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THURSDAY, MARCH 29, 1979

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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 January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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Title 3—
The President

Presidential Determination No. 79–6 of March 7, 1979

Sales of Defense Articles and Defense Services Under the Arms Export Control Act to the Yemen Arab Republic

Memorandum for the Secretary of State, the Secretary of Defense

In accordance with section 36(b)(1) of the Arms Export Control Act (the Act), I hereby certify that an emergency exists which requires the sale under the Act of the following defense articles and defense services to the Yemen Arab Republic in the national security interests of the United States:

- 12 F–5E aircraft
- 64 M60–A1 tanks
- 50 M113–A1 Armored Personnel Carriers
- Related support, spares, training and munitions for the above systems.

This certification shall be made part of the certification transmitted to the Congress under section 36(b)(1) of the Act with respect to each of the above sales, and shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
Washington, March 7, 1979.

[FR Doc. 79–9723
Filed 3–27–79; 2:02 pm]

Billing code 3195–01–M

Proclamation 4649 of March 27, 1979

Law Day, U.S.A., 1979

By the President of the United States of America

A Proclamation

The Congress of the United States has set aside the first day of May as Law Day, U.S.A.

This year will mark the Nation's twenty-second annual celebration of Law Day—a special day for reflection on our heritage of individual liberty and for rededication to the observance of the rule of law.

The rule of law is not automatic. Each citizen must accept a share of responsibility to administer and obey the law, if the rights and opportunities of all citizens are to be preserved.

Americans also have a responsibility and a constitutional right to change the law by orderly process, when such change is needed. Our forefathers gave us this birthright, so that the Nation and its people might remain free.

In the words of Thomas Jefferson, "Laws and institutions must go hand in hand with the progress of the human mind."

The theme selected in recognition of Law Day, 1979, therefore, is most appropriate: "Our Changing Rights."

In a rapidly changing world, it is vital that we preserve and strengthen our ability to respond to the needs for legitimate change while safeguarding the rights of all citizens.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, invite the American people to observe Tuesday, May 1, 1979, as Law Day, U.S.A., and to reflect upon individual and collective responsibilities for the effective administration of the law.

I call upon the legal profession, the courts, educators, clergymen, and all interested individuals and organizations to mark the twenty-second nationwide observance of Law Day, U.S.A., with programs and events which underscore our Nation's devotion to the principle of equal justice for all. To that end, I call upon all public officials to display the flag of the United States on all government buildings on that day.

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

Jimmy Carter

[FR Doc. 79-9837
Filed 3-28-79; 10:02 am]

Billing code 3195-01-M

Proclamation 4650 of March 28, 1979

Asian/Pacific American Heritage Week, 1979

By the President of the United States of America

A Proclamation

America's greatness—its ideals, its system of government, its economy, its people—derives from the contribution of peoples of many origins who come to our land seeking human liberties or economic opportunity. Asian-Americans have played a significant role in the creation of a dynamic and pluralistic America, with their enormous contributions to our science, arts, industry, government and commerce.

Unfortunately, we have not always fully appreciated the talents and the contributions which Asian-Americans have brought to the United States. Until recently, our immigration and naturalization laws discriminated against them. They were also subjected to discrimination in education, housing, and employment. And during World War II our Japanese-American citizens were treated with suspicion and fear.

Yet, Asians of diverse origins—from China, Japan, Korea, the Philippines, and Southeast Asia—continued to look to America as a land of hope, opportunity, and freedom.

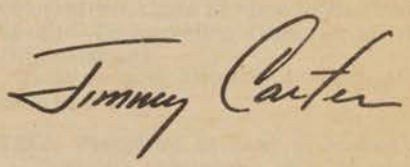
At last their confidence in the United States has been justified. We have succeeded in removing the barriers to full participation in American life, and we welcome the newest Asian immigrants to our shores—refugees from Indochina displaced by political, and social upheavals. Their successful integration into American society and their positive and active participation in our national life demonstrates the soundness of America's policy of continued openness to peoples from Asia and the Pacific.

The Ninety-fifth Congress has requested the President by House Joint Resolution 1007, approved October 5, 1978, to designate the seven-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, declare the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week. I call upon the people of the United States, especially the educational community, to observe this week with appropriate ceremonies and activities.

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

[FR Doc. 79-9908
Filed 3-28-79; 11:47 am]
Billing code 3195-01-M



rules and regulations

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

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

[1610-01-M]

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER G—STANDARDS FOR WAIVER OF CLAIMS FOR ERRONEOUS PAYMENT OF PAY AND ALLOWANCES

PART 91—STANDARDS FOR WAIVER

Waiver of Claims for Erroneous Payment of Pay and Allowances

PART 92—PROCEDURE

Procedure of Head of Agency or Secretary Concerned after Receiving Report of Investigation

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: These Amendments to Parts 91 and 92 of Title 4, Code of Federal Regulations, will permit heads of agencies or Secretaries concerned to deny requests by employees and members of the uniformed services for waiver of claims of the United States arising out of erroneous payments of pay and allowances regardless of the aggregate amount of the claim. Previously, all requests for waiver involving claims aggregating more than $500 were required to be settled by the Comptroller General of the United States. The Amendments will improve the efficiency of the Government's waiver processing operations by eliminating duplicative action by agencies and the General Accounting Office, and by expediting the processing and resolution of certain waiver requests. It will still be necessary to submit recommendations for waiver of all or part of claims aggregating more than $500 to the Comptroller General.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

J. Chris Farley, Jr., U.S. General Accounting Office, Claims Division, Room 5860, 441 G Street, N.W., Washington, D.C. 20548, (202) 275-6088.

SUPPLEMENTARY INFORMATION: Authority to waive claims of the United States against employees and members of the uniformed services arising out of erroneous payments of pay and allowances is contained in 5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716, which generally authorize the heads of agencies or Secretaries concerned to waive such claims aggregating not more than $500 and the Comptroller General of the United States to waive claims in any amount. Under 4 CFR 92.3(b), agency heads and the Secretaries concerned are authorized to grant or deny waiver requests involving $500 or less. However, under § 92.3(c), all requests for waiver involving claims aggregating more than $500 were required to be referred for settlement to the Comptroller General of the United States. With the present Amendments to Parts 91 and 92 of Title 4, Code of Federal Regulations, heads of agencies or Secretaries concerned will be permitted to deny requests for waiver in any amount, provided that in those cases where the claim is in an amount aggregating more than $500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

The heads of executive agencies or Secretaries concerned have been exercising waiver authority since October 21, 1968, and October 2, 1972, under Pub. L. 90-616, and Pub. L. 92-453, respectively. The agencies' expertise in handling waiver requests has grown over the years through the guidelines contained in determinations by the Comptroller General dealing with various questions raised in such cases. Analysis of waiver requests settled by the Comptroller General of the United States shows that he usually agrees with the recommendation for denial made by the head of an executive agency or Secretary concerned and that most of the recommendations for denial were based on issues well settled by prior Comptroller General determinations. The previous requirement that requests for waiver involving claims aggregating more than $500, in which the heads of agencies or Secretaries concerned recommended denial of waiver, be settled by the Comptroller General has resulted in additional costs to the Government and significantly lengthened the time period required to settle these requests. The present Amendments will improve the efficiency of the Government's waiver processing operations. An employee or member will not relinquish any previous rights under the waiver laws because if his request for waiver involving a claim aggregating more than $500 is denied by a head of agency or Secretary concerned, the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

Accordingly, 4 CFR Parts 91 and 92 are amended as follows:

1. By revising § 91.4(b) to read as follows:

§ 91.4. Waiver of claims for erroneous payment of pay and allowances.

* * * * *

(b) The head of the agency or the Secretary concerned, as appropriate, may waive in whole or in part a claim of the United States in an amount aggregating not more than $500, without regard to any repayments, against any person arising out of an erroneous payment of pay or allowances to or on behalf of an employee or member when all of the conditions set out in § 91.5 are present, except that he may not waive such a claim which is the subject of an exception made by the Comptroller General in the account of any accountable official, or which has been transmitted to the General Accounting Office for collection or to the Attorney General for litigation. He may deny an application for waiver of a claim in any amount, provided that in those cases where the claim is in an amount aggregating more than $500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

2. By revising § 92.3(b), (c) and (d) to read as follows:

§ 92.3. Procedure of head of agency or Secretary concerned after receiving report of investigation.

* * * * *

(b) Waive the claim of the United States in whole or in part without regard to any repayment, if it is in an amount aggregating not more than $500, and he determines that waiver would be proper, and record the date and reasons for the waiver, unless the claim has been referred to the Comp-

troller General for collection or the Attorney General for litigation in which case the report of investigation together with his recommendation will be referred to the Comptroller General of the United States. He may deny an application for waiver of a claim in any amount, provided that in those cases where the claim is in an amount aggregating more than $500 the employee or member must be advised of his right to appeal the denial to the Comptroller General of the United States.

(c) Refer the report of investigation to the Comptroller General of the United States for determination if he recommends waiver and the claim is in an amount aggregating more than $500, or

(d) Refer the report of investigation to the Comptroller General of the United States in any case in which he can take final action if he has doubt as to whether waiver action is proper, setting forth the basis for his doubt.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc. 79-9564 Filed 3-28-79; 8:45 am]

[3410-02-M]

Title 7—Agriculture

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

[Navel Orange Regulation 459]

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 regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 30-April 5, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under 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. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 27, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to be reasonably firm on all sizes and grades.

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

§ 907.759 Navel Orange Regulation 459.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 30, 1979, through April 5, 1979, are established as follows:

(1) District 1: 935,000 cartons;

(2) District 2: 165,000 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.

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

Dated: March 28, 1979.

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

[FR Doc. 79-9927 Filed 3-28-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-20]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendment To Extend Special Set-Aside Program for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Requests for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts, on an emergency basis, an amendment to the Mandatory Petroleum Allocation Regulations which provides, by the adoption of a Special Rule No. 7, for a special middle distillate set-aside program for those states electing to participate for the period April 1 through June 30, 1979. The special set-aside procedures will permit ultimate consumers of middle distillates who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified requirements.

DATES: Effective date: April 1, 1979. Written comments to be submitted by May 1, 1979. Hearing date: April 19, 1979, 9:30 a.m. Requests to speak by April 11, 1979.

ADDRESSES: Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. All comments, requests to speak and statements to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-78-20, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M

Street, NW., Washington, D.C. 20461 (202) 634-2170.

William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-7422.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Special Set-Aside Procedures Adopted.
III. Procedural Requirements.
A. Section 12 of the EPAA.
B. Section 501 of the DOE Act.
C. Section 404 of the DOE Act.
D. Section 7 of the FEA Act.
E. Section 553 of the Administrative Procedure Act.
F. Executive Order 12044.
IV. Written Comment and Public Hearing Procedures.
A. Written Comments.
B. Public Hearing.

I. Introduction

On January 12, 1979, we issued a final rule (44 FR 3467, January 17, 1979) which reinstated special middle distillate set-aside procedures for the period January 12 through March 31, 1979 by adopting Special Rule No. 6 for Subpart A of 10 CFR Part 211. At that time we believed that decreasing demand for middle distillates due to the advent of warm weather would make set-aside procedures unnecessary after March 31. An unusually cold winter and the prolonged curtailment of Iranian crude oil exports, however, have resulted in continued shortages of middle distillate products.

In view of current and projected middle distillate supply inadequacies, we believe there will be a continuing need in the near future for special set-aside procedures to insure adequate supplies of middle distillate products to wholesale purchaser-consumers and end-users in the event emergency and hardship situations arise after March 31. In particular, we believe the availability of set-aside procedures after March 31 is necessary to prevent the interruption of adequate supplies of middle distillate home heating oil in colder areas of the nation and middle distillate diesel fuel for agricultural and high-priority transportation purposes. Therefore, we are adopting today, on an emergency basis, a new Special Rule No. 7 establishing a middle distillate set-aside program for the period april 1 through June 30, 1979.

II. Special Set-Aside Procedures Adopted

Notwithstanding the exemption of middle distillates from controls, Special Rule No 7 provides for a special set-aside program for middle distillates for the period April 1 through June 30, 1979 so as to permit assignments to consumers and marketers by state energy offices in those states which have notified the ERA of their election to participate in the extended set-aside program established by Special Rule No. 7.

A state electing to participate in the extended set-aside program shall notify each supplier which operates as a prime supplier in the state of such election as well as the percentage of the set-aside. Within 5 days of such notification by a state, a prime supplier shall designate for that state a representative who will act on behalf of the prime supplier with regard to the special procedures provided by Special Rule No. 7. The set-aside will constitute four or less percent, as determined by the state, of a prime supplier's estimated portion of its total supply of middle distillates for the particular month to be sold into the distribution system of the state for consumption therein. The set-aside requirement for a particular month will not be carried over to the following month. States are urged to order the release of any unrequired set-aside volumes as early as possible during the month.

