at McPherson, KS, to points in CO, AZ, NM, OK, TX, MO, AR, LA, and MS, adn (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under contract with CertainTeed Corporation, of Blue Bell, PA. (Hearing site: Dallas, TX.)

MC 140601 (Sub-10F), 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) *plastic pipe, and pipe fittings, and accessories* for plastic pipe, from the facilities of CertainTeed Corporation, at Eads, TN, to points in AR, MS, LA, OK, TX, and KS, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under contract with CertainTeed Corporation, of Blue Bell, PA. (Hearing site: Dallas, TX.)

MC 141124 (Sub-31F), filed October 11, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by manufacturers or converters of paper and paper products, (except commodities in bulk), between Middletown, Miamisburg, Dayton, Urbana, Trenton, Excello, West Carrollton, Troy, and Hamilton, Ohio, on the one hand, and, on the other, points in PA, MD, DE, NJ, NY, CT, MA, RI, NH, VT, VA, ME, and DC. (Hearing site: Cincinnati, OH.)

MC 141274 (Sub-9F), filed September 27, 1978. Applicant: C. C. ANKENEY, INC., P.O. Box 1034, Whittier, CA 90609. Representative: Michael F. Morrone, 1150 17th Street, NW., Suite 1000, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (A) *aluminum foil in rolls, cardboard boxes, folded cartons, cardboard folded flat, ice cream, and ice cream ingredients*, from Chicago, IL, to Los Angeles, Fresno, and Modesto, CA; (B) *fruits and flavorings*, from points in NJ to Los Angeles, Fresno, and Modesto, CA; (C) *orange juice concentrate*, from points in FL to Los Angeles, Fresno, and Modesto, CA; and (D) *dairy substitute powder*, from points in MI, MO, and WI, to Los Angeles, Fresno, and Modesto, CA, under contract with Knudsen Corporation, of Los Angeles, CA. (Hearing site: Washington, DC, or Walnut, CA.)

MC 141770 (Sub-5F), filed November 2, 1978. Applicant: TPC TRANSPORTATION CO., a Delaware corporation, 40 Cleveland Road, Huron, OH 44839. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *fertilizer*, in bulk in dump vehicles, from the facilities of Agrico Chemical Company, at Melbourne, KY, to points in IL, IN, MI, OH, VA, and WV, under a continuing contract with Agrico Chemical Company, of Tulsa, OK. (Hearing site: Tulsa, OK, or Cincinnati, OH)

MC 141867 (Sub-7F), filed October 2, 1978. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of glass containers, between points on the international boundary line between the United States and Canada, in WA, ID, and MT, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, WA, and WY, restricted to the transportation of traffic having a prior or subsequent movement in foreign commerce originating at or destined to points in the Provinces of British Columbia and Alberta, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. This affidavit must be submitted within 90 days of the service of a notification of effectiveness of this decision-notice. NOTE: (1) The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials. 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. (2) Dual operations are involved. (Hearing site: Seattle, WA)

MC 141925 (Sub-3F), filed October 30, 1978. Applicant: KOHN BEVERAGE, INC., d.b.a. KOHN TRANSPORT, 4850 Southway, Southwest, Canton, OH 44706. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *malt beverages*, from Detroit, MI, and Milwaukee, WI, to the facilities of The Bissman Company, at or near Mansfield, OH, and (b) *malt beverage containers*, in the reverse direction, under a continuing contract(s) with The Bissman Company, of Mansfield, OH, (2)(a) *malt beverages*, from Fulton, NY, and Milwaukee, WI, to the Facilities of Union Distributing Company, at or near Youngstown, OH, and (b) *malt beverage containers*, in the reverse direction, under a continuing contract(s) with Union Distributing Company, of Youngstown, OH, (3)(a) *alcoholic beverages*, from the facilities of Paramount Distillers, Inc., at or near Cleveland, OH, to Detroit and Lansing, MI, Buffalo, Rochester, and Syracuse, NY, and Milwaukee, WI, (b) *glass containers*, from Glenshaw, PA, to the facilities of Paramount Distillers, Inc., at or near Cleveland, OH, and (c) *alcoholic beverages*, from Detroit, MI, to the facilities of Paramount Distillers, Inc., at or near Cleveland, OH, under continuing contract(s) with Paramount Distillers, Inc., of Cleveland, OH. (Hearing site: Columbus, OH, or Washington, DC)

MC 142189 (Sub-37F), filed October 10, 1978. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Representative: Michael R. Griffith, P.O. Box 980, Baker, MT 59313. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by farm supply cooperatives, (1) from points in AR, CO, IA, IL, IN, KS, KY, MI, MN, MO, MS, NE, OH, OK, TN, TX, and WI, to points in WA, ID, MT, ND, SD, MN, OR, and WY, and (2) from points in OR and WA, to points in ID, MN, MT, ND, SD, UT, and WY. (Hearing site: Minneapolis, MN)

MC 142220 (Sub-4F), filed October 23, 1978. Applicant: BAKER TRUCKING CORP., INC., 4600 Brazil Street, Los Angeles, CA 90029. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *office furniture and office accessories*, from Port Huron, MI, to Tustin, CA, under a continuing contract with Bismac International, Inc., of London, Ontario, Canada. (Hearing site: Detroit, MI)

MC 142368 (Sub-15F), filed November 6, 1978. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, City of Industry, CA 91744. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum windows and patio doors*, from Fresno, CA, to points in AZ, NV, and UT. (Hearing site: Los Angeles, CA).

MC 142484 (Sub-2F), filed October 10, 1978. Applicant: STRINGFELLOW TRANSPORTATION CO., INC., 724 Third Avenue, North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *lumber, forest products*, and *lumber mill products*, between the facilities of Walker Williams Lumber Company, Inc., at Hatchechubbee, AL, on the one hand, and, on the other, points in AL, FL, GA, KY, MS, and TN, under contract with Walker Williams Lumber Company, Inc., of Hatchechubbee, AL. (Hearing site: Birmingham or Mobile, AL.)

MC 142998 (Sub-3F), filed November 8, 1978. Applicant: LAUGHLIN LINES, INC., P.O. Box 11886, Reno, NV 89510. Representative: Harley E. Laughlin, Suite 264, Airport Plaza, 1755 East Plumb Lane, Reno, NV 89502. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by fireplace stores and department stores, and (2) *agricultural commodities* otherwise exempt from economic regulation under Section 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), when moving in mixed loads with the commodities in (1) above, between Long-Shot, NV, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), restricted to the transportation of traffic originating at or destined to Long-Shot, NV. (Hearing site: Reno, NV).

MC 143184 (Sub-4F), filed September 6, 1978. Applicant: DARREL W. PRICE, d.b.a. MODULAR WEST TRANSPORT, 705 33rd Street, Ogden, UT 84403. Representative: Frank M. Wells, 2506 Madison Avenue, Ogden, UT 84401. To operate as a *common carrier*, by motor vehicle, transporting *prefabricated modules* in *sections without fixed undercarriages*, from the facilities of Boise Cascade Corporation at or near West Jordan, UT to points in NV and WY, under contract with Boise Cascade Corporation, of Boise, ID. (Hearing site: Salt Lake City, UT.)

MC 143471 (Sub-6F), filed October 10, 1978. Applicant: SHERIDAN HEIGHTS, INC., d.b.a. DAKOTA PACIFIC TRANSPORT, 301 Mount Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *stone and stone aggregates*, from points in Platte County, WY, to points in AR, CA, CO, ID, IL, IA, KS, MN, MO, MT, NE, NV, ND, OK, OR, SD, UT, WA, WI, and WY, under contract with Basins Engineering, Inc., of Wheatland, WY. (Hearing site: Rapid City, SD, or Cheyenne, WY.)

MC 143478 (Sub-4F), filed November 13, 1978. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box

146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 26104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages* (except in bulk), from Jacksonville and Tampa, FL, to the facilities of Capital City Beverage Co., of Troy, Inc., at or near Brundidge, Al, under contract with Capital City Beverage Co., of Troy, Inc., of Brundidge, AL. (Hearing site: Montgomery, AL, or Jacksonville, FL).

MC 143988 (Sub-4F), filed November 9, 1978. Applicant: JAMES W. TATE, d.b.a. JAMAR TRUCKING, 2995 Sandbrook, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Green Giant Company, at or near Belvidere, IL, to points in AR, KY, LA, MS, MO, and TN, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Memphis, TN, or Rockford, IL.)

MC 144153 (Sub-1F), filed October 23, 1978. Applicant: OSCAR L. BJUGSTAD, OSCAR G. BJUGSTAD, and AUGUST D. BJUGSTAD, a partnership d.b.a. BJUGSTAD TRUCKING CO., Route 2 Highway 51, Stoughton, WI 53589. Representative: Oscar L. Bjugstad, Route 2, Evansville WI 53536. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *agricultural limestone*, from the facilities of Vulcan Materials Company, at Lisbon and Sussex, WI, to points in MN, IL, and IA. (Hearing site: Madison or Milwaukee, WI.)

MC 144161 (Sub-1F), filed October 10, 1978. Applicant: ROBERT STEEN d.b.a. STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: M. Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *lumber and wood products*, from the facilities of Homestake Forest Products Company, at or near Spearfish, SD, to points in CO, IA, IL, IN, KS, MI, MN, MO, MT, NE, ND, OH, PA, SD, WI, and WY, under contract with Homestake Forest Products Co., of Spearfish, SD. (Hearing site: Sioux Falls, SD, or Sioux City, IA.)

MC 144261 (Sub-2F), filed September 27, 1978. Applicant: JULUIS KOLESAR, INC., 1359 Milton Street, P.O. Box 1086, Benton Harbor, MI 49022. Representative: J. Joseph Daly, 610 Ship St, P.O. box 558, St. Joseph, MI 49085. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs*, (except in bulk), between Napoleon, OH, on the one hand, and, on the other, Camden, NJ, (2) *frozen meats*, in vehicles equipped with mechanical refrigeration, from Philadelphia, PA, to Napoleon, OH, (3) *frozen foods*, in vehicles equipped with mechanical refrigeration, from Clayton, DE, to Napoleon, OH, (4) *frozen vegetables*, in vehicles equipped with mechanical refrigeration, from Clayton, DE, to Napoleon, OH, and (5) *pasta products*, from Philadelphia, PA, to Napoleon, OH, and (6) *pallets*, from Canden, NJ, to Napoleon, OH, under contract with Campbell Soup Company, of Camden, NJ. (Hearing site: Benton Harbor, MI, or Camden, NJ.)

MC 144330 (Sub-46F), filed October 11, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic and plastic products*, and (2) *materials and supplies used in the manufacture or distribution of the commodities named in (1)*, (except commodities in bulk, in tank vehicles), from the facilities of Robin-Tech Incorporated, at or near Rolla, MO to those points in the United States in and west of TX, OK, KS, NE, SD, and ND. (Hearing site: Salt Lake City, Ut, or St. Louis, MO.)

MC 144688 (Sub-11F), filed November 9, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sugar, corn syrup, and blends of corn syrup*, from the facilities of Dandy Distributors, Inc., at or Near Atlanta, GA, to points in NC, SC, and TN, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Omaha, NE.)

MC 145148 (Sub-2F), filed October 19, 1978. Applicant: SUTTER TRUCKING & EQUIPMENT, INC., 277 Versailles Road, Irving, NY 14081. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wire and wire products*, from Tonawanda, NY, to points in CT, DE, GA, KY, ME, MD, MA, MO, NC, ND, NH, NJ, OH, PA, RI, SC, SD, TN, VT, VA, and WV; and (2) *materials, supplies, and equipment* used in the manufacture of wire and wire products, in the reverse direction, under continuing contract(s) with New York Wire Mills Corporation, a subsidiary of Ivaco Industries Ltd., of Tonawanda, NY. (Hearing site: Buffalo, NY.)

MC 145452-F, filed October 2, 1978. Applicant: EAST-WEST WRECKER SERVICE, INC., P.O. Box 1085, North Wilkesboro, NC 28659. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *wrecked and disabled trucks, tractors, and trailers* (except those designed to be drawn by passenger vehicles), from points in the United States (except AK and HI), to those points in NC on and west of U.S. Hwy 29; and (2) *replacement vehicles* for the above named vehicles, from Wilkes, Watauga, Forsyth, and Alleghany Counties, NC, to points in the United States (except AK and HI). (Hearing site: Charlotte, NC.)

MC 145461F, filed October 2, 1978. Applicant: TENNESSEE TEXAS EXPRESS, INC., P.O. Box 888, Gallatin, TN 37066. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. 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 Nashville, TN, and Houston, TX, from Nashville over Interstate Hwy 40 to Little Rock, then over Interstate Hwy 30 to Dallas, TX, then over Interstate Hwy 45 to Houston, TX, and return over the same route, serving the intermediate points of Memphis, TN, Dallas and Ft. Worth, TX, and serving the junction of Interstate Hwy 30 and U.S. Hwy 259, at or near Bassett, TX, for purposes of joinder only, and (2) between Houston, TX, and junction U.S. Hwy 259 and Interstate Hwy 30, at or near Bassett, TX, over U.S. Hwy 259, serving Lufkin and Longview, TX, as intermediate points, and serving the junction of U.S. Hwy 259 and Interstate Hwy 30 for purposes of joinder only. Restriction: Service at Memphis, TN and points in its commercial zone is restricted against the handling of traffic which originates at, is destined to, or interlined at Nashville, TN, and points in its commercial zone. (Hearing site: Memphis, TN, and Dallas, TX.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 145474F, filed October 10, 1978. Applicant: STAR SYSTEMS, INC., 2332 South Peck Road, Whittier, CA

90601, Representative: Miles L. Kavaller, 315 South Beverly Drive, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *trunks and traveling bags*, from Nogales, AZ, to Denver, CO; and (2) *materials and supplies* used in the manufacture of trunks and traveling bags, from Riverside and Waterbury, CT, Mishawaka, IN, Port Clinton, OH, Canton and Lowell, MA, Columbus, MS, Garfield, Ridgefield, and West Caldwell, NJ, Glen Cove, NY, Philadelphia and Pottstown, PA, Providence and West Warwick, RI, Newport News and Stuart, VA, to Tucson, AZ, under contract with Samsonite Corporation, of Denver, CO. (Hearing site: Los Angeles, CA, or Denver, CO.)

MC 145491F, filed October 5, 1978. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., 254 South Kitley Avenue, Indianapolis, IN 46219. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Morton, Matton, Chicago, Danville, East St. Louis, Decatur, Peoria, Carbondale, Villa Grove, and Quincy, IL, on the one hand, and, on the other, points in IL, IN, and KY, restricted to the transportation of traffic having an immediately prior or subsequent movement by rail. (Hearing site: Washington, DC.)

MC 145493 (Sub-1F), filed October 23, 1978. Applicant: CLARENCE E. RAY, JR., and SAM CURNUTT, d.b.a. LONGVIEW LIMOUSINE SERVICE, 906 12th Street, Longview, TX 75602. 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 *passengers and their baggage*, in the same vehicle with passengers, between Longview, TX, and Shreveport Regional Airport, Shreveport, LA, over Interstate Hwy 20, serving no intermediate points, restricted to the transportation of (1) not more than eleven (11) passengers in any one vehicle, (not including the driver), and (2) passengers having an immediately prior or subsequent movement by air. (Hearing site: Dallas, TX, or Shreveport, LA.)

MC 145522F, filed October 10, 1978. Applicant: RICHARDS TRANSFER SERVICE, INC., 7100 N.W. 12th Street, Miami, FL 33126. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Broward and Dade Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by air or water. (Hearing site: Washington, DC, or Miami, FL.)

MC 145560F, filed October 11, 1978. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *bathroom rug sets, bedspreads, and drapes*, and (2) *accessories for the commodities named in (1)*, (except commodities in bulk) from the facilities of Lawtex Industries, Inc., at or near (a) Dalton and Calhoun, GA, and (b) Piedmont, AL, to the facilities of Lawtex Industries, Inc., at or near Cerritos, CA, under a continuing contract with Lawtex Industries, Inc., of Dalton, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 145593F, filed October 20, 1978. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 1533, Hickory, NC 28601. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *furniture and furniture parts*, (1) from points in Catawba, Iredell, Caldwell, Wilkes, Burke, Rutherford, Cleveland, Alexander, and Lincoln Counties, NC, to points in MI and OH, and (2) from Hickory, NC, to Clarksburg, Charlestown, Huntington, and Wheeling, WV. (Hearing site: Charlotte, NC.)

MC 145601F, filed October 19, 1978. Applicant: MORGAN COUNTY TRUCKING, INC., 1010 East Nutter St., Martinsville, IN 46151. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *malt beverages*, (a) from Milwaukee, WI, Cleveland, OH, Newport and Louisville, KY, Fort Wayne, South Bend, and Evansville, IN, St. Louis, MO, Detroit, MI and Peoria, IL, to Martinsville, IN, (b) from Milwaukee, WI, Chicago, IL, and Newport, KY, to Bloomington, IN, and (c) from Columbus, OH, to Martinsville, IN; (2) *brick*, (a) from points in Medina, Richland, Franklin, Hocking, Delaware, Perry, Stark, Tuscarawas, and Wyandot Counties, OH, Clearfield, Adams, and Beaver Counties, PA, and Cook, Knox, and Kankakee Counties, IL, to points in that part of IN bounded by a line beginning at the IN-OH State line and extending along IN Hwy 218 to junction IN Hwy 15, then northwest along IN Hwy 15 to junction In Hwy 16, then west along IN Hwy 16 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction IN Hwy 114, then west along IN Hwy 114 to the IN-IL State line, then south along the IN-IL State line to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the IN-OH State line, and then north along the IN-OH State line to the point of beginning, (b) from points in Morgan County, IN, to points in Morgan County, IN, points in that part of the Lower Peninsula of MI lying on and south of U.S. Hwy 10, points in Jefferson and Kenton Counties, KY, points in Champaign County, IL, Chicago, IL, and points in Montgomery, Franklin, Lucas, and Butler Counties, OH, (c) from points in Morgan County, IN, to Rockford, Aurora, Joliet, Champaign, Paris, Urbana, and Lawrenceville, IL, Owensboro, Louisville, Lexington, Covington, and Erlanger, KY, Cincinnati, Hamilton, Dayton, Springfield, Lima, Toledo, and Columbus, OH, and Detroit, Flint, Muskegon, Grand Rapids, Jackson, Kalamazoo, and Niles, MI, and (d) from points in Marion County, OH, to points in that part of IN bounded on the north by a line beginning at the IN-OH State line and extending west along IN Hwy 218 to junction IN Hwy 15, then northwest along IN Hwy 15 to junction IN Hwy 16, then west along IN Hwy 16 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction IN Hwy 114, then west along IN Hwy 114 to the IN-IL State line, and on the south by U.S. Hwy 50; (3) *structural facing tile*, from points in Stark County, OH, and Beaver County, PA, to points in that part of IN bounded by a line beginning at the IN-OH State line and extending along IN Hwy 218 to junction IN Hwy 15, then northwest along IN Hwy 15 to junction IN Hwy 16, then west along IN Hwy 16 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction IN Hwy 114, then west along IN Hwy 114 to the IN-IL State line, then south along the IN-IL State line to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the IN-OH State line, and then north along the IN-OH State line to the point of beginning; (4) *floor tile* from points in Franklin County, OH, to points in that part of IN bounded by a line beginning at the IN-OH State line and extending along IN Hwy 218 to junction IN Hwy 15, then northwest along IN Hwy 15 to junction IN Hwy 16, then west along IN Hwy 16 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction IN Hwy 114, then westerly along IN

Hwy 114, to the IN-IL State line, then south along the IN-IL State line to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the IN-OH State line, then north along the IN-OH State line to the point of beginning; (5) *structural clay tile and clay products,* (a) from points in Clay County, IN, to points in AL, AR, CT, DE, GA, IL, IA, KS, KY, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VA, VT, WV, and WI, (b) from points in Madison County, AL, Jefferson County, KY, Noxubee County, MS, Sullivan, Hamilton, and Washington Counties, TN, Smyth and Tazewell Counties, VA, and Richmond, VA, to Lansing, IL, and (c) from points in Richmond, County, GA, Grandy County, IL, Dallas and Woodbury Counties, IA, Cloud County, KS, Boyd County, KY, Jefferson County, NE, Cleveland, Davidson, Forsyth, Harnett, and Orange Counties, NC, Adams, Armstrong, Chester, and York Counties, PA, Horry, Marlboro, and Richland Counties, SC, Hamilton, Jefferson, Sullivan and Washington Counties, TN, Brunswick, Prince William, Smyth, and Tazwell Counties, VA, and Kanawha County, WV, to points in IN; and (6) *processed clay,* in containers, from points in Boone County, IA, to points in IN. CONDITION: Prior or coincidental cancellation, at applicant's written request, of permits in MC 134648, issued March 1, 1971, Sub-4, issued February 28, 1978, Sub-9, issued August 17, 1977, and Sub-11, issued June 15, 1977. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145603F, filed October 24, 1978. Applicant: B&H TRUCKING CO., INC., 570 West 17th Street, Indianapolis, IN 46202. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *malt beverages,* in containers, and *empty containers,* between Detroit, MI, Milwaukee, WI, Peoria, IL, Newport, KY, and Columbus, OH, on the one hand, and, on the other, points in Floyd, Clark, and Harrison Counties, IN. (Hearing site: Indianapolis, IN.)

MC 145619 (Sub-1F), filed October 30, 1978. Applicant: PAUL E. MARLOWE, d.b.a. NATIONAL WAREHOUSE & DISTRIBUTION CO., P.O. Box 3561, Kingsport, TN 37664. Representative: Harry W. Asquith, 810 Bank of Knoxville Bldg., Knoxville, TN 37902. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *books,* and (2) *materials, equipment and supplies* used in the manufacture sale, and distribution of books, between Binghamton, NY, on the one hand, and, on the other, Canton, OH, Chicago, IL, Crawfordsville, IN, Milwaukee, WI, New York, NY, Lancaster, Philadelphia, and Dallas, PA, Kingsport and Greenville, TN, and Weber City, VA, under a continuing contract with Grosset & Dunlap, of New York, NY. (Hearing site: Knoxville or Kingsport, TN.)

MC 145643F, filed October 26, 1978. Applicant: BECKER'S TRUCKING, INC., 23 Railroad Street South, Turtle Lake, WI 54889. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *lumber, lumber products, slab wood, ties, poles, pallets, skids, and construction materials and supplies,* between points in Polk, Burnett, and Barron Counties, WI, on the one hand, and on the other points in MN and MI. (Hearing site: Madison or Milwaukee, WI.)

MC 145695F, filed November 2, 1978. Applicant: DISTRIBUTION SHIPPING COMPANY, INC., 200 Route 17 South, Mahwah, NJ 07430. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *artificial kidneys, dialysate solution, dialysis treatment machines,* and (2) *equipment, materials, and supplies* used in the performance of dialysis treatments, from points in Cinnaminson and Delran Townships, NJ, to Costa Mesa, CA, Denver, CO, Miami and Tampa, FL, Atlanta, GA, New Orleans, LA, Jackson, MS, Toledo, OH, Dallas, Houston, and McAllen, TX, and Salt Lake City, UT, under contract with Erika, Inc., of Rockleigh, NJ. (Hearing site: New York, NY.)

MC 145708 (Sub-1F), filed November 2, 1978. Applicant: WILLIAM A. LONG, INC., Bealeton, VA 22712. Representative: Daniel B. Johnson, 4304 East-West Hwy, Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *concrete highway barriers,* between points in VA, on the one hand, and, on the other, points in CT, DE, FL, GA, IN, KY, MA, MD, NJ, NY, NC, OH, PA, RI, SC, TN, WV, and DC. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 130527F, filed September 21, 1978. Applicant: MUSKEGON TRAVEL BUREAU, INC., West Village Mall, Muskegon, MI 49441. Representative: George W. Johnson, 175 W. Apple At First, Muskegon, MI 49443. To engage in operations, in interstate or foreign commerce, as a *broker,* at Muskegon, MI, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at Muskegon, MI, and extending to points in the United States (including AK and HI). (Hearing site: None specified.)

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).

MC 130531F, filed October 3, 1978. Applicant: LAKESIDE TRAVEL AGENCY, INC., Lakeside Shopping Center, 3301 Veterans Blvd., Metairie, LA 70003. Representative: Harvey H. Bingman (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Metairie, LA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Jefferson and Orleans Parishes, LA, and extending to points in the United States (including AK and HI).

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).

MC 130538F, filed October 27, 1978. Applicant: AMERICAN TRAVEL CORPORATION OF GREENSBORO, INC., t./a. BELK TRAVEL CENTER, 150 Four Seasons Mall, P.O. Box 7756, Greensboro, NC 27407. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. To engage in operations, in interstate or foreign commerce, as a *broker,* at Greensboro, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* (1) in round-trip special and charter operations, beginning and ending at points in Alamance, Forsyth, and Guilford Counties, NC, and extending to points in the United States (including AK, but excluding HI), and (2) in one-way special and charter operations, (a) from points in Alamance, Forsyth, and Guilford Counties, NC, to points in the United States (including AK, but excluding HI), and (b) from points in the United States (including AK, but excluding HI), to points in Alamance, Forsyth, and Guilford Counties, NC. (Hearing site: Greensboro, NC.)

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).

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[7035-01-M]

[Decisions Vol. No. 55]

DECISION-NOTICE

Decided: November 30, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute 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 that 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 expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly 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 decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority 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 2202 (Sub-570F), filed September 27, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Canton, MS, as an off-route point in connection with carrier's otherwise-authorized regular-route operations. (Hearing site: Jackson or Meridian, MS.)

MC 7840 (Sub-8F), filed October 26, 1978. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, NY 13202. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *paper and paper articles,* from the facilities of Newton Falls Paper Mill, Inc., at Newton Falls, NY, to points in CT, DE, IL, IN, IA, KY, MA, MD, ME, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC; and (2) *materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1) above,* in the reverse direction. (Hearing site: Syracuse or Buffalo, NY.)

MC 8515 (Sub-15F), filed October 26, 1978. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and IL 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Caterpillar Tractor Co., at or near Pontiac, IL, as an off-route point in connection with applicant's otherwise regular-route operations. (Hearing site: Chicago, IL.)

MC 10875 (Sub-47F), filed September 14, 1978. Applicant: BRANCH MOTOR EXPRESS CO., a Pennsylvania corporation, 114 Fifth Avenue, New York, NY 10011. Representative: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. 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 Toledo, OH, and Indianapolis, IN, on the one hand, and, on the other, points in IN on or east of a line begin-

ning at the IN-MI State line and extending along U.S. Hwy 31 to junction Alternate U.S. Hwy 31, then along Alternate U.S. Hwy 31 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-KY State line, as alternate gateways to existing gateways authorized in No. MC-10875 Sub 37, Parts (10) and (12), to and from the same territory at (1) Harrison, IN-OH and points within 10 miles thereof, (2) Dayton, OH, and (3) junction of Interstate Hwys 70 and 75. (Hearing site: Washington, DC.)

NOTE.—Tacking is authorized at the alternate gateways of Toledo, OH, and Indianapolis, IN, with carrier's authority in MC-10875 and Subs, to provide a through service transporting general commodities with the exceptions named above, between points in IN, and points in AL, CT, DE, GA, IL, IN, IA, KY, MD, MA, MI, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC.

MC 11220 (Sub-161F), filed October 26, 1978. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Birmingham, AL, and points within 15 miles thereof, on the one hand, and, on the other, Albertville, Alexander City, Boaz, Centre, Fairfax, Fort Payne, Guntersville, Oneonta, Opelika, Phenix City, Scottsboro, Sylacuaga, Talladega, Tuskegee, and Wetumpka, AL. (Hearing site: Birmingham, AL.)

MC 29745 (Sub-6F), filed October 30, 1978. Applicant: BODGE LINES, INC., a Missouri corporation, P.O. Box 546, 501 South West Street, Indianapolis, IN 46206. Representative: Phillip V. Price, 729 North Pennsylvania Street, P.O. Box 44128, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Penny Products, Inc., at or near Trafalgar, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Indianapolis, IN.)

MC 29886 (Sub-356F), filed September 29, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., an Indiana corporation, 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *harvesters*, and *accessories and supplies* for harvesters, from South Haven, MI, to points in AR, CA, FL, GA, NJ, NY, NC, OR PA, and WA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 30844 (Sub-627F), filed October 2, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of John Morrell & Co., at or near (1) East St. Louis, IL, and (2) Cincinnati, OH, to points in NJ and NY. (Hearing site: Chicago, IL.)

MC 43716 (Sub-35F), filed September 25, 1978. Applicant: BIGGE DRAYAGE CO., a corporation, P.O. Box 1657, San Leandro, CA 94577. Representative: Edward J. Hegarty, 100 Bush Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe* and *fittings* for plastic pipe and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Carlon Division, Indian Head, Incorporated, at or near Compton, Paramount, and Woodland, CA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, and WA, service at the ports of entry in ID, MT, and WA is restricted to the transportation of traffic moving in foreign commerce destined to points in the Provinces of British Columbia and Alberta, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: San Francisco, CA, or Clevelend, OH.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 61231 (Sub-130F), filed September 26, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glazed tile*, from East Canton, OH, to points in IA, KS, MO, NE, ND, SD, and those in IL, west of U.S. Hwy 51. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 61396 (Sub-360F), filed September 27, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from the facilities of Terra Chemicals International, Inc., at or near Blair, NE, to points in IA, IL, MN, SD, and WI. (Hearing site: Omaha, NE, or Des Moines, IA.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 61592 (Sub-427F), filed October 2, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *ceramic wall and floor tile, quarries*, and *mosaic*, in containers, from points in OH, to Portland, OR, and Tukwila, WA; and (2) *floor tile, wall tile*, and *ceiling tile*, in containers, from Summitville and Minerva, OH, to Birmingham and Montgomery, AL. (Hearing site: Seattle, WA.)

MC 61977 (Sub-13F), filed September 26, 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 *common carrier*, by motor vehicle, over irregular routes, transporting *pipe, fittings, valves, and hydrants*, from the facilities of the Clow Corporation, at Buckhannon, WV, to points in CT, DE, IL, IN, MA, MD, NJ, NY,

OH, PA, and VA. (Hearing site: Charleston, WV.)

NOTE.—Dual operations are involved.

MC 61977 (Sub-14F), filed September 26, 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 *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers and closures* for glass containers, from Vienna, WV, to points in IL, IN, KY, MA, MD, NJ, NY, PA, and RI. (Hearing site: Charleston, WV.)

NOTE.—Dual operations are involved.

MC 65895 (Sub-5F), filed October 26, 1978. Applicant: REDDAWAY'S TRUCK LINE, a corporation, 1721 Northwest Northrup Street, Portland, OR 97209. Representative: Lawrence V. Smart, Jr., 419 Northwest 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Salem, OR, and Seattle, WA, from Salem, over U.S. Hwy 99E to Portland, OR, then over Interstate Hwy 5 to Seattle, WA, and return over the same route, serving all intermediate points in OR, and serving the intermediate points of Tacoma and Olympia, WA. (Hearing site: Salem and Portland, OR, and Seattle, WA.)

MC 94350 (Sub-416F), filed October 11, 1978. Applicant: TRANSIT HOMES, INC., a Michigan corporation, P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *buildings*, in sections, mounted on wheeled undercarriages, from points of manufacture in Franklin Parish, LA, to points in AR, MS, and TX, restricted to the transportation of traffic originating at the indicated origins. Conditions: In view of the findings in MC 94350 Sub-361, the certificate issued here will be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: New Orleans, LA.)

MC 94350 (Sub-419F), filed October 24, 1978. Applicant: TRANSIT HOMES, INC., a Michigan Corporation, Greenville, SC 29602. Representative: Mitchell King, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *mobile cotton compactors*, from Hanford, CA, and Big Spring, TX, to points in AL, AZ, AR, CA, GA, LA, MS, NM, OK, and TX. CONDITION: In view of the findings in MC 94350 (Sub-361), the certificate issued here will be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: Los Angeles, CA.)

MC 95876 (Sub-252F), filed September 28, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. N., St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building board, wallboard, and insulating board*, from the facilities of Armstrong Cork Company, at or near Macon, GA, to points in CT, IA, ME, MA, MN, NH, NJ, NY, ND, PA, RI, SD, VT, and WI. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 100666 (Sub-409F), filed September 11, 1978. Applicant: MELTON TRUCK LINES, INC., an Arkansas Corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *magazines and catalogs, and printed parts and sections* for magazines and catalogs, from Milwaukee, WI, to those points in the United States in and west of FL, GA, TN, KY, and IN (except AK and HI). (Hearing site: Washington, DC.)

MC 100666 (Sub-410F), filed September 11, 1978. Applicant: MELTON TRUCK LINES, INC., an Arkansas Corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by a motor vehicle, over irregular routes, transporting (1) *plastic pipe, plastic tubing, plastic fittings, and plastic connections*, and (2) *materials, supplies, and accessories* used in the manufacture and installation of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from Bakersfield, Santa Ana, and Sun Valley, CA, Pompano Beach, FL, Social Circle, and Stone Mountain, GA, Bristol, IN, Cleveland, OH, and Houston, TX, to points in the United States (except HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 103926 (Sub-78F), filed September 15, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fork-lift trucks*, and (2) *parts, attachments, and accessories* for fork-lift trucks, from Danville, IL, Crawfordsville, IN, and Berea, KY, to Forest Park, GA, Charlotte and Greensboro, NC, Charleston, Columbia, and Greenville, SC, Chattanooga, Knoxville, and Nashville, TN, restricted to the transportation of traffic destined to the facilities of Wrenn Bros. Co. (Hearing site: Atlanta, GA.)

MC 103926 (Sub-80F), filed September 18, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *tractors* (except truck-tractors), weighing 15,000 pounds or more, and *parts, implements, attachments, and accessories* for tractors, between the facilities of Franklin Equipment Co., at Franklin, VA, on the one hand, and, on the other, points in AL, AR, FL, GA, MS, LA, OK, SC, TN, and TX. (Hearing site: Norfolk, VA, or Washington, DC.)

MC 106674 (Sub-341F), filed September 28, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry beverage preparations*, from Trafalgar, IN, to points in IL, KY, MI, MO, OH, TN, and WV. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 107295 (Sub-891F), filed October 26, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *composition board and molding*, from Jasper, FL, to points in the United States (except AK and HI). (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 107295 (Sub-892F), filed October 30, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative:

Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *laundry machine parts*, between Fairfield, IA, and Frankfort, IN. (Hearing site: Des Moines, IA.)

MC 107295 (Sub-894F), filed October 30, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, pipe fittings, hydrants, and valves*, and (2) *accessories* for the commodities in (1) above, from the facilities of United States Pipe and Foundry Co., at Bessemer and Birmingham, AL, to points in AR, MO, OK, and TX. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 107515 (Sub-1186F), filed October 24, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South 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*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Land O' Frost, at or near Searcy, AR, to points in the United States (except AR, AK, and HI). (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 107515 (Sub-1188F), filed October 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *drugs, and such commodities* as are dealt in by food chains and grocery houses, (except commodities in bulk), from the facilities of Bristol-Myers, Inc., at Atlanta, GA, to points in FL, KY, TN, AL, MS, NC, and SC. (Hearing site: New York, NY.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1189F), filed October 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South 3390 Peachtree Road, NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Standard Brands Inc., at or near Birmingham, AL, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY.)

NOTE.—Dual operations may be involved.

MC 107544 (Sub-147F), filed October 2, 1978. Applicant: LEMMON TRANSPORT COMPANY, INC., P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *commodities*, in bulk, in tank vehicles, from points in Smyth County, VA, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, LA, ME, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, RI, SD, TX, UT, VT, WA, WI, and WY. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 108341 (Sub-116F), filed October 4, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *precast concrete and precast concrete products*, (except commodities in bulk), from points in Chesterfield County, VA, to those points in the United States in and east of the Lower Peninsula of MI, IN, IL, KY, TN, AR, and LA. (Hearing site: Washington, DC.)

MC 108341 (Sub-117F), filed October 5, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *boilers*, and (2) *parts and accessories for the commodities in (1) above*, between East Stroudsburg, PA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 109064 (Sub-35F), filed September 27, 1978. Applicant: TEX-O-KAN TRANSPORTATION COMPANY, INC., Box 8367, Fort Worth, TX 76112. Representative: George C. Jackson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *asbestos cement pipe, pipe couplings and pipe fittings*, from the facilities of CertainTeed Corp., at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Houston, TX.)

MC 111310 (Sub-36F), filed October 18, 1978. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, *and malt beverage dispensing equipment*, from St. Paul, MN, to points in IN. (Hearing site: Indianapolis, IN, or Madison, WI.)

MC 111310 (Sub-37F), filed October 18, 1978. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 54402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, *and malt beverage dispensing equipment*, from Detroit, MI, to points in WI. (Hearing site: St. Paul, MN, or Madison, WI.)

MC 111611 (Sub-37F), filed September 15, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewiston, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *brass rods and unfinished brass shapes* (except those requiring special equipment), from the facilities of Cerro Metal Products, at or near Bellefonte, PA, and Weyers Cave, VA, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, and (2) *waste materials and scrap materials*, in the reverse direction. (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 111844 (Sub-9F), filed October 5, 1978. Applicant: DEAN BRENNAN TRANSPORT, INC., 2529 Highway 42, Manitowoc, WI 54220. Representative: William Patrick Dineen, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *liquid soap and liquid cleaning, washing, and scouring compounds*, in bulk in tank vehicles, from Chicago and Elwood, IL, to Manitowoc, WI, under contract with Northern Laboratories, of Manitowoc, WI. (Hearing site: Milwaukee, WI.)

MC 112304 (Sub-153F), filed September 27, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting (1) *machinery, machinery parts, and machinery supplies,* between the facilities of Pangborn Division, The Carborundum Co., at or near Hagerstown, MD, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Pangborn Division, The Carborundum Co., at or near Hagerstown, MD. (Hearing site: Washington, DC.)

MC 112713 (Sub-225F), filed October 19, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. BOX 7270, Shawnee Mission, KS 66207. Representative: John M. Records (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), between Indianapolis, IN, and Nashville, TN, over Interstate Hwy 65, serving no intermediate points, and serving the termini for the purpose of joinder only, as an alternate route for operating convenience only. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 113651 (Sub-290F), filed October 2, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Cincinnati, OH, to points in AL, CT, DE, FL, GA, LA, MD, MA, MS, NJ, NY, NC, PA, RI, SC, TN, TX, VA, WV, and DC. (Hearing site: Cincinnati, OH, or Indianapolis, IN.)

MC 113974 (Sub-55F), filed October 2, 1978. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corp., at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, and (b) Beechbottom, Benwood, Follansbee, and Wheeling, WV, to points in AL. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114045 (Sub-515F), filed October 23, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *razor blades, safety razors, razor and blade combination sets, hair dryers, shaving cream, toilet preparations, hair curlers, permanent hair wave kits, cigarette lighters, stationery, pens and automatic pencils, ink markers, rubber erasers, pencil leads, memorandum desk pads, games paper, and hand held electric tools,* from the facilities of The Gillette Company, Andover, MA, to Dallas and Arlington, TX. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 114273 (Sub-477F), filed October 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of Kahn's & Company, at Cincinnati, OH, to points in VA. CONDITION: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-479F), filed October 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kennth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *rubber products and rubber materials,* (except commodities in bulk, in tank vehicles), from Conshohocken, Frazer, Montgomeryville, Norristown, and Royersford, PA, to points in CO, IA, IL, IN, KS, KY, MI, MN, MO, NE, TX, AR, AND OK. CONDITION: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-480F), filed October 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *glass containers and accessories for glass containers,* from Bridgeton, NJ, to Chicago, IL, and Michigan City, IN. CONDITION: The certificate to be issued shall be limited to 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. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114569 (Sub-246F), filed September 29, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), from points in PA, to points in CA. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 115331 (Sub-466F), filed September 29, 1978. Applicant: TRUCK TRANSPORT INC., a Delaware corporation, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid chemicals,* in bulk, in tank vehicles, between the facilities of E. I. duPont DeNemours & Co., Inc., at Ft. Madison, IA, on the one hand, and, on the other, points in the United States (except AK, HI, and IA). (Hearing site: Chicago, IL, or Washington, DC.)

MC 115331 (Sub-467F), filed September 28, 1978. Applicant: TRUCK TRANSPORT INC., a Delaware corporation, 29 Claytin Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *roofing granules,* from the facilities of GAF Corporation, at or near Annapolis, MO, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MS, MO, OH, TN, and TX. (Hearing site: St. Louis, MO.)

MC 115651 (Sub-49F), filed September 25, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid fertilizer,* in bulk, in tank vehicles, from the facilities of Texas Sul-

phur Products Co., at or near Ottawa, IL, to points in IL, IN, IA, KY, MI, MO, MN, NE, ND, OH, PA, SD, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 115841 (Sub-649F), filed September 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., an Alabama corporation, 9041 Executive Park Drive, Suite 110, Building 100, Knoxville TN 37919. Representative: Richard Hollow, P.O. Box 550, Burwell Building, Knoxville, TN 37902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from the facilities of Pet, Inc., at or near Chickasha, OK, to points in TX. (Hearing site: Washington, DC.)

MC 115931 (Sub-69F), filed October 1, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, from Hulett, WY, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, PA, SD, WV, and WI. (Hearing site: Billings, MT.)

MC 119522 (Sub-39F), filed September 18, 1978. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *nonferous metals*, and *nonferrous alloys*, between East Chicago, IN, and those points in IL on and south of U.S. Hwy 36. (Hearing site: Indianapolis, IN, or Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 119726 (Sub-144F), filed September 29, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington St., Suite 1000, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building board, wall board, and insulating board*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), (a) from the facilities of Armstrong Cork Company, at or near Beaver Falls, PA, to Pensacola, FL, and points in AL, AR, LA, MS, and TN, and (b) from the facilities of Armstrong Cork Company, at or near Marietta, PA, to Macon, GA, Pensacola, FL, and points in AL, MS, and TN. (Hearing site: Indianapolis, IN, or Chicago, IL).

MC 119741 (Sub-111F), filed October 3, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., an Illinois corporation, 1515 Third Avenue, Northwest, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from York, NE, to points in IL, IN, IA, KS, MI, MN, MO, ND, OH, SD, and WI. (Hearing site: Omaha, NE.)

MC 123255 (Sub-180F), filed October 30, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers and closures for glass containers*, from the facilities of Ball Corporation, at or near Mundelein, IL, to points in NJ and NY. (Hearing site: Columbus, OH.)

MC 123407 (Sub-499F), filed October 2, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bentonite clay, processed clay, foundry molding sand treating compound, ground iron ore, and wood flour*, (except commodities in bulk, in tank vehicles), from the facilities of American Colloid Co., at Sandy Ridge, AL, to points in CT, DE, IL, IN, IA, ME, MD, MA, MI, MN, NH, NJ, NY, OH, PA, RI, VT, WI, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 123407 (Sub-500F), filed October 2, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *honeycomb paper products*, from the facilities of Hexagon Honeycomb Corporation in St. Claire County, IL, to points in CA, and those in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: St. Louis, MO.)

MC 123476 (Sub-37F), filed September 18, 1978. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Court, P.O. Box 388, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic articles* (except commodities in bulk, in tank vehicles), from the facilities of U. C. Industries, at Tallmadge, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 124062 (Sub-15F), filed October 6, 1978. Applicant: FRICK TRANSPORT, INC., Wawaka, IN. Representative: Donald W. Smith P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Liquid fertilizer*, in bulk, in tank vehicles, from Watseka, IL, to points in IN. (Hearing Site: Chicago, IL.)

MC 124212 (Sub-102F), filed October 5, 1978. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement*, from the facilities of The Flintkote Company, Kosmos Cement Division, at or near Kosmosdale, KY, to points in IL, IN, OH, TN, and WV. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124774 (Sub-106F), filed September 29,1978. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting Meats, meat products, 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 M.C.C. 209 and 766. From the facilities of Palamera Beef Corp., at Omaha, NE, to points in AL, CT, DE, FL, GA, IL, IN, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC. (Hearing site: Omaha, NE.)

MC 124896 (Sub-69F), filed September 18, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carri-*

er, by motor vehicle, over irregular routes, transporting *foodstuffs,* from the facilities of Chelsea Milling Company, at Chelsea, MI, to points in AL, CT, DE, FL, GA, MA, MD, ME, MS, NC, NH, NJ, NY, PA, RI, SC, TN, VA, and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 125254 (Sub-48F), filed September 8, 1978. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Plastic containers,* from Vandalia, IL, to Minneapolis, MN. (Hearing site: Kansas City, MO.)

MC 127096 (Sub-10F), filed September 27, 1978. Applicant: HENNES TRUCKING CO., a corporation, 338 South 17th Street, Milwaukee, WI 53233. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *cement,* in bulk, from the facilities of Lone Star Industries, at or near Roanoke, VA, to points in OH and WV. (Hearing site: Columbus, OH.)

MC 127705 (Sub-65F), filed October 23, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *glass containers and accessories for glass containers,* and (2) *cartons,* when moving in mixed loads with glass containers, from the facilities of Thatcher Glass Manufacturing Company, a division of Dart Industries, at Lawrenceburg, IN, to points in MI, KY, PA, and MD. (Hearing site: Washington, DC.)

MC 129387 (Sub-78F), filed September 11, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *welders,* and (2) *parts, accessories, and supplies* for welders, from the facilities of Hobart Brothers Company, at or near Troy, OH, to points in AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY. (Hearing site: Cincinnati, OH, or Chicago, IL.)

MC 133095 (Sub-206F), filed October 13, 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 *meats, meat products, and meat byproducts,* from the facilities of Armour Foods Company, at or near Hereford, TX, to points in KY, TN, OH, PA, NY, NJ, MD, VA, WV, NC, MA, CT, ME, NH, VT, RI, and DE. (Hearing site: Dallas, TX)

MC 133095 (Sub-208F), filed October 26, 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 *malt beverages,* from New Orleans, LA, and Fort Worth, San Antonio, Galveston, and Houston, TX, to points in MS, AL, and LA. (Hearing site: Dallas or Houston, TX)

MC 133095 (Sub-209F), filed October 26, 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 *malt beverages,* in containers, from Trenton, NJ, Norfolk, VA, Belleville, IL, St. Louis, MO, Ft. Wayne and Evansville, IN, to points in MS, AL, and LA. (Hearing site: New Orleans, LA, or Birmingham, AL)

MC 133095 (Sub-211F), filed October 27, 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), between Lawrenceburg, IN, and Louisville, KY, on the one hand, and, on the other, points in NC and SC. (Hearing site: Dallas, TX)

MC 133566 (Sub-123F), filed September 29, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, One World Trade Center, Suite 4959, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *sugar,* in packages, from points in Kings County, NY, to points in IL, IN, MI, and OH. (Hearing site: New York, NY)

MC 133811 (Sub-4F), filed September 29, 1978. Applicant: H. E. McCONNELL and H. E. McCONNELL, JR., d.b.a. H. E. McCONNELL & SON TRUCKING CO., 5117½ East Broadway, North Little Rock, AR 72114. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *fertilizer and fertilizer ingredients,* from the facilities of Olin Corporation, at North Little Rock, AR, to points in LA. (Hearing site: Little Rock, AR)

MC 134286 (Sub-81F), filed September 15, 1978. Applicant: ILLINI EXPRESS, INC., a Nebraska corporation, P.O. Box 1564,, Sioux City, IA 51102.Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street., Denver, CO 80203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *prepared flour mixes and frosting mixes* (except commodities in bulk), from the facilities of Chelsea Milling Co., at Chelsea, MI, to New Orleans LA, and points in AZ, CA, CO, OR, TX, UT, and WA.

NOTE: The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Detroit, MI, or Sioux City, IA)

MC 134286 (Sub-83F), filed September 27, 1978. Applicant: ILLINI EXPRESS, INC., a Nebraska corporation, P.O. Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Campbell Soup Company, at or near Napoleon, OH, to Paris, TX, Chicago, IL, and points in KY, NY, PA, and WV. (Hearing site: Sioux City, IA, or Denver, CO)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 134467 (Sub-33F), filed October 2, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *oil filters, vehicle body sealers, and sound deadener compounds,* (except commodities in bulk), and *petroleum products,* in containers, from the facilities of Quaker State Oil Refining Corporation, at or near (1) Congo and St. Marys, WV, to points in MO, and (2) Buffalo, NY, and Emlenton, Farmers Valley, and North

Warren, PA, to points in AR, MO, OK, and TX, restricted in (1) and (2) above to the transportation of traffic originating at the named origins. (Hearing site: Pittsburgh, PA, or Little Rock, AR)

MC 134501 (Sub-32F), filed September 26, 1978. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture* and *store fixtures*, from points in Utah, to points in the United States (except AK, HI, and UT). (Hearing site: Salt Lake City, UT, or Dallas, TX)

MC 134755 (Sub-158F), filed October 27, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, 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 *meats, meat products and meat by-products, and dairy 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 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), from Green Bay, WI, and points in MN, to points in MO on and south of Interstate Hwy 70 (except St. Louis). (Hearing site: Kansas City, MO, or Milwaukee, WI)

NOTE.—Dual operations are involved.

MC 134806 (Sub-51F), filed September 18, 1978. Applicant: B-D-R TRANSPORT, INC., a Delaware corporation, P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *stuffed toys and stuffed animals*, from Keene, NH, to Chicago, IL, Salt Lake City, UT, Denver, CO, Reno, NV, and points in CA, under contract with Douglas Company, Inc., of Keene, NH. (Hearing site: Boston, MA, or Washington, DC)

MC 135895 (Sub-26F), filed July 31, 1978. Applicant: B & R DRAYAGE, INC., P.O. Box 8534 Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, (1) from Fort Worth, TX, to Eutaw, AL, Baton Rouge, Bossier City, Harahan, and Monroe, LA, and Clarksdale, Cleveland, Greenville, Greenwood, Hernando, Kosciusko, and Natchez, MS, (2) from Memphis, TN, to Fort Smith and Newport, AR, Chalmette, Franklin, Harahan, Monroe, and Thibodaux, LA, and Cleveland, Greenville, Hattiesburg, and Laurel, MS, (3) from San Antonio, TX, to Newport and Fort Smith, AR, (4) from Perry, GA, to Greenville and Kosciusko, MS, (5) from Longwiew, TX, to Chalmette and Franklin, LA, (6) from New Orleans, LA, and Galveston, TX, to Newport, AR, and (7) from Albany, GA, to Baton Rouge, LA. (Hearing site: New Orleans, LA, or Houston, TX)

MC 136315 (Sub-43F), filed October 30, 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 *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Beechbottom, Benwood, Follansbee, and Wheeling, WV, and (c) Allenport and Monessen, PA, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and TX. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Dual operations may be involved.

MC 136447 (Sub-5F), filed October 2, 1978. Applicant: STECO, INC., P.O. Box 27, Folkston, GA 31537. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wearing apparel*, from Lake Butler, FL, and Folkston, Wrightsville, Dublin, and Darien, GA, to points in AL, KY, IL, IN, MS, MO, PA, TN, and VA; and (2) *materials and supplies* used in the manufacture of wearing apparel, in the reverse direction, in (1) and (2) above under contract with Stephenson Enterprises, Inc., of Folkston, GA. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 136605 (Sub-79F), filed October 27, 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 *steel pipe and seamless oil well casing*, from the facilities of Penton, Inc., at or near Seattle, WA, to points in MT, ID, WY, ND, SD, UT, and CO. (Hearing site: Seattle, WA.)

MC 138635 (Sub-65F), filed October 11, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Green Giant Company, at or near (1) Watsonville, CA, to points in AZ, UT, WY, NV, ID, MT, OR, and WA, and (2) Tucker, GA, to points in AR, LA, TN, MS, AL, NC, SC, and FL. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 138732 (Sub-18F), filed October 2, 1978. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, Orange, CA 92667. Representative: Michael R. Eggleton, 67 Larkstone Court, Danville, CA 94526. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, lumber mill products, particleboard*, and *wood products*, from the facilities of Potlatch Corporation, at or near Coeur d'Alene, St. Maries, Potlatch, Lewiston, Kamiah, Spalding, Jaype, Santa, and Post Falls, ID, to points in AZ, CA, NV, NM, and UT. (Hearing site: Spokane, WA, or San Francisco, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138875 (Sub-114F), filed October 30, 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 *recyclable scrap materials* (except commodities in bulk), from points in MT, to points in CA, ID, NV, OR, UT, and WA. (Hearing site: Boise, ID, or Portland, OR.)

MC 138882 (Sub-162F), filed October 2, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pipe, fittings, valves*, and *hydrants*, from the facilities of Clow Corporation, at or near Coshocton, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Birmingham, AL.)

MC 138882 (Sub-163F), filed October 2, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fiberboard containers and pulpboard containers*, between the facilities of Sonoco Products Company, at Hartsville, SC, 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 139023 (Sub-7F), filed October 19, 1978. Applicant: 2-G TRANSPORTATION, INC., 10 East Minnesota Street, Savage, MN 55378. 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*, (a) from Evansville and Fort Wayne, IN, Newport, KY, LaCrosse and Milwaukee, WI, and St. Paul, MN, to Champaign, Redmon, and Alton, IL, and (b) from Cincinnati, OH, Louisville, KY, Fort Wayne, IN, and St. Paul, MN, to Danville and Mattoon, IL; CONDITION: The person or persons who it appears may be engaged in common control must either file an application under Section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Champaign, IL, or St. Paul, MN.)

MC 139353 (Sub-6F), filed October 18, 1978. Applicant: DAVIE TRUCKERS, INC., Route 1, Advance, NC 27006. Representative: W. P. Sandridge, Jr., 2400 Wachovia Building, P.O. Drawer 84, Winston-Salem, NC 27102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *brewers wet grains, pressed grains, dry grains, and waste yeast*, in bulk, from the facilities of Pillsbury Company at points in Davie and Rockingham Counties, NC, to points in GA, VA, SC, TN, WV, KY, and NC, under contract with Pillsbury Company of Bloomington, NM. (Hearing site: Winston-Salem or Greensboro, NC.)

MC 140241 (Sub-30F), filed October 2, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, between the facilities of Walnut Products, Inc., at St. Joseph, MO, on the one hand, and, on the other, those points in the United States in and west of MI, OH, KY, TN, and AL (except AK and HI). (Hearing site: Kansas City, MO.)