Set-aside volumes will be available for assignment by participating state energy offices to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies to meet an emergency or hardship. such assignments will be limited to that volume required to satisfy certified requirements and conditioned upon the demonstration of hardship. Assignments may also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency or hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on March 1, 1979.

Applications for assignment of set-aside volumes should be made to the appropriate state energy office which will approve or disapprove the application. Since an assignment will only be made in response to emergency situations, an applicant will not be required to make its application in writing. Each applicant will be required, however, to submit a written certification as to the validity of the emergency or hardship situation to the state energy office within five days of its verbal or written application.

If the state energy office approves an application, it will assign a prime supplier to furnish the applicant an amount from the set-aside. The state energy office will issue to both the applicant and the representative of the prime supplier a document authorizing such assignment. This document will entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Such document will expire ten days after issuance unless it has been presented to the prime supplier or a designated local distributor of the prime supplier.

Each month participating state energy offices will submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

III. Procerdural Requirements

A. Section 12 of the EPAA

In reimposing special set-aside procedures for middle distillates for the months April through June 1979, we are taking action under section 12(f) of the emergency petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159), which permits the establishment of such a regulation upon determination that such action is necessary to and consistent with the attainment of the objectives specified in section 4(b)(1) of the EPAA. In particular, we determined that this rule will promote public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units); the maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto; and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users.

B. Section 501 of the DOE Act

Under section 501(e) of the Department of Energy organization Act (Pub. L. 95-91, DOE Act), we may waive the prior notice and hearing requirements of subsections(b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance in view of our determination that the availability of middle distillate set-

aside procedures effective April 1, 1979 is necessary to prevent the interruption of adequate supplies of middle distillate home heating oil in colder areas of the nation and middle distillate diesel fuel for agricultural and high-priority transportation purposes. However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we will receive both oral and written comments on the emergency rule adopted today as soon as practicable after the Special Rule is issued. We will reconsider today's action with regard to the comments received in order to determine whether we should take any further action in this rulemaking proceeding.

C. SECTION 404 OF THE DOE ACT

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any or its functions under sections 402(a)(1), (b) and (c)(1) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 7, the FERC has declined to determine that the rule may significantly affect one of its functions under the sections noted above.

D. SECTION 7 OF THE FEA ACT

Under section 7(a) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275, FEA Act), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Proection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the FEDERAL REGISTER with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the the facutal situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support making Special Rule No. 7 effective April 1, 1979 and are set forth in the preceding sections of this preamble. A copy of Special Rule No. 7 and this preamble has been provided to the EPA.

E. SECTION 553 OF THE ADMINISTRATIVE PROCEDURE ACT

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less thirty days after its publication unless the agencey promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of making Special Rule No. 7 effective April 1, 1979.

F. EXECUTIVE ORDER 12044

The sixty-day public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy for the reasons previously stated for making Special Rule No. 7 effective April 1, 1979.

IV. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m., e.s.t., May 1, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Amendment to Extend Special Set-Aside Program for Middle Distillates." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. PUBLIC HEARING

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., April 11, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., April 12, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., e.s.t., April 18, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a

copy of the transcript of the hearing from the reporter.

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

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective April 1, 1979.

Issued in Washington, D.C., March 21, 1979.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 7 to read as follows:

SPECIAL RULE NO. 7

SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates for the period April 1, 1979 through June 30, 1979, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective Juy 1, 1976.

2. *Provision for middle distillate set-aside.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of part 210 of this chapter and of subparagraphs (b)(5) and (6) of § 211.1 of this part, a set-aside is hereby established for the period April 1, 1979 through June 30, 1979, for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates includes the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

3. *State election to participate in set-aside program.* The special set-aside procedures provided in this Special Rule will not be in effect in a particular State prior to notification to the office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to participate in the set-aside program provided for by this Special Rule.

4. *State representative.* A State electing to participate shall notify each prime supplier operating within that State of such election. A prime supplier receiving such notification shall designate a representative for that State to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. The appropriate State Office shall be informed in writing of such designation within five (5) days following the State's notification to the prime supplier of its election to participate. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Set-aside volume.* A prime supplier shall inform each appropriate participating State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a participating State for a particular month shall be that percent elected by the State. The amount will be calculated by multiplying the elected percentage of no more than four (4) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated from prior months or deferred to later months; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-reseller.

6. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by participating State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on March 1, 1979.

7. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 6 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-ressellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users. No assignments under this Special Rule shall relate to any period subsequent to June 30, 1979.

8. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of middle distillates under these special procedures, an applicant shall submit to the State Office a written certification that such application was for a valid hardship or emergency situation.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount from the set-aside to the applicant necessary to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period. The State Office shall by the twentieth day of each month submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

11. *Supplier's responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume

of the product. The requirements of paragraph (b) of § 210.62 of Part 210 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall supply designated middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State Offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the DOE Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 79-9509 Filed 3-28-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 79-GL-03; Amdt. 39-3442]

PART 39—AIRWORTHINESS DIRECTIVES

ESB Wisco, Inc., Exide Battery AC 78M and Willard Battery W 78M Standard Lead Acid Battery

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires *immediate removal from service* of all Exide and Willard aircraft batteries (manufactured by ESB Wisco, Inc., Racine, Wisconsin) constructed during December 1978, January and February of 1979, identified by "N-8", "A-9" and/or "B-9" stamped on the positive or negative terminal. This AD is needed to preclude the possibility of these batteries exploding and damaging the aircraft due to venting problems.

DATES: Effective March 29, 1979. Compliance schedule as prescribed above, and in the body of the AD.

ADDRESSES: Information is further available from ESB Wisco, Inc., 1222 18th Street, Racine, Wisconsin 53403, Telephone (414) 637-9131.

FOR FURTHER INFORMATION CONTACT:

Cornelius Biemond, Engineering and Manufacturing Branch, Flight Standards Division, AGL-217, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: ESB Wisco, Inc. has advised that a battery has been returned from the field with a venting problem. It has been determined that this problem could cause an explosion of the battery in an aircraft in flight. This problem potentially exists in a production run including batteries built only during December 1978, January and February 1979.

A total of 559 batteries have been produced, for which approximately 25%, or about 140 batteries, are either in service or enroute to potential users.

This Airworthiness Directive is being issued which requires the immediate removal and replacement of these batteries. This covers one type of battery manufactured under two brand names as stated above—EXIDE AC 78M and WILLARD W 78M. Currently no explosions have occurred in flight. Most batteries will be noted as defective during the initial filling and charging sequence prior to installation in the aircraft.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

ESB Wisco, Incorporated

Exide AC 78M and Willard W 78M Batteries. Applies to those batteries manufactured during December 1978, January and February 1979, identified by the figures N-8, A-9, or B-9 stamped on either terminal post. They may be installed in, but not limited to, the following aircraft:

Aero Commander—1960 on—various models,
Bellanca—1959 on—various models,
Callair—1964 on—various models,
Champion—7 series models: 7GC, 7HC, etc.,
Enstrom—F-28 series, possible other models,
Helio—All series,
Lake Amphibian—Model C-1 and LA-4,
Navion—Rangemaster and others,
Piper—Cherokee and Pawnee PA-28 and PA-25, but not limited to these models,
Rockwell—All models,
Stinson—All models,
Wing—Derringer models.

Compliance is required as follows. Remove from service before next flight and replace with any approved battery of comparable rating.

This amendment becomes effective March 29, 1979.

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

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

Issued in Des Plaines, Illinois, on March 16, 1979.

Wayne Barlow,
Acting Director,
Great Lakes Region.

[FR Doc. 79-9568 Filed 3-28-79; 8:45 am]

[4910-13-M]

[Docket No. 79-WE-3-AD; Amdt. 39-3441]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Helicopter Models UH-12D and UH-12E

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes the currently effective airworthiness directive (AD) which requires inspection and replacement, if necessary, of main rotor blade forks on Hiller UH-12D and UH-12E helicopters. This amendment limits the effectivity of the mandatory action to certain serial numbered main rotor blade forks because experience has indicated the original safety problem is limited, as a result of design changes incorporated at a specific serial number change point on the main rotor blade forks.

DATES: Effective April 3, 1979. Compliance Schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Amendment 573, Part 507 FEDERAL REGISTER June 7, 1963, AD 63-12-01 requires inspection and replacement, if necessary, of main rotor blade forks on UH-12D and UH-12E helicopters.

After issuing AD 63-12-01 the FAA has concluded based upon service experience, that main rotor blade forks P/N 52110-3, of a modified design identifiable by serial number change point may be excluded from the inspection requirements of the AD without prejudicing safety. Therefore, the FAA is superseding AD 63-12-01 with a new AD limited in its applicability to those forks of the old design which had demonstrated cracking problems.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 573 Part 507 FEDERAL REGISTER June 7, 1963 is superseded by adding the following new airworthiness directive:

HILLER AVIATION: Applies to models UH-12D and UH-12E helicopters, certificated in all categories, equipped with main rotor blade fork P/N 52110-3, S/N 4000P and lower serial numbered fork.

Compliance required as indicated.

To detect cracks and prevent failures which have occurred in the main rotor blade fork P/N 52110-3 at the outboard tension-torsion bar retention bolt hole, the following inspections shall be conducted:

(a) Perform daily visual inspection of P/N 52110-3 forks for cracks in the area of the outboard tension-torsion bar retention bolt hole. Washers and nuts need not be removed for this inspection.

(b) On forks having 240 or more hours' time in service on the effective date of this AD, within the next 10 hours' time in service, unless already accomplished within the last 90 hours' time in service, and within each 100 hours' time in service thereafter from the last inspection, accomplish the inspection specified in (d).

(c) On forks having less than 240 hours' time in service on the effective date of this AD, accomplish the inspection specified in (d) prior to the accumulation of 250 hours' time in service and within each 100 hours' time in service thereafter from the last inspection.

(d) Perform a dye penetrant inspection, or FAA approved equivalent, of the bolt hole and adjacent milled surfaces. For this inspection remove the nut, washer and pin.

(e) Replace cracked forks before further flight.

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

(g) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 573 Part 507 FEDERAL REGISTER June 7, 1963, AD 63-12-01.

This amendment becomes effective April 3, 1979.

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

Issued in Los Angeles, California on March 16, 1979.

JAMES V. NIELSEN,
Acting Director,
FAA Western Region.

[FR Doc. 79-9569 Filed 3-28-79; 8:45 am]

[4910-13-M]

SUBCHAPTER C AIRCRAFT

[Docket No. 78-NW-26-AD; Amdt. 39-3443]

PART 39—AIRWORTHINESS DIRECTIVE

Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require that thrust lever actuated switches, which operate the takeoff warning system, auto-speedbrake, and auto-wheelbrake inhibit circuits for the Boeing Model 737 series airplanes, be set to provide positive operation down to −65° F temperature.

This AD is necessary because at low temperatures, in combination with reduced thrust and for engine derate operations, it is possible to set the thrust levers for takeoff power at a position (angle) insufficient to actuate the thrust takeoff warning system lever switches. The result is that the auto-speedbrake or auto-wheelbrakes would not be inhibited and could be actuated during the takeoff or go-around, causing an unsafe condition.

DATES: Effective date May 4, 1979. Compliance times as described in the body of this AD.

The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at the Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

Mr. Mark Quam, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION:

HISTORY

Prior to 1969, variations existed in the Boeing 737 equipped with Pratt and Whitney JT8D-7 and -9 engine throttle switch settings. The systems affected were the takeoff warning system and the auto-speedbrake system which did not function down to −65° F. Airworthiness Directive 70-WE-10-AD was issued by the FAA on February 26, 1970, (Amendment 39-952; 35 FR 4395 (1970)), that required

that these systems be functional down to −65° F, as implemented by Boeing Service Bulletin 27-1031. Subsequent to this AD, Pratt and Whitney JT8D-15 and -17 engines and auto-wheelbrakes have been approved for use on the Model 737 airplane. The use of derated thrust, expansion of the use of reduced thrust takeoffs, and the use of engine intermix have also been approved. While operating with these variations of airplane and engine operational configurations, the thrust lever advance for a cold-day takeoff thrust level may be insufficient to actuate the throttle mounted switches that actuate the inhibit circuits for the auto-speedbrake and auto-wheelbrake systems. Inadvertent speedbrake extension or wheelbrake application during takeoff or go-around could create an unsafe condition.