MC 140665 (Sub-42F), filed October 30, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *electric storage batteries, battery fluid, rectifiers, battery chargers*, and (2) *parts and accessories* for the commodities in (1) above (except commodities in bulk), from Richmond, KY, to points in AZ, CA, CO, ID, NM, UT, NV, WY, MT, OR, TX, OK, and WA. (Hearing site: Washington, DC.)

MC 141124 (Sub-29F), filed September 29, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Paper and paper products*, from Jay and Livermore Falls, ME, to points in GA, NC, SC, TN, and VA, and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141124 (Sub-30F), filed October 1, 1978. Applicant: EVANGELIST COMMERICAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *paper and paper products*, from Cincinnati, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reverse direction. (Hearing site: Cincinnati, OH, or Washington, DC)

MC 141274 (Sub-8F), filed September 27, 1978. Applicant: C. C. ANKENEY, INC., P.O. Box 1034, Whittier, CA 90609. Representative: Michael F. Morrone, 1150 17th Street NW., Suite 1000, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are distributed by dairies, from Los Angeles, Fresno, and Modesto, CA, to points in the United States (except AK and HI), under contract with Knudsen Corporation, of Los Angeles, CA. (Hearing site: Washington, DC.)

MC 141914 (Sub-46F), filed October 2, 1978. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *rubber products, and plastic products*, and (2) *raw materials* used in the manufacture of the commodities in part (1), between Irving, TX, 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 facilities of Entek Corporation of America, at or near Irving, TX. (Hearing site: Dallas, TX.)

MC 142335 (Sub-4F), filed October 20, 1978. Applicant: C & E TRUCKING CO., INC., 11910 Greenstone Avenue, Sante Fe Springs, CA 90670. Representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covine, CA 91790. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe and pipe fittings, fire hydrants, and valves*, and (2) *accessories, attachments, equpment, and parts* used in the installation of pipe and pipe systems, between points in CA, on the one hand, and, on the other, points in NV. (Hearing site: Los Angeles, CA)

MC 142461 (Sub-3F), filed September 27, 1978. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mount Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *new furniture and new furniture parts*, from the facilities of Bassett Mirror Company, in Henry County, VA, to points in AZ, CA, CO, ID, NV, NM, OR, UT, and WA, under contract with Bassett Mirror Company, of Bassett, VA. (Hearing site: Greensboro, NC.)

MC 143404 (Sub-1F), filed September 29, 1978. Applicant: GREENHILL TRUCKING, INC., 1650 Old Country Road, Plainsview, NY 11803. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *automotive parts, automotive accessories, and automotive supplies*, (2) *hardware*, (3) *kitchen equipment and kitchen appliances*, (4) *audio and video products* (except those for commerical and industrial use), (5) *gardening equipment, gardening materials, and gardening supplies*, and (6) *lumber and lumber products*, between Plainview, NY, Secaucus, NJ, and Norwalk, CT, on the one hand, and, on the other, points in CT, MA, NJ, NY, and PA, under contract with Ralar Distributor, Inc., of Plainview, NY. CONDITION: Prior or coincidental cancellation, at applicant's written request of its authority in MC 143404, issued May 5, 1978. (Hearing site: New York, NY, or Newark, NJ.)

MC 143696 (Sub-4F), filed September 25, 1978. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1193, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *used rails, junk metal, salvage metal, crankshafts, used railroad equipment, and power equipment*, (except commodities in bulk), between points in the United

States (except AK and HI), under contract with Chrome Crankshaft Co., of Chicago, IL. (Hearing site: Dallas, TX)

MC 143696 (Sub-5F), filed September 29, 1978. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1193, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TS 75201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *used refrigeration equipment used ice making equipment*, and *power equipment*, between Center, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with C & R Manufacturing Co., Inc., of Center, TX. (Hearing site: Dallas, TX)

MC 143696 (Sub-3F), filed September 25, 1978. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1193, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *scrap metal, salvage metal, and power equipment*, between points in the United States (except AK and HI), under a continuing contract with Rich's Machinery Co., Inc., of Longview, TX. (Hearing site: Dallas, TX)

MC 144322 (Sub-1F), filed October 2, 1978. Applicant: HILTON A. WILSON, Rural Route 2, Heyworth, IL 61734. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *cellulose insulation*, from Armington, IL, to points in AR, IN, IA, KY, MS, MO, OH, TN, and WI; and (2) *scrap paper*, from points in AR, IN, IA, KY, MS, MO, OH, TN, and WI, to Armington, IL, under a continuing contract with Diversified Insulation, Inc., of Hamel, MN. (Hearing site: Chicago, IL)

MC 144481 (Sub-3F), filed September 25, 1978. Applicant: MINNESOTA AIR EXPRESS, INC., 1208 West Center Street, Rochester, MN 55901. Representative: James F. Finley, 301 Midwest Federal Building St. Paul, MN 55101. 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 which because of size or weight require the use of special equipment), between the Rochester Municipal Airport, at or near Rochester, MN, on the one hand, and, on the other, La Crosse, WI, and points in MN, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Minneapolis, MN).

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under Section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144621 (Sub-2F), filed October 3, 1978. Applicant: CENTURY MOTOR LINES, INC., a Delaware corporation, P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: David R. Parker, 717 - 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of surgical supplies, medical supplies, and health care supplies, (except commodities in bulk), from the facilities of Parke Davis Company, Inc., at or near Greenwood, SC, to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, and WA. (Hearing site: Los Angeles, CA).

NOTES.—(1) Dual operations are involved in this proceeding. (2) The person or persons who it appears may be engaged in common control must either file an application under Section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144846 (Sub-4F), filed September 29, 1978. Applicant: TRANSTATES, INC., a Delaware corporation, 3216 East Westminster, Santa Ana, CA 92703. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum rods*, from points in Flathead County, MT, to Jefferson City, MO. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 145054 (Sub-6F), filed October 5, 1978. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80216. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum and petroleum products*, (except in bulk, in tank vehicles) from the facilities of Texaco, Inc., at Wilmington, CA, to points in CO. (Hearing site: Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 145106 (Sub-5F), filed September 28, 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) *empty containers*, (2) *parts and accessories* for containers, and (3) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) and (2) above, between the facilities of Northwestern Bottle Company, at or near St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Northwestern Bottle Company, of St. Louis, MO. (Hearing site: Washington, DC.)

MC 145434F, filed September 29, 1978. Applicant: RAMBLIN MESSENGER SERVICE, INC., P.O. Box 37, Huntington, NY 11743. Representative: George Carl Pezold, P.O. Box Z, Huntington, NY 11743. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by printing and advertising houses, between points in CT, NJ, and NY. (Hearing site: New York, NY.)

MC 145457F, filed September 28, 1978. Applicant: B & M EXPRESS, INC., 500 South Western, P.O. Box 25852, Oklahoma City, OK 73125. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tires, tire parts, inner tubes, and inner tube parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Dayton Tire & Rubber Company, at or near Oklahoma City, OK, on the one hand, and, on the other, points in AR, CO, KS, NE, OK, and TX. (Hearing site: Oklahoma City, OK.)

NOTE.—Dual operations are involved.

MC 145475F, filed October 2, 1978. Applicant: FRONTIER LEASING, INC., Route 7, Box 173, Joplin, MO 64801. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum, aluminum ingots and sows, and scrap metals*, between Ft. Scott, KS, on the one hand, and, on the other points in (a) AR, IL, IN, IA, MI, MO, NE, OH, TN, TX, and WI, under contract with Tower Metals and Ore, Division of Tang Industries, of Ft. Scott, KS, and (b) IN and MO, under contract with Wade's Aluminum Products, Inc., of Ft. Scott, KS, (2) *iron sand, shot, ferro alloys, foundry facings, fire brick, bonding mortar, power house slag, and petroleum coke*, between points in AL, IN, OH, WV, and WI, on the one hand,

and, on the other, points in KS, MO, OK, and TN, under contract with Midvale Mining & Manufacturing Company, of Tulsa, OK, (3) *scrap metals,* from Pittsburg and Independence, KS, and Miami and Ardmore, OK, to Ft. Scott, Iola, and Neodesha, KS, Duncan and Tulsa, OK, and Gainesville, TX, under contract with Central Non Ferrous, Inc., of Joplin, MO, and (4) *aluminum billets and dross, and scrap metals,* between Monett, MO, and Moultrie, GA, Albia, IA, Decatur, IL, North Liberty, IN, Ft. Scott, KS, Kalamazoo, MI, and Belton, SC, under contract with Wells Aluminum, Inc., of Monett, MO. (Hearing site: Kansas City or St. Louis, MO.)

MC 145487F, filed October 2, 1978. Applicant: SMITH TRUCK BROKERAGE, INC., Box 974, Willmar, MN 56201. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *iron pipe fittings,* from Blossburg, PA, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, and WY, under contract with J. P. Ward Foundries, Inc., of Blossburg, PA. (Hearing site: Philadelphia, PA, or New York, NY.)

MC 145578 (Sub-1F) filed November 3, 1978. Applicant: CHEVALLEY MOVING & STORAGE OF LAWTON, INC., P.O. Box 627, Lawton, OK 73501. 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 *used household goods,* between points in Comanche, Kiowa, Caddo, McClain, Carter, Grady, Garvin, Murray, and Stephens Counties, OK, restricted to the transportation of traffic 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 traffic. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 145623 (Sub-1F) filed October 19, 1978. Applicant: O.K. MESSENGER SERVICE, INC., 9107 South Telegraph Road, Taylor, MI 48180. Representative: David E. Jerome, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *structural steel beams, angles, channels, and pipe,* from Plymouth, MI, to points in IL, IN, KY, OH, PA, WV, NY, TN, VA, and WI, under contract with Federal Pipe and Steel Corp., of Plymouth, MI. (Hearing site: Detroit or Plymouth, MI.)

MC 145655 (Sub-1F) filed October 27, 1978. Applicant: TYSON FOODS, INC., 2210 Oaklawn, P.O. Drawer E, Springdale, AR 72764. Representative: Michael H. Mashburn, 111 Holcomb Street, P.O. Box 869, Springdale, AR 72764. To operate as a *contract 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), from points in CA, FL, IL, MA, NC, NJ, NY, OH, PA, SC, TX, and VA, to Bentonville and Searcy, AR, under contract with Wal-Mart Stores, Inc., of Bentonville, AR. (Hearing site: Fayetteville or Fort Smith, AR.)

MC 144784 (Sub-1F) filed September 27, 1978. Applicant: ERIN TOURS, INC., 2019 Haring St., Brooklyn, NY 11229. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *passengers, and their baggage,* in the same vehicle with passengers, between New York, NY, on the one hand, and on the other, points in CT, ME, MA, NH, NJ, NY, and VT, under contract with Metropolitan New York, Council, Inc., American Youth Hostels, of New York, NY. (Hearing site: New York, NY.)

MC 145553F, filed October 19, 1978. Applicant: WILLIAM T. WALLACE d.b.a. WALLACE CAMPING TOURS, 3437 Peck Avenue, Apt. 4, San Pedro, CA 90731. Representative: William T. Wallace (same address as applicant). 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 special and charter operations, beginning and ending at Los Angeles, CA, and extending to points in CA, AZ, ID, NV, UT, and WY, restricted to the transportation of not more than fourteen (14) passengers in any one vehicle, not including the driver. (Hearing site: Los Angeles, CA.)

BROKER AUTHORITY

MC 130522F, filed September 14, 1978. Applicant: AIR & SEA TRAVEL AGENCY, INC., 6229 North Federal Highway, Fort Lauderdale, FL 33308. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312. To engage in operations, in interstate or foreign commerce, as a *broker,* at Fort Lauderdale, Miami, and West Palm Beach, FL, 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 Dade, Broward, and Palm Beach Counties, FL, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Fort Lauderdale, FL.)

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. 78-34666 Filed 12-13-78; 8:45 am]

[7035-01-M]

[Volume No. 128]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

DECEMBER 6, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g., M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 106674 (Sub-90 (M1F)) (Notice of Filing of Petition To Modify Certificate), filed October 12, 1978. Petitioner: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Petitioner holds a motor *common carrier* certificate in MC 106674 (Sub-90), issued June 28, 1973, authorizing transportation over irregular routes as pertinent, of *Anhydrous ammonia,* in bulk, in tank vehicles, from Lima, OH, to points in IN and MI, restricted to a service performed between March 1 and July 15 of each

* Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

year. By the instant petition, petitioner seeks to delete the restriction, "restricted to a service performed between March 1 and July 15 of each year."

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 13900 (Sub-18) (Republication), filed November 23, 1973, published in the FR issue of January 26, 1978, and republished this issue. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, OH 43604. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. A Decision of the Commission, decided August 24, 1978, and served September 20, 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 *general commodities*, with the usual exceptions, (1) between Milwaukee, WI, Chicago, IL, and St. Louis, MO, on the one hand, and, on the other, Memphis, TN, New Orleans, LA, Dallas, Fort Worth, San Antonio, TX, and Kansas City, MO; and (2) between Milwaukee, WI, Chicago, IL, St. Louis, MO, and Cincinnati, OH, on the one hand, and, on the other, Houston, TX, 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 disclose the requested authority to serve Cincinnati, OH, and Houston, TX.

MC 134090 (Sub-4) (2nd Republication), filed July 5, 1977, published in the FR issue of August 18, 1977, and November 16, 1978, and republished this issue. Applicant: ALLBEST TRANSFER AND 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 North Brunswick, NJ, to the plantsite of O. M. Scott & Sons Company, 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 indicate North Brunswick, NJ, in lieu of New Brunswick, NJ.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served 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 do identified in this notice. 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 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 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 118831 (Sub-170F), filed November 22, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, in tank or hopper type vehicles, (1) Between points in GA, NC, SC, and VA; and (2) from points in GA, NC, and SC, to points in AL, FL, MD, TN, WV, and DC. (Hearing: This proceeding will be assigned for hearing at a later date).

NOTE.—Common control may be involved.

MC 134922 (Sub-276F), filed October 12, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Chemicals, drugs, medicines and toilet preparations, packing supplies, advertising matter*, and *display materials related thereto* (except in bulk), from points in NY, MA, DE, NJ, PA, to points in OR, UT, CA, AZ, NV, TX,

and OK. (Hearing site: Washington, DC, or New York, NY.)

NOTE.—Common control may be involved. This proceeding will be consolidated with Applicant's Sub 260 presently pending before the Office of Hearings.

FINANCE APPLICATIONS

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 11343 (formerly Section 5(2)) or 11349 (formerly Section 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.

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-F-13788F. Authority sought for control by C. BARRY SMOTHERMAN AND R. D. EASLEY, INDIVIDUALS, 1136 Haley Road, Murfreesboro, TN 37130, of A & M EXPRESS, INC., 618 United American Bank Bldg., Nashville, TN 37219, through common stock. Applicants' attorney: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Operating rights sought to be controlled: (Pending application in Docket No. MC-145596) to transport *mining equipment, motors, conveyors,* and related parts and commodities used in the manufacture and distribution of *mining equipment, motors* and *conveyors,* as a *common carrier* over irregular routes between Rutherford County, TN, on the one hand, and, on the other, all points in the United States in and east of ID, UT, and AZ. C. BARRY SMOTHERMAN and R. D. EASLEY, holds no authority from this Commission; however, C. BARRY SMOTHERMAN and R. D. EASLEY have control of S & W FREIGHT LINES, INC., which is authorized to operate as a *common carrier* in the State of TN. Application has not been filed for temporary authority under section 210a(b).

NOTE.—No. MC-121644 (Sub-No. 3) is a directly related matter.

MC-F-13795F. Authority sought for purchase by Vic Adams, Inc., 207 North Turner, Yates Center, KS 66783, a portion of the operating rights of Bray Transports, Inc. and Bray Lines Incorporated, P.O. Box 1191, Cushing, OK 74023. Vendor's attorney: Edward T. Lyons, Jr., 1660 Lincoln Street, Suite 1600, Denver, CO 80264. Vendee's attorney: Clyde N. Cristey, Kansas Credit Union Building, Suite 110-L, Topeka, KS 66612. Operating rights sought to be purchased from Bray Transports, Inc. are: Dry fertilizer, in bulk, as a common carrier from the plantsite of Farmland Industries, Inc., at or near Horn, MT, to points in KS, NE and CO; alfalfa meal and pellets, dehydrated and suncured, in bulk, from CO and KS to points in AZ, NM, and TX; cottonseed cakes, in bulk, from points in TX to points in KS, MT, NE and WY, and points in the part of NM on and north of U.S. Hwy. 66, with no transportation for compensation on return except as otherwise authorized; dry feed and dry feed ingredients, in bulk, from Carthage, MO, to points in AR, CO, KS, OK and TX, with no transportation or compensation on return except as otherwise authorized from McPherson and Wichita, KS, to points in AR, CO, OK and TX, with no transportation for compensation on return except as otherwise authorized. Operating rights sought to be purchased from Bray Lines Incorporated are: Boron compounds and potash, as a common carrier from points in Lea and Eddy Counties NM, to points in KS, MO, OK and AR, with no transportation for compensation on return except as otherwise authorized; dry feed and dry feed ingredients, except in bulk, from Carthage, MO, to points in AR, CO, KS, OK and TX, with no transportation for compensation on return except as otherwise authorized, from Kansas City, McPherson and Wichita, KS, to points in AR, CO, OK and TX, with no transportation for compensation on return except as otherwise authorized; dry feed ingredients, from Dallas, TX, to points in AR, CO, KS, MO and OK, with no transportation for compensation on return except as otherwise authorized, from Memphis, TN, to points in MO, OK and TX, with no transportation for compensation on return except as otherwise authorized; boron compounds and potash, from points in Lea and Eddy Counties, NM, to points in AZ, CO, IA, MN, NE, ND, SD and WI, with no transportation for compensation on return except as otherwise authorized; soybean meal, in bags and bulk, from Emporia, Fredonia and Wichita, KS, to points in AZ, CO, NM and TX, except soybean meal, in bulk, in tank or hopper vehicles, from Wichita, KS, to Dallas and Fort Worth, TX, with no transportation for compensation on return except as otherwise authorized. All of the above-referenced descriptions are over irregular routes. The authority sought to be transferred by Bray Transports, Inc. are more fully described in Certificate No. MC-140755 and of Bray Lines Incorporated in No. MC-112822. Approval of the proposed transaction will not result in vendee acquiring duplicating authority as vendee presently holds no authority from the Commission.

MC-F-13802F, filed October 25, 1978. Transferee: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Transferor: W. GRAY BRAXTON, d.b.a. W. GRAY BRAXTON TRUCKING CO., P.O. Box 186, Cottondale, FL 32431. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate MC 126939 and MC 126939 Sub No. 1 as follows: DRY FERTILIZER, in bags, ANIMAL and POULTRY FEED, and SEED, between points in FL, points in that part AL on and southwest of a line beginning at Mobile, AL, and extending along Interstate Hwy 65 to Montgomery, AL, then along Interstate Hwy 85 to the AL-GA State Line, and points in that part of the AL-GA State Line and extending along Interstate Hwy 85 to Atlanta, GA, then along Interstate Hwy to 20 to Augusta, GA. (Restriction: The authority granted above is restricted against transportation of fertilizer from points in Santa Rosa County, FL to points in AL and GA, and from points in Escambia County, FL to points in AL.) LUMBER, from points in FL, except Pensacola and Carrabelle, to points in that part of AL on and southeast of a line beginning at Mobile, AL, and extending along Interstate Hwy 65 to Montgomery, AL, then along Interstate Hwy 85 to the AL-GA State Line, and points in that part of GA on, southeast, and south of a line beginning at the AL-GA State Line and extending along Interstate Hwy 85 to Atlanta, GA, then along Interstate Hwy 20 to Augusta, GA, with no transportation for compensation on return except as otherwise authorized. PALLETS, SHOOKS and WOOD CHIPS, from Cairo, GA, to points in FL Transferee holds authority in MC 124887 and subs to transport lumber from Folkston, Higgston, and Meldrem, GA, to points in AL, FL, KY, MS, NC, SC, TN, VA, and WV. Application has been filed for temporary authority.

MC-F-13810F. Authority sought for purchase by North Park Transportation Co., 5150 Columbine Street, Denver, CO 80216, of the operating rights of James William and Donna

Lynn Parkinson, d.b.a. Glenrock-Casper Truck Line, Box 817, Glenrock, WY 82637, and for acquisition by Peter B. Kooi, 5150 Columbine Street, Denver, CO 80216, of control of such rights through purchase. Attorneys Leslie R. Kehl, 1660 Lincoln, Suite 1600, Denver, CO 80264, for transferee and Harry Leimback, 430 East First, Casper, WY 82601, for transferor. Operating rights sought to be purchased: General commodities (except petroleum products in bulk and Class A & B explosives): (1) Between Glenrock, WY, and the Dave Johnson Power Plant approximately six miles east of Glenrock serving all intermediate points from Glenrock over U.S. Hwy 20 and 87 to junction unnumbered county highway and then over unnumbered county highway to the Dave Johnson Power Plant and return; (2) Property between Casper, WY, and Glenrock, WY, over U.S. Hwy 87 and 20 including intermediate service to all points along and over said route. Vendor is authorized to operate as a common carrier in the States of CO, NM, and WY. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Casper, WY.)

NOTE.—MC 105350 (Sub-No. 28F) is a directly related matter.

MC-F-13812F. (K.J. TRANSPORTATION, INC.—control and merger—on TIME DELIVERY, INC.), published in the November 30, 1978 issue of the FEDERAL REGISTER. Application filed November 17, 1978, for temporary authority under section 210a(b).

MC-F-13831F. Applicant: REPUBLIC VAN & STORAGE CO., INC., 9219 Harford Road, Baltimore, MD 21234. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Authority is sought for purchase by Republic Van and Storage Co., Inc., 9219 Harford Road, Baltimore, MD, 21234, of a portion of the operating rights of Western Gillette, Inc., 1077 Gorge Boulevard, Akron, OH 44309, and for acquisition by Republic Van Lines, Inc., 9219 Harford Road, Baltimore, MD 21234, of control of such rights through the transaction. Operating rights sought to be transferred: Operation as a *common carrier*, by motor vehicle, transporting household goods as defined by the Commission. (1) Between Mesa, AZ, and El Paso, TX, serving the intermediate points of Superior, Miami, Globe, Bylas, Fort Thomas, Glenbar, Pima, Central, Thatcher, Safford, Solmonsville, and Duncan, AZ, and Lordsburg, Deming, and Las Cruces, NM: From Mesa over U.S. Hwy 70 to Las Cruces, NM,then over U.S. Hwy 80 to El Paso, and return over the same route. (2) Between Las Cruces, NM, and El Paso, TX, as an alternate route for operating convenience only in connection with carrier's regular route authorized under (I)(B) herein between Las Cruces, NM, and El Paso, TX, over U.S. Hwy 80; serving no intermediate points: From Las Cruces over NM Hwy 28 to the NM-TX State line then across the Rio Grande River and over unnumbered highway to Smeltertown, TX, then over Alternate U.S. Hwy 80 to El Paso, and return over the same route. (3) Between points in CA and Tucson, AZ, as follows: From Los Angeles, Los Angeles Harbor, Long Beach, Alhambra, Artesia, Beverly Hills, Brea, Burbank, El Segundo, Fullerton, Glendale, Hollywood, Hollydale, Hynes, North Hollywood, Norwalk, Pasadena, Redondo Beach, San Fernando, Santa Fe Springs, Santa Monica, Van Nuys, Venice, and Whittier, and all points on paved roads intermediate between Los Angeles and any of the above-named points, over irregular routes to junction U.S. Hwy 60 or 66 or Interstate Hwy 10, then over U.S. Hwy 60 to Beaumont, CA, or over Interstate Hwy 10 to junction unnumbered hwy, then over unnumbered hwy via Guasti, CA, to junction Interstate Hwy 10, then over Interstate Hwy 10 to Beaumont, or over U.S. Hwy 66 to San Bernardino, CA, then over U.S. Hwy 395 to junction Interstate Hwy 10 or U.S. Hwy 60, then over U.S. Hwy 60 or Interstate Hwy 10 to Beaumont, CA; or from San Bernardino over Mill Street to junction Mountain View Avenue, then over Mountain View Avenue to junction Interstate Hwy 10 then over Interstate Hwy 10 to Beaumont, CA, then over U.S. Hwy 60 via Indio, CA, to Mesa, AZ, then over AZ Hwy 87 to junction AZ Hwy 287 near Coolidge, AZ, then over AZ Hwy 287 to Florence, AZ, then return over AZ Hwy 287 to junction AZ Hwy 87, then over AZ Hwy 87 to junction AZ Hwy 84, then over AZ Hwy 84 to Tucson (also from Mesa over AZ Hwy 87 to junction AZ Hwy 93 (formerly AZ Hwy 187), then over AZ Hwy 93 to junction AZ Hwy 84, then over AZ Hwy 84 to Tucson), and return over the regular routes specified to junction irregular routes, then over irregular routes to the specified origin points. Service is authorized to and from all intermediate points on the immediately above-described route. From the CA points specified under the commodity description next above, to Indio as specified next above, then over CA Hwy 86 to El Centro, CA, then over U.S. Hwy 80 via Gila Bend, AZ, to Phoenix, AZ, then over U.S. Hwy 60 to Mesa, AZ, and then to Tucson as specified next above, and return over regular routes specified to junction irregular routes, then over irregular routes to the specified origin points. From the CA points specified under the commodity description next above to Gila Bend as specified next above, then over AZ Hwy 84 to Tucson, and return over the regular routes specified to junction irregular routes, then over irregular routes to the specified origin points. Service is not authorized to or from intermediate points on the regular routes specified in the two paragraphs next above, except as otherwise authorized. (4) Between points in CA, and points in AZ, serving all intermediate points on the specified regular routes, as follows: From Los Angeles, Los Angeles Harbor, Long Beach, Alhambra, Artesia, Beverly Hills, Brea, Burbank, El Segundo, Fullerton, Glendale, Hollywood, Hollydale, Hunes, North Hollywood, Norwalk, Pasadena, Redondo Beach, San Fernando, Santa Fe Springs, Santa Monica, Van Nuys, Venice, and Whittier, and all points on paved roads intermediate between Los Angeles and any of the above-named points, over irregular routes to junction U.S. Hwy 66, then over U.S. Hwy 66 to CA-AZ State line, and then over irregular routes to points on U.S. Hwy 89 between junction U.S. Hwy 66 and unnumbered highway between junction U.S. Hwy 89 near Marble Canyon, AZ, and Lee's Ferry, AZ, inclusive, and those in that part of AZ south of a line beginning at the NV-AZ, State line and extending along U.S. Hwy 66 to Kingman AZ, then along U.S. Hwy 66 to Holbrook, AZ, and then along U.S. Hwy 180 to the AZ-NM State line, including points on the indicated portions of the highways specified, and return over irregular routes to junction regular route, then over regular route to junction irregular routes, then over irregular routes to junction irregular routes, and then over irregular routes to the specified origin points. From the immediately above-specified CA points over irregular routes to junction U.S. Hwy 60 or Interstate Hwy 10, then over U.S. Hwy 60 to Indio, CA (or over Interstate Hwy 10 to junction unnumbered hwy, then over unnumbered hwy via Guasti, CA, to junction Interstate Hwy 10, then over Interstate Hwy 10 to Indio, CA), then over U.S. Hwy 60 to the CA-AZ State line, and then over irregular routes to the AZ points specified immediately above, and return over irregular routes to junction regular routes, then over regular routes to junction irregular routes, and then over irregular routes to the immediately above-specified CA origin points. From the immediately above-specified CA points to Indio as specified immediately above, then over CA Hwy 86 to El Centro, CA, then over U.S. Hwy 80 to the CA-AZ State line, and then over irregular routes to the AZ points specified immediately above, and return over irregular routes to junction regu-

lar routes, then over regular routes to junction irregular routes, and the over irregular routes to the specified CA origin points. Vendec is authorized to operate as a common carrier in all states (except MT, ND, SD, AZ, and AK). Application has been filed for temporary authority under section 210a(b). (Hearing Site: Washington, D.C.)

NOTE.—MC-110585 (Sub 18F) is a directly related matter.

MC-F-13828F. Authority sought for purchase by DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494, of the operating rights of Flying Fur Transport, Inc., P.O. Box 271, Marlton, NJ 08053, and for acquisition of control of such rights by Dennis C. Brown, P.O. Box 1116, Wisconsin Rapids, WI 54494, and W. A. Rusch, Route 3, Lena, WI 54139. Applicant's attorney: Jacob P. Billig, 2033 K Street, NW, Washington, DC 20006. Operating rights sought to be purchased: Pets, animals intended as pets, and containers, supplies and equipment used in the transportation, raising and keeping of pets and animals intended as pets (except commodities in bulk), between points in DC, IN, IL, IA, KS, MD, MA, MI, MO, NE, NJ, NY, OH, OK, PA, VA, and WI. Restriction: The service authorizd herein is restricted against the transportation of traffic having an immediately prior or subsequent movement by air. Transferee is authorized to operate as a *common carrier* in NJ, WI, PA, GA, OK, IA, MI, IL, MA, MN, SD, CT, DE, TN, KY, MD, NY, OH, RI, VA, and DC. Application has been filed for temporary authority under Section 210a(b) of the Act.

MC-F-13829F. Authority sought for purchase by ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, P.O. Box 658, Moberly, MO 65270, of a portion of the operating rights of MIDLAND TRUCK LINES, INC., 311 Marion Street, St. Louis, MO 63104, of control of such rights through the purchase by George A. Vitt, Geraldine G. Vitt, E. Gene Orscheln, Norma J. Orscheln, Harold W. Orscheln, Lucille Orscheln, Elmer A. Orscheln, Margaret Orscheln, Francis J. Orscheln and Ann P. Orscheln. Applicant's representatives: Ronald Pearlmann, 34th Floor, 1 Mercantile Center, St. Louis, MO and Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Operating rights sought to be purchased: The Transferor's general commodity regular route authority between St. Louis, MO, Evansville, IN, Henderson, KY and Elkton, KY, serving certain intermediate points, the Aluminum Company of America plant located near Newburgh (Warrick County), IN and Transferor's pending authority in MC-21227 (Sub-No. 12) which seeks authority between Evansville, IN and Mt. Vernon, IN. Vendee is authorized to operate as a *common carrier* within the States of MD, IL, IA, and IN. Application has been filed for temporary authority under section 210a(b) of the Act. (Hearing site: St. Louis, MO.)

MC-F-13841F. Authority sought for purchase by PERKINS TRUCKING CO., INC., 250 Miller Place, Hicksville, NY 11801, of the operating rights of B & T TRANSPORTATION CO., 200 Frontage Road, Boston, MA 02118, and for acquisition by PERKINS SYSTEM, INC. and ROBERT W. PERKINS, also of 250 Miller Place, Hicksville, NY 11801, of control of such rights through the purchase. Applicants' attorneys: A. David Millner, P. O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006, and Francis P. Barrett, 60 Adams Street, P.O. Box 2381, Boston, MA 02187. Operating rights sought to be transferred: Certificate No. MC-30202 and Subs 2 and 3 (portion) authorizing the transportation of general commodities, with the usual exceptions, over regular and irregular routes in MA, CT and RI. Transferee is a certificated carrier authorized to operate in NY, NJ and CT. Application has been filed for temporary authority under Section 210a(b).

NOTE.—A directly related 207 application to convert certain portions of B & T's irregular authority to regular routes will be filed.

MC-F-13834F. Applicant: INTERNATIONAL CARRIERS, INC., 7701 West Jefferson, Detroit, MI 48209. Representative: Martin J. Leavitt, 22375 Haggerty Road P.O. Box 400, Northville, MI. Applicant seeks to acquire that portion of the authority issued to Indianhead Truck Line, Inc., 1947 West County Road C., St. Paul, MN, 55113, of control of such rights through the transaction, in MI-108449, Sub No. 292 (Portion) authorizing operations as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Grand Rapids, MI and Lansing MI, serving all intermediate points: From Grand Rapids, MI, over unnumbered highway (formerly portion of U.S. Hwy 16) to junction I-96 (formerly portion of U.S. Hwy 16), thence over Interstate Hwy 96 to Lansing, and return over the same route. RESTRICTION: Service over the above-described route is restricted against service between Fort Wayne, Corunna and Angola, IN and between Fort Wayne, IN Coldwater, Lansing and Sommerset, MI, vendee is authorized to operate as a *common carrier* in IL, IN, OH., MI, MO, KY, PA, VA, WV, IA, NY, NJ, DE, MD, RI, CT, MA, DC.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Chicago, IL, Lansing, MI or Washington, D.C.

MC-F-13836F. Authority sought for purchase by BERNARD PAVELKA TRUCKING, INC., Route 1, Box 263B, Hastings, NE 68901, of a portion of the operating rights of S & W Transfer, Inc., 312 East Wisconsin, Suite 612, Milwaukee, WI 53202, and for acquisition by Bernard Pavelka 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: *Meats, meat products, and meat by-products, and such commodities* As are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, as a *contract carrier*, over irregular routes, between Gibbon, NE, on the one hand, and, on the other, Chicago, IL and Milwaukee, WI. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Gibbon Packing Corp. of Gibbon, NE, as more fully described in Permit No. MC-109028 (Sub 10). Vendee is authorized to operate pusuant to Permit No. MC-142262 as a *contract carrier* in WI, MN, NE and IL. Application has not been filed for temporary authority under Section 210a(b).

OPERATING RIGHTS APPLICATIONS(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and 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 repre-

sentative 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 105350 (Sub-28F), filed November 3, 1978. Applicant: NORTH PARK TRANSPORTATION CO., a corporation, 5150 Columbine Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln, Suite 1600, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, commodities in bulk, and commodities requiring special equipment): Between Casper, WY and Glenrock, WY, serving all intermediate points from Casper over U.S. Hwy. 87 (also portion U.S. Hwy. 20) to Glenrock and return over the same route. (Hearing Site: Casper, WY.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity and is a directly related matter to MC-F-13810F, published in a previous section of this FEDERAL REGISTER issue.

MC 110585 (Sub-18F), filed November 17, 1978. Applicant: REPUBLIC VAN & STORAGE CO., INC., 9219 Harford Road, Baltimore, MD 21234. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (a) Between points in AZ on U.S. Hwy 89 between its junction with U.S. Hwy 66 and its junction with Alternate U.S. Hwy 89 near Marble Canyon, points in AZ on Alternate U.S. Hwy 89 between its junction with U.S. Hwy 89 and Marble Canyon, and points in AZ on and south of a line beginning at the NV-AZ State line and extending along U.S. Hwy 93 to Kingman, then along U.S. Hwy 66 to Holbrook and then along U.S. Hwy 180 to the AZ-NM State line; and (b) between points in that portion of AZ specified in paragraph (a) immediately preceding on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI and WY. (Hearing Site: Washington, DC.)

NOTE.—This application is directly related to MC-F-13831F published in a previous section of this FR issue. The instant application does not seek authority to serve any point in AZ not now authorized to vendor Western Gillette, nor any point outside AZ not now authorized to vendee Republic Van and Storage Co., Inc., rather, its purpose is to achieve simplification of the complicated Western Gillette territorial descriptions and to avoid any necessity for operating through gateways.

MC 121644 (Sub-3F), filed October 17, 1978. Applicant: S & W FREIGHT LINES, INC., 1135 Haley Road, Murfreesboro, TN 37130. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except classes A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), (1) between Nashville, TN, and Murfreesboro, TN, serving all intermediate points: From Nashville over U.S. Hwy 41 to Murfreesboro, and return over the same route; (2) between Murfreesboro, TN, and Memphis, TN: From Murfreesboro over Interstate Hwy 24 to its junction with Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, restricted as follows: (A) Service at Memphis is restricted to that portion of Memphis and its commercial zone, as defined by the Commission, lying wholly within Tennessee, and (B) service at Memphis, TN, is restricted against the handling of traffic originating at, destined to or interchanged at Nashville, TN, and its commercial zone, as defined by the Commission. (Hearing site: Nashville, TN, or Washington, DC)

NOTE.—The purpose of this application in (1) and (2) above is to convert Certificates of Registration to a Certificate of Public Convenience and Necessity. This application is a directly related application to MC-F-13788F and published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed 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 41432 (Deviation No. 31), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, TX 75207, filed November 20, 1978, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, GA, over Interstate Hwy 75 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Jacksonville, FL, 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 Atlanta, GA, over U.S. Hwy 23 to junction GA Hwy 87, then over GA Hwy 87 to Macon, GA, then over U.S. Hwy 80 to Savannah, GA, then over Alternate U.S. Hwy 17 to Jacksonville, FL, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

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 10931 (formerly 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.

New York Docket No. T-8378, filed November 8, 1978. Applicant: FURNESS EQUIPMENT CORP., 42 Central Avenue, Fredonia, NY 14063. Representative: Harold Furness (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, (A) Between all points in Erie and Wyoming Counties, on the one hand, and, on the other, all points in the Counties of Cattaraugus, Erie, Genesee, Livingston and Wyoming. (B) From the City of Rochester, to the Hamlet of Honeoye (Ontario County), as follows: From Rochester to Hemlock via NY Hwy 15A; then via U.S. Hwy 20A to Honeoye, serving the intermediate point of Hemlock. Between the City of Rochester and the Hamlet of Lakeville (Livingston County) as follows: From Rochester via NY Hwy 15A to Henrietta; then via NY Hwy 253 to Scottsville; then via NY Hwy

251 to Rush; then via NY Hwy 15A to Honeoye Falls; then via Honeoye Falls Road to Avon; then via NY Hwy 39 to Genesee; then via Lakeville Road, NY Hwy 256 and U.S. Hwy 20A to Lakeville; and returning in the reverse direction, including service to, from and between all intermediate points, and the following off-route points: South Livonia (Livingston County), South Lima (Livingston County), Mortimer (Monroe County), Long Point (Livingston County). Between Avon and Lima via NY Hwy 5, serving the intermediate point of East Avon. Between Lakeville and Hemlock via U.S. Hwy 15 to Livonia; then via U.S. Hwy 20A and NY Hwy 15A to Hemlock; serving the intermediate point of Livonia. Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, Building No. 4, Room G-21, State Campus Albany, NY 13332, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34667 Filed 12-13-78; 8:45 am]

[1505-01-M]

[Notice No. 198]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-29822 appearing at page 49401 in the issue for Monday, October 23, 1978, on page 49402, in the first column, the paragraph beginning "MC 2368 (Sub-82TA)" should begin "MC 2368 (Sub-83 TA)".

[7035-01-M]

[Decisions Volume No. 32]

DECISION NOTICE

Correction

In FR Doc. 78-26857 appearing at page 43597 in the issue for Tuesday, September 26, 1978, make the following correction: On page 43605, in the first column, in paragraph MC 141675 (Sub-4F), in the 7th line, substitute the word "contract" for the word "common".

[7035-01-M]

[Notice No. 721]

ASSIGNMENT OF HEARINGS

Correction

In FR Doc. 78-27766 appearing at page 45668 in the issue for Tuesday, October 3, 1978, make the following correction: On page 45676, in the first column, in the first full paragraph, in the first line, "MC 13882 (Sub-87F)" should read "MC 138882 (Sub-87F)".

[7035-01-M]

[Notice No. 191]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-29411 appearing at page 48091 in the issue for Wednesday, October 18, 1978, make the following correction: On page 48097, in the third column, in the second full paragraph, "MC 145520TA" should read "MC 145206TA".

[7035-01-M]

[Notice No. 196]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-29689 appearing at page 49090 in the issue for Friday, October 20, 1978, make the following corrections:

(1) On page 49090, in the third column, in the second full paragraph, in the first line, "MC 51146 (Sub-626)" should read "MC 51146 (Sub-626TA)".

(2) Also on page 49090, in the third column, in paragraph MC 51146 (Sub-626TA), in the 14th line, "Adrian, ME" should read Adrian, MI".

[1505-01-M]

[Decisions Volume No. 11]

DECISION—NOTICE

Correction

In FR Doc. 78-19181 appearing on page 30158 in the issue of Thursday, July 13, 1978, on page 30163 in the 1st column, the 4th full paragraph, the 13th line, should read, "MC 118159 (Sub-266F), filed June 8, 1978. * * * LA, ME, MD, MA, NH, NJ, NY, OK, PA, * * *".

[1505-01-M]

DECISIONS VOLUME NO. 6

Order—Notice

Correction

In FR Doc. 78-16457 appearing on page 25902 in the issue of Thursday, June 15, 1978, on page 25907 in the 1st column, the 1st full paragraph, the 10th line should read, "[Ken-] tucky Electric Steel Co., at points in Boyd County, Kentucky, to points in * * *".

[7035—01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 11, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 29, 1978.

FSA No. 43641, Southwestern Freight Bureau, Agent's No. B-795, rates on grain and grain products from Sioux City, Iowa, and South Sioux City, Neb., to Texarkana, Ark., and stations in Texas, in Supp. 74 to its Tariff 182-K, ICC 5278, to become effective January 3, 1979. Grounds for relief-market competition and rate relationship.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34796 Filed 12-13-78; 8:45 am]

[7035-01-M]

[Notice No. 756]

ASSIGNMENT OF HEARINGS

DECEMBER 11, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

**Correction*

MC 111401 (Sub-No. 528F), Groendyke Transport, Inc., now being assigned for hearing on February 12, 1979, (1 week), at Albuquerque, New Mexico in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34792 Filed 12-13-78; 8:45 am]

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* This notice corrects the place of hearing from Phoenix, Arizona to Albuquerque, New Mexico.

[7035-01-M]

[Notice No. 755]

ASSIGNMENT OF HEARINGS

DECEMBER 11, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation of postponements of hearings in which they are interested.

No. MC 15859 (Sub-No. 10F), The Hine Line, now being assigned for Prehearing Conference on January 8, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 115331 (Sub-No. 471F), Truck Transport, Inc., now assigned for hearing on December 12, 1978, at Washington, D.C. is canceled.

No. MC 139434 (Sub-No. 5), Mid-America Express, Inc., now assigned for hearing on January 9, 1979, at Omaha, Nebraska is canceled and reassigned for hearing on January 9, 1979, (1 day), at Council Bluffs, Iowa, in the District Court Room, 6th Broadway.

No. MC 114569 (Sub-No. 202), Shaffer Trucking, Inc., now assigned for hearing on January 11, 1979, at Omaha, Nebraska is canceled and reassigned for hearing on January 11, 1979 (2 days), at Council Bluffs, Iowa, in the District Court Room, 6th and Broadway.

No. MC 144401F, General Oilfield Trucking, Inc., now being assigned for hearing on February 5, 1979, (3 days), at Baton Rouge, Louisiana, in a hearing room to be later designated.

No. MC 129387 (Sub-No. 46), Payne Transportation, Inc., now assigned for hearing on January 10, 1979, at Omaha, Nebraska is canceled and reassigned for hearing on January 10, 1979 (1 day), at Council Bluffs, Iowa, in the District Court Room, 6th and Broadway.

No. MC 120427 (Sub-No. 9), Williams Transfer, Inc., now assigned for hearing on January 15, 1979, at Omaha, Nebraska is canceled and reassigned for hearing on January 15, 1979 (1 week), at Council Bluffs, Iowa, in the District Court Room, 6th and Broadway.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34793 Filed 12-13-78; 8:45 am]

[7035-01-M]

[Notice No. 141]

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 request for oral hearing, must be filed with the Commission on or before January 15, 1979. 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-77837, filed September 7, 1978. Transferee: JACK PUCKETT TRUCKING, INC., 14700 West Hardy, Houston, TX 77060. Transferor: Q.B. Mitchell, doing business as Q.B. Mitchell Trucking, P.O. Box 192, Carmi, IL 62821. Representative: Francis W. McInerny, Esquire, Macdonald & McInerny, 1000—16th Street, N.W., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-71125 issued April 20, 1937, as follows: Machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Oklahoma, Texas and Louisiana. Transferee presently holds no authority from this Commission, and conduct intrastate operations throughout the State of Texas. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77862, filed September 28, 1977. Transferee: STANLEY R. BROWN, doing business as GLOUCESTER DISPATCH, 5000 Wyoming, Room 109, Dearborn, MI 48126. Transferor: Gloucester Dispatch, Inc., P.O. Box 799, Gloucester, MA 01930. Representative: Stanley R. Brown, 5000 Wyoming, Room 109, Dearborn, MI 48126. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC-139123 Sub 1 and MC-139123 Sub 4, issued May 5, 1975, and April 23, 1976, respectively, as follows: Flour, doughnut coating, icing powder, dessert preparation, wheat flour (except commodities in bulk), from Hillsdale, MI to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, Texas, and Vermont. Cake mixes, icing powders, frosting mixes, and baking mixes, from the facilities of Chelsea Milling Co., located at or near Chelsea, MI to points in Connecticut, Delaware, New Hampshire, New Jersey, New York, Maine, Massachusetts, Pennsylvania, Rhode Island, and Vermont, restricted as to the second commodity description to the transportation of traffic originating at the above-named facilities. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77934, filed November 20, 1978. Transferee: HURRICANE EXPRESS, INC., R. D., #8, White School Road, Greensburg, PA 15601. Transferor: C.E. Lizza, Inc., P.O. Box 308, Ligonier, PA 15658. Representative: William A. Gray, Esquire, Wick, Vuono & Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permits Nos. MC-48213 and MC-48213 Sub 46, issued January 5, 1960, and March 17, 1978, respectively, as follows: Explosives, from Coverts, PA to points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, and rejected or returned shipments of explosives on return; explosives, minimum 10,000 pounds, from Coverts, PA to points in Arkansas, Delaware, Maryland, New Hampshire, New Jersey, Rhode Island, and Vermont, and rejected or returned shipments of explosives on return; black powder, minimum 10,000

pounds, from Kico, KY to Coverts, PA, and rejected or damaged shipments of black powder on return; explosives (not including inflammable liquids), and equipment incidental to the use thereof, from Emporium, Latrobe and Coverts, PA to points in Connecticut, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, that part of Ohio on and east of U.S. Highway 23, and that part of New Jersey on and north of U.S. Highway 1, and damaged or rejected shipments of the commodities specified immediately above, and returnable equipment, from the destination points specified immediately above, to Emporium, Latrobe, and Coverts, PA; ammunition, from Derry, PA to Aberdeen Proving Grounds and Edgewood Arsenal, MD and Picatinny Arsenal at Dover, NJ; and from Derry and Latrobe, PA to Bayonne and Perth Amboy, NJ and the United States Naval Air Station, at Lakehurst, NJ, and damaged or rejected shipments of ammunition, from the destination points specified immediately above, to the respective origin points specified immediately above; pentaerythrite tetranitrate (an initiating explosive), in containers, from Kenvil, NJ to Latrobe, PA, and empty explosives containers on return; explosives, materials used or useful in the manufacture of explosives, and blasting supplies, from Pottsville, PA to points in that part of New Jersey on, north, and west of U.S. Highway 1; explosives and blasting supplies, from Kenvil, NJ to Catasauqua, PA and points in Pennsylvania within 100 miles of Catasaugua, PA; from Bath, PA and points within five miles thereof, to points in that part of New Jersey on and north of a line beginning at Camden, NJ and extending along New Jersey Highway 70 to Lakehurst, NJ and thence along New Jersey Highway 37 to the Atlantic Ocean. Fireworks, from New Castle, PA to points in Michigan and Minnesota, under contract with Vitale Fireworks Manufacturing Company, of New Castle, PA, and a restriction as to Section 210 dual operations. Transferee presently holds no authority from this Commission. Transferor is under common control with CEL Transportation Co., which holds authority in Certificate No. MC-65134 to operate as a common carrier and Permit No. MC-126375 to operate as a contract carrier. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34794 Filed 12-13-78; 8:45 am]

[7035-01-M]

[Notice No. 142]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 14, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC-77945. By application filed December 4, 1978, RICHARD R. LAW, AN INDIVIDUAL, 375 Prospect Street, Seekonk, MA 02771, seeks temporary authority to transfer the operating rights of LORANGER CONSTRUCTION CORPORATION, 404 Nash Road, New Bedford, MA 02746, under section 210a(b). The transfer to RICHARD R. LAW, AN INDIVIDUAL, of the operating rights of LORANGER CONSTRUCTION CORPORATION, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34795 Filed 12-13-78; 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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[6740-02-M]

1

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 56756, published December 4, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., December 6, 1978.

CHANGES IN THE MEETING: The meeting scheduled for December 6, 1978, at 10 a.m. has been changed to December 7, 1978, at 10 a.m.

The following items have been added:

Item No., Docket No., and Company

CAG-36. RP75-46 and RP77-17 (PCA No. 79-1 and DCA 79-1), Eastern Shore Natural Gas Co.
CAG-37. CP73-322, Crown Zellerbach Corp.
CP-7. CP75-140, *et al.*, Pacific Alaska LNG Co., *et al.*
CP-8. CP78-488, El Paso Natural Gas Co.
CP-9. RP75-79, *Lehigh Portland Cement Company* v. *Florida Gas Transmission Co.*
M-4. RM79- , Treatment of certain production related costs for gas to be transported through the Alaska Natural Gas Transportation System.
M-5. Proposed modifications to current producer temporary and permanent certificate language and content.

KENNETH F. PLUMB,
Secretary.

[S-2521-78 Filed 12-12-78; 3:34 pm]

[6740-02-M]

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DECEMBER 6, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., December 13, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTER TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—211TH MEETING, DECEMBER 13, 1978, REGULAR MEETING

CAG-1. Docket No. RP73-13-DCA No. 78-2a, Michigan Pipe Line Co.
CAG-2. Docket No. RP72-149, Mississippi River Transmission Corp.
CAG-3. Docket No. RP73-8 (PGA Nos. 79-1, 79-1a, and 79-1b), North Penn Gas Co.
CAG-4. Docket No. RP73-8 (PGA 72-2, and 72-2a), North Penn Gas Co.
CAG-5. Docket No. RP77-54 and RP77-55, Arkansas Louisiana Gas Co.
CAG-6. Docket No. CI78-549, Shell Oil Co. Docket No. CI78-487, Texaco, Inc. Docket No. CI78-479, Texaco, Inc. Docket No. CI78-478, Texaco, Inc. Docket No. CI78-485, Texaco, Inc. Docket No. CI78-484, Texaco, Inc. Docket No. CI78-483, Texaco, Inc. Docket No. CI78-488, Texaco, Inc. Docket No. CI78-441, Phillips Petroleum Co. Docket No. CI78-750, Chevron U.S.A., Inc. Docket No. CI75-605, Cities Service Co. Docket No. CI78-565, Sohio Natural Resources Co.
CAG-7. Docket No. CP78-406, Transcontinental Gas Pipe Line Corp.
CGA-8. Docket No. CP75-140, et al., Pacific Alaska LNG Company, et al. Docket Nos. CP74-160, et al., Pacific Indonesia LNG Co., et al.
CAG-9. Docket No. CP78-86, Columbia Gas Transmission Corp. and Texas Eastern Transmission Corp.
CAG-10. Docket No. CP78-355, Colorado Interstate Gas Co.
CAG-11. Docket No. CP70-7 (Phase II), Southern Natural Gas Co.
CAG-12. Docket No. CP78-539, Columbia Gulf Transmission Co., Columbia Gas Transmission Corp., and Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-13. Docket No. CP78-400, The Inland Gas Co., Inc.
CAG-14. Docket No. CP78-83, Panhandle Eastern Pipe Line Co.
CAG-15. Docket No. CP78-387, Sea Robin Pipeline Co.
CAG-16. Docket No. CP78-487, Panhandle Pipe Line Co.
CAG-17. Docket No. CP79-26, Consolidated Gas Supply Corp. Docket No. CP79-85, Texas Eastern Transmission Corp.
CAG-18. Docket No. CP78-440, Northern Natural Gas Co. Docket No. CP79-33, Iowa Power & Light Co.
CAG-19. Docket No. CP78-379, Trunkline Gas Co. Docket No. CP78-458, Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.
CAG-20. Docket No. CP72-182, Transcontinental Gas Pipe Line Corp. and Texas Gas Transmission Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-87, Texas Eastern Transmission Corp.

II. PRODUCER MATTERS

CI-1. Docket No. CI78-1179, Dorchester Gas Producing Co.
CI-2. Docket No. RI66-117, H. N. Burnett.
CI-3. Docket Nos. AR64-2, et al., Ginter, Warren & Co. (Texas Gulf Coast Area).
CI-4. CS78-509, J. Walter Duncan, Jr., et al.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP78-327, Mid-Continent Gas Storage Co. and Southern Natural Gas Co. Docket No. G-10632, Northern Illinois Gas Co. Docket No. CP78-349, Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Midwestern Gas Transmission Co. and Southern Natural Gas Co.
CP-2. Docket No. CP78-237, Northern Natural Gas Co. Docket No. CP66-110, et al., Great Lakes Gas Transmission. Docket Nos. CP73-135 and CP74-137, Distrigas Corp. of Massachusetts.
CP-4. Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.
CP-5. Docket No. CP75-93, Black Marlin Pipeline Co.

MISCELLANEOUS AGENDA—211TH MEETING, DECEMBER 13, 1978, REGULAR MEETING

M-1. Docket No. RM78-17, Procedures for review by the Federal Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.
M-2. Docket No. RM78-23, State of Louisiana First Use Tax In Pipeline Rate Case.
M-3. Docket Nos. R-478 and RM75-14, Arkansas Louisiana Gas Company (Re: Oklahoma Conservation Excise Tax).

POWER AGENDA—211TH MEETING, DECEMBER 13, 1978, REGULAR MEETING

CAP-1. Docket No. EL79-2, Central Vermont Public Service Corp. and Green Mountain Power Corp.
CAP-2. Docket No. ES76-34, Idaho Power Co.
CAP-3. Docket No. ES78-56, El Paso Electric Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER76-285 (Phase II), Public Service Co. of New Hampshire.
ER-2. Docket No. ER78-360, Connecticut Yankee Atomic Power Co.

ER-3. Docket No. ER78-526 and ER77-331, Central Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-2522-78 Filed 12-12-78; 3:34 pm]

[6730-01-M]

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FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 57718, December 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., December 13, 1978.

CHANGES IN THE MEETING: Addition of the following item:

8. Agreement No. 9982-DR-3: Application to extend the Scandinavia-Baltic/U.S. North Atlantic Westbound Freight Conference for an indefinite term.

[S-2520-78 Filed 12-12-78; 3:12 pm]

[7545-01-M]

4

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10:30 a.m., Wednesday, December 13, 1978.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Selection of Solicitor.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated, Washington, D.C., December 12, 1978.