PUBLIC PARTICIPATION

A Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (44 FR 1752) on January 8, 1979, proposing an amendment which would require that adjustment be made to the throttle switch settings to provide actuation down to a minimum temperature of −65° F for all Model 737's with any engine configuration and while being operated at any engine rating. Interested persons were invited to participate in the making of the amendment and due consideration has been given to all comments received.

COMMENTS

The Air Transport Association of America (ATA) provided the only comments in response to the notice of proposed rule making. It contends the regulations do not now prohibit the use of temperature limitations higher than −65° F, such as those specified in Appendix 39 of the Model 737 airplane flight manual, and the use of Appendix 39 is no more complex than the ordinary allowable takeoff weight and engine thrust setting determination made now by line pilots. The FAA has determined that indefinite use of the limitations specified in Appendix 39 of the airplane flight manual complicates the flight manual and introduces new possibilities for crew error. The adoption of the proposed amendment would minimize this potential hazard by requiring that the airplane equipment discussed in this rule operate to the Model 737 certificated low-temperature operational limitation of −65° F. This approval will not only correct the unsafe condition by correcting the throttle switch angle setting, but will also eliminate the need for Appendix 39 of the airplane flight manual.

The ATA also stated that the proposed AD would result in a large inhas determined takeoff nuisance warnings will occur at high ambient temperatures when the flaps are retracted and the pilot initiates taxi by a momentary breakaway thrust setting. The warning will cease when the thrust levers are retarded for taxi. The benefit of having the takeoff warning system protection, preventing the unwanted deployment of the automatic speedbrakes, and preventing the unwanted activation of the automatic wheelbrakes during takeoff and go-around at low ambient temperatures, outweigh the consideration of the momentary nuisance warnings that might occur at taxi initiation during ambient temperatures.

Two members of the ATA indicated they would need 1,500 to 2,000 hours to comply with the AD because of lead time for parts and scheduling difficulty. The FAA has confirmed there is a lead time problem for parts and that the compliance time of the proposed rule would be difficult to meet. Therefore, the compliance times of the proposed rule have been extended from 1,000 hours time in service, or 6 months calendar time, to 2,000 hours/1 year respectively.

ADOPTION OF THE AMENDMENT

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

BOEING: Applies to all Model 737 series airplanes, except airplanes with the engine pressure ratio (EPR) activated takeoff warning system. Compliance required as indicated.

Within 2,000 hours time in service or one year after the effective date of this AD, whichever comes first, unless already accomplished, set the thrust lever operated switches, S283 and S133, to provide actuation down to and including −65°F in accordance with the applicable part of Boeing Service Bulletin 737-31-1026, or later FAA approved revisions, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 60, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.85).

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on March 20, 1979.

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

The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 79-9570 Filed 3-28-79; 8:45 am]

[6320-01-M]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER F—POLICY STATEMENTS

[Regulation PS-84/PSDR-55A; Amendment No. 63; Docket 34683]

PART 399—STATEMENTS OF GENERAL POLICY JOINT FARES INVOLVING INTRASTATE PAIRS OF POINTS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on March 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Clarification of interim rule and request for comments.

SUMMARY: The Civil Aeronautics Board recently adopted and invited comments on an interim suspension policy on standard industry fare levels for intrastate pairs of points in California, Texas, and Florida. This notice explains that that policy on local fares does not apply to the construction of maximum joint fares involving intrastate pairs of points.

DATES: Adopted: March 23, 1979. Effective: March 23, 1979. Comments by: April 16, 1979. Reply Comments by: May 7, 1979.

Comments should be incorporated with those requested in PSDR-55. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket Section, Civil Aeronautics Board, 1825

Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Steven K. McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, 202-673-6064, or Mark Kahan, Assistant Chief, Pricing and Entry Division, Office of General Counsel, 202-673-5205, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PS-80 (43 FR 39522, September 5, 1978), the Board amended 14 CFR 399.33 to establish a suspension-free zone for domestic passenger fares. Ceiling fares are based on the fare formula adopted by the Board in *Phase 9* of the *Domestic Passenger-Fare Investigation* (*DPFI*), Docket 21866-9. Maximum joint fares are addressed in section 399.33(c).

In PS-82 (44 FR 9940, February 15, 1979), the Board amended section 399.33(a) to establish a suspension policy on standard industry fare levels for intrastate pairs of points in California, Florida, and Texas, where local fare ceilings may be lower than those otherwise calculated according to the PS-80 policy. PS-82 is an interim rule and was accompanied by a request for comments (PSDR-55, 44 FR 9953, February 15, 1979).

This is a clarification of the Board's intent regarding use of the local fare ceilings resulting under PS-82 to construct joint fares under the policies adopted previously in PS-80. The Board did not intend the local fare ceilings resulting under PS-82, which in some cases may be lower than the PS-80 local fare ceilings, to replace the PS-80 formula local fare ceilings for purposes of constructing maximum joint fares. For all markets, maximum joint fares should be constructed using the local fare ceilings adopted in PS-80, even though intrastate pairs of points in California, Florida, or Texas are combined with points beyond.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, Statements of General Policy, as set forth below. The Board also invites public comments on this amendment in connection with the request for comments set out in PSDR-55.

In § 399.33, paragraph (c) is amended by inserting a sentence, so that it reads:

§ 399.33 Domestic passenger fare—structure polices.

* * * * *

(c) There should be joint fares in all markets over all routings at a level not to exceed the sum of the maximum local fares permitted by this policy statement minus one tax-rounded coach ceiling terminal charge for each interline connection. For purposes of constructing joint fares, maximum local fares in all markets, including California, Florida, and Texas, will be based on the *DPFI* fare formula. All required joint fares should be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement, *provided, however,* that where joint fares are based on the actual sum of the local fares, each carrier should get the local fare as its share of these joint fares.

* * * * *

(Sections 204, 403, 404 and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 765 and 788, as amended; 49 U.S.C. 1324, 1373, 1374 and 1482.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-9615 Filed 3-28-79; 8:45 am]

[6450-01-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM79-30]

SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 276—REPORTS

Subpart A—Reports for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the NGPA

FINAL REGULATIONS AMENDING AND CLARIFYING AND PROMULGATING FERC FORMS 122, 123, AND 124 WITH ACCOMPANYING AFFIDAVITS AND INSTRUCTIONS

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Regulations.

SUMMARY: The Natural Gas Policy Act of 1978 (NGPA), enacted November 9, 1978 took effect with respect to certain first sales of natural gas delivered on or after December 1, 1978. Interim regulations implementing the NGPA were issued on December 1, 1978, (43 FR 56448) and called for written comments by January 31, 1979.

On February 2, 1979, the due date for initial reports under Part 276 of Subchapter H of the Interim Regulations was amended.

The regulations under Part 276 are amended further and are now issued as final regulations under the NGPA. The amendments revise reporting periods and deadlines, change record retention requirements, and clarify or otherwise change certain other reporting requirements. In addition, FERC Forms 122, 123, and 124 and accompanying affidavits and instructions are promulgated as part of the reports system of Part 276.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4808.

Brooks Carter, Office of Pipeline and Produce Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4557.

MARCH 23, 1979.

I. BACKGROUND

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). (43 FR 56448) Part 276 of the interim regulations sets forth reporting requirements applicable to first sales of natural gas sold pursuant to the provisions of Subparts E, F, and I of Part 271 which implement Sections 105, 106(b), and 109 of the NGPA. These provisions deal with first sales of natural gas under existing intrastate contracts, intrastate rollover contracts, as well as first sales of other categories of natural gas.

Part 276 created a general reporting obligation on first sellers of natural gas qualifying under Sections 105, 106(b) and 109 of the NGPA. An initial report was to be filed March 1, 1979,[1] followed by an annual report each March 1st thereafter. Two exceptions to the general reporting rule were established in the case of sales under either Sections 105 or 106(b) of the NGPA. The first exception applies to persons who sold less than 10,000 MMcf of natural gas between December 1, 1977, and November 30, 1978.

[1] By order issued February 2, 1979 in Docket No. RM79-3, Part 276 was amended to extend the deadline for initial reports from March 1, 1979 to May 1, 1979.

The second exception applies to first sellers of natural gas who sell to either inter- or intrastate pipelines. In the first exception, the first seller has an option to forgo the general reporting obligation and file an oath undertaking instead. In the case of the second exception, there is no option; the pipeline is obligated to make the general report filings and the first seller, regardless of the amount of sales it makes, need only file an oath undertaking.

Upon further analysis of the data needs of a viable compliance and enforcement program versus the reporting burdens on respondents, initial reporting forms with accompanying detailed instructions were prepared and submitted to the Office of Management and Budget (OMB). The forms, designated FERC Forms 122, 123, and 124, were approved by OMB on December 29, 1978. These forms are now designed to be easily completed by the respondent, suitable for automated data processing (ADP) procedures, and yet provide the types of information necessary to monitor the subject sales and assure compliance with the NGPA. Revisions to the forms and instructions that result from our order today were approved by OMB on March 12, 1979. The forms, oaths, and instructions, attached as Appendix A to this order, will be reproduced for distribution following today's order.

In addition to promulgating oath affidavits and Forms 122, 123, and 124, our order today revises the reporting obligations of Part 276 in several respects: (1) It extends the due date for the first Part 276 reports to June 1, 1979. (2) It revises the reporting period to coincide with the calendar year. (3) It extends the annual reporting deadline to April 1 of each year beginning in 1980. (4) It deletes § 276.102(a)(1)(vi) which called for the contract price on December 31, 1984. (5) It changes the commencement date of the period during which records must be retained. (6) It amends the exceptions in § 276.101(b) for purposes of clarification. (7) It adds two new exceptions to § 276.101 by adding new paragraphs (b)(3) and (b)(4) relating respectively to small volume direct sales and sales by States. (8) It adds a new § 276.106 which promulgates reduced reporting obligations relative to small volume direct sales. (9) It amends § 276.104(d)(2) by deleting the previous condition respecting dedication to interstate commerce. (10) It adds a new section, § 276.109, *Forms, instructions and affidavits,* which specifies the particular Part 276 forms and affidavits to be used by respondents.

II. Summary of Forms

Pursuant to today's order, the Commission's reporting system under Part 276 of the regulations under the NGPA now includes the following forms:

FERC Form 122—Report of First Sales of Natural Gas Under Section 109 of NGPA—Other Categories of Natural Gas.

FERC Form 123—Initial report of First Sales of Natural Gas Under Section 105 of NGPA—Existing Intrastate Contracts.

FERC Form 124—Report of First Sales of Natural Gas Under Section 106(b) of NGPA—Intrastate Rollover Contracts.

A fourth form, FERC Form 125, will be promulgated later and will be used beginning with the 1980 report to provide the Commission with an annual update of contract information submitted in FERC Forms 122, 123, and 124. Accompanying these forms is a title page on which the respondent will identify itself, sign an affidavit and indicate which of the forms is being filed. The forms also are accompanied by a detailed set of instructions and definitions of terms used in the forms.

FERC Form 122 is an initial report of first sales under Section 109 of the NGPA. The form calls for an identification of the sale including the date the contract was entered into, the purchaser, the highest contract price during the reporting period, average Btu content, and sales volume during the reporting period. In addition, in order to fully comply with § 276.104 of the interim regulations, the instructions indicate that respondents must accompany Form 122 with an affidavit and certain supporting statements that specify the basis for qualification of the sale under Section 109 of NGPA. Certain other identifying information is also called for which will aid in the Commission's review of such sales.

FERC Form 123 is a one-time report for first sales of natural gas qualifying under Section 105 of the NGPA, which are sales under "existing intrastate contracts" as that term is defined in § 270.102(b)(8) of the interim regulations. In addition to basic buyer, seller, and contract identification, Form 123 requires a specification of the contract price on November 9, the highest contract price during the reporting period, the contract term, the average Btu content of the gas and the volume delivered during the reporting period. Also, as required by § 276.102 of the interim regulations, the filing must include an affidavit and if the contract price on November 9, 1978, is $2.060 per MMBtu or less, a copy or summary of the contract price escalator terms.

Based on discussions with state jurisdictional agencies, it is estimated that approximately 50,000 contracts will be reported on FERC Form 123. In most cases the respondent will be a pipeline since sellers must report only those sales to non-pipeline purchasers. The total number of respondents is therefore not expected to exceed 750.

FERC Form 124 is an initial report designed to collect data on sales qualifying under Section 106(b) of the NGPA, which are "intrastate rollover contracts," as defined in § 270.102(b)(11) of the interim regulations. This form calls for information identifying the sale, including the date the expired contract was entered into, and the last price paid under the expired contract. The Form 124 also calls for information on the new (rollover) contract which includes the sale commencement date and the initial price, average Btu content and sales volumes during the report period. Because the first Form 124 reports to be filed by June 1, 1979, only cover a reporting period consisting of the month of December 1978, the initial price paid under the rollover contract will be deemed sufficient in lieu of the highest price paid for that month, as required by § 276.103(b). In the future, the highest price paid during the reporting period will be reported on the FERC Form 125. In addition, as with the other forms, the filing is required by § 271.103 to include an affidavit and certain other information.