By direction of the Board:

GEORGE A. LEET,
Associate Executive Secretary, National Labor Realtions Board.

[S-2514-78 Filed 12-12-78; 3:12 pm]

[4910-58-M]

5

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, December 21, 1978 [NM-78-41].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—French Tankship SS *Sitala* collision with moored vessels, New Orleans, La., July 28, 1977.

2. *Aircraft Accident Report*—Columbia Pacific Airlines, Beech 99, N199EA, Richland, Wash., February 10, 1978.

3. *Aircraft Accident Report*—Continental Air Lines, Inc., Douglas DC-10-10, N68045, Los Angeles, Calif., March 1, 1978.

4. *Discussion* of letter to FAA re closeout of Recommendation A-78-9, re ELT's on general aviation aircraft.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-2519-78 Filed 12-12-78; 3:12 pm]

[7590-01-M]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 18, 1978.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

MONDAY, DECEMBER 18; 9:30 A.M.

1. Briefing by executive branch on nonproliferation matters (approximately 1 hour, closed—exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

DECEMBER 11, 1978.

[S-2517-78 Filed 12-12-78; 3:12 pm]

[7590-01-M]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 12 and 14, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (Changes).

CHANGES IN THE MEETING:

TUESDAY, DECEMBER 12; 2 P.M.

1. The discussion of status of S-3 Interim Rule (approximately one-half hour, public meeting) is postponed to December 14. In its place will be the following: Discussion of reporting the progress of resolution of "Unresolved Safety Issues" in the NRC Annual Report (approximately 1 hour, public meeting) (continuation of December 11 meeting).

THURSDAY, DECEMBER 14; 1:30 P.M.

1. The General Administrative Meeting (approximately 1 hour, public meeting) is postponed to the week of December 18. In its place will be the following: Discussion of status of S-3 Interim Rule (approximately one-half hour, public meeting) rescheduled from December 12.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

DECEMBER 11, 1978.

[S-2516-78 Filed 12-12-78; 3:12 pm]

[7910-01-M]

8

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, December 19, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 9 are open to public observation. Matters 10 and 11 are closed to public observation. Matters 12 and 13 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held November 28, 1978, and other Board meetings, if any.

2. Exemption Recommendations—Application for Commercial Exemption (No. 3011):

A. AMP, Inc., fiscal year ended September 30, 1976.

B. AMP Products Corp., fiscal year ended September 30, 1976.

C. Phillips Petroleum Co., fiscal year ended September 30, 1976.

D. Phoenix Cable Co., fiscal year ended September 30, 1976.

3. Exemption Recommendations—Application for Commercial Exemption (No. 3012):

A. General Electric Co., fiscal year ended September 30, 1976.

4. Exemption Recommendations—Application for Commercial Exemption (No. 3013):

A. Air Treads, Inc., fiscal year ended September 30, 1976.

B. Cimco Wire & Cable Inc., fiscal year ended September 30, 1976.

C. DIT-MCO International Corp., fiscal year ended September 30, 1976.

D. E. I. DuPont De Nemours & Co., fiscal year ended September 30, 1976.

E. Endo Laboratories, Inc., fiscal year ended September 30, 1976.

F. Microwave Semiconductor Corp., fiscal year ended September 30, 1976.

G. Stewart Stamping Corp., fiscal year ended September 30, 1976.

5. Special Accounting Agreement: Haley & Aldrich, Inc., fiscal year ended September 30, 1975, and all subsequent years.

6. Recommended Clearances Without Assignment—OSC & E List 1927:

A. Tridair Industries, fiscal year ended March 28, 1976.

B. Anixter Brothers, Inc., fiscal years ended July 31, 1975 and 1976.

C. Dynamics Corp. of America, fiscal years ended December 31, 1973, 1974, and 1975.

D. Tonkawa Refining Co., fiscal yeas ended December 31, 1974, and 1975.

E. Marathon Oil Co., fiscal years ended December 31, 1974, and 1975.

F. Deutsche Marathon Petroleum GmbH, fiscal years ended December 31, 1974, and 1975.

7. Recommended Clearance or Finding of Excessive Profits: Bata Shoe Co., Inc., fiscal year ending December 31, 1972.

8. Report on Partial Year Filings and Applications for Commercial Exemption.

9. Report of the Chairman concerning: A. Budget, B. Case Processing, C. Organization Progress of the Staff, D. Rulemaking and Regulations, and E. Personnel Actions.

10. Recommended Finding of Excessive Profits: IBM Corp., fiscal years ended December 31, 1969, and 1970.

11. Request for Modification of Orders: Etowah Manufacturing Co., Inc., fiscal years ended December 31, 1968 through 1971.

12. Approval of agenda for meeting to be held January 3, 1979.

13. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickison, Assistant General Counsel-Secretary, 2000 M Street NW., Washingon, D.C. 20446, 202-254-8277.

Dated December 12, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2518-78 Filed 12-12-78; 3:12 pm]

[8240-01-M]

9

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., December 15, 1978.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED BY THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS:

Portions open to the public (9 a.m.):

1. Approval of minutes of the November 15, 1978, meeting of the Executive Committee of the Board of Directors.

2. Consideration of D&H requests.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-2515-78 Filed 12-12-78; 3:12 pm]

federal register

THURSDAY, DECEMBER 14, 1978
PART II

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

■

APPLICATIONS FOR EXCEPTIONS FILED BY CRUDE OIL PRODUCERS

Departmental Determinations

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

APPLICATIONS FOR EXCEPTION FILED BY CRUDE OIL PRODUCERS

Notice of Determinations

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Departmental Determinations with Respect to Applications for Exception to 10 CFR, Part 212, Subpart D, Filed by Crude Oil Producers.

SUMMARY: The guidelines which follow are intended to provide a summary of the standards which the Department of Energy has applied in considering certain Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The guidelines summarized in this notice are intended to provide potential applicants with a general understanding of the grounds and criteria pursuant to which relief will be accorded to crude oil producers under the *Great Southern* line of cases. This line of cases is based on an initial showing by a crude oil producer that the sale of crude oil at applicable ceiling prices does not provide an adequate incentive to maintain extraction operations at a particular property. It should be recognized, however, that each exception application submitted to the Department of Energy must be considered on the basis of the particular factual circumstances presented in the application and that the guidelines set forth in this notice are not intended to be exhaustive of every particular factual situation.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-9681.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. The *Great Southern* Standards.
A. Background.
B. Standards of Eligibility for Relief.
C. Computation of Relief.
D. Royalty Interest Owners.
III. Recent Developments.
A. Adjustment to Relief.
B. Effective Date of Relief.
IV. Data Generally Required for an Analysis of a *Great Southern* Application for Initial Exception Relief.
V. Data Generally Required for the Analysis of an Extension of *Great Southern* Relief.
VI. General Filing Requirements.
A. Confidentiality.
B. Notice to the Crude Oil Purchasers.

I. Introduction

Section 504 of the Department of Energy Organization Act, Pub. L. 95-91, provides that the Office of Hearings and Appeals of the Department of Energy, the successor to the Office of Exceptions and Appeals of the Federal Energy Administration, shall "establish criteria and guidelines by which * * * special hardship, inequity, or unfair distribution of burdens shall be evaluated." In connection with the establishment of those criteria, the Office of Hearings and Appeals from time to time publishes in the FEDERAL REGISTER notices of the general adjudicative standards which it applies in the consideration of specific types of requests for exception relief from the DOE regulatory program. The purpose of this notice is to review certain standards which the DOE applies in evaluating applications for exception relief from the crude oil ceiling price regulations set forth in 10 CFR, Part 212, Subpart D.

In order to further the national energy policy objective of optimizing domestic crude oil production, the Department of Energy and its predecessor, the Federal Energy Administration, have granted exception relief from the crude oil ceiling price rules where a producer makes a convincing showing that: (i) Production costs exceed the revenues received from the sale of the crude oil produced from a property, or will exceed those revenues in the near future, or the operating profits are low in comparison to the potential return on the salvage value of the equipment used on the field, and consequently the firm has no incentive to continue to produce crude oil if it is required to sell the production at applicable controlled price levels; (ii) there is little possibility that the crude oil could be recovered except through the continuation of the firm's operations; and (iii) the wells involved are already part of a continuing extraction operation. The level of exception relief that is granted in cases where the criteria described above are satisfied is intended to provide an adequate incentive for the continued production of crude oil. One of the leading cases in which exception relief was granted to permit a crude oil producer to recover its increased operating costs is *Great Southern Oil and Gas Co., Inc.*, 3 FEA Par. 83,124 (1976), and consequently the type of case in which relief of that nature is approved is generally referred to as a *Great Southern* case.

In the *Federal Energy Administration Office of Exceptions and Appeals Guidelines*, 41 FR 50856 (November 18, 1976), Fed. Energy Guidelines (CCH) Par. 80,003, *et seq.*, the FEA discussed the standards which are applied in evaluating exception applications from the crude oil ceiling price regulations. Although the basic criteria that govern the determination of those cases are described in the *Guidelines*, the particular method of analysis that is utilized in considering whether those criteria have been met and in formulating the appropriate measure of exception relief is only briefly outlined. Since the Office of Hearings and Appeals receives a large number of submissions that fall within the scope of the *Great Southern* standards, it would be useful to review those standards in some detail and to take note of recent changes that have occurred in connection with the DOE's analysis of that type of case. In addition, the Office of Hearings and Appeals is aware that there are many small and independent firms which may be eligible for exception relief under the *Great Southern* standards. It is hoped that the comprehensive discussion of the *Great Southern* criteria and the data generally required for the analysis of an exception application submitted under those criteria will facilitate the filing of exception applications by those smaller firms. (*1*)

Before reviewing the *Great Southern* line of cases, it should be noted that the DOE and FEA have also granted exception relief from the crude oil ceiling price regulations in cases where a showing was made that those regulations created an economic disincentive to undertake a capital investment project which would result in the recovery of a significant quantity of additional crude oil. *See, e.g., Chanslor-Western Oil & Development Co.*, 6 FEA Par. 80,550 (1977). The standards which are applied in evaluating "investment cases" will not be discussed in this notice. In addition, it should also be noted that the criteria and standards specified in this notice as applicable to the *Great Southern* line of cases do not preclude a working interest or royalty interest owner from filing an Application for Exception on the basis of other factors which result in a gross inequity or serious hardship. Any such application will be evaluated on the basis of the generally applicable standards of serious hardship, gross inequity, or unfair distribution of burdens. *See* 10 CFR, Part 205, Subpart D.

II. The Great Southern Standards

A. Background

The policy considerations which led to the approval of exception relief in the Great Southern line of cases were first articulated by the FEA in *Pruet & Hughes Co.*, 2 FEA Par. 83, 270 (1975). In the *Pruet & Hughes* Decision, the FEA observed that:

In enacting the EPAA, the Congress also explicitly stated that the Regulation promulgated under the Act were not to be applied in a manner which would reduce the available supply of energy resources:

It is the clear and firm understanding on the part of the Managers of both Houses that the mandatory allocation program called for in this legislation shall not be designed or implemented in a manner which would have the net effect of occasioning a substantial reduction in the total supply of crude oil, residual fuel oil or refined petroleum products. *It is expected that the President in applying the mandatory controls called for in this legislation will assiduously avoid that result. Conference Rep. No. 93-628, 93rd Cong., 1st Session, (1973). (Emphasis added)*

The ceiling price rule was promulgated to ensure that equitable price levels would be established for crude oil and refined petroleum products and to encourage the increased production of domestic crude oil.

Id. at 83,861. According to the August 25, 1975 Decision, the Pruet & Hughes exception request was based on an asertion that the application to the firm of the ceiling price rule resulted in a gross inequity since it produced a situation in which the policy objectives underlying the regulations were not being achieved and, in addition, the available supply of recoverable domestic crude oil would be reducted if the property were abondoned.

After considering the material which Pruet & Hughes submitted in support of its exception application, the FEA determined that the decline in production levels and increase in operating expenses which the firm was experiencing resulted in a situation in which Pruet & Hughes had no economic incentive to continue its production operations under the applicable ceiling price rule. The FEA also found that it was unlikely that the crude oil in the field concerned would be recovered except through the continuation of the Pruet & Hughes operation and, furthermore, that the well involved was already part of an ongoing extraction operation. Therefore, the FEA determined that unless exception relief was granted, the nation would be deprived of approximately 10,000 barrels of crude oil. Accordingly, the FEA concluded that exception relief should be granted to prevent that situation from occurring.

In a subsequent Decision, *Energy Development Corp.*, 2 FEA Par. 83,309 (1975), the FEA determined that exception relief should be granted on the basis of the precendent established in the Pruet & Hughes Decision. However, the FEA also found that the applicant firm had been experiencing unusually high maintenance costs and production expenses during recent periods of time. Because the possibility existed that the level of those expenses would decline in the future and would therefore alleviate the need for exception relief, the FEA concluded that the relief which was being approved should be limited in duration to a period of six months. The FEA indicated that at the end of that period it would re-evaluate the firm's situation in order to determine whether exception relief would be appropriate for an additional period of time. Since a firm's operating expenses and the volume of crude oil production from a property are subject to fluctuations, the exception relief which the DOE grants to crude oil producers has generally continued to be limited, as in the *Energy Development Corp. Decision, to a six-month period.*

In a number of Decisions issued subsequent to *Pruet & Hughes Co., supra,* the FEA and DOE have refined the analysis used on considering exception applications filed by crude oil producers and have elaborated upon the methodology which is utilized in determining whether exception relief is warranted and in calculating the appropriate measure of relief. It was observed in those cases, as in the *Pruet & Hughes* Decision, that the regulations issued to effectuate the Emergency Petroleum Allocation Act of 1973, as amended, were not designed to result in reductions in the nation's supply of energy resources and that exception relief would therefore be approved where a strong showing is made that (i) a firm has little economic incentive to continue to produce crude oil if it is required to sell the crude oil at controlled price levels; (ii) there is little possiblility that the crude oil in the field could be recovered except through the continuation of the firm's operation; and (iii) the wells involved are already part of a continuing extraction operation. In *Braden-Deem, Inc.*, 3 FEA Par. 83, 072 (1976), the FEA stated that, when the criteria described above are satisfied, exception relief would generally be approved to permit the crude oil produced from the property concerned to be sold at prices which reflect the increased costs of production that the working interest owners have incurred since the fiscal quarter that includes May 15, 1973.

B. STANDARDS OF ELIGIBILITY FOR RELIEF

1. *Economic Incentive.* The initial step in determining whether exception relief is warranted in this type of case involves an evaluation as to whether the applicant has an economic incentive to continue its crude oil extraction operations at a property. In making that determination in the *Braden-Deem* Decision, the FEA compared the applicant's net revenues and operating costs for the property during each year of the period 1972 through 1974 and the first nine months of 1975. Since the property's operating expenses exceeded the revenues received from the sale of the crude oil in 1974 and the first nine months of 1975 and since the firm projected that it would continue to incur losses in the operation of the property, it was apparent that Braden-Deem had no incentive to maintain its production efforts at the property.

In more recent Decisions, the DOE arrived at a determination that the applicant had an inadequate economic incentive to continue to produce crude oil even though the firm was not actually experiencing financial losses in the operation of the property involved in the exception proceeding. For example, in several instances the determination that exception relief was warranted was based upon the strong showing made by the applicant that its operating expenses for the property during succeeding fiscal quarters would exceed the revenues which the firm expected to receive from the sale of the crude oil. *See, e.g., A. T. Skaer,* 2 DOE Par. 81,001 (1978). In *James Flinn,* 1 DOE Par. 81,046 (1978), the DOE's determination that exception relief should be approved was based on its finding that the working interest owners could derive a higher rate of return from an alternative use of the funds obtained from the salvage of the equipment operating on the property, and therefore they had an incentive to salvage the well equipment rather than maintain the extraction operation. Similarly, in *Reading & Bates Oil and Gas Co.*, 1 DOE Par. 81,048 (1978), the DOE found that the applicant had realized a profit of only $0.23 per barrel on its operation of the property in question during the most recent period for which data was available. In view of the marginal profitability generated by the operation of the property, the DOE observed that the applicant could in all likelihood improve its financial position and eliminate the risk associated with the operation of the property by abandoning it and depositing the net salvage revenues from the sale of the well equipment in an interest-bearing bank account. Under these circumstances, the DOE concluded that the applicant had little incentive to continue to produce crude oil in the absence of exception relief.

2. *Exclusion of Depreciation and Depletion.* In evaluating whether an applicant has an economic incentive to continue its crude oil production operation, the DOE generally excludes accounting costs which represent depreciation and depletion expenses from the financial data submitted by the applicant. In *Great Southern Oil and Gas Co., Inc.*, 3 FEA Par. 83,111 (1976), the FEA discussed the rationale underlying this policy:

* * * In order to evaluate the contention that lower tier ceiling prices will cause a firm to cease production operations, the relevant consideration is whether the costs of producing the crude oil exceed the revenue obtained from that production. Depreciation and depletion are non-cash expenses which do not generally reduce the firm's incentive to continue production. When a firm's operating costs are less than its operating revenues it will in all likelihood continue operations. This is true even if the firm's operating costs plus depreciation and depletion exceed its revenues on the basis that the cash flows to the firm will be positive and will enable the firm to recoup some of the capital investment. Therefore, unless a firm can persuasively rebut this presumption, these categories should be deleted for purposes of analysis.

Id. at n. 4.

The DOE's practice of excluding depreciation and depletion from a producer's operating expenses for purposes of the exceptions analysis has been affirmed on several occasions. *See R. W. Tyson Producing Co., Inc.*, 2 DOE Par. 81,024 (1978); *John H. Cathey*, 4 FEA Par. 80,562 (1976).

3. *Classification of Expenditures.* In a recent Decision, *M. J. Mitchell*, 1 DOE Par. 80,130 (1977), the DOE also considered whether certain costs should be regarded as operating expenses or as capital items for purpses of the exceptions analysis and in the process developed guidelines to be applied in subsequent cases. The appellant in the *Mitchell* case contended that in analyzing whether expenses exceeded revenue the FEA had erroneously excluded certain expenses on the grounds that they represented extraordinary non-recurring capital improvements rather than normal operating expenses. In evaluating the firm's contention, the DOE observed that:

The issue which Mitchell raises involves important considerations. Whether a given expenditure is regarded as an operating expense is often critical in determining whether an economic incentive exists to continue to produce crude oil from a given lease. It is also important in determining the level of exception relief which is necessary to restore an economic incentive to produce crude oil from a particular property.

The DOE also noted:

* * * If the judgment is made that an expenditure is a non-capital expense, then it is included in a cost base which is compared to the same type of expense which the firm incurred in an historic base period. The difference between the two cost bases is classified as the amount of the increased costs which the firm should be permitted to reflect in the current price it charges for crude oil. If, on the other hand, the expenditure is determined to be of a capital nature, then it may not be included in the expense base used in the cost comparison approach. Instead a return on investment approach is applied to the expenditure if it is of a prospective nature. If the cost has already been incurred for an expenditure that is classified as capital in nature then it would not be included for the purposes of the exceptions analysis.

Id. at 80,677. As a general guideline, the DOE held that "operating expense" treatment should be accorded to expenditures which are recurring in nature and which are designed to enable a firm to maintain on-going crude oil extraction activities at a particular site. At the same time, the DOE determined that an expenditure which is designed to enable a firm to undertake a new drilling project should generally be considered a capital item. In order to establish a greater degree of certainty as to whether an expense would be regarded as an operating cost or as a capital item for purposes of the exceptions process, the DOE stated that it will employ the following presumptions and will consider an expenditure as an operating expense if it met one of the following tests: (i) It is less than $15,000; or (ii) it will have a productive life of less than 18 months; or (iii) the overall expenses (excluding any expenditures associated with drilling new wells or enhanced recovery projects) in the category in which the individual expenditure is included do not exceed by more than one-third the average level of expenses in that category in the preceding three years.

In *Tenneco Oil Co.*, 1 DOE Par 81,103 (1978), the DOE considered certain matters related to those discussed in *M. J. Mitchell, supra.* The applicant in the *Tenneco* case contended that the cost of well work-overs which occurred during the 1973 base quarter should be regarded as a capital item pursuant to the criteria set forth in the *Mitchell* Decision rather than as an operating expense and should therefore be excluded from the firm's operating costs during the base quarter. In considering the position advanced by the applicant, the DOE pointed out that:

* * * The factual pattern involved in the *M. J. Mitchell* Decision was somewhat different from that involved in the present situation. In that Decision the issue under consideration was whether an expenditure incurred in the most recent fiscal period should be classified as an operating expense to be reflected in the unrecovered increased costs which the firm would be permitted to reflect in the current prices it charges for the crude oil, or whether the item should be considered as a "non-recurring" capital expenditure which does not generally affect a firm's incentive to continue production. The presumptions set forth in the *M. J. Mitchell* Decision permit expenditures classified as operating expenses to be immediately recovered. In this case, however, if the well workovers in the base quarter were to considered a capital item and entirely excluded, Tenneco's expenditures for "Well Maintenance' would be zero in the base period. This would then have the effect of enabling the firm to receive greater exception relief during each subsequent period in which relief was extended. However, since the data in Table A indicate that a certain level of expenditures for this expense category [is] of a recurring nature, we believe it would be illogical to calculate the base period cost per barrel excluding the normal amount of costs attributable to well maintenance. The inclusion of the recurring portion of this expense category would permit price increases to be based on normal levels of cost increases. Moreover, the *M.J. Mitchell* Decision itself indicated that the "non-capital expense treatment" should be accorded to those expenditures which are of a generally recurring nature and designed to enable the operator to continue extraction operations at a particular site. We have therefore determined that if an item of expenditure occurs in the initial period from which relief is measured and is determined to be of a generally recurring nature, it is inappropriate to exclude entirely from the computation of the cost base the total expenditures for that item as if it were a non-recurring capital item. Any other approach would ignore the recurring nature of the item and would provide the firm with an abnormally high cost recovery which might enable a firm to earn windfall profits.

Thus, in the *Tenneco* Decision the DOE determined that the portion of the well workover expense that was of a generally recurring nature should be included as an operating expense in the 1973 base quarter. In addition, the DOE determined that a quarterly average of the well workover expenses incurred during the three fiscal years prior to 1973 and the three fiscal years subsequent to the 1973 base year would afford a reasonable approximation of the amount of the recurring portion of the expenses associated with that cost category.

4. *Role of Operator and Working Interest Owners.* In a recent exception proceeding, the DOE encountered a situation in which the applicant played a dual role with respect to the particular producing property for which relief was sought. In *Gulf Oil Corp.*, 1 DOE Par. 81,145 (1978), the applicant, in addition to functioning as one of the working interest owners, was also the operator of the Unit. Because of Gulf's dual role, the DOE held that a proper determination as to whether Gulf has an economic incentive to continue its operations at the Unit would involve a comparison of the revenues and expenses which accrue to the firm as both the operator and a working interest owner. In the Decision which it issued, the DOE determined that Gulf should receive exception relief only with respect to its working interest ownership position and pointed out that:

* * * in the present case, the fees that Gulf receives for the operation of the Unit appear to be reasonable and have actually declined since 1972 as a percent of the total expenses. Since the record in the present case indicates that the fees received by Gulf as the operator of the Unit are both reason-

able and not the cause of the substantial increases in Unit costs, it is appropriate for exception relief to also be extended to Gulf. However, if it appears in subsequent cases that a firm is generating significant operating profits or losses on its percentage ownership of the working interest, that factor will be taken into consideration in determining the firm's economic incentive to maintain extraction operations at a particular site. [Footnote omitted].

5. *Administrative Overhead.* In a subsequent Decision and Order issued to Gulf on August 4, 1978 in connection with a different property, *Gulf Oil Corp.*, 2 DOE Par. 81,036 (1978), the DOE found that Gulf was not only playing a dual role as both the operator and a working interest owner of the property, but was also reporting substantial amounts of administrative overhead expenses which were borne solely by Gulf and were not allocated to the other working interest owners of the property. The DOE determined that these particular overhead expenses had no bearing on the working interest owners' present incentive to continue their production activities at the property. Consequently, the DOE concluded that only those administrative overhead expenses which are borne by all the working interest owners of a property and which are directly related to the maintenance of production operations would be accepted for purposes of calculating the appropriate level of exception relief under the *Great Southern* line of cases. *See also Marathon Oil Co.*, 2 DOE Par. (September 5, 1978).

C. COMPUTATION OF RELIEF

The exception relief which is granted where a producer demonstrates that it meets the standards of eligibility described in Section B above is generally implemented by permitting the producer to sell additional volumes of crude oil at upper tier or market prices. The exact amount of relief is based on the increase in costs per barrel experienced by the producer between the fiscal quarter which includes May 15, 1973 and the two most recent fiscal quarters for which data is available. Once this cost increase is determined, the DOE generally permits the producer to sell sufficient quantities of crude oil at upper tier ceiling prices during the period in which the relief is effective to enable the producer to recover the amount by which the increased costs have exceeded the price increases allowed under the Mandatory Petroleum Price Regulations in the two most recent fiscal quarters. *See, e.g., Mull Drilling Co., Inc.*, 1 DOE Par. 81,142 (1978); *Maurice L. Brown Co.*, 1 DOE Par. 81,132 (1978); *Union Oil Co. of California*, 1 DOE Par. 81,164 (1978); and *Braden-Deem, Inc.*, 3 FEA Par. 83,072 (1976). After determining the amount by which the producer's increased cost of production exceeds the increase in selling price permitted by the applicable ceiling price regulations, the DOE calculates the appropriate level of exception relief by computing the percentage of the crude oil produced from the property that may be sold at upper tier ceiling prices. That figure is equivalent to the percentage that the production cost increase bears to the difference between the upper and lower tier ceiling prices during the period the relief will be effective. This method of granting relief generally enables the producer to recover the portion of its total increased costs per barrel of crude oil produced which it is unable to recover under the generally applicable DOE regulations.

1. *Anomalous Measurement Periods.* Although the determination of the increased costs of production generally involves a comparison of the unit cost incurred during the fiscal quarter which included May 15, 1973 and the unit cost experienced during the two most recent fiscal quarters, instances have occurred in which unusual factors necessitated a departure from that practice. For example, in *Teche Production Co., Inc.*, 3 FEA Par. 83,154 (1976), the FEA found that the applicant firm had incurred start-up costs during the fiscal quarter which included May 15, 1973 that did not accurately reflect its normal operating expenses. Consequently, the FEA determined that the period May through December of 1973 should be used for the purpose of measuring the increase in the firm's production costs. *See also Getty Oil Co.*, 2 DOE Par. (October 25, 1978); *Eason Oil Co.*, 2 DOE Par. 81,013 (1978); *Hanover Management, Inc.*, 1 DOE Par. 81,098 (1978); *Justiss-Mears Oil Co.*, 1 DOE Par. 81,037 (1977).