The reporting population for FERC Form 124 is expected to be the same as the respondent population for Form 123. It is estimated that approximately 2,000 intrastate contracts in existence on November 9, 1978, will "roll over" in each subsequent annual reporting period.

In the case of all three forms, annual reports will be required commencing with the 1980 report. A separate FERC Form 125 will be developed at a later time for this purpose. Respondent may exclude any information which has been included in a previous report. However, pursuant to §§ 276.102(b) and 276.103(b), the respondent will be required to report the sales volume during the report period, the highest price charged and collected, and the month in which the highest price was charged. In addition Forms 122 and 124 must also be submitted for initial reporting of sales that qualify in the future under Sections 106(b) or 109 of the NGPA.

In addition to supporting a monitoring and compliance program, the information gathered on Forms 122, 123, and 124 will be useful in preparing statistical summaries. Separate analyses are to be conducted for sales under Section 109 and for contracts that ini-

tially qualify under Section 106(b) during the reporting period.

It should be noted that data submitted on FERC Forms 122, 123, and 124 will be held confidential only to the extent that they are determined to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act, 5 U.S.C. 552(b)(4).

III. Summary of Comments and Revisions to Part 276

A. Persons required to file reports and oaths

Several parties requested clarification of the term "seller" and stated that the regulations could be interpreted to require all parties with an interest in the gas, even royalty owners, to file a report. One party recommended that treatment similar to § 154.91 of the Commission's regulations should be accorded to interest owners under one contract.

Although maximum lawful prices under the NGPA apply to any person who makes a first sale of natural gas, we do not consider it necessary for every interest owner to file a separate report or to be identified separately in a combined report. From a compliance viewpoint, it is the sales transactions which are important, and the parties of significance are those persons responsible for administering the sales. We are aware that there are many different contractual arrangements and payment methods involved in the sale of natural gas and that many of the producers and pipelines now under the jurisdiction of the NGPA have not previously been required to file reports with the Commission.

We therefore have specified in the attached instruction sheets the following general reporting requirements for the Part 276 reports. Royalty interest owners will not be required to report except where royalty payments taken in kind are subsequently sold in first sale transactions. In the case of a report filed by a seller for sales to non-pipeline purchasers, working interest owners who are nonsignatories to the gas sales contract are not required to report. One signatory party under the contract may be designated to file on behalf of all co-owners of interest in sales under the contract, including all other signatory parties. The report shall include total sales under the contract including sales of all signatories and non-signatories to the contract. Except in the case of a report of intrastate rollover contracts, where there is more than one co-owner under a single contract, it will not be necessary to identify the other co-owners included in the report. However, all working interest owners who are signatory parties to a gas sales contract will still be required to file an oath statement, even where the report is filed by another signatory party on their behalf.

In the case of reports filed by pipelines under §§ 276.102 or 276.103 the pipeline shall report price and volume information for each contract. Where there is more than one interest owner under a single contract, only one seller must be identified—either the operator if a signatory, or the major interest owner.

Comments were received from producers who argued that the oath requirement in § 276.102(e) is "inconsistent with the general pattern of the remainder of the regulations." They suggested that the oath statement should be filed by the seller himself, rather than an official of the seller as that section requires. We shall reject this suggestion. First, we cannot agree that the "general pattern" of the remainder of the regulations, a fact wholly irrelevant to this issue, dictates that the seller rather than a responsible official of the seller should file oath statements. Second, it is not clear who would file on behalf of a seller that is a corporation, trust, partnership or some other form of business entity, other than a responsible official of that entity. Third, if the seller is an individual, then the regulation requires him to sign the oath statement.

We would note at this point that the forms package includes four affidavits to be used for purposes of filing tne appropriate oath statements in Part 276. One covers the oaths required by §§ 276.102 and 276.103 while the other three are separate oaths for § 276.104, § 276.105, and § 276.106. In addition, a responsible official of the party actually filing reports under Part 276 must sign an oath included as part of the title page to the reports that to the best of his information, knowledge and belief all information submitted in the report is true.

A state agency questioned whether states are required to file Part 276 reports and oath statements. They are not. Even though states are included in the definition of "person" under section 2(26) of the NGPA, we believe states should be accorded a presumption of regularity. We have therefore included a new subparagraph (b)(4) to § 276.101(b) which exempts state governments from the general reporting and oath obligations under Part 276. State governments that make first sales of natural gas under sections 105, 106(b) or 109 of the NGPA shall only be required to comply with the record retention obligations of § 276.108.

Producers have also requested an exemption from the filing requirements for sales to an "independent producer" and to a "first sale" reseller, including sales to processing plants under percentage sales contracts, asserting that regulation of the resale automatically regulates sales prior to the resale. Percentage sale contracts generally involve a sale to the operator of a processing plant at a price which is a percentage of the net proceeds from the resale of the residue gas and may appear in various forms.

Even though it is arguable that some degree of duplicate regulation resluts, we cannot abrogate our responsibilities under sections 105 and 106(b) of the NGPA to scrutinize first sales on a contract-by-contract basis. Where there are multiple parties under the same contract, our obligations can be met by requiring only one such person to report. But where there are multiple contracts, Sections 105 and 106(b) of the NGPA mandate compliance by the sales under each contract with the maximum lawful price provisions of the act.

Accordingly, we fail to find good cause to exempt persons selling to processing plants or other resellers from the reporting requirements of Part 276. As a practical matter, many of these sellers will qualify under the exemption in § 276.101(b)(1) and thus will only be required to file an oath statement.

In this regard we perceive the need to clarify how percentage sellers are to report their "contract price" on November 9, 1978, for purposes of Part 276 reports and oath statements. Percentage sale contracts have no specific price stipulated under the terms of the contract. Rather, they are generally based on the recovery of a fixed or volumetrically-determined percentage of net proceeds received from the sale at a plant tailgate of a mix of residue gas derived from many different producers. A "contract price" on November 9, 1978, might be computed by dividing sales volumes attributable to the percentage seller on that date into the revenue received for sales on that date. Such a computed "contract price" could change from day-to-day depending on various factors including the mix of resale prices at the plant tailgate and the price of liquids.

Accordingly, we find it appropriate to simplify the reporting of percentage proceeds sales by permitting the percentage received from the plant to be reported in lieu of a "contract price". Volumes to be reported shall be residue gas volumes.

Another comment requested clarification of how the 10,000 MMCF sales cutoff is to be determined for purposes of § 276.101(b)(1). This qualification concerns all sales by the respondent or any affiliate thereof, including all resales and including all sales as signatories or non-signatories to sales contracts and whether in inter- or intrastate commerce. Royalty interests in sales shall not be considered. However, where royalty gas taken in kind is

later sold, such sales shall be included in the 10,000 MMCF determination. Part II-E of the instructions attached to the Part 276 reports now includes this clarification.

We also received several comments via the Commission's "Hotline" that expressed confusion as to the interrelationship between the exceptions created in paragraphs (b)(1) and (b)(2) in § 271.101. We have revised § 271.101(b) to make it clear that the exception in paragraph (b)(1) only applies in the case of a sale to someone other than a pipeline.

Two comments from large producers suggested that sellers involved in certain small volume direct or "field sales" should also be exempted from the general Part 276 reporting obligations and should only be required to file oath statements.

Under the NGPA, all first sales, however small, are subject to maximum lawful prices. However, we are also cognizant of the fact there are many thousands of small volume sales, such as for irrigation purposes, where the purchaser is the end-user. There is a point where administrative infeasibility outweighs the need to obtain full reports for each such sale. One comment suggests a cutoff of 500 mcf per day or a term of less than one year to non-pipeline purchasers for consumption.

Recognizing that any cutoff is somewhat arbitrary, we shall create a new exception to the general Part 276 reporting obligations and permit respondents to file blanket reports covering all direct sales to non-pipelines made during the reporting period where the average of the total sales by all persons under each contract covering such sales did not exceed an average of 60 mcf per day during the previous calendar year. Data obtained from various producers and from reviewing Form 45 reports indicates that this cutoff will account for most, if not all, of the typical small volume direct sales which sales volumes make up only a small percentage of the total sales volumes in the United States.

We have added a new subparagraph (b)(3) to § 276.101(b) which permits a respondent to elect to forego the general Part 276 reporting obligations for such exempt small direct sales and to file a simplified and greatly reduced report pursuant to new § 276.106. Persons making such exempt sales will be permitted to aggregate these sales in a single report consisting of a title page and attached affidavits and need only report total exempt volumes sold, total revenues received for such sales, and the total number of contracts covered by the report. It should be noted that this exemption only applies to the particular sales that qualify. Persons making such sales may still be obligated to file reports covering other sales pursuant to the other provisions of Part 276.

For the purposes of determining whether this exemption applies with respect to the initial reports due June 1, 1979, the volumes sold during the full calendar year 1978 are to be considered.

Another comment dealing with § 276.101(b)(2) suggested that pipelines should only be required to report in the case of large sales, for example, greater than 1 Bcf per year. We decline to do so. Such a further condition would unduly complicate the reporting requirements and would run counter to the purpose of eliminating reporting burdens on small companies.

Finally, several pipeline company comments suggested that §§ 276.101(b)(2), 276.102(d), and 276.103(d), could be read to require duplicate reports. Only one report is required. Section 276.101(b)(2) only designates who is to file reports in certain cases. The actual reporting requirements are designated in §§ 276.102 and 276.103, whichever is applicable.

B. BASIS OF REPORTING

One pipeline company commented that it is unable to allocate volumes by contract when several contracts are involved in the purchase of gas from a well or unit and it is the operator who distributes the proceeds of the sale. Where volumes cannot be allocated by contract, the total volume may be included in the entry for the operator. However, all other contracts must be listed, including price data for each, following the entry for the operator.

One commentor suggested that the pipeline purchaser be permitted to report volumes and contract information by purchase point identifying number (*i.e.*, well, plant outlet, or gathering system) instead of by contract. Each station number identifies a particular stream of gas being purchased, and price and contract information for each seller is identical except for contract date.

Since maximum lawful prices under sections 105 and 106(b) of the NGPA are determined as a function of either the contract price on a specific date or the price under the terms of the contract in effect on a specific date, it follows that a reporting system for compliance purposes should be based on contract data. We recognize that many intrastate respondents, absent prior Federal reporting requirements, have not developed their recordkeeping systems in accordance with uniform reporting standards. However, we believe there are only a few cases where companies will be unable to report on a contract basis. In those cases, respondents may petition the Commission under section 502(c) of the NGPA for an alternative filing procedure more adaptable to their recordkeeping system and reporting capability. However, any such requests are subject to prior approval and will not be granted where information which the Commission deems essential to its compliance effort is omitted.

Finally, one company requested clarification of the pressure base to be used in reporting price and volume information. The appropriate pressure base for all respondents is 14.73 psia at a standard temperature of 60 degrees Fahrenheit. The attached instructions contain conversion factors to be used in converting to this pressure base.

C. CONTRACT PRICE FOR EXISTING INTRASTATE CONTRACTS

One commentor argued that the requirements of § 276.102 do not recognize the different pricing criteria established in §§ 271.502(a) and 271.502(b) in that only the contract price on November 9, 1978, is called for in § 276.102 without a requirement for reporting the price under the terms of the contract on November 9, 1978. Since the "contract price" on November 9, 1978 (as defined in § 271.504(a)) means the price paid or that would have been paid on November 9, 1978, and that since such "contract price" must be computed for that date according to the terms of the existing contract as they appeared on that date, there is no difference between the "contract price" on November 9, 1978, and the price on November 9, 1978 under the terms of the existing contract on November 9, 1978. Though the "price under the terms of the existing contract" may later change, the fact remains that *on* November 9, 1978, the two terms mean the same thing.

However, following the language of section 105(b) of the NGPA, it is the term "contract price" on November 9, 1978, which governs whether the general rule of § 271.502(a) or the exception of § 271.502(b) applies. The contract price is therefore a significant item of information which should be reported under § 276.102.

Another commentor suggested that we add contract prices on November 8 and 10, 1978, to the list of items required in § 276.102. We shall decline to do so. The key date for purposes of compliance is November 9, 1978.

Several other comments noted that the contract price on December 31, 1984, cannot be determined with certainty if the contract contains indefinite price escalator provisions. We agree that in many cases the price on this date will be indeterminate. Since the highest price for each contract is reported annually, better data on intrastate contract prices on December 31, 1984, can be obtained from reports

submitted in subsequent years. Accordingly, we shall delete § 276.102(a)(1)(vi) which called for the contract price on December 31, 1984.