2. *Relief Based on Projections.* The FEA also departed from prior precedents in *Maurice L. Brown Co.*, 3 FEA Par. 83,196 (1976). Based on the data which the applicant submitted in that case, the FEA determined that the level of exception relief that would be accorded to the firm under a strict application of the *Great Southern* formula would not provide a sufficient economic incentive for the continued operation of the property concerned. Because the applicant projected that its crude oil production would decline at a significant rate while its expenses would remain relatively stable, its per barrel cost in the immediate future would be considerably higher than its per barrel cost in the most recent period that generally would be used to compute the appropriate level of exception relief. In view of the increased production cost which the applicant projected it would experience, the DOE determined that under the *Great Southern* method of calculating the amount of exception relief, the firm would earn only a negligible amount of profit during the remaining productive life of the property and therefore would have virtually no incentive to maintain its operations unless additional exception relief were approved. In order to achieve the objectives discussed in *Great Southern* and other previous Decisions and to restore the economic incentive to continue the production of crude oil from the property, the FEA concluded that the level of relief granted should be based on the projected production cost per barrel during the relief period rather than on the actual per barrel cost during the most recent fiscal period. *See also Texaco, Inc.*, 1 DOE Par. 81,077 (1978); *Barber Oil Exploration, Inc.*, 1 DOE Par. 81,008 (1977); *W. N. McMurry*, 6 FEA Par. 83,014 (1977); *Maurice L. Brown Co.*, 4 FEA Par. 83,197 (1976).

3. *California Crude Oil*—In *City of Long Beach, California*, 5 FEA Par. 83,173 (1977), the FEA again deviated from the strict application of the *Great Southern* formula. The applicant in that particular case asserted that the method customarily used by the FEA in fashioning exception relief would not afford the working interest owners an appropriate incentive to continue the operation of the property. In this regard, the applicant indicated that as a result of market conditions in the State of California it was unable to obtain the full lower tier ceiling price for its crude oil. The applicant contended, and the FEA agreed, that in view of this situation the market price received by the working interest owners should be substituted for the lower tier ceiling price for the purpose of calculating the appropriate measure of exception relief. *See also Champlin Petroleum Co.*, 1 DOE Par. 81,144 (1977); *City of Long Beach, California*, 5 FEA Par. 80,639 (1977); *City of Long Beach, California*, 5 FEA Par. 83,153 (1977). This methodology has also been applied in cases where the applicant is not receiving the full upper tier ceiling price. *See, e.g., Damson Oil Corp.*, 2 DOE Par. 81,016 (1978); *City of Long Beach, California*, 2 DOE Par. 81,008 (1978); *Union Oil Co. of California, supra.*

D. ROYALTY INTEREST OWNERS

The exception relief which the DOE grants to permit the recovery of increasing production costs is generally applicable to the working interest owners only. The basis for the adoption of this policy was discussed by the FEA in *Great Southern Oil and Gas Co., Inc.*, 3 FEA Par. 83,124 (1976):

• • • The rationale under which exception relief is extended to the working interest owners would not appear to apply to royalty

owners as well. Under the provisions of the agreements which the working interest and royalty interest owners executed, operating costs are charged solely to the working interest owners. Consequently, the objective of maintaining an economic incentive to continue production * * * would not be furthered by approving exception relief for the royalty interest owners, who have neither incurred increased costs nor experienced a decline in their economic incentive to maintain production.

In *United States Geological Survey; Henry W. King,* 5 FEA Par. 80,537 (1977), the FEA affirmed that it was proper to exclude royalty interest owners from the exception relief granted to working interest owners. In particular, the FEA determined that since royalty interest owners are not responsible for the payment of any increased costs or investment expenses associated with the production of crude oil, neither appellant was experiencing a hardship or an inequity as a result of the Mandatory Petroleum Price Regulations.

In a more recent Decision, *Sabine Production Co.; Union Oil Co. of California,* 1 DOE Par. 80,185 (1978), the DOE considered the argument that the limitation of exception relief to working interest owners injects an element of uncertainty into the contractual relationship between working and royalty interest owners which in turn creates a disincentive for royalty owners to dedicate their land for the purpose of crude oil production. In rejecting the argument, the DOE observed that:

> * * * it is equally important to again emphasize that the DOE's action in limiting exception relief to the working interest owners has no adverse effect on royalty payments. The royalty interest owners continue to be paid royalties as if exception relief had never been granted. Furthermore, * * * the royalty interest owners actually benefit from the exception relief since it is designed to ensure that crude oil production from the particular property involved is not terminated as a result of the DOE Price Regulations. If those production efforts were to terminate there would be a direct adverse impact on the royalty payments. We therefore find no basis for concluding that an economic disincentive with respect to the dedication of crude oil producing properties will be created by DOE action which on its face inures to the benefit of royalty interest owners.

Other Decisions in which the exclusion of royalty owners from the exception relief granted to working interest owners was a central issue include *Beeco, Ltd.,* 5 FEA Par. 80,591 (1977); *Ditley Thyssen,* 5 FEA Par. 80,585 (1977); *City of Los Angeles,* 5 FEA Par. 80,581 (1977); *Lula Mae M. Broussard, et al.,* 4 FEA Par. 80,515 (1976).

III. Recent Developments

A. Adjustment to Relief

The DOE has recently adopted two important modifications in the manner in which it grants exception relief in the *Great Southern* line of cases. Adjustments to the level of relief are described in detail in *Chevron U.S.A., Inc.,* Case No. DEE-1820 (Proposed Decision and Order, December 5, 1978). As indicated in that case, the DOE has tentatively determined to increase the level of exception relief that is granted for crude oil properties for which total revenues less total expenditures was $10,000 or less during the second fiscal quarter of 1973. The DOE believes this increase is necessary in order to provide an economic incentive for continued production at these marginal crude oil properties. That increase is being effectuated by allowing the working interest owners of such properties to recover the actual cost increases which they experienced in the most recently completed six-month period, plus an additional $.50 per barrel. The DOE believes that increasing the level of exception relief from these marginal properties should ensure that those producers have an incentive to continue crude oil extraction operations.

B. Effective Date of Relief

In the same Decision, the DOE also proposed to grant exception relief in a *Great Southern* type of case effective as of the date on which all information necessary for the analysis of the exception application is received by the Office of Hearings and Appeals.(2) It has generally been the practice of the FEA and DOE to grant exception relief that is effective as of the date of issuance of the Proposed Decision and Order.

In the DOE's judgment, the considerations which underlie the policy of granting relief effective as of the date of issuance of a Decision and Order do not appear to be particularly strong insofar as the *Great Southern* type of case is concerned. Unlike the situation which exists with respect to many of the exception applications which are filed with the DOE, the resolution of a *Great Southern* type of case primarily involves the application of a formula to the factual data furnished by the applicant. The standards which are applied in the *Great Southern* line of cases are well-established and the data needed for an analysis of that type of case is generally the same in all instances. A *Great Southern* case does not as a general matter entail the same degree of weighing and balancing as is present in most other types of exception proceedings. Consequently, it is relatively easy for an applicant to determine whether and even to what extent its application is likely to be approved. Moreover, it has been the DOE's experience that objections are not generally received from other parties in connection with *Great Southern* exception applications.

It should also be noted that the policy of granting relief effective as of the date on which all data is received by the Office of Hearings and Appeals rather than the date on which the exception application is submitted should encourage firms to act promptly in furnishing the information necessary to process their requests and help to prevent undue delays. In addition, the DOE does not expect that the recertification of limited amounts of crude oil will create significant difficulties for the parties involved. Furthermore, as we indicated in the Proposed Decision issued to Chevron, the DOE anticipates that the approval of exception relief effective as of the date of receipt of all necessary data will avoid imposing unnecessary financial burdens on unprofitable properties and will reduce the possibility that wells will be shut-in as a result of unfavorable financial developments during the course of an exception proceeding.

IV. Data Generally Required for an Analysis of a Great Southern Application for Initial Exception Relief

In addition to conforming to the general filing requirements set forth in 10 CFR, Part 205, and providing a description of the applicant's operation at the property or properties for which relief is sought, an exception application which is filed under the *Great Southern* standards should generally contain the type of information which is described below.

A schedule which provides the following data for the property for each fiscal quarter in 1973, the most recently completed three fiscal years on an annual basis, as well as each completed fiscal quarter in the current fiscal year, and in any event, the two most recently completed fiscal quarters:

(a) The volume of crude oil and natural gas produced and sold;

(b) The amount of gross revenues distributed to the working interest owners from the sale of crude oil and natural gas;

(c) The total operating costs enumerated by general cost categories, including state production taxes, which the working interest owners have incurred. The applicant should also indicate the accounting method used to determine the amount of costs reported for each category, *i.e.,* cash or accrual method. Depreciation and depletion expenses should be excluded.

(d) The total net income or loss to the working interest owners.

For each expense category, indicate whether it was directly incurred with respect to operations at the property, or is an allocation of a total cost item which was incurred with respect to a number of other properties, or the firm as a whole. If any of the items of costs in an expense category in subparagraph (c) has been determined on an allocated basis, indicate the method of allocation utilized, *e.g.*, a percentage allocation based on either a ratio of revenues or expenses, a per well basis, or a rate of use basis. The basis for the allocation method used should be explained and a summary prepared indicating why it is appropriate for the allocated cost to be charged to the operations at the property. Also indicate whether any cost item is fixed pursuant to contractual terms.

The applicant should also specify any expenditure included in subparagraph (c) in excess of $5,000 which was made for the purchase of equipment or other items or services that will generally have a useful life of more than 18 months. The applicant should also indicate whether any of the cost items reported pursuant to subparagraph (c) pertain to equipment that is either leased or purchased under an installment contract. For any such transaction, the applicant should describe the specific items of equipment and the individual financial arrangements.

In addition, if any cost item included as an expense under subparagraph (c) includes any payment to a related business entity or to an individual who owns a working or a royalty interest ownership in the property, the amount, the reasonableness of the cost item and why it is properly ascribed to the operations at the property should be explained and justified.

The applicant should also indicate whether any cost item reported as an operating expense pursuant to subparagraph (c) has been capitalized and depreciated for purposes of presentation of the firm's financial statements to the Internal Revenue Service, the Securities and Exchange Commission, or its stockholders. Explain the reason for including each such expenditure as an operating expense in the submission to the DOE.

The highest posted price at 6:00 a.m., local time, May 15, 1973, for the grade of crude oil produced from the property for which exception relief is sought, or if there was no posted price in the field for that grade of domestic crude oil, the related price for domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted. This price serves as the basis for determining the lower tier ceiling price.

The highest posted price on September 30, 1975 for transactions in that grade of new or stripper crude oil produced from the property in September 1975, or if there was no posted price for that grade of domestic crude oil, the related price for domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted. This price serves as the basis for determining the upper tier ceiling price.

The market price (stripper price) currently received in transactions in the grade of crude oil produced from the property, or, if there are no transactions at market prices in the grade of crude oil produced from the property, the market price for that grade of crude oil which is most similar in kind and quality in the nearest field for which market prices are received.

An estimate of the number of barrels of crude oil remaining in the reservoir from which the property produces crude oil and the anticipated length of time that the applicant will continue to produce crude oil from the property assuming that the exception request is granted. In addition, assuming that the applicant's operations were abandoned, indicate whether any other producer could recover the crude oil which would be produced by the applicant if its operations were not discontinued. Also indicate the approximate amount of crude oil that would be recoverable by the other producers from the reservoir.

The percentage share by the category of the total production of crude oil and natural gas from the property which is assigned to each working interest owner and to each royalty interest owner. Include the total percentage share by category of the total production which each working interest is obligated to remit as royalties, including any overriding royalties, is the same for all of the working interest owners. If the obligations are different, specify each working interest owner's royalty interest and overriding royalty obligations. Also indicate whether any working interest owner, his family, or any firm controlled by a working interest owner holds any royalty interest in the property. Finally, indicate whether there has been any change in the royalty percentages since 1972.

If the applicant is receiving a price for the crude oil that is below the applicable ceiling prices, the applicant should submit the actual posted prices for both the lower and upper tier crude oil produced from the property during each month of the most recent six month period for which operating data are available.

If the application pertains to a unitized property, the applicant should submit a copy of the unit operating agreement which contains a description of the manner in which the indirect costs are allocated to the working interest owners of the unit.

V. Data Generally Required for the Analysis of an Extension of Great Southern Relief

In the event that the applicant requests an extension of the exception relief beyond the period specified in the initial Decision and Order, the firm should submit an Application for Exception to the Office of Hearings and Appeals at least 45 days prior to the termination of relief set forth in the Decision. The application should conform to the general filing requirements contained in 10 CFR, Part 205, and should contain data that sets forth the volume of crude oil and natural gas produced and sold, the revenues received, and an itemization by cost category of the operating expenses (excluding depreciation and depletion expenses) incurred in connection with the operation of the property during the two fiscal quarters subsequent to the period used to calculate the level of exception relief in the most recent Order. The applicant should also indicate the accounting method used to determine the amount of operating costs reported for the property, *i.e.*, cash or accrual method. For any new item of expense that was not included in the previous submission, indicate whether it was directly incurred with respect to operations at the property, or is an allocation of a total cost item which was incurred with respect to a number of other properties, or by the firm as a whole. If any cost item has been allocated to the property and not explained in previous submissions, or is allocated in a manner other than that indicated in the previous submission, indicate the method of allocation utilized, *e.g.*, a percentage allocation based on either a ratio of revenues or expenses, a per well rate, or a rate of use basis. The basis for the allocation should be explained and a summary prepared as to why it is appropriate for the allocated cost to be charged to the operations at the property. Also indicate whether any cost item is fixed pursuant to contractual terms. The applicant should also specify the nature of any expenditure in excess of $5,000 on equipment or other items or services which will generally have a useful life of more than 18 months. The applicant shall also indicate whether any expense items pertain to equipment that was either leased or purchased under an installment contract. For any such transaction, the applicant should describe the specific items of equipment and the individual financial arrangements. In addition, if any item included as an expense includes any payment to a related business entity or to any individual who owns a working or

royalty interest ownership in the property, the amount, the reasonableness of the cost item, and why it is properly ascribed to the operations at the property should be explained and justified.

The application should also indicate whether any cost item reported as an operating expense has been capitalized and depreciated for the purposes of presentation of the firm's financial statements to the Internal Revenue Service, the Securities and Exchange Commission, or its stockholders. Please explain the reason for including each such expenditure as an operating expense in the submission to the DOE.

In addition to the information specified above, the applicant should also provide the Office of Hearings and Appeals with supplemental data relating to the working and royalty interest owners of the property. The applicant should indicate whether there has been any change in the percentage of royalty or overriding royalty ownership or in the working interest ownership since the previous filing. In this connection, the applicant should specify whether the percentage of production or revenue which the working interest is obligated to remit as royalties, including any overriding royalties, is the same for all the working interest owners. If the obligations are different, the applicant should specify the obligation of each working interest owner to the royalty and overriding royalty interests. In addition, the applicant should specify whether any working interest owner, his family, or any firm controlled by a working interest owner holds any royalty or overriding royalty interest in the property and should indicate the nature and percentage ownership of any such interest.

VI. General Filing Requirements

The procedural requirements for filing an Application for Exception are specified in detail in 10 CFR, Part 205. In filing an Application for Exception under the *Great Southern* standards, the document should contain appropriate financial information (see Part III or IV of this notice), be signed by an appropriate official, indicate if any information is confidential, and indicate that the purchaser of the crude oil was notified as a potentially aggrieved party. The application should be submitted to the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461 and should be labeled as an "Application for Exception." *See* 10 CFR 205.9 *et seq.*

A. CONFIDENTIALITY

If the applicant filing an exception application requests the DOE not to disclose information considered to be confidential and exempt by law from public disclosure, he must file together with the document two extra copies from which confidential information has been deleted, and indicate in the original document that it contains confidential information. The two additional copies should be marked as public disclosure copies. If the applicant does not consider any of the information to be confidential he should submit the original application and one additional copy and indicate that there is no confidential information in the submission. In either case, the Office will make available appropriate copies of the applicant's submission for public scrutiny in its Public Docket Room (B-120, 2000 M Street, NW., Washington, D.C.) between the hours of 1:00 p.m. and 5:00 p.m.

B. NOTICE TO THE CRUDE OIL PURCHASERS

The purchaser of the crude oil should be notified of the application by service of a copy of the submission with confidential information deleted. The material transmitted to the purchaser should indicate that the purchaser may submit comments to the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461, within ten (10) days of receipt of the submission. *See* 10 CFR 205.53. The applicant should indicate in its application who was notified as a potentially aggrieved party, including the mailing address of each party, and should indicate that the party was informed of his right to comment.

Any questions pertaining to the procedures for filing an Application for Exception under the *Great Southern* standards should be directed to the individual indicated at the beginning of this notice.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., December 8, 1978.

Melvin Goldstein,
Director,
Office of Hearings and Appeals.

Footnotes

1. On June 22, 1978 the Department of Energy published a notice in the Federal Register entitled "Applications for Exception Filed by Crude Oil Producers." In the notice the DOE announced its intention to hold a public hearing with respect to the standards that are utilized in granting exception relief from the crude oil ceiling price regulations and also invited interested parties to submit written comments as to the appropriateness and effectiveness of those standards. In the comments which were filed, several firms asserted that the submission of an application for exception constitutes an unduly burdensome and time-consuming undertaking, particularly for small and independent crude oil producers. As mentioned above, we anticipate that the publication of this notice will alleviate some of the problems which those firms claim to exist.

2. However, this provision will not apply to cases in which an extension of exception relief is requested, since in that type of case the petitioner is already receiving exception relief during the time that his request for an extension is being considered by the DOE. An extension of exception relief will normally be made effective as of the date immediately following the date on which the previous relief expired.

[FR Doc. 78-34701 Filed 12-13-78; 8:45 am]

federal register

THURSDAY, DECEMBER 14, 1978
PART III

SECURITIES AND EXCHANGE COMMISSION

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SHAREHOLDER COMMUNICATIONS

Shareholder Participation in the Corporate Electoral Process and Corporate Governance Generally

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-15384; IC-10510]

SHAREHOLDER COMMUNICATIONS, SHAREHOLDER PARTICIPATION IN THE CORPORATE ELECTORAL PROCESS AND CORPORATE GOVERNANCE GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today issued a release announcing the adoption of proposed rule, form and schedule amendments intended to provide shareholders with information to assist their more informed assessment of the structure, composition and functioning of issuers' boards of directors. The Commission also is adopting rules which afford shareholder-proponents an opportunity to review the accuracy of management statements in opposition to shareholder proposals prior to the mailing of issuers' proxy soliciting materials and which provide information about the terms of settlement of proxy contests.

EFFECTIVE DATES: The amendments to regulation 14A and schedule 14A are effective for fiscal years ending on or after December 25, 1978 for initial filings on or after January 15, 1979. The amendments to forms 8-K, 10-Q and N-1Q are effective for all issuers for filings made on or after January 15, 1979 for periods ending on or after December 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara Leventhal, Richard Nesson, Jennifer Sullivan or Michael Stakias, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1750.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today issued a release announcing the adoption of amendments to regulation 14A (17 CFR 240.14a-1 et seq.) and schedule 14A (17 CFR 240.14a-101) under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)], as well as related amendments to forms 8-K (17 CFR 249.308) and 10-Q (17 CFR 249.308a) thereunder and to form N-1Q (17 CFR 274.106) under the Investment Company Act of 1940 [15 U.S.C. 80a et seq.]. These amendments are intended to improve the information available to shareholders regarding (1) the structure, composition and functioning of issuers' boards of directors; (2) resignations of directors; (3) attendance at board and committee meetings; and (4) the terms of settlements of proxy contests. A rule which provides shareholder-proponents with an opportunity to review the accuracy of management statements in opposition to shareholder proposals prior to the mailing of issuers' proxy soliciting materials also has been adopted. A related proposal, which would have required disclosure of the voting policies and procedures of institutions subject to the Commission's proxy rules, which exercise voting rights with respect to equity securities held for [1] their own accounts or for the accounts of others, has been withdrawn.

I. Background

In April of 1977, the Commission authorized its staff to institute a broad re-examination of its rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally. As explained in Securities Exchange Act Release No. 13482 (April 28, 1977), 42 FR 23901 (May 11, 1977), the decision to undertake the study was based, in large part, on expressions of concern about the efficacy of existing mechanisms of corporate accountability, including proxy solicitations and the corporate electoral process. Preparatory to holding public hearings, written comments were solicited on a number of questions relating to: (1) the adequacy of existing avenues of communication between shareholders and corporations, and, particularly, whether shareholders should be provided with more information than is now available with respect to socially significant matters affecting their corporations; (2) whether Rule 14a-8, regarding shareholder proposals, should be amended to further facilitate the presentation of shareholder views and concerns in the corporate proxy materials; (3) the role of shareholders in the corporate electoral process; and whether the Commission should amend its proxy rules to provide shareholders access to corporate proxy materials for the purpose of nominating persons of their choice to serve on boards of directors; and (4) whether additional disclosure relevant to an assessment of the quality and integrity of management should be required. The Commission also raised general inquiries concerning the need for Federal minimum standards or Federal chartering legislation, the role of the self-regulatory organizations in improving corporate governance, and the costs and benefits associated with various regulatory approaches.

In the fall of 1977, the Commission held public hearings on these and related issues [2] in Washington, D.C., Los Angeles, New York and Chicago. More than 300 individuals and organizations testified or submitted written comments on a large number of issues, ranging from narrow technical questions arising under existing proxy rules to broad, philosophical inquiries concerning means by which corporations can be made more responsive to shareholders and the public at large.

As discussed in greater detail in Securities Exchange Act Release No. 14970 (July 18, 1978), 43 FR 31945 (July 24, 1978), the participants in the public comment and hearing phase of this proceeding expressed diverse opinions with respect to the scope of existing problems in corporate governance and corporate accountability and the means by which reform could best be achieved. There was, however, general support for the proposition that a strong board of directors, able to exercise independent judgment, is a crucial element of corporate accountability. Various means of promoting more effective boards of directors were suggested, including promulgation by the Commission of disclosure requirements which would provide shareholders with better information concerning the composition, structure and functions of corporate boards, and thus indirectly encourage the adoption of more effective corporate governance mechanisms.

Based on its review of the comments and testimony submitted in this proceeding, as well as its experience in administering and enforcing the Federal securities laws, the Commission determined that shareholders may need additional information about the structure, composition and functions of corporate boards of directors and, therefore, on July 18, 1978, proposed for public comment the rule proposals discussed herein. In announcing their publication, the Commission indicated that the proposals represented the first stage of the Commission's response to the issues raised in its ongoing corporate governance study and would be followed by publication of a staff report on other important questions then under consideration, possi-

[1] See Securities Exchange Act Release No. 15385, also published today.

[2] Securities Exchange Act Release No. 13901 (August 28, 1977) contains a statement of the issues on which testimony and comments were requested. The identification of these issues was based, in part, upon the public comments received in response to its prior release. Transcripts of the hearings and comment letters submitted during the hearing phase of the proceeding areavailable for inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. (File No. S7-693).

ble additional rule-making proposals and/or legislative recommendations.

The proposals evoked an enormous public response. In total, almost 600 individuals and organizations submitted letters in response to the Commission's request for public comments. Many of the thoughtful and comprehensive views expressed provided the Commission with helpful insights in its further consideration of the proposals.

By far the most controversial portion of the proposals was proposed item (6)(a)(6) of schedule 14A, which would have required that directors be identified as "management," "affiliated nonmanagement" and "independent." The use of the term "independent," in juxtaposition with statements in the release concerning the Commission's views about the importance of a strong board of directors capable of exercising independent judgment, and the desirability of key standing committees composed entirely of persons independent of management, provoked considerable controversy. Commentators asserted that the term "independent" conveyed a value judgment on the part of the Commission that persons meeting the Commission's definition of "independent" not only are preferable to "management" or "affiliated nonmanagement" directors but are, in fact, the only persons who are capable of exercising disinterested oversight and independent judgment. Further, a large number of commentators, on the erroneous assumption that certain of the proposals were designed primarily to influence corporate conduct rather than to provide useful information to shareholders, contended that these proposals were beyond the Commission's statutory authority.

The Commission believes that the rules adopted today will facilitate informed voting decisions and promote fair corporate suffrage and are an appropriate exercise of its rulemaking authority under section 14(a) of the Securities Exchange Act. The rules do not, as some commentators thought, constitute a regulatory effort by the Commission to prescribe or determine board composition or corporate governance mechanisms. The legislative history of the federal securities laws reflects a recognition that disclosure, by providing corporate owners with meaningful information about the way in which their corporations are managed, may promote the accountability of corporate managers.[3] Thus, while the federal securities laws generally embody a disclosure approach, it has long been recognized that disclosure may have beneficial effects on corporate behavior.[4] Accordingly, although the Commission's objective in adopting these rules is to provide additional information relevant to an informed voting decision, it recognizes that disclosure may, depending on determinations made by a company's management, directors and shareholders, influence corporate conduct. This sort of impact is clearly consistent with the basic philosophy of the disclosure provisions of the federal security laws.

After careful analysis of the comments which were submitted, the Commission has concluded that the rules adopted today will provide useful information to shareholders. In some respects it appears that certain of the rule proposals might have raised inferences unintended by the Commission. The Commission has, therefore, revised the proposals in several respects as discussed below.

II. Disclosure of Board Composition—Item 6(b)[5]

Item 6(a)(6), as proposed, would have required issuers, other than investment companies registered under the Investment Company Act of 1940, to identify each nominee and each director whose term of office as a director will continue after the annual meeting as an "independent," "affiliated nonmanagement" or "management" director, as those terms were defined in an instruction accompanying the item. In the case of an "affiliated nonmanagement director," issuers would have been required to describe the nature of the relationship by reason of which the nominee was so deemed.

As defined in the instruction to proposed item 6(a)(6), the term "management director" included, in addition to an officer or employee of the issuer, an officer or employee of any parent, subsidiary or other affiliate of the issuer. The term "affiliated nonmanagement director" referred to persons having certain specified economic and personal relationships to the issuer and its management. An "independent director" was defined as an individual who is neither a "management director" nor an "affiliated nonmanagement Director." However, the instruction indicated that designation of a nominee as an "independent director" would be inappropriate if the issuer is aware of relationships between the nominee and the issuer which, under the circumstances, reasonably could be viewed as interfering with the nominee's exercise of independent judgment.

In the release announcing publication of this proposed item, the Commission expressed its view that "the interests of shareholders are best served by a board of directors which is able to exercise independent judgment, ask probing questions of management and bring to the company a broader perspective than that of managment." The Commission further expressed its belief that board composition is of such importance that shareholders whose proxies are solicited with respect to an election of directors should be provided with information concerning the affiliations of board members and nominees with management. Additionally, the Commission stated that the terms "independent" and "affiliated nonmanagement," as defined in proposed item 6(a)(6), were intended to distinguish between nonmanagement directors who are completely unaffiliated with the issuer and its management and those having certain business or personal relationships. The Commission recognized that the terminology it proposed to express this distinction might not be ideal and, therefore, specifically solicited suggestions for alternative terms.

Almost all of the comment letters contained an assessment of proposed item 6(a)(6) and, in fact, many commentators dealt only with this issue. Many believed that the proposal would place too much emphasis on disclosure concerning independence, to the exclusion of information regarding other attributes which are desirable for directors to possess, and a large number of commentators questioned whether the independence of a director can be ascertained solely from a description of his affiliations with the issuer. Nevertheless, there was substantial support for the proposition that shareholders should receive information on the proxy statement concerning the business and personal relationships of directors to the issuer. Commentators' views concerning the desirability of additional disclosure varied greatly. On the one hand, many commentators who acknowledged the usefulness of such information to shareholders in exercising their franchise asserted that current disclosure

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[3] Under section 14(a), the Commission is charged with the responsibility of regulating the proxy soliciting process in order to assure "fair corporate suffrage" for every security holder, and to assure that each "stockholder [has] adequate knowledge as to the manner in which his interests are being served." H.R. No. 1383, 73d Cong. 2d Sess. 13 (1934); S. Rep. No. 792, 73d. Cong., 2d Sess. 12 (1934). In section 14(a), the Congress granted the Commission the authority to promulgate "such rules and regulations • • • necessary or appropriate in the public interest or for the protection of investors."