D. CONTRACT PRICE ESCALATOR TERMS FOR EXISTING INTRASTATE CONTRACTS

One comment suggested that a format similar to that used on FERC Form 45 be used to summarize price escalator terms. Another cited the number of pages and identification problems associated with attaching copies of the contract escalator terms for each contract reported. However, several commentors, notably several public utilities, all recommended that the reporting party be required to submit a copy of the complete gas sales contract, notwithstanding their voluminous nature.

In reporting price escalator terms, respondents, at their option, may provide either a copy of the escalator terms in a contract or a brief summary of the provisions and effective dates. The format used on FERC Form 45 shall be deemed acceptable for providing summaries. We have also simplified the requirements for identifying copies of escalator provisions that are submitted in lieu of summaries. We believe a copy or summary of pricing provisions will be adequate for compliance purposes and reject the suggestion to require a copy of the complete contract.

E. REPORT PERIOD AND FILING DATE

Most comments stated that additional time would be required to file reports under Part 276. They suggest that this is due to the time required to obtain and allocate volume figures. Several requested that the reporting period be changed to a calendar year basis. One company commented that where volume information is not available on a calendar month basis, pipelines should be permitted to report volumes for the billing period most closely corresponding to the calendar month.

We agree that the filing date in the Interim Regulations does not allow sufficient time to prepare a report for a reporting period ending on January 31. To allow sufficient time to report, and to be consistent with previous FERC and industry practice, we have changed the reporting period to a calendar year basis with reports to be filed annually by April 1 following the end of the period. In view of the short time remaining before initial reports are due, as required by Commission order issued on February 2, 1979 in Docket No. RM79-3, we have amended Part 276 to provide for a June 1, 1979 deadline. The initial report shall include data for only one month—December 1978. Where the billing period does not correspond to a calendar month, the sales volume reported should be the volume delivered during the billing period most closely corresponding to the calendar month.

F. RECORDKEEPING REQUIREMENTS

Because of the inclusion of new § 276.106, we have redesignated previous § 276.106 as § 276.107 and § 276.107 as § 276.108. Several comments suggested that the record retention period of three years following contract expiration imposed by § 276.108 on sellers is unrealistically long and should be based on the actual transaction or event to which the books and records relate.

We agree that, except with respect to the contract itself, the record retention period prescribed in § 276.108 is too long. However, we cannot agree that a three year record retention period referenced to a transaction or event is sufficient for purposes of compliance. We therefore find that the general record retention requirement of § 276.108 should be referenced to the date of the reports. In all cases, however, the contract itself must be retained three years after expiration. Accordingly, we have amended §§ 276.102(a)(2)(ii), 276.102(e)(2), 276.103(a)(2)(ii), 276.103(e)(2), 276.105(a)(2), and 276.108 and the associated oath statements to reflect this change.

One pipeline company has requested that instrument charts not be considered "books and records" for purposes of § 276.108. We shall reject this suggestion. Instrument charts are the only viable means of verifying sales volumes. We also believe that a three year retention obligation is not unduly burdensome.

G. SUPPORTING STATEMENT FOR SALES UNDER SECTION 109

In the Interim Regulations, § 276.104(d)(2) requires a statement identifying the well, reservoir, and acreage from which natural gas qualifying under Section 109 is produced. The statement is only required, however, if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978. We believe that the importance of well and reservoir identification for sales under Section 109 is not a function of the commitment status of the natural gas and therefore find good cause to delete the condition "if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978" from § 276.104(d)(2) and to redesignate that section as § 276.104(e). It is not anticipated that this change will increase the burden on respondents.

IV. PUBLIC PROCEDURES AND EFFECTIVE DATE

The regulations in Part 276 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448 (Dec. 1, 1978)). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA.

The amendments to Part 276 contained in this order and the attendant forms, instructions, and affidavits for Subpart A of Part 276 rest upon considerations given to the information received during the above described notice, comment, and hearing process. In addition, Part 276, as amended on February 2, 1979, requires the filing of information on or before May 1, 1979. The amendments set forth below reduce some of the reporting burdens contained in the Interim Regulations. The amendments, including the forms to be used in making the required filings must be promulgated now in order to give to those persons subject to the regulations adequate time for the preparation and filing of the forms. Accordingly, the Commission finds that further notice and public procedure on these rules is unnecessary and impractical and that good cause exists to dispense with additional notice and procedure, and to make Part 276 as amended, effective immediately as final regulations.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, *et seq.*; Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350; Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, FERC Forms 122, 123, and 124 and accompanying affidavits and instructions as set forth below as Appendix A are hereby promulgated effective immediately, and Part 276 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as issued as interim regulations (43 FR 56448 (Dec. 1, 1978)), and amended by order of the Commission dated February 2, 1979, are promulgated as final regulations and amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 276.101(b) is amended by revising paragraph (b)(1), by revising

the first sentence of paragraph (b)(2), and by adding new paragarphs (b)(3) and (b)(4) to read as follows:

§ 276.101 Reporting entities.

* * * * *

(b) *Exceptions.* (1) In the case of a first sale under section 105 or 106(b) of the NGPA, other than a first sale to an interstate pipeline or intrastate pipeline, by any person who, in the 12 month period which began on December 1, 1977, and ended on November 30, 1978, sold less than 10,000 MMcf of natural gas (including all sales whether by any affiliate of such person or whether such sales occurred in interintrastate commerce), such person may in lieu of the reports otherwise required under §§276.102 and 276.103, elect to file the statements under oath described in §276.105.

(2) In the case of a first sale under section 105 and 106(b) of the NGPA to an interstate pipeline or an intrastate pipeline, the provisions of paragraph (a) of this section shall not apply and the reports specified in §§276.102 and 276.103 of this subpart shall be filed by the purchasing interstate pipeline or intrastate pipeline.* * *

(3) In the case of a first sale of natural gas under section 105, 106(b) or 109 of the NGPA to a person consuming such gas and not to an interstate or intrastate pipeline where the total volumes sold by all persons under the contract covering such sale does not exceed an average of 60 Mcf per day during the previous calendar year, the person making such sale may elect to report such sale in a blanket affidavit pursuant to §276.106 covering all such sales in lieu of filing the reports otherwise required for such sale under §§276.102, 276.103, or 276.104.

(4) In the case of a first sale under section 105, 106(b) and 109 of the NGPA by a state government, or any of its subdivisions or agencies, the provisions of paragraphs (a), (b)(1), (b)(2) and (b)(3) shall not apply and such state government or subdivision or agency shall only be obligated to comply with the provisions of §276.108.

2. Section 276.102 is amended in paragraph (a) by deleting paragraph (a)(1)(vi), by revising the introductory text of paragraph (a), by revising paragraph (a)(2)(ii), by revising the first sentence of paragraph (d), by revising introductory text of paragraph (e), and by revising paragraph (e)(2) to read as follows:

§ 276.102 Existing intrastate contracts.

(a) Any person who makes a first sale of natural gas under an existing intrastate contract shall file with the Commission on June 1, 1979, and April 1 annually thereafter, a report in accordance with forms and intructions issued by the Commission which contains:

* * * * * *

(2) A statement under oath to be filed by a responsible official of such person: (i)* * *(ii) that books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such books and records in accordance with the provisions of §276.108.

* * * * *

(d) An interstate or intrastate pipeline purchasing natural gas under an existing intrastate contract shall file on June 1, 1979, and April 1 annually thereafter, a report to the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency if a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274.* * *

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an existing intrastate contract shall file with the Commission by June 1, 1979, and April 1 annually thereafter a statement under oath by a responsible official of such person: * * *

(2) That books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

3. Section § 276.103 is amended by revising the introductory text of paragraph (a), by revising paragraph (a)(2)(ii), by revising the first sentence of paragraph (d), by revising the introductory text of paragraph (e), and by revising paragraph (e)(2) to read as follows:

§ 276.103 Instrastate rollover contracts.

(a) Any person who makes a first sale of natural gas under an intrastate rollover contract shall file with the Commission on June 1, 1979 and April 1 annually thereafter, a report in accordance with forms and instructions issued by the Commission which contains: * * *

(2) A statement under oath to be filed by a responsible official of such person: * * *

(ii) That books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

* * * * *

(d) An interstate or intrastate pipeline purchasing natural gas under an intrastate rollover contract shall file on June 1, 1979, and April 1 annually thereafter, a report with the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency where a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274.* * *

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an intrastate rollover contract shall file with the Commission by June 1, 1979, and April 1 annually thereafter, a statement under oath by a responsible official of such person: * * *

(2) That books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

4. Section 276.104 is amended by redesignating subparagraph (d)(1) as paragraph (d), paragraph (e) as (f), and paragraph (f) as (g).

5. Section 276.104 is further amended by revising the introductory text and by redesignating paragraph (d)(2) as paragraph (e) and revising paragraph (e) to read as follows:

§ 276.104 Other categories of natural gas.

A person who makes a first sale of natural gas which qualifies under Subpart I of Part 271 shall file in accordance with forms and instructions issued by the Commission, a report with the Commission on June 1, 1979, and April 1 annually thereafter, which contains the following items:

* * * * *

(e) A statement identifying the wells and reservoirs from which the natural gas is produced.

* * * * *

6. Section 276.105 is amended by revising the introductory text of paragraph (a), by revising paragraph (a)(2), and by revising paragraph (b) to read as follows:

§ 276.105 Elective filing for certain sellers.

(a) Any person described in paragraph (b)(1) of § 276.101 who elects to file an oath statement and undertaking, in lieu of reports otherwise required under §§ 276.102 and 276.103, shall file with the Commission no

later than June 1, 1979, and April 1 annually thereafter, a statement under oath to be filed by a responsible official of such person: * * *

(2) That books and records kept and maintained by such person reflect all the information required to be reported under §§ 276.102 and 276.103 and that such person undertakes to retain such books and records in accordance with the provisions of § 276.108.

* * * * *

(b) Any person filing annual statements with the Commission under this section, beginning with the report to be filed by April 1, 1980, shall only be required to file the information required by paragraphs (a)(2) and (a)(3) of this section.

7. Sections 276.106 and 276.107 are redesignated as § 276.107 and § 276.108 respectively, and revised to read as follows:

§ 276.107 Definition.

For purposes of this subpart, the term "reporting period" means:

(a) In the case of the June 1, 1979, report, the period which begins on December 1, 1978, and ends on December 31, 1978; and

(b) In the case of annual reports filed beginning with April 1, 1980, the preceding calendar year ending on December 31.

§ 276.108 Record retention.

Each person who makes a first sale under sections 105, 106(b) or 109 of the NGPA shall maintain such books and records as may be necessary to reflect all the information required to be reported under §§ 276.102, 276.103 or 276.104, or which would be required to be reported but for the exceptions in § 276.101(b). Such books and records shall be retained for a period of three years after the filing date for the reporting period in which the first sales occurred. Any contract under which any first sales have occurred in the reporting period must be maintained and preserved for at least three years after expiration.

8. Part 276 is amended by adding a new § 276.106 to read as follows:

§ 276.106 Elective filing for certain small volume direct sales.

Any person making sales describing in § 276.101(b)(3) may elect to file, in lieu of the reports otherwise required by this subpart, by June 1, 1979, and April 1 annually thereafter, a report in accordance with affidavits and instructions issued by the Commission covering all such sales which contains:

(a) The total volume of all sales by all persons under the contracts covering such sales during the reporting period;

(b) The total revenues received for all sales by all persons under the contracts covering such sales during the reporting period;

(c) The number of contracts covered by the report;

(d) The oath statements required by §§ 276.102(a)(2), 276.103(a)(2), or 276.104(b), whichever are applicable to the sales covered by this report; and

(e) A statement under oath by a responsible official of such person that to the best of his information, knowledge and belief all sales reported under this section were made pursuant to contracts in which the total sales by all persons under each such contract during the previous calendar year did not exceed an average of 60 Mcf per day.

9. The forms appearing immediately after § 276.108 and designated as "FERC Form No. 123" and "FERC Form No. 124," as well the two unnumbered forms following these designated forms, are deleted.

10. Part 276 is further amended by adding a new § 276.109 to read as follows:

§ 276.109 Forms, instructions, and affidavits.

(a) *Forms.* The forms and accompanying instructions prescribed and to be used for reporting under this subpart are as follows:

(1) For § 276.104: FERC Form 122—Report of First Sales of Natural Gas Under Section 109 of NGPA—Other Categories of Natural Gas;

(2) For § 276.102: FERC Form 123—Initial Report of First Sales of Natural Gas Under Section 105 of NGPA—Existing Intrastate Contracts; and

(3) For § 276.103: FERC Form 124—Report of First Sales of Natural Gas Under Section 106(b) of NGPA—Intrastate Rollover Contracts.

(b) *Affidavits.* The "Affidavit for Filing Under § 276.102 or § 276.103," "Affidavit for Filing Under § 276.104," "Elective Affidavit for Certain Sellers Filing Under § 276.105" and the "Affidavit for Filing Under § 276.106" are prescribed to be used in accordance with the provisions of this subpart.

(c) *Availability.* Copies of the Part 276 reports containing FERC Forms 122, 123, and 124 and accompanying affidavits and instructions are available at the Office of Public Information, Room 1000, 825 N. Capitol Street NE., Washington, D.C. 20426.

APPENDIX A—INSTRUCTIONS FOR FERC FORMS 122, 123 AND 124

I. INTRODUCTION

This packet includes the material needed to complete an initial report to the Federal Energy Regulatory Commission if you are making first sales which qualify for maximum lawful prices under any of the following sections of the Natural Gas Policy Act of 1978 (NGPA):

Section 105: Ceiling Price for Sales Under Existing Intrastate Contracts.

Section 106(b): Ceiling Price for Sales Under Intrastate Rollover Contracts.

Section 109: Ceiling Price for Other Categories of Natural Gas.

Read all instructions carefully prior to completing this report. Certain sales to pipelines must be reported by the purchasing pipeline instead of the seller. In addition, elective filing requirements apply to certain small sellers and small volume direct sales, as defined herein.

Please type your report or print all entries legibly. Each filing must contain a title page and all material specified in the General Requirements Section below for each form applicable to your report. Any person filing FERC Forms 122, 123 or 124 must sign the attestation statement on the title page. Persons making first sales may also be required to file other affidavits in lieu of, or in addition to, the attestation statement on the title page. All forms and affidavits in this packet may be combined in a single report with all pages numbered sequentially.

II. GENERAL REQUIREMENTS

In the case of a report filed by a seller, only those working interest owners who are signatory to the gas sales contract are required to file reports and/or oath statements. While the general requirements apply to any person making a first sale, one signatory party under a contract, at the option of the respondents, may file to cover all co-owners of interest in sales under the contract, including all other signatory and non-signatory parties. However, each person making a first sale as a signatory party under any contract which initially qualifies for a maximum lawful price under Sections 105, 106(b), or 109 of NGPA must file an affidavit with the Commission, whether or not such person files a report. Non-signatory co-owners are not required to file reports or affidavits. Similarly, State agencies are not required to file reports or affidavits for State owned production.

A. *Report of First Sales of Natural Gas Under Section 109 of NGPA: Other Categories of Natural Gas.* Each person making a first sale as a signatory party under any contract which initially qualifies for a maximum lawful price under Section 109 of the NGPA during any reporting period must file a report with the Commission by June 1, 1979, following the close of the initial reporting period and by April 1 following the close of subsequent reporting periods. This report must include:

(1) Affidavit for Filing Under § 276.104;

(2) FERC Form 122;

(3) Supporting statement containing the basis for qualification under Section 109 of NGPA, and:

(a) Identification of the wells, by API Well Number, and location, by field and reservoir name, from which the natural gas under each contract is produced.

(b) The basis for any conclusion that a just and reasonable rate under the Natural Gas Act was not in effect on November 8, 1978, *if* the natural gas was committed or dedicated to interstate commerce on that date.

B. *Initial Report of First Sales of Natural Gas Under Section 105 of NGPA: Existing Intrastate Contracts.* Any person who makes a first sale of natural gas as a signatory party under any intrastate contract in existence on November 8, 1978, to a purchaser other than an intrastate or interstate pipeline, must file a report with the Commission by June 1, 1979. Sales to pipelines should not be included in a report filed by a seller (See Paragraph D below). The filing must include:

(1) Affidavit for Filing Under § 276.102.

(2) FERC Form 123.

(3) A copy or summary of the contract price escalator terms for each contract having a contract price less than or equal to $2.060 per million Btu on November 9, 1978.

(4) The dates all successors to the existing intrastate contract were entered into and an identification of all agreements, by modification of the existing intrastate contract, or otherwise, in which a purchaser who was not a party to the existing intrastate contract agrees to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the existing intrastate contract.

C. *Report of First Sales of Natural Gas Under Section 106(b) of NGPA: Intrastate Rollover Contracts.* Any person who makes a first sale of natural gas as a signatory party under an intrastate rollover contract, to other than an intrastate or interstate pipeline, must file a report with the Commission by June 1, 1979. The report must be filed annually thereafter by April 1 for all intrastate rollover contracts entered into during the report period. Sales to pipelines should not be included in a report filed by a seller (See Paragraph D below). The report must include:

(1) Affidavit for Filing Under § 276.103.

(2) FERC Form 124.

(3) A supporting statement containing:

(a) The identity of all parties to each existing intrastate contract which expired and to the rollover contract.

(b) A specification of all changes, if any, in price related terms in the intrastate rollover contract from those price related terms contained in the existing intrastate contract which expired. Include an identification of all contract provisions, if any, in which a purchaser who was not party to the expired contract agrees to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the intrastate rollover contract.

D. *First Sales of Natural Gas Under Section 105 or 106(b) of NGPA to Intrastate or Interstate Pipelines.* In the case of any first sale under an existing intrastate contract or intrastate rollover contract to an intrastate or interstate pipeline the report shall be filed by the purchasing pipeline instead of the seller. Pipelines submitting reports as purchasers on FERC Forms 123 or 124 are not required to file an "Affidavit for Filing Under § 276.102 or § 276.103." This affidavit must be filed by any signatory party making first sales to pipelines under Sections 105 or 106(b) of NGPA.

E. *Elective Filing for Certain Sellers.* Any person who, in the 12-month period which began on December 1, 1977, and ended on November 30, 1978, sold, in the aggregate, less than 10 billion cubic feet of natural gas at 14.73 psia and 60° Fahrenheit may, in lieu of filing FERC Forms 123 and 124 for sales to other than an inter- or intrastate pipeline, file an "Elective Affidavit for Certain Sellers Filing Under § 276.105." This affidavit must be filed by June 1, 1979 and annually thereafter by April 1. In determining qualification for this option, include sales by any affiliate of such person and sales as a signatory or non-signatory party to a contract whether the sales occurred in inter- or intrastate commerce. Royalty interests are not included except where royalty gas taken in kind is subsequently sold.

F. *Elective Filing for Small Volume Direct Sales.* Sales under Section 105, 106(b) and 109 of NGPA which qualify as small volume direct sales (See DEFINITIONS) may be reported in summary form using the "Affidavit for Filing Under § 276.106" in lieu of the requirements of paragraphs A, B and C of the General Requirements.

G. *Subsequent Annual Reports.* Annual reports are required by April 1 each year for all contracts previously reported by the Commission on FERC Forms 122, 123 and 124. A separate form, will be distributed prior to the end of each annual report period. For these contracts, respondents will be required to report sales volume and highest price paid or collected during the report period, and the month in which this price occurred. Detailed instructions will be issued at a later date.

III. DEFINITIONS

(1) "Reporting Period" means: (a) In the case of the June 1, 1979, report, the period which begins on December 1, 1978, and ends on December 31, 1978; and (b) in the case of annual reports filed beginning with April 1, 1980, the preceding calendar year ending December 31.

(2) "Existing Intrastate Contract" means any intrastate contract in existence on November 8, 1978 for the first sale of natural gas. A contract is in existence on November 8, 1978 if on that date, there is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. For the purposes of this report "existing intrastate contract" includes a "successor to an existing intrastate contract."

(3) "Successor to an existing intrastate contract" means an intrastate contract, other than an intrastate rollover contract, entered into on or after November 9, 1978, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract. The term "successor to an existing intrastate contract" includes a contract the primary term of which has not expired but which has been assigned to a different party in interest.

(4) "Intrastate contract" means any contract applicable to the sale of natural gas which was not committed or dedicated to interstate commerce on November 8, 1978.

(5) "Intrastate rollover contract" means any contract, entered into on or after November 9, 1978, for the first sale of natural gas that was previously subject to an existing intrastate contract which expired at the end of a fixed term (not including any extenison thereof taking effect on or after November 9, 1978), specified by the provisions of such existing contract, as such contract was in effect on November 9, 1978, whether or not there is an identity of parties or terms with those of such existing contract.

(6) "Contract price", when used with respect to any specific date and contract, means the price paid per million Btu under a contract for deliveries of natural gas occurring on that date; or, if no deliveries of natural gas occurred under such contract on that date, the price per million Btu that would have been paid had such deliveries occurred on that date.

(7) "Btu content", when used in making rate adjustments, means, the number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of 1.0 cubic foot at a temperature of 60°F saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32°F and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

(8) "Production-related costs" means costs of compressing, gathering, processing, treating, liquefaction, conditioning, or transporting natural gas, or other similar costs.

(9) "Small volume direct sale", for the purposes of this report, means any first sale of natural gas under Sections 105, 106(b) or 109 of NGPA, for consumption, where the total volume sold by all persons under a single contract does not exceed an average of 60 Mcf per day during the reporting period or, in the case of the June 1, 1979 report, during the calendar year 1978.

IV. GENERAL INSTRUCTIONS

Report contract information on lines 1-12 of the appropriate form, using a separate line to report sales at more than one price under the same contract. For sales which sellers are required to report, working interest owners who are signatory to gas sales contracts may file individually or, at the option of the respondent, one party under a contract may file to cover all co-owners of interest in sales under the contract. Pipelines may report purchases by contract totals, provided the same price is paid for all gas purchased under the contract.

All rates and volumes in this report are referenced to a standard pressure of 14.73 psia and a standard temperature of 60° Fahrenheit. The following conversion factors shall be used in converting to the prescribed pressure base:

From 14.65 psia to 14.73 psia—1.00546.

From 15.025 psia to 14.73 psia—0.98037.

From 15.325 psia to 14.73 psia—0.96117.

The sales volume of natural gas to be reported is the total volume actually delivered during the report period under a contract at the price reported and shall be reported in thousands of cubic feet (Mcf). It should include the interests of all parties under the contract. Prices must be reported in dollars per million Btu ($/MMBtu), rounded to the nearest mill (3 decimal places).

For sales to gas processing plants under a percentage sales contract, the sales volume to be reported is the residue gas volume. In the appropriate price column, enter the contract percentage of net proceeds received from the plant. All percentage entries may be rounded to the nearest whole percent. To distinguish a percentage entry from a price entry, place an asterisk (*) *before* each percentage entry.

All dates must be entered numerically in the order of month, day, and year (MMDDYY). For example, January 8, 1977, should be reported as 01-08-77.

Code numbers required to complete this report can be obtained from two publications in the FERC Register of Data Standards:

1. Buyer/Seller Codes, DOE/EIA-0176.

2. Geographic Codes, DOE/FERC-0026.

Copies of these publications are available from: U.S. Department of Energy, Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37830.

If a Buyer/Seller code is not available for a particular purchase or seller, please leave the code number blank. A code will be assigned by FERC. State codes correspond to the standard 2-letter Post Office abbreviations.

V. SPECIFIC INSTRUCTIONS

A. *All Forms.* Columns (a), (b), and (c) identify each contract. In Columns (a) and (b) enter the 2-character state code and 3-digit county code, respectively, for the area in which the gas is delivered. Where gas is delivered in more than one county, use the code designation for the county having the largest volume.

In Column (c) enter the contract date in the form MMDDYY. The date required is the contract date of the existing contract or, in the case of an intrastate rollover contract, the contract date of the expired contract.

Use Column (d) to assign a unique identification character to those contracts which have identical data in Columns (a), (b) and (c). Place an "A" in Column (d) for all entries pertaining to the first contract, "B" for all entries related to the second contract, etc. Columns (a)- (d) must be used in all future references to contracts previously reported to the Commission.

Use Columns (e) and (f) to report the name of the purchaser or seller and the Buyer/Seller Code, if available. For contracts involving gas processing plants, identify both the plant owner and the name of the plant. Abbreviations may be used as necessary.

Average Btu content refers to the most recent approximate average Btu content per cubic foot of the gas at the point of sale to the purchaser.

B. *FERC Form 122.* In Column (g), enter the highest price per MMBtu charged and collected for sales of natural gas under the contract during the report period. In Column (h) enter the 2-digit number of the month in which this price occurred (not required for the June 1, 1979 report).

C. *FERC Form 123.* Enter in Column (g) the contract price on November 9, 1978, if any. In Column (h) enter the highest price per MMBtu charged and collected for sales of natural gas under the contract during the report period.

Contract term is reported in years in Column (i). If an expiration date is specified in the contract in lieu of a number of years, compute the nearest whole number of years from contract date to expiration date and enter this number in Column (i). If the term is expressed as "Life of well", "Life of lease", etc., enter "99" in Column (i).