[4] See, e.g., S. Rep. No. 47, 73 Cong., 1st. Sess. 7 (1933); Brandeis, "Other People's Money" 92 (1932 ed.); Frankfurter, "The Federal Securities Act II," Fortune Mag. 53, 55 (Aug. 1933); Anderson, "The Declosure Process in Federal Securities Regulation: A Brief Review," 25 Hastings L. J. 311, 318, 330 (1974). See generally, "Laurenzano v. Einbender," 264 F. Supp. 356 (E.D.N.Y. 1968).

[5] Item 6(b) corresponds to proposed item 6(a)(6)(i) and would apply to issuers other than registered investment companies.

requirements, specifically items 6 and 7 of schedule 14A,[6] provide sufficient information concerning director affiliations and conflicts of interest for shareholders to make reasonable judgments concerning the independence of directors. On the other hand, a large number of commentators stated that additional information regarding the business and personal relationships of nominees would be useful to shareholders.

Virtually all of the commentators expressed opposition to the proposed requirement that nonmanagement directors be identified in the proxy materials as "independent" or "affiliated." These commentators asserted that the use of these categories would provide no additional useful information to, and would, in fact, mislead or confuse, shareholders because the term "independent" attempts to reflect a state of mind which is not susceptible of measurement by reference to the existence or non-existence of certain relationships. Some commentators asserted that directors identified as other than "independent" would be perceived as incapable of exercising independent judgment and as a result corporations would be encouraged, in nominating persons to serve as directors, to select candidates on the basis of their lack of certain defined relationships with the issuer rather than their expertise or experience. Similarly, it was argued that otherwise well-qualified persons who would be designated as "affiliated" or "management" directors would be unwilling to serve. Without necessarily agreeing with all of these assertions, on balance the Commission has determined that a requirement that directors be categorized should not be adopted at this time.

The Commission recognizes the fact that the nonexistence of a particular economic or personal relationship with the issuer does not determine the quality of a nominee's performance on the board. The extent to which nominees possess other intangible attributes such as strength of character and good business judgment is also important. While an individual's capacity to render independent judgment is, in the final analysis, a qualitative matter, the nature and scope of a director's relationship with the issuer and its management certainly bears upon his independence, and, in the Commission's view, infomation respecting such relationships should be provided to shareholders when they exercise their franchise.

Thus, as adopted, item 6(b) requires a brief description, in tabular form to the extent possible, of any of certain significant economic and personal relationships which exist between the director and the issuer. These relationships are similar to those by virtue of which a director would have been deemed an "affiliated nonmanagement director" under proposed item 6(a)(6), but with several modifications.[6a]

A. FORMER OFFICERS AND EMPLOYEES

As proposed, the term "affiliated nonmanagement director" would have included any person who, within the last five years, had been an officer or employee of the issuer or any of its parents, subsidiaries or other affiliates.[7] Information concerning the principal occupations and employment of a nominee during the past five years, including the name and principal business of any organizations in which those occupations are carried on, is currently required to be disclosed pursuant to item 3(e) of Regulation S-K. Paragraph (1) of item 6(b) as adopted requires that if the organization is a parent, subsidiary or affiliate of the issuer that fact be disclosed as well.

B. RELATIVES OF OFFICERS

As proposed, the term "affiliated nonmanagement director" would have included a person who is related to an officer of the issuer, or any of its parents, subsidiaries or other affiliates by blood, marriage or adoption (except relationships more remote than first cousin). The few commentators who addressed this issue opined that disclosure should cover relationships to "executive officers"[8] only, consistent with the new proxy disclosure requirements adopted by the Commission subsequent to the publication of the subject proposals,[9] because family relationships to officers who are not in policy making positions would not be of sufficient significance to warrant disclosure. The Commission agrees in part, and therefore, as adopted, paragraph (2) of item 6(b) requires disclosure only of relationships to executive officers of the issuer, any of its parents, subsidiaries or other affiliates. However, because of the control relationship between an issuer and its affiliates, the Commission believes it appropriate to require disclosure of relationships between the nominee and executive officers of the issuer's affiliates.

C. OFFICER, DIRECTOR, EMPLOYEE AND OWNER OF A SIGNIFICANT SUPPLIER OR CUSTOMER

(1) *Persons Included*

Proposed item 6(a)(6) would have included within the definition of "affiliated nonmanagement director" any person who is or has within the last two years been an officer, director, employee or owner of an interest in excess of one percent of the equity of an entity which, as customer or supplier of the issuer, had or will have business transactions of a specified magnitude with the issuer.

Many commentators expressed a preference for the approach taken in item 4(f) of regulation S-K[10] which, as a general matter, would not require the disclosure of certain transactions between the issuer and another entity in which the director has an interest, if that interest arises solely from the directorship of, or ownership of less than ten percent of, the other entity. These commentators asserted that information concerning less significant relationships to the issuer would not facilitate a meaningful assessment of potential conflicts. A small number of commentators also objected to the inclusion of any employee of the other entity, arguing that employees, other than executive officers, may have no influence over the other entity or stand to benefit from its business transactions with the issuer.

The Commission disagrees with these comments. As adopted, paragraph (3) of item 6(b) would require a description of economic relationships of the same persons referred to in proposed item 6(a)(6). In the Commission's view, if there is a significant amount of business between the issuer and the other entity, the interest of an owner of a one percent equity interest, or an officer, director or an employee of that entity in maintaining the business relationship is sufficiently great that the relationships should be disclosed. Shareholders would then be able to reach their own conclusions on the extent to which such interests may conflict with those of the issuer or may impact upon that person's performance as a director of the issuer. For purposes of clarification the

[6] See discussion of coordination with regulation S-K, infra.

[6a] While the rules adopted herein do not retain the director categories proposed in our July release, for convenience, those categories have been employed in the text of this release solely for the purpose of explaining our responses to comments on those proposals and discussing the affirmative disclosure requirements which are adopted herein.

[7] An "affiliate" of a specified person is defined as a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. Securities Exchange Act rule 12b-2, 17 CFR 240.12b-2.

[8] The term "executive officer" is defined in the instructions to item 3(b) of regulation S-K to mean the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the registrant.

[9] See Securities Exchange Act Release No. 15006 (July 28, 1978), 43 FR 34402.

[10] See discussion of coordination with regulation S-K, infra.

phrase "in excess of one percent equity interest in" has been substituted for the phrase "in excess of one percent of the equity of."

(2) *Amount of Business Between the Issuer and its Customers or Suppliers*

The types and size of business relationships the existence of which would render a director "affiliated" were covered by subparagraphs (A), (B), (D) and (E) of instruction 3(iii) to proposed item 6(a)(6). Subparagraphs (A) and (B) referred to customers of the issuer which made payments during the issuer's last fiscal year or proposed to make payments during the issuer's next fiscal year in an amount in excess of one percent of the issuer's gross revenues for its last fiscal year or $1,000,000, whichever is less. Subparagraphs (D) and (E) referred to suppliers to the issuer to which the issuer made payments during such entity's last fiscal year or proposed to make payments during such entity's next fiscal year in an amount in excess of one percent of such entity's gross revenues for its last fiscal year or $1,000,000, whichever is less.

Many commentators who addressed this issue opposed retention of the $1,000,000 threshold on the theory that $1,000,000 represents such an insignificant portion of the revenues of large corporations that it would be unreasonable to draw any inference from the existence of such an inconsequential relationship. Others noted that large corporations, because of the relative insignificance to them of transactions aggregating $1,000,000 and the complexity of their operations, would find it virtually impossible to maintain and examine the records necessary to determine whether they had done business in that amount with a particular entity.

The Commission is persuaded that the concerns expressed with respect to the $1,000,000 threshold may be valid and has determined that an economic test of significance expressed in terms of a percentage of revenues may be more workable. Therefore, subparagraph 3(i), (ii), (iv) and (v) of the item 6(b), as adopted, contains an economic standard based on one percent of consolidated gross revenues.

Additionally, in adopting these subparagraphs in final form, the Commission has incorporated the suggestions made by several commentators that certain kinds of tranactions be excepted from the calculation of the magnitude of business between the issuer and the other entity. Thus, in view of the absence of normal competitive factors in transactions involving the rendering of services as a public utility at rates or charges fixed in conformity with law or governmental authority, subparagraph 3(vii) excepts from the calculation of payments for property or services payments made in such transactions as well as payments representing rates or charges which are determined by competitive bids. Further, in accordance with the Commission's general intent to have included in the calculation payments arising from commercial rather than ordinary investment transactions, subparagraph 3(vii) also contains an exception for non-preferential dividends and other payments arising solely from the ownership of securities.

(3) *Creditor Relationships*

Under the instruction to proposed item 6(a)(6), a person who is an officer, director or one percent equity owner of certain creditors of the issuer would have been deemed to be an "affiliated nonmangement director." Subparagraph (C) of paragraph 3(iii) of the instruction to proposed item 6(a)(6) would have included within the class of affected creditors an entity to which the issuer was indebted at any time during the issuer's last fiscal year in an aggregate amount in excess of one percent of the issuer's total assets at the end of such fiscal year, or $1,000,000, whichever is less. A substantial number of commentators questioned the appropriateness of this test, asserting that an outstanding loan of $1,000,000 would not be of significance to most large banks. Deletion of the dollar threshold was recommended.

The Commission recognizes that a loan of $1,000,000 may represent an insignificant percentage of the total loan portfolio of most large financial institutions. The Commission is concerned, however, that the inherent nature of a debtor-creditor relationship and the potential conflicts between the interests of creditors and shareholders make it appropriate to retain a dollar threshold. In an effort to balance these competing concerns, subparagraph (3)(iii) of item 6(b), as adopted, requires disclosure of loans which exceed one percent of the issuer's consolidated total assets, or $5,000,000, whichever is less. Additionally, a new subparagraph (viii) has been added which permits debt securities which have been publicly offered or which are listed on a national securities exchange or quoted on the automated quotation system of a registered securities association to be excluded from the calculation of aggregate indebtedness.

(4) *Technical Amendments Contained in Subparagraph (3)(i)-(v) of Item 6(b)*

Proposed item 6(a)(6) referred to payments made during the last fiscal year of the issuer or other entity and those proposed to be made during the next fiscal year. A number of commentators expressed confusion concerning whether the term "next fiscal year" referred to the current fiscal year and, if not, whether payments for the current fiscal year were inadvertently omitted. As adopted, subparagraphs 3(i)-(v) have been revised to require disclosure concerning payments for the last fiscal year and for the current fiscal year. Consistent with the approach taken in Securities Exchange Act Release No. 14970, payments which are "proposed" to be made during the current fiscal year would include payments which are the subject of a formal agreement or are reasonably expected to be made pursuant to any understanding or course of conduct between the issuer and the other entity.

In addition, proposed item 6(a)(6) referred to payments made by or to the "issuer." It was clear from the context in which the term "issuer" was being used, however, that it referred to payments made by or to the issuer and its subsidiaries, and the commentators apparently so understood its use. A technical amendment clarifies this reference. A further technical amendment adds the word "consolidated" to modify the term "gross revenues." Subparagraph (3)(iii), as adopted, also reflects a technical amendment which adds the word "consolidated" to modify the term "assets."

(5) *Recipient of $25,000 from the Issuer*

As proposed, the definition of "affiliated nonmanagement director" would have included a person (as owner of an equity interest in any entity or otherwise) to whom the issuer directly or indirectly had made payments in the last fiscal year or to whom the issuer proposed to make payments in the next fiscal year, for property or services, in excess of $25,000 (other than fees as a director or retirement allowances). Most commentators who addressed this definition expressed confusion as to its meaning and asserted that the $25,000 threshold figures was unrealistically low. The Commission has determined that this proposal probably would provide little additional information of significance to shareholders since, in most cases, transactions involving payments to a director of $40,000 or more already are reportable under item 4(f) of regulation S-K. Accordingly, item 6(b) as adopted does not require such disclosure.

(6) *Attorneys and Investment Bankers*

The instruction to proposed item 6(a)(6) would have included within the definition of "affiliated nonmangement director" any person who is a member or employee of, or is associated with, a law firm which the issuer has retained in the last two years or

proposes to retain in the next year and any person who is a director, partner, officer or employee of any investment banking firm which has performed services for the issuer in the last two years or which the issuer proposes to have perform services in the next year. While few commentators disagreed, in principle, with the concept that the relationship of lawyers and investment bankers with the issuer differs from that of other suppliers of goods and services, and that the significance of their affiliation to the issuer should be measured by a different standard, many felt that some threshold economic standard should be applied. These commentators stated that it is inapproporiate to deem "affiliated" a partner of a law firm retained for a minor matter or an investment banking firm which merely participates in an underwriting group.

Despite the objections of the commentators to the absence of an economic standard with respect to lawyers, the Commission has determined to require disclosure of the relationships as proposed. In view of the inherent conflicts faced by lawyers who serve both as directors and as counsel to corporations, the Commission is reluctant to limit disclosure of such relationships solely on the basis of an economic test.

With respect to disclosure of investment banking relationships, however, the Commission has determined that information concerning a director or nominee's relationship with a firm which has performed services for the issuer only as a participating underwriter in an underwriting syndicate is not sufficiently significant to warrant disclosure. Paragraph (5) of Item 6(b), as adopted, has been revised accordingly and would require disclosure of a director or nominee's relationship to an investment banking firm which has performed sevices for the issuer other than as a participating underwriter in an underwriting syndicate.

(7) *Control Persons*

The proposed definition of "affiliated nonmanagement director" would have included any person who is a control person of the issuer (other than as a director of the issuer). This paragraph was the subject of little commentary. As adopted, paragraph 6 of item 6(b) requires disclosure of this relationship.

D. DISCLOSURE OF OTHER RELATIONSHIPS WHICH ARE SUBSTANTIALLY SIMILAR IN NATURE AND SCOPE

Proposed item 6(a)(6) would have provided for the characterization as "independent" of directors who were neither "management" nor "affiliated nonmangement," as defined in the proposed item. In recognition of the difficulties inherent in any rigid definition of independence, an instruction to the proposed item indicated that it would be inappropriate to designate a nominee as independent if the issuer were aware of relationships between the nominee and the issuer which, under the circumstances, reasonably could be viewed as interfering with the nominee's exercise of independent judgment.

As indicated above, the Commission has determined not to require that directors be characterized in proxy statements but has adopted a requirement that certain business and personal relationships, discussed in detail above, be disclosed.

It is the Commission's intent, in adopting item 6(b), to provide shareholders with information necessary to an evaluation of a nominee's relationships to the issuer and the potential conflicts of interest with which he or she may be confronted. Because of the multiplicity of possible relationships which are similar to those as to which disclosure is specifically required and the Commission's concern that issuers not elevate form over substance in complying with this disclosure requirement, a new paragraph (7) has been included in item 6(b) which states that if the issuer is aware that the nominee has relationships substantially similar in nature and scope to those which are enumerated in paragraphs (1) through (7) of that item, disclosure of such relationships should also be included.

E. USE OF MISLEADING TERMINOLOGY IN PROXY STATEMENTS

As discussed above, the Commission has determined that a requirement that directors be categorized in proxy statements should not be adopted at this time. The Commission is concerned, however, that a variety of director "labels" are currently being used in a number of different contexts and in publications which reach shareholders. The use of such terms may not be comparable and may be confusing and susceptible to misunderstanding. These labels often obfuscate important distinctions between nonmanagement directors.[11] For example, the term "independent" often is employed to refer to all nonmanagement directors despite the fact that some such directors may have significant business or personal relationships with the issuer or its management.

In light of those concerns which commentators raised in opposition to Commission-mandated "labeling," as well as the confusing nature of "labels" as currently used, the Commission urges issuers not to "label" their directors until such a time as a system of director categorization which better serves the disclosure purposes of the federal securities laws is developed. A note to item 6(b) indicates that any issuer which, in a proxy statement, nevertheless chooses to categorize its directors should do so only after having considered both the existence or nonexistence of business and personal relationships between each director and the issuer or its management and the inherent inadequacy of "labels" currently in use. Where significant relationships do exist—including, but not limited to, those as to which disclosure would be required pursuant to item 6(b)—characterization of a director or nominee by any "label" connoting a lack of relationship to the issuer and its management may be materially misleading.[12]

F. INTERESTED PERSONS OF INVESTMENT COMPANIES

Proposed item 6(a)(6)(ii) would have required investment companies registered under the Investment Company Act of 1940 to identify in their proxy statements which nominees and other directors whose term of office will continue after the annual meeting are "interested persons" as the term is defined in that act. The item also would have required, with respect to any person so identified, a brief description of the relationship by reason of which the person is deemed to be an "interested person." Relatively few commentators addressed this part of the proposals. Some commentators expressed reservations about the use of the term "interested," pointing out that while some investment companies presently disclose which of their directors are "interested," others prefer to

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[11] This problem is illustrated by a comparison of the findings of two recent surveys on the board composition of major U.S. corporations. One was conducted by Heidrick and Struggles, Inc., an executive recruiting firm. This study, which surveyed 1,000 of the largest companies as ranked by "Fortune", concluded that "[the] average percentage of outside directors on a board is 59.8 in 1978." "The Changing Board Update 1978," Heidrick & Struggles, Inc. The other survey, conducted by Spencer Stuart & Associates, Inc., a management consulting firm, examined 100 of the largest companies as ranked by "Fortune" for 1978. This survey studied, in addition to "inside" and "outside" directors, the number of "quasi-insiders," a term which included lawyers, commercial bankers, investment bankers, retired officers and persons with family relationships to corporate management, but did not include directors who may be affiliated with significant customers or suppliers of the issuer. The study did not determine whether persons identified as "quasi-insiders" had a business relationship with the issuer. The figures provided by the Spencer Stuart study indicate that, if "quasi-insiders" are excluded, the average percentage of outsider directors on corporate boards is 41.5 percent. See also, "The Boardroom is Becoming a Different Scene," Fortune Mag. (May 8, 1978).

[12] See "TSC Industires, Inc. v. Northway, Inc.," 426 U.S. 438 (1976).

designate only those persons who are "not interested" as such determination is easier to make. The Commission believes that because the term "interested person" is defined statutorily in the Investment Company Act and such persons are identified in prospectuses filed by registered investment companies, it is appropriate to require the identification of those persons in proxy statements. As adopted, item 6(c) requires the issuer to identify by an asterisk any nominee or director who is an "interested person" within the meaning of Section 2(a)(19) of the Act, and to briefly describe the nature of the relationship which renders him "interested."

III. Committee Disclosure—Proposed Item 6(d)

As proposed, item 6(d) would have required disclosure of whether or not the issuer has a standing audit, compensation or nominating committee of its board of directors. If the issuer had such committees, it would have been required to identify each committee member and indicate whether he or she was a "management director," "unaffiliated nonmanagement director" or "independent director" as those terms were defined in proposed item 6(a)(6). Issuers that had a nominating committee also would have been required to state whether that committee would consider nominees suggested by shareholders and, if so, to indicate the procedure the shareholders should follow in submitting recommendations. Additionally, a note to the item indicated that a statement that the issuer had any of the named committees connoted that its committees perform certain functions customarily performed by such committees. Those functions were identified in the note. If the issuer disclosed the existence of a committee which, in fact, did not perform the enumerated customary functions, it would have been required to identify those customary functions which its committee did not perform.[13]

Although a majority of commentators favored disclosure of the existence of standing audit, nominating and compensation committees and of their membership, a substantial number objected to the requirement that the nonexistence of any of these committees also be disclosed.[14] This was particularly true with respect to nominating committees, which are less prevalent than other key standing committees. These objections were based on assertions that the disclosure of the nonexistence of committees was intended to encourage companies to establish the named committees, rather than to provide useful information to shareholders.

While the Commission recognizes that the adoption of this disclosure requirement in some instances may indirectly stimulate the establishment of audit, nominating and compensation committees, the Commission believes that disclosure of the nonexistence of the named committees serves a valid informational purpose. In particular, whether or not an issuer has an audit committee and, if so, information concerning its functioning would help the issuer's shareholders to assess the effectiveness of the board's oversight of the company's accounting functions. The recent enactment of the Foreign Corrupt Practices Act of 1977 has underscored the importance of effectively functioning audit committees.[15] Similarly, the Commission believes that disclosure of whether or not an issuer has a nominating committee and the functions performed by the committee would be material information to shareholders and could improve the director selection process by increasing the range of candidates under consideration while intensifying the scrutiny given to their qualifications. Finally, the Commission believes that similar disclosure concerning an issuer's compensation committee would permit investors to better assess the process by which management and director compensation is determined.[16]

In light of the importance of strong committee systems and their impact on the oversight capabilities of the board of directors, shareholders who are being asked to make voting decisions with respect to the election of directors are entitled to know whether or not these important committees exist. Accordingly, the Commission has determined to adopt the requirements in item 6(d) that the issuer state whether or not it has a standing audit, nominating or compensation committee, however designated, and, if so, identify each committee member. If the issuer is a registered investment company and has such committees, it would be required, pursuant to item 6(d), to identify by an asterisk which committee members are "interested" as defined in section 2(a)(19) of the Investment Company Act of 1940. However, under item 6(d) as adopted, information concerning compensation committees is not required of registered investment companies whose management functions are performed by external managers.

While the Commission has determined that there is a need for disclosure of meaningful information about committee functions, it is persuaded that adoption of a negative disclosure requirement—which would provide information to shareholders only of any customary functions *not* performed by an issuer's committee—is not appropriate at this time. In this regard, many commentators challenged the proposition that the indicated "customary" committee functions are accepted and stated that a definition of functions customarily performed by audit, nominating and compensation committees would not allow for needed flexibility. Similarly, some were concerned that a "laundry list" approach would set a ceiling or lowest common denominator and discourage committees from performing different functions, thus tending to deter the evolution of committee functions and limit experimentation. Others incorrectly asserted that negative disclosure serves no legitimate informational purpose and is intended solely to influence conduct.

The use of a negative disclosure approach in providing information concerning committee functioning was intended to shorten the required disclosures and to assure that boilerplate disclosures are avoided. It was not the Commission's intent, as some critics have suggested, to establish a comprehensive, rigid model for all committee operations. Thus, while the Commission believes that the statement of customary functions which was contained in the note to proposed item 6(d) [17] provides a convenient initial ref-

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[13] As proposed, the item would also have required disclosure of the number of meetings held by each named committee. See discussion of Board Meetings and Attendance, infra.

[14] Item 8(e) of schedule 14A currently requires an issuer to state whether or not it has an audit or similar committee of the board of directors and, if so, to name the members of the committee.

[15] Pub. L. No. 95-213. Tit. I. §§ 102-103 (Dec. 19, 1977). See also "SEC v. Falstaff Brewing Co.," Civ. Action No. 77-894 supra, where the court found that the statement in the 1977 proxy statement regarding the existence of an audit committee of Falstaff's board of directors was materially false and misleading, in that the audit committee never met, or functioned. The proxy statement, thus, falsely conveyed to Falstaff's shareholders the impression that effective oversight of their company's accounting functions was being exercised by the board of directors.

[16] It should be noted that rule 16b-3, 17 CFR 240.16b-3, which provides an exemption from section 16(b) of the Securities Exchange Act for certain acquisitions of securities by officers, directors and principal stockholders, requires that discretionary allocations of such securities be made by, or only in accordance with the recommendation of a committee of disinterested persons, as defined therein.

[17] With respect to audit committees, the functions included engaging and discharging the independent auditors (or recommending such actions), directing and supervising special investigations, reviewing with the independent auditors the plan and results of the auditing engagement, reviewing the scope and results of the issuer's procedures for internal auditing, approving each professional service provided by the independent auditors prior to the performance of such services, reviewing the independence of the independent auditors, considering the

Footnotes continued on next page

erence for companies subject to the proxy rules, in light of the evolving nature of corporate committee systems and the varying characteristics and needs of different issuers, the Commission has concluded that a compendium of customary functions should not be set forth in a Commission rule at this time. The Commission is concerned, however, that disclosure of the existence of any of the committees named above would not be meaningful, absent some indication of the functions performed by the committees. Therefore, as adopted, the item has been revised to require, as was suggested by many commentators, a brief description of the functions actually performed by issuers' committees.[18]

IV. Attendance and Number of Meetings

A. Disclosure of the Number of Board and Committee Meetings Held

Proposed item 6(d) would have required disclosure of the number of meetings held by an issuer's standing audit, nominating and compensation committees since the date of the most recent annual meeting of shareholders. Similarly, proposed item 6(e)(1) would have required disclosure of the total number of meetings of the board of directors held since the date of the most recent annual meeting.

Some commentators argued that the number of meetings held is not a meaningful indication of the effectiveness of committee and board functioning and noted that in certain circumstances such disclosure may be misleading because the frequency and length of meetings must necessarily vary, depending on the specific circumstances and corporate entity involved. The Commission recognizes that the quality of the performance of a committee or a board is not necessarily a function of the quantity of time spent by its members. However, the Commission believes that the number of board and committee meetings held is a relevant factor which may be helpful to shareholders in evaluating the performance of their committees or boards and has therefore determined that adoption of the items is appropriate. If the issuer believes that particular circumstances make the number of meetings held susceptible to misinterpretations, it may, of course, include an appropriate explanation.

As a technical matter, several commentators noted that the proposed rule as originally drafted would not elicit disclosure of the total number of board or committee meetings held annually since it would require disclosure only of those meetings held since the date of the last annual meeting. Disclosure of the total number of board and committee meetings held annually would, of course, provide more meaningful information to shareholders. Accordingly, items 6 (d) and (e) have been revised to require disclosure of the number of meetings held during the issuer's last fiscal year.

B. Disclosure of Director Attendance—Item 6(e)

Proposed item 6(e)(1) would have required identification of each incumbent director who has attended less than 75 percent of the board meetings held. Similarly, proposed item 6(e)(2) would have required identification of any director who has failed to attend at least 75 percent of the total number of meetings held by all committees on which he sits.

Commentators who opposed the proposal indicated that, in their view, the fact that a director has attended less than 75 percent of the meetings of the board or of the relevant committees would not be a meaningful indication of the quality of his contribution to the board. Some were concerned that the disclosure would discourage highly qualified nonmanagement directors from serving on boards. Others observed that it might influence boards to reduce or increase the number of meetings to help directors meet the 75 percent threshold.

Another objection to the proposal was the belief of some commentators that the 75 percent figure was too high. In this regard, it was noted that special board or committee meetings may be scheduled on short notice and some committees may meet infrequently. Further, commentators opined that a failure to attain the 75 percent attendance record would invariably result in some proxy statement explanation and that a threshold that is too high would lead to a proliferation of explanations in the proxy materials. Several of these commentators urged the Commission to apply the 75 percent test in the aggregate. Others suggested that the percentage be lowered.