Use Column (l) to identify copies or summaries of contract price escalator terms attached to your report. Assign a sequential reference number to each copy or summary. Where the same provisions apply to more than one contract, include only one copy or summary of the escalator terms and enter the reference number in Column (l) for all contracts to which such terms apply. Summaries should include a brief description of the escalator terms (e.g., no further adjustment, spiral, favored nation, redetermination, renegotiation, periodic, etc.) and effective dates or frequency of escalation (e.g., annual).

D. *FERC Form 124.* For existing intrastate contracts which became rollover contracts during the reporting period, the initial price under the rollover contract is referenced to the sales commencement date. The last price under the expired contract is the price paid, or which would have been paid, under such contract for the month in which first sales began under the rollover contract.

VI.

Submit one original and two copies of the completed report to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. If there are any questions, call 202-275-4530.

AFFIDAVIT FOR FILING UNDER § 276.102 OR § 276.103

This statement must be signed by a responsible official of the filing party: ———— (the undersigned) certifies that he is ———— (legal title of the undersigned) of ———— (filing party) and swears or affirms that to the best of his knowledge, information and belief:

(1) Any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in Section 105 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission's regulations under Subpart E of Part 271, and

(2) Any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in Section 106(b) of NGPA and the Commission's regulations under Subpart F of Part 271.

He further swears or affirms that books and records kept and maintained by such person for all such first sales reflect all the information reported by such person, or required to be reported by the purchasing and reporting pipeline, under §§ 276.102 and 276.103 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: ————————.

————————
Signature.

AFFIDAVIT FOR FILING UNDER § 276.104

This statement must be signed by a responsible official of the filing party: ———— (the undersigned) certifies that he is ———— (title of the undersigned) of ———— (filing party) and swears or affirms that, to the best of his knowledge, information, and belief, the natural gas sold in the reporting period under each contract which qualifies under Subpart I of Part 271:

(1) Was not committed or dedicated to interstate commerce on November 8, 1978, *and* is not subject to an existing intrastate contract or an intrastate rollover contract; or

(2) Was committed or dedicated to interstate commerce on November 8, 1978, but a just and reasonable rate was not in effect under the Natural Gas Act on such date for such natural gas.

The undersigned further swears or affirms that such natural gas does not qualify for a maximum lawful price under any subpart of Part 271 that is lower than the maximum lawful price permitted under § 271.902. If the natural gas was committed or dedicated to interstate commerce on November 8, 1978, the undersigned certifies that either: (1) A notice of change in rate schedule pursuant to § 154.94 has been filed with the Federal Energy Regulatory Commission, or (2) the producer holds or has applied for a small producer certificate under § 157.40 of the Commission's regulations.

The undersigned swears or affirms that, to the best of his knowledge, information, and belief, any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in Section 109 of the NGPA, and the Commission's regulations under Subpart I of Part 271. He further swears or affirms that books and records kept and maintained by such person reflect all the information reported for sales covered by this affidavit, that he undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: ————————.

————————
Signature.

ELECTIVE AFFIDAVIT FOR CERTAIN SELLERS FILING UNDER § 276.105

This statement must be signed by a responsible official of the filing party: ———— (the undersigned) certifies that he is ———— (title of the undersigned) of ———— (filing party) and, that such person in the 12-month period which began December 1, 1977, and ended on November 30, 1978, sold less than a total of 10 billion cubic feet of natural gas, including the sales by any affiliate of such person and including all sales which occurred both in inter- and intrastate commerce.

The undersigned swears or affirms that to the best of his knowledge, information, and belief:

(1) Any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in Section 105 of the Natural Gas Policy Act of 1978 (NGPA) and the Commission's regulations under Subpart E of Part 271, and

(2) Any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in Section 106(b) of NGPA and the Commission's regulations under Subpart F of Part 271.

He further swears or affirms that books and records kept and maintained by such person reflect all the information required to be reported under §§ 276.102 and 276.103 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: ————————.

————————
Signature.

AFFIDAVIT FOR FILING UNDER § 276.106

This statement must be signed by a responsible official of the filing party: ———— (the undersigned) certifies that he is ———— (title of the undersigned) of ———— (filing party) and swears or affirms that, to the best of his knowledge, information and belief, the small volume direct sales summarized herein consist only of those sales to end users under Sections 105, 106(b) and 109 of NGPA where the total volumes sold by all persons under each contract did not exceed an average of 60 Mcf per day during the preceeding calendar year.

Number of contracts ————————.

Total revenues under these contracts during report period ————————.

Total volume delivered under these contracts during report period ————————. Mcf.

The undersigned further swears or affirms that, to the best of his knowledge, information and belief, the information in this affidavit is true and all first sales covered by this affidavit were made in compliance with the applicable maximum lawful prices specified in Sections 105, 106(b) and 109 of NGPA and Subparts E, F and I of the Commission's regulations.

The undersigned also swears or affirms that books and records kept and maintained by such person for all such first sales reflect all the information required under §§ 276.102, 276.103 and 276.104 of the Commission's regulations, that such person undertakes to retain such records for a period of three years after the filing date for the reporting period in which such sales occurred, and that any contracts under which such sales occurred will be maintained for a period of three years after expiration.

Dated: ————————.

————————
Signature.

[6450-01-C]

U.S. Department of Energy
Federal Energy Regulatory Commission
Washington, D.C. 20426

FORM SUBMISSION TITLE PAGE

FOR

FERC FORMS 122, 123 AND 124

In accordance with Sec. 14 of the FEA Act in responding to specific requests received from members of the public, data will be held confidential only to the extent that they are determined by DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act [5 USC Sec. 552 (b) (4)].

Please read the Instructions for FERC Forms 122, 123 and 124 before completing this report.

Respondent Name and Address:

Name _____

Street _____

City/Town _____

State _____ Zip Code _____

☐ Check if address above changed since last filing.

☐ Check if name above changed since last filing.

If changed, previous name was: _____

Respondent Buyer/Seller Code _____

Report for Period Ending December 31, 19 ____

Indicate Forms Included In This Report:

☐ FERC Form 122

☐ FERC Form 123

☐ FERC Form 124

☐ Elective Affidavit Under § 276.105

ATTESTATION:

(To be signed by a responsible official of the filing party if FERC Forms 122, 123 or 124 are attached to this report.)

_____ (the undersigned) certifies that he is _____ (legal title of the undersigned) of _____ (filing party) and swears or affirms that he has prepared or reviewed this report and that to the best of his knowledge, information and belief all information submitted in the report is true.

_____ Signature _____ Date

FERC-122

Form Approved
OMB No. 38--R0388

REPORT OF FIRST SALES OF NATURAL GAS UNDER SECTION 109 OF NGPA
OTHER CATEGORIES OF NATURAL GAS
18 CFR 270.104

Respondent Name _____ Seller Code _____

Report for period ending December 31, 19____ Page _____ of _____

	SALES IDENTIFICATION				Name of Purchaser	Buyer Code	Highest Price ($/MMBtu)	Month of Occur.	Ave. BTU Content	Sales Volume during report period (Mcf @ 14.73 psia at 60° F.)
	State Code (a)	County Code (b)	Date Contract was entered into Mo. | Day | Yr. (c)	Suffix (d)	(e)	(f)	(g)	(h)	(i)	(j)
1										
2										
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12										

FERC–123

Form Approved
OMB No. 38–S79035

INITIAL REPORT OF FIRST SALES OF NATURAL GAS UNDER SECTION 105 OF NGPA
EXISTING INTRASTATE CONTRACTS
18 CFR 276.102

Respondent Name _____ Buyer/Seller Code _____

☐ (1) Purchaser

Report for period ending December 31, 19____ Page _____ of _____

☐ (2) Seller

	SALES IDENTIFICATION				Name of Seller or Purchaser	Buyer/ Seller Code	CONTRACT DATA			Ave. BTU Content	Sales Volume 12-1-78 to 12-31-78 (Mcf @ 14.73 psia at 60° F.)	Esc. Terms Ref. No.
							Price ($/MMBTU)		Term Yrs.			
	State Code	County Code	Date Contract was entered into Mo. | Day | Yr.	Suffix			11-09-78	Highest Price				
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
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12												

FERC–124

Form Approved
OMB No. 38–R0387

REPORT OF FIRST SALES OF NATURAL GAS UNDER SECTION 106 (b) OF NGPA
INTRASTATE ROLLOVER CONTRACTS
18 CFR 276.103

Respondent Name _____ Buyer/Seller Code _____

☐ (1) Purchaser

☐ (2) Seller

Report for period ending December 31, 19____ Page _____ of _____

	SALES IDENTIFICATION				Name of Purchaser or Seller	Buyer/ Seller Code	NEW CONTRACT DATA			Last Price Under Expired Contract ($/ MMBTU)	Ave. BTU Content	Sales Volume during report period (Mcf @ 14.73 psia at 60° F.)
	State Code	County Code	Date Expired Contract was entered into Mo. | Day | Yr.	Suffix			Contract Date Mo. | Day | Yr.	Sales Commencement Date Mo. | Day | Yr.	Initial Price ($/ MMBTU)			
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
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[FR Doc. 79-9401 Filed 3-28-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7604]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Manner of Filing a Claim for a Deficiency Dividend Deduction by a Personal Holding Company

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the filing of a claim for a deficiency dividend deduction. These regulations provide necessary guidance to the public and affect corporations that have been determined to have been personal holding companies for a prior taxable year.

DATE: The regulations are effective for claims filed after March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard L. Mull of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454 not a toll-free call).

SUPPLEMENTARY INFORMATION: This Treasury decision eliminates the requirement that Form 976 (Claim for Deficiency Dividends Deduction) be filed in duplicate. Now only an original of this form must be filed. Because this regulation is nonsubstantive and essentially procedural, it is found unnecessary to issue this Treasury decision with notice and public procedure. For the same reasons, this regulation is not a significant regulation under paragraph 8 of the Treasury directive appearing in the FEDERAL REGISTER for November 8, 1978 (43 FR 52120).

DRAFTING INFORMATION

The principal author of this regulation is Richard L. Mull of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.381 [Amended]

Paragraph 1. Section 1.381(c)(17)-1(c) is amended by striking out "in duplicate," in the first sentence.

§ 1.547-2 [Amended]

Par. 2. Section 1.547-2(b)(2) is amended by striking out "in duplicate" in subdivision (ii) and in so much of subdivision (i) as precedes (*a*).

Because this regulation is nonsubstantive and essentially procedural, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 547(e) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 192, 917, 26 U.S.C., 547(e), 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 21, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-9572 Filed 3-28-79; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Criminal Division Directive No. 58]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart K—Delegation Respecting Denial of Information Requests

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Criminal Division Directive designates the Director and Associate Director of the Office of Legal Support Services of the Criminal Division and the Deputy Assistant Attorney General of the Criminal Division who supervises that Office to be the officials authorized to deny requests for information under 5 U.S.C. 552(a) and 5 U.S.C. 552a contained in Criminal Division files. Under the existing designation such denials could only be made by the Deputy Assistant Attorneys General.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Frederick D. Hess, Associate Director, Office of Legal Support Services, Criminal Division, Department of Justice, Washington, D.C. 20530, 202-724-6985.

By virtue of the authority vested in me by Subpart K of Part 0 of Chapter I of Title 28, Code of Federal Regulations, I delete Directive 8-75 and issue in its place Directive 58, as an appendix to Subpart K of Part 0 of Chapter I of Title 28, Code of Federal Regulations.

APPENDIX TO SUBPART K—CRIMINAL DIVISION [DIRECTIVE 58]

DELEGATION RESPECTING DENIAL OF INFORMATION REQUESTS

The Assistant Attorney General in charge of the Criminal Division, hereby, delegates pursuant to 28 CFR 16.5(b) (as amended March 1, 1975) and 28 CFR 16.45(a), his authority under those sections to deny a request for information under 5 U.S.C. 552(a) or 5 U.S.C. 552a to the Director and Associate Director of the Office of Legal Support Services of the Criminal Division and to the Deputy Assistant Attorney General of the Criminal Division who supervises that Office. The Director, Associate Director, or Deputy Assistant Attorney General making the denial shall be the "person responsible for the denial," within the meaning of 5 U.S.C. 552(a).

Dated: February 28, 1979.

JOHN C. KEENEY,
Acting Assistant Attorney General.

[FR Doc. 79-9561 Filed 3-28-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY

SUBCHAPTER M—MISCELLANEOUS

[DOD Instruction 6010.8 and 6010.8-R]

PART 199—IMPLEMENTATION OF THE CIVILIAN AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Amendment No. 1

AGENCY: Office of the Secretary.

ACTION: Amendment to Final Rule.