The Commission recognizes that in particular instances directors may provide the board with valuable insight and expertise without actually attending formal meetings on more than an intermittent basis. However, we believe that these occasions are likely to be the exception and that, in general, attendance is an indication of effective board and committee functioning and is relevant to an evaluation of directors for election purposes. In addition, the Commission is not persuaded that the contemplated disclosure would deter responsible boards from holding meetings when it is appropriate to do so.

Nevertheless, the Commission believes that the threshold is problematic in certain respects. In particular, board committees may not, on the average, meet frequently enough to assure that an attendance threshold based only on committee meetings will be meaningful. Accordingly, item 6(e) has been adopted in revised form to require disclosure only in the event that a director attends fewer than 75 percent of the aggregate number of meetings of the board and of the committees on which he sits. The item has also been revised to require disclosure with respect to meetings held during the "last fiscal year," rather than meetings held since the "date of the last annual meeting." As indicated above, this technical amendment is necessary to make the time period cover a full 12 months.

V. Resignations of Registrant's Directors—Item 6 of Form 8-K; Item 6(f) of Schedule 14A

As proposed, item 6 of form 8-K[19] and item 6(f) of schedule 14A would have required that if a director resigned or declined to stand for re-election because of a disagreement on matters involving business operations, policies, or practices, the issuer would be required to report the disagreement on form 8-K as well as in its proxy statement. Before filing its preliminary proxy materials with the Commission, the issuer would be required to furnish the director with a copy of its proposed statement. If the director disagreed with the issuer's characterization of the disagreement, he would be permitted to include in the proxy materials a brief statement presenting his views, provided he submitted his statement to the issuer within ten business days after receiving the issuer's statement.

Some commentators who opposed adoption of the proposal were concerned that this disclosure would dis-

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Footnotes continued from last page

range of audit and nonaudit fees and reviewing the adequacy of the issuer's system of internal accounting controls. With respect to nominating committees, the functions included selecting or recommending to the full board nominees for election as directors and consideration of the performance of incumbent directors in determining whether to nominate them for re-election. The functions of compensation committees included approval (or recommendation to the full board) of the remuneration arrangements for senior management and directors, adoption of compensation plans in which officers and directors are eligible to participate and granting of options or other benefits under any such plans.

[18] In the interest of contributing to the ongoing evolution of committee functions, the Commission has instructed its Division of Corporation Finance to monitor proxy statement disclosures made in response to this item.

[19] This item was originally proposed as item 5 but as adopted has been redesignated item 6.

courage the evolution of stronger boards by increasing divisiveness among board members. Others noted that the proposal might make it more difficult to attract and retain directors with divergent viewpoints. In addition, a number of commentators questioned the appropriateness of relying on an event, rather than the materiality of the underlying facts, to trigger disclosure. It was noted by some that under existing rules disagreements involving material information would already be required to be disclosed.

The Commission believes that disclosure of director resignations or declinations to stand for re-election would provide useful information to investors in assessing the quality of management, consistent with the increasing emphasis on the monitoring function of corporate boards. A director who wishes to make a public record of the disagreement which prompted his resignation from the board should have the opportunity to do so in a manner which will most likely come to the attention of the shareholders who elected him.

In proposing this disclosure requirement, the Commission had determined that the issuer should be required to provide the disclosure because it was concerned that if the requirement were to be premised only on an affirmative request by the director, the dynamics of most situations would be such that a director would feel pressure to refrain from "rocking the boat." However, after considering the commentary, the Commission believes that, on balance, it is more appropriate to require disclosure only upon the request of the director. If disclosure is triggered by director request, the director will have a forum if he chooses to use it, and the issuer will be relieved of any obligation to document and caracterize what it believes are the reasons for director resignations.

Accordingly, item 6 of form 8-K and item 6(f) of schedule 14A have been revised to require disclosure of a director's resignation only if the director has furnished the registrant with a letter describing the disagreement relating to the registrant's operations, policies or practices and requesting that the matter be disclosed. If the issuer believes the description provided by the director is inaccurate or incomplete, it may, of course, include a statement of its views of the disagreement. The items, as adopted, include an express statement to that effect. The Commission believes that, as revised, the items will be less likely to create compliance problems and yet will still assure that directors who have resigned or declined to stand for re-election will be able to disclose this information in a manner which is most likely to reach shareholders.

VI. Shareholder—Proponent Consideration of Management's Statement in Opposition—Rule 14a-8(e)

As proposed, rule 14a-8(e) would have required an issuer to transmit to a shareholder-proponent ten business days before the filing of its preliminary proxy material any statement in opposition to the shareholder's resolution that the issuer intends to include in the proxy material.

The purpose of this proposal was to provide a shareholder-proponent with the opportunity to bring materially inaccurate statements contained in opposing statements to the attention of management and the Commission before the proxy materials are mailed to shareholders. As noted in the Commission's release announcing the proposed rule, a number of witnesses during the hearings indicated that under the present system a proponent does not have a practical means of curing any misstatements which are made in the discussion of his proposal. A recent federal court decision has raised questions as to the availability of judicial review for materially false statements made by management in connection with precatory shareholder proposals.[20] Further, witnesses at the hearings had noted that even if judicial review is available it is questionable in some instances whether it can provide a workable remedy. The deliberate pace of a court action may not be well suited to these types of problems since, unless a temporary restraining order or injunction has been granted, appropriate relief may not be available before the meeting.

A number of commentators opposed adoption of the proposal because they believed it would result in delay and is unnecessary in light of the lack of demonstrated abuses in this area and the legal remedies which are already available to shareholder-proponents. Nevertheless, the Commission believes it is appropriate to adopt proposed rule 14a-8(e) on an experimental basis. First, it simply would be more equitable if shareholder-proponents were permitted to see management's opposing statement before it is mailed to shareholders. Second, in light of the problems associated with a total reliance on judicial remedies and the limited Commission resources available for review of proxy materials, it appears appropriate for an effective administration of the proxy rules that a shareholder-proponent be given the opportunity to examine management's opposing statement for accuracy. Finally, it would appear to be in the best interests of all parties that questions concerning the factual accuracy of the opposing statements be resolved during the comment process.

Commentators also were concerned that the proposal would cause additional difficulties in complying with the already tight time deadlines characteristic of proxy season. A number of commentators suggested alternative means of avoiding extended delays. For example, it was suggested that "10 business days" be changed to "10 calendar days." It was also noted that, even though advice may be received from the staff 20 days before the filing date, the advice is often that management may exclude the proponent's proposal unless the proponent amends the proposal within a reasonable time. It was argued that it would be impossible in such cases to prepare a response to the shareholder 10 days before filing preliminary materials with the Commission. Some recommended that procedures similar to rule 14a-8(d) be adopted so that management would be provided a copy of the proponent's communication to the staff and would, as a result, be in a better position to respond promptly to staff inquiries.

The Commission agrees that timing problems could have arisen under the rule as proposed, particularly in instances where the staff has advised an issuer that the proposal may be omitted unless the proponent amends it in certain respects. Therefore, rule 14a-8(e) has been revised to provide that in those cases the issuer need not forward the statement in opposition until five calendar days after it has received an appropriately revised proposal. In other instances, issuers generally will know no later than 20 days before filing their preliminary proxy materials whether a proposal will be included and therefore would have at least 10 days to draft and mail to a shareholder-proponent any statement in opposition which it intends to include in the proxy statement.[21]

Additionally, commentators had expressed concern that the rule as initially drafted might provide a forum for further debate on the merits of the proposal. It was noted that the rule has the potential for drawing the staff into debate over social and political

[20] "Sisters of the Precious Blood v. Bristol-Myers Co.," Fed. Sec. L. Rep. ¶ 96,047 (1977), appeal dismissed, C. A. 2, 77-7299 (Jan. 11, 1978). In that case, the district court in effect held that there is no judicial remedy under section 14(a) for materially inaccurate statements made by management in connection with precatory shareholder proposals, i.e., proposals that request, rather than require, that management take certain actions.

[21] Where includability of a shareholder proposal is contested, in order to take advantage of the staff's no-action procedures, an issuer must file its objections with the Commission at least 50 days prior to filing its preliminary proxy materials (rule 14a-8(d)). As a general rule, the staff's no action position is communicated within 30 days of receipt of the issuer's objections.

issues. Nevertheless, a number of commentators concluded that this problem could be adequately remedied by revising the rule to clarify that a proponent's review is solely for the purpose of exposing possible violations of rule 14a-9. Rule 14a-8(e), as adopted, includes an additional sentence which states that if the proponent believes the statement in opposition contains a materially inaccurate statement, and wishes to bring this to the attention of the Commission, the proponent should provide the staff with a statement setting forth the reasons for this view and, at the same time, forward a copy of the statement to management. It is anticipated that any questions raised by proponents would be handled in connection with the staff's comments on the issuer's proxy material. This statement would clarify the procedure to be followed in administering the rule and also would help to assure that the issuer is able to promptly advise the staff of any appropriate supporting factual material. Further, the Commission believes this explicit statement will help to clarify that the rule is intended to elicit a proponent's views only to the extent that these views relate to material misstatements or omissions of a factual nature.

In adopting rule 14a-8(e), the Commission emphasizes that it is adopted on an experimental basis. The Commission intends to monitor closely the effect of the rule on the proxy review process, particularly with respect to timing, and will re-examine the rule at some later date.

VII. Disclosure of Terms of Settlement of Election Contests—Item 3(b)(6) of Schedule 14A; Item 7(d) of Form 10-Q

Proposed items 3(b)(6) of schedule 14A and 7(d) of form 10-Q would have required that an issuer disclose the settlement terms of an election contest, including the anticipated cost to the issuer. Commentators who responded to the proposed items generally either favored or did not oppose the proposed disclosure. The Commission believes that a discussion of the terms on which election contests are settled would provide shareholders with important information useful in making voting decisions and has therefore determined that adoption of the proposals is appropriate.[22]

The release proposing these items stated that the Commission did not intend that issuers be required to file an amended proxy statement solely to disclose the terms of settlement, if such amended proxy statement was not otherwise necessary, for example, because management's slate of nominees had changed. The release also indicated that if the proxy statement relating to the contest is not amended, the disclosure should be included in the proxy statement for the following year as well as in the quarterly report on form 10-Q. It should be noted that, contrary to the description contained in the release proposing the items, item 3(b)(6) would not require that the disclosure be provided in the proxy statement for the following year. Subsequent disclosure would be required only in the next quarterly report on form 10-Q (pursuant to paragraph (d) of item 7 of form 10-Q.) If the settlement has already been disclosed in proxy soliciting materials furnished to shareholders, instruction 5 to item 7 of form 10-Q provides that paragraph (d) of item 7 may be answered by reference to the information contained in such material.

VIII. Coordination with Regulation S-K

On July 28, 1978, as part of its efforts to standardize and integrate existing disclosure requirements, the Commission added four new disclosure items to regulation S-K, 17 CFR 229.20, including new item 3 which is captioned "Directors and Executive Officers." [23] At the same time, certain of the Commission's forms and regulations were amended to require that information which had been standardized in these new items be disclosed in accordance with the appropriate item of regulation S-K.

In the release announcing adoption of the new items of regulation S-K, it was noted that the amendments to item 6 of schedule 14A which are being adopted today had been published for comment and were then outstanding. The release indicated that, if adopted, the proposals would be adopted as amendments to item 3 of regulation S-K, which contains the type of disclosure requirements previously set forth under item 6. However, if adopted as part of item 3 of regulation S-K, which is required disclosure for a number of Commission forms, an express limitation would be necessary in order to limit their applicability to proxy statements. Moreover, the purpose of regulation S-K is to set forth standardized disclosure items which are common to several Commission forms. Therefore, the Commission believes it would be more appropriate to adopt the proposals as amendments to item 6 of schedule 14A. Accordingly, item 6 has been amended to designate the information required by item 3 of regulation S-K as paragraph (a) of the item. Proposed item 6(a)(6) has been adopted as paragraphs (b) and (c); [24] the remaining rule proposals are adopted under the same designations as proposed.

Additionally, it should be noted that, since the disclosure previously required by item 7(f) of schedule 14A is currently required under item 4(f) of regulation S-K, references to "item 7(f)" have been revised to read "item 4(f) of regulation S-K, 17 CFR 229.20" in item 6(b).

IX. Item 8 of Schedule 14A

Item 8(e) of schedule 14A, 17 CFR 240.101, currently requires disclosure of whether or not an issuer has an audit committee and, if so, of the names of the individual members of the audit committee. As item 6(d), which is adopted today and which requires information concerning audit, nominating and compensation committees, includes an identical requirement, paragraph (e) of item 8 has been deleted.

X. Certain Findings

As requested by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition and has concluded that they impose no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve the benefits of these amendments to investors and registrants.

Text of Amendments

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

17 CFR Parts 240 and 249 are amended as follows:

I. Section 240.14a-8 is amended by adding paragraph (e) as follows:

§ 240.14a-8 Proposals of security holders.

* * * * *

(e) If the management intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than ten calendar days prior to the date the preliminary copies of the proxy statement and form of proxy

[22] Since certain investment companies registered under the Investment Company Act of 1940 file their quarterly reports on Form N-1Q (17 CFR 274.106), a conforming amendment to that form has been adopted.

[23] Securities Exchange Act Release No. 15006 (July 28, 1978), 43 FR 34402. Regulation S-K was adopted in order to establish uniform disclosure requirements which may be used in preparing similar disclosures which were required by a number of Commission forms and regulations. See Securities Act Release No. 5893 (Dec. 23, 1977), 42 FR 65554.

[24] Paragraph (b) corresponds to proposed item 6(a)(6)(i). Paragraph (c) corresponds to proposed item 6(a)(6)(ii).

are filed pursuant to rule 14a-6(a), or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the issuer of the revised proposal, promptly forward to the proponent a copy of the statement in opposition to the proposal.

In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of § 240.14a-9 and the proponent wishes to bring this matter to the attention of the Commission, the proponent should promptly provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide management with a copy of such letter.

II. Section 240.14a-101 is amended by adding paragraph 6 to Item 3(b); revising Item 6, deleting old paragraph (e) of Item 8 and redesignating paragraph (f) of that item as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.[1]

* * * * *

Item 3. Persons Making the Solicitation.

* * * * *

(b) * * *

(6) If any such solicitation is terminated pursuant to a settlement between the issuer and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the issuer.

Instructions.

1. With respect to solicitations subject to § 240.14a-11 (rule X-14A-11), costs and expenditures within the meaning of this item 3 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation, except that the issuer may exclude the amount of such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of regular employees and officers, provided a statement to the effect is included in the proxy statement.

2. The information required pursuant to paragraph (6) of item 3(b) should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the issuer subsequent to the date of settlement.

* * * * *

Item 6. Directors and executive officers.

If action is to be taken with respect to election of directors, furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each person whose term of office will continue after the meeting. However, if the solicitation is made on behalf of persons other than management, the information required need be furnished only as to nominees of the persons making the solicitation.

(a) The information required by item 3 of regulation S-K, 17 CFR 229.20;

(b) With respect to issuers other than investment companies registered under the Investment Company Act of 1940, describe any of the following relationships which exist:

(1) If the nominee or director has during the past five years had a principal occupation or employment with any of the issuer's parents, subsidiaries or other affiliates.

(2) If the nominee or director is related to an executive officer of any of the issuer's parents, subsidiaries or other affiliates by blood, marriage or adoption (except relationships more remote than first cousin);

(3) If the nominee or director is, or has within the last two full fiscal years been, an officer, director or employee of, or owns, or has within the last two full fiscal years owned, directly or indirectly, in excess of 1 percent equity interest in any firm, corporation or other business or professional entity:

(i) Which has made payments to the issuer or its subsidiaries for property or services during the issuer's last full fiscal year in excess of 1 percent of the issuer's consolidated gross revenues for its last full fiscal year;

(ii) Which proposes to make payments to the issuer or its subsidiaries for property or services during the current fiscal year in excess of 1 percent of the issuer's consolidated gross revenues for its last full fiscal year;

(iii) To which the issuer or its subsidiaries was indebted at any time during the issuer's last fiscal year in an aggregate amount in excess of 1 percent of the issuer's total consolidated assets at the end of such fiscal year, or $5,000,000, whichever is less;

(iv) To which the issuer or its subsidiaries has made payments for property or services during such entity's last fiscal year in excess of 1 percent of such entity's consolidated gross revenues for its last full fiscal year;

(v) To which the issuer or its subsidiaries proposes to make payments for property or services during such entity's current fiscal year in excess of 1 percent of such entity's consolidated gross revenues for its last full fiscal year;

(vi) In order to determine whether payments made or proposed to be made exceed 1 percent of the consolidated gross revenues of any entity other than the issuer for such entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director;

(vii) In calculating payments for property and services the following may be excluded:

(A) Payments where the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a public utility at rates or charges fixed in conformity with law or governmental authority;

(B) Payments which arise solely from the ownership of securities of the issuer and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received;

(viii) In calculating indebtedness for purposes of subparagraph (iii) above, debt securities which have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities association may be excluded.

(4) That the nominee or director is a member or employee of, or is associated with, a law firm which the issuer has retained in the last two full fiscal years or proposes to retain in the current fiscal year;

(5) That the nominee or director is a director, partner, officer or employee of any investment banking firm which has performed services for the issuer other than as a participating underwriter in a syndicate in the last two full fiscal years or which the issuer proposes to have perform services in the current year; or

(6) That the nominee or director is a control person of the issuer (other than solely as a director of the issuer).

(7) In addition, the issuer should disclose any other relationships it is aware of between the director or nominee and issuer or its management which are substantially similar in nature and scope to those relationships listed above.

NOTE.—In the Commission's view, where significant business or personal relationships exist between the director or nominee and the issuer or its management, including, but not limited to, those as to which disclosure would be required pursuant to item 6(b), characterization of a director or nominee by any "label" connoting a lack of relationship to the issuer and its management may be materially misleading.

(c) With respect to investment companies registered under the Investment Company Act of 1940, indicate by an asterisk any nominee or director who is or would be an "interested person" within the meaning of section 2(a)(19) of the Investment Company Act of 1940 and briefly describe the relationships by reason of which such person is deemed an "interested person."

(d)(1) State whether or not the issuer has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the issuer has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees. In the case of investment companies registered under the Investment Company Act of 1940, indicate by an asterisk whether that member is an "interested person" as defined in section 2(a)(19) of that Act. Information concerning compensation committees is not required of registered investment companies whose management functions are performed by external managers.

(2) If the issuer has a nominating or similar committee, state whether the committee will consider nominees recommended by shareholders and, if so, describe the procedures to be followed by shareholders in submitting such recommendations.

(e) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(f) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the issuer on any matter relating to the issuer's operations, policies or practices, and if the director has furnished the issuer with a letter describing such disagreement and requesting that the matter be disclosed, the issuer shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

If the issuer believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

* * * * *

Item 8. Relationship with independent public accountants.

Old paragraph (e) is deleted.

(e) [No change from current paragraph (f).]

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

III. Section 249.308 is amended by revising instruction 6 to item 2; adding a new item 6; renumbering old item 6; and adding paragraph 4 to that item.

§ 249.308 Form 8-K, for current reports.

* * * * *

Item 2. Acquisition or Disposition of Assets

* * * * *

Instructions.

6. Attention is directed to the requirements in item 7 of the form with respect to the filing of financial statements for business acquired and to the filing of copies of the plans of acquisition or disposition as exhibits to the report.

* * * * *

Item 6. Resignations of Registrant's Directors

(a) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the registrant on any matter relating to the registrant's operations, policies or practices, and if the director has furnished the registrant with a letter describing such disagreement and requesting that the matter be disclosed, the registrant shall state the date of such resignation or declination to stand for re-election and summarize the director's description of the disagreement.

(b) If the registrant believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(c) The registrant shall file a copy of the director's letter as an exhibit with all copies of the form 8-K required to be filed pursuant to general Instruction E.

Item 7. Financial Statements and Exhibits

[No change from present item 6 except to add paragraph (b)(4) as follows:]

4. Letters from directors furnished pursuant to item 6.

IV. Section 249.308a is amended by adding paragraph (d) to item 7; by adding a new instruction 5; and by renumbering old instruction 5.

§ 249.308a Form 10-Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 7. Submission of Matters to a Vote of Security Holders.

* * * * *

(d) Describe the terms of any settlement between the registrant and any other participant (as defined in rule 14a-11 of regulation 14A under the Act) terminating any solicitation subject to rule 14a-11, including the cost or anticipated cost to the registrant.

* * * * *

Instructions.

5. If the registrant has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

6. [No change from current instruction 5.]

* * * * *

Item 9. Exhibits and Reports on Form 8-K.

(a) * * *

4. Copies of any published reports furnished in response to item 7 (See item 7, instruction 6.).

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

V. Section 274.106 is amended by adding paragraph (d) to item 2 and by adding a new instruction 4.

§ 274.106 Form N-1Q, for quarterly reports of registered management investment company.

* * * * *

Item 2. Submission of Matters to a Vote of Security Holders.

* * * * *

(d) Describe the terms of any settlement between the registrant and any other participant (as defined in rule 14a-11 of regulation 14A under that Act) terminating any solicitation subject to rule 14a-11, including the cost or anticipated cost to the registrant.

* * * * *

Instructions.

4. If the registrant has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

[Sec. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901 secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a) 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3-5, 84 Stat. 1435, 1497; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; sec. 204, 91 Stat. 1500; 15 U.S.C. 78, 78m, 78n, 78o(d), 78w(a)]

The Commission finds that any changes in the amended rules and schedules adopted from those published in Securities Exchange Act Release No. 14970 have already been generally subject to comment and are either technical in nature or less burdensome than previous requirements so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 6, 1978.

[FR Doc. 78-34774 Filed 12-13-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-15385]

SHAREHOLDER COMMUNICATIONS, SHAREHOLDER PARTICIPATION IN THE CORPORATE ELECTORAL PROCESS AND CORPORATE GOVERNANCE GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposal.

SUMMARY: The Commission today issued a release announcing the withdrawal of a proposed amendment to its proxy rules which would have required disclosure of voting policies and procedures of institutions which are subject to the proxy rules and which exercise voting rights with respect to equity securities held for their own accounts or for the accounts of others.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara Leventhal, Richard Nesson, Jennifer Sullivan or Michael Stakias, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. (202) 755-1750.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today issued a release announcing the withdrawal of a proposed amendment to regulation 14A (17 CFR 240.14a-1 et seq.) under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] which would have required disclosure of the voting policies and procedures of institutions which are subject to regulation 14A and which exercise voting rights with respect to equity securities held for their own accounts or for the accounts of others. In a related action also announced today, the Commission adopted amendments to regulation 14A and schedule 14A (17 CFR 240.14a-101) under the Securities Exchange Act of 1934 as well as related amendments to forms 8-K (17 CFR 249.308) and 10-Q (17 CFR 249.308a) thereunder. These amendments are intended to increase the information available to investors regarding (1) the structure, composition and functioning of issuers' boards of directors; (2) resignations of directors; (3) attendance at board and committee meetings; and (4) the terms of settlements of proxy contests. A rule which provides shareholders proponents with an opportunity to review management statements in opposition to shareholder proposals for accuracy prior to the mailing of issuers' proxy soliciting materials also has been adopted. See Securities Exchange Act Release No. 15384, which is set forth under rules and regulations in this issue.

Discussion

In Securities Exchange Act Release No. 14970 (July 18, 1978), 43 FR 31945 (July 24, 1978), the Commission published for comment proposed amendments to its rules, forms and schedules which were designed to provide investors with information relevant to an informed assessment of the effectiveness of issuers' boards of directors, terms of settlements of proxy contests and the voting policies and procedures of certain institutions. Additionally, the Commission requested comments on a proposed rule which would afford shareholder-proponents an opportunity to review for accuracy management statements in opposition to shareholder resolutions prior to the mailing of issuer's proxy soliciting materials.

The proposal relating to institutional voting policies and procedures, proposed rule 14a-3(b)(11), would have required certain institutions and/or parent holding companies of certain institutions which are subject to the Commission's proxy rules to disclose in their annual reports to shareholders their voting policies and procedures with regard to securities held by them for their own account or for the account of others. The institution also would be required to describe any existing procedure for consulting beneficial owners and to disclose the number of times it voted for or against management or abstained from voting on any contested matter.

The impact of institutional voting on corporate governance is a subject as to which concern has been expressed by Congress, and the Executive Branch,[1] as well as by shareholders and other members of the investment community, both in correspondence with the Commission and its staff and in connection with the Commission's proxy rule hearings.[2] Proposed rule 14a-3(b)(11) was intended to elicit information concerning the exercise of voting power by institutions—information the Commission believes is relevant to the governance of portfolio companies and, with regard to certain investment companies, relevant to an assessment of the management of the institution itself. Nevertheless, the release announcing the proposal noted that many large institutions, such as banks and pension funds, are not subject to the proxy rules and therefore would be unaffected by the rule. The release also indicated that the class of persons that would receive the information required by the rule would not necessarily be the class most impacted by an institution's voting policies and procedures.

Many commentators who addressed the issue confirmed these concerns. Additionally, commentators indicated that the proposal's blanket approach might not be appropriate because the affected insitutions hold equity securities in many different capacities. It was noted that the particular arrangements under which an institution holds the securities has an impact on the relevance of its voting policies and proceedings to the institution's shareholders. For example, securities held under custodial or trust agreements may contain specific provisions concerning the voting of the securities. In a similar vein, parent holding companies of banks and insurance companies would, under the proposed rule, be providing information to *their* shareholders with respect to portfolio securities held and voted by subsidiary banks or insurance companies. Commentators also noted that even if the information were available to shareholders of the portfolio companies—the class of shareholders to whom the disclosure would generally be of the greatest interest—it would be very difficult for them to assess the disclosure unless a correlation between voting record and the identity of portfolio companies were also provided.

The Commission believes there is shareholder interest in institutional voting policies and procedures. Nevertheless, it is persuaded that proposed rule 14a-3(b)(11) is not an appropriate vehicle for eliciting such disclosure and has, therefore, determined to withdraw the proposal. However, the Commission commends the practice of a number of institutional commentators who indicated that they voluntarily provide their shareholders with information similar to the type contemplated by proposed rule 14a-3(b)(11). Other institutions are encouraged to provide their shareholders with such information of this type which they deem appropriate.

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[1] See, e.g., Senate Subcommittee on Reports, Accounting and Management, Committee on Governmental Affairs, "Voting Rights in Major Corporations," 95th Cong., 1st Sess. (1978); Report of the President's Commission on Financial Structure and Regulation (1971).

[2] On September 27, 1977 the Commission commenced public hearings in connection with a broad re-examination of its rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally. See Securities Exchange Act Release No. 13482 (April 28, 1977), 42 FR 23901 (May 11, 1977); Securities Exchange Act Release No. 13901 (Aug. 29, 1977), 42 FR 44860 (Sept. 7, 1977).

In consideration of the foregoing, the proposal concerning institutional voting published in the FEDERAL REGISTER (43 FR 31945) on July 24, 1978, and circulated as Securities Exchange Act Release No. 14970 is hereby withdrawn.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 6, 1978.

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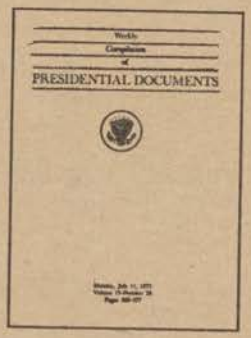

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