SUMMARY: This amends the comprehensive CHAMPUS Regulation 6010.8-R which implements the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

There are three specific changes in this amendment; (1) it extends the overall time limit on the transitional period for full implementation of the regulation; (2) it prescribes certain limits on the CHAMPUS coverage on abortions; and (3) it continues authorization for reasonable care for which benefits were authorized or reimbursed under CHAMPUS prior to the implementation of the comprehensive CHAMPUS Regulation, even though the reasonable care comes within the limitation on "custodial care" set forth in the regulation. These three changes are the result of administrative reevaluation of the time required to implement fully the provisions of the regulations; revised statutes; and the consideration of public comment on certain previously granted "reasonable care" benefits. The amendment, therefore, will make the comprehensive CHAMPUS regulation conform to current statutory and other provisions.

DATES: Regarding change (1), the transitional implementation period is extended to January 10, 1980. Regarding change (2), the effective date on the limitations imposed on the CHAMPUS coverage on abortions is October 1, 1978. Regarding change (3), the retroactive effective date is June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

LTC L. Rowlette, Special Assistant for CHAMPUS, Office of the Deputy Assistant Secretary of Defense (Health Resources & Programs), OASD(HA), Washington, D.C. 20301, telephone 202-695-6281.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the FEDERAL REGISTER on April 4, 1977 (42 FR 17972) the Department of Defense published its regulation, DOD 6010.8-R, "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)." This is the first amendment to the regulation and constitutes the following changes:

12 MONTH EXTENSION OF OVERALL TIME LIMIT ON TRANSITIONAL PERIOD § 199.7(n)(4)

This change is the extension for another 12 months, namely, to January 10, 1980, of the transitional period to implement the provisions of the regulation. The extension is required to develop fully the administrative and operational capability for implementation of all provisions of the regulation.

LIMITATIONS ON ABORTION COVERAGE, § 199.10(e)(2)

The second change prescribes certain limitations on abortion services as defined in Pub. L. 95-457 which restricts the use of DOD appropriated funds for Fiscal Year 1979 to pay for abortion services and supplies. Therefore, funds appropriated for CHAMPUS for Fiscal Year 1979 may not be used to pay for abortion services and supplies provided on and after October 1, 1978, except under certain circumstances set forth in the revised § 199.10(e)(2).

REASONABLE CARE FOR WHICH BENEFITS WERE AUTHORIZED OR REIMBURSED PRIOR TO JUNE 1, 1977, § 199.10(g)(8)

The third change adds a paragraph to § 199.10, Program Benefits, which will continue authorization for "reasonable care" for which benefits were authorized or reimbursed under CHAMPUS before the comprehensive CHAMPUS regulation was issued which limits "custodial care." This change is being made to accommodate public comments relative to the custodial care provision made at public rule making hearings on DOD 6010.8-R, held on September 7 and 8, 1977, as well as specific case review. During these hearings it was stipulated that changes resulting from valid comments would be effective retroactively, if feasible; therefore, this change is effective June 1, 1977.

Accordingly, 32 CFR, CHAPTER I, Part 199, is amended, reading as follows:

1. Section 199.7(n)(4) is revised to read as follows:

§ 199.7 General provisions.

* * * * *

(n) * * *

(4) *Overall time limit on transitional period.* It is the intent that OCHAMPUS and the CHAMPUS Contractors make all reasonable effort to implement fully all provisions of this regulation as expeditiously as possible; in any event transitional authority granted under paragraph (n) of this section shall terminate 36 months from the effective date of this regulation.

2. Section 199.10 is amended by revising (e)(2), by adding a new (e)(12)(v) and by revising (g)(8) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(e) * * *

(2) *Abortion.* Benefits under the CHAMPUS Basic Program are available for otherwise covered services and supplies provided in connection with abortion, when legally performed in accordance with the applicable rulings of the United States Supreme Court in *Doe* v. *Bolton*, 410 U.S. 179 (1973), *Roe* v. *Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52 (1976).

(i) Covered abortion services are limited to medical services and/or supplies only and do not include abortion counseling or referral fees.

(ii) Further, the Department of Defense Appropriation Act of 1979 (Pub. L. 96-457, § 863) specifically prohibits CHAMPUS coverage during Fiscal Year 1979 of abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians; or except medical procedures are necessary to terminate an ectopic pregnancy.

* * * * *

(e) * * *

(12) *Custodial care.* The statute under which CHAMPUS operates specifically excludes custodial care. This is a very difficult area to administer. Further, many beneficiaries (and sponsors) misunderstand what is meant by custodial care, assuming that because custodial care is not covered, it implies the custodial care is not necessary. This is not the case; denial of benefits only means the care being provided is not a type of care for which CHAMPUS benefits can be extended.

* * * * *

(v) *Reasonable care for which benefits were authorized or reimbursed prior to June 1, 1977.* It is recognized that care for which benefits were authorized or reimbursed prior to the implementation date of the regulation may be excluded under the custodial care limitations set forth in this regulation. Therefore, an exception to the custodial care limitations set forth in this regulation exists whereby reasonable care for which benefits authorized or reimbursed under the Basic Program prior to June 1, 1977 shall continue to be authorized even though the care would be excluded as a benefit under the custodial care limitations of the regulations. Continuation of CHAMPUS benefits in such cases is limited as follows:

(*a*) *Initial authorization or reimbursement prior to June 1, 1977.* The initial CHAMPUS authorization or reimbursement for the care occurred prior to 1 June 1977; and,

(*b*) *Continuous care.* The care has been continuous since the initial CHAMPUS authorization or reimbursement; and

(c) *Reasonable care.* The care is reasonable. CHAMPUS benefits shall be continued for such reasonable care up to the same level of benefits and for the same period of eligibility authorized or reimbursed prior to June 1, 1977. Care that is excessive or otherwise unreasonable will be reduced or eliminated from the continued care authorized under this exception.

* * * * *

(g) * * *

(8) *Custodial care.* Custodial care regardless of where rendered except as specifically provided in paragraph (e)(12)(v) of this section.

* * * * * *

(10 U.S.C. 1079, 1086, 5 U.S.C. 301)

H. E. LOFDAHL,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 23, 1979.

[FR Doc. 79-9566 Filed 3-28-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-143]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Jacobs Nose Cove, Elk River, Md.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a special anchorage at Jacobs Nose Cove, Elk River, MD. This regulation is needed to accommodate existing and anticipated increases of recreational boating in this area. Vessels not more than 65 feet in length, when at anchor in any special anchorage area are not required to carry or exhibit anchor lights. Establishing this special anchorage will enhance navigational safety in the area by encouraging pleasure craft to anchor in the cove in lieu of anchoring in the Lower Elk River.

EFFECTIVE DATE: This amendment is effective on April 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D. C. 20590, 202-426-1934.

SUPPLEMENTARY INFORMATION: On November 30, 1978, the Coast Guard published a proposed rule (43 FR 56058) concerning this amendment. Interested persons were given until January 16, 1979 to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by adding § 110.71 to read as follows:

§ 110.71 Jacobs Nose Cove, Elk River, Md.

The water area of Jacobs Nose Cove, on the west side of the mouth of Elk River, Maryland, comprising the entire cove south of Jacobs Nose as defined by the shoreline and a line bearing 046°—226° true across the entrance of the cove tangent to the shore on both the north and south sides.

(Sec 1, 30 Stat. 98, as amended (33 U.S.C. 180); Sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2)).

Dated: March 23, 1979.

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

[FR Doc. 79-9625 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 78-142]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Perquimans River, N.C.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the North Carolina Department of Transportation, the Coast Guard is changing the regulations governing the operation of the U.S. highway 17 drawbridge across the Perquimans River, mile 12.0, Hertford, North Carolina, to allow periods when the draw need not open for the passage of vessels. This change is being made because of limited openings during the periods affected. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On November 16, 1978, the Coast Guard published a proposed rule (43 FR 53472) concerning this amendment. The Commander (oan), Fifth Coast Guard District, also published these proposals as a Public Notice dated December 4, 1978. Interested persons were given until December 18, 1978 and January 12, 1979, respectively, to submit comments.

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

DISCUSSION OF COMMENTS

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.245(g)(1-a) immediately after § 117.245(g)(1) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(1-a) Perquimans River, mile 12.0, U.S. highway 17 drawbridge at Hertford, N.C. The draw shall open on signal, except that from midnight to 8 a.m., from April 1 through September 30, and from 10 p.m. through 10 a.m., from October 1 through March 31, the draw need not open for the passage of vessels.

* * * * *

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

Dated: March 21, 1979.

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

[FR Doc. 79-9623 Filed 3-28-79; 8:45 am]

[CGD 77-205]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Champlain, Vt.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Central Vermont Railway, the Coast Guard is changing the regulations governing the drawbridge across the mouth of Missisquoi Bay, Lake Champlain, by requiring the draw to open on signal during certain periods and requiring advance notice during other periods. This change is being made because of limited openings. This action will relieve the bridge owner of the burden of having a person available at all times to open the draw while still providing for the reasonable needs navigation.

EFFECTIVE DATE: This amendment is effective on April 26, 1979.

FOR INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On February 2, 1978, the Coast Guard published a proposed rule (43 FR 4440) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated March 15, 1978. Interested persons were given until March 6, 1978 and April 17, 1978, respectively, to submit comments.

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

DISCUSSION OF COMMENTS

The Notice of Proposed Rulemaking required four hours advance notice between 5 p.m. and 11 p.m., from June 15 through September 15. Since publication of the proposed rule, the bridge owner has agreed to open the bridge on signal from 7 a.m. to 11 p.m., from June 15 through September 15. The final rule has been changed accordingly.

Two comments were received. One has no objection to the proposal. The other objected, stating that due to high spring lake levels all vessels required an opening and that vessels on the south side of the bridge would be in danger in rough weather due to the lack of safe anchorage or mooring facilities. A review of the bridge logs, however, showed no significant difference in the openings required in spring versus later in the season. The Burlington, Vermont, Coast Guard Station reports that there is adequate anchorage for periods of heavy weather south of the bridge. In view of the above, the Coast Guard is satisfied that the regulations as amended will provide for the reasonable needs of navigation. If conditions change, these regulations may be further amended.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.191(b) to read as follows:

§ 117.191 Navigable waters in the State of Vermont and their tributaries; bridges where constant attendance of draw tenders is not required.

* * * * *

(b) Lake Champlain; Missisquoi Bay, Central Vermont railroad bridge, mile 105.6:

(1) The draw shall open on signal from 7 a.m. to 11 p.m., from June 15 through September 15.

(2) The draw shall open on signal at all other times if at least 24 hours notice is given.

(3) Public vessels of the United States and Vermont Fish and Game Department vessels shall be passed through the draw as soon as possible at any time

* * * * *

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

Dated: March 21, 1979.

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

[FR Doc. 79-9624 Filed 3-28-79; 8:45 am]

[1505-01-M]

PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

CFR Correction

In the 1978 volume of the Title 33 Code of Federal Regulations please make the following correction to § 126.31 which appears on page 674:

In the 10th and 11th lines, delete "nation, the general permit may be re-" so that the sentence will now read "Confirmation of such termination or suspension shall be given to the permittee in writing."

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1080-3]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Lawrence Refractories Company

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Lawrence Refractories Company. The Order requires the Company to bring air emissions from its dryer mixer and grinding mill at Pedro, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Lawrence Refractories' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 31, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 23614) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Lawrence Refractories. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Lawrence Refractories by the Administrator of U.S. EPA pursuant to the authority of section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Lawrence Refractories on a schedule to bring its dryer mixer and grinding mill at Pedro, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-12, a part of the

federally approved Ohio State Implementation Plan. Lawrence Refractories is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Lawrence Refractories to delay compliance with the SIP regulations covered by the Order until April 1, 1979.

Compliance with the Order by Lawrence Refractories will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Lawrence Refractories is in violation of a requirement contained in the Order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Lawrence Refractories on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 20, 1979.

DOUGLAS M. COSTLE,
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

I. By amending Section 65.400 by adding the following entry to the table to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Lawrence Refractories	Pedro, Ohio	EPA-5-79-A-24	May 31, 1978.	AP-3-12	Apr. 1, 1979.

2. The text of the order reads as follows:

UNITED STATES ENIVRONMENTAL PROTECTION AGENCY

In the Matter of Lawrence Refractories Company, Pedro, Ohio.

Proceeding under Section 113, Clean Air Act, as Amended.

Order No.: EPA-5-79-24.

ORDER

The following ORDER is issued this date pursuant to Section 113 of the Clean Air Act, as amended, 42 U.S.C. Section 7413 (hereinafter referred to as the "Act"). Public notice and opportunity for public hearing have been provided. The ORDER contains a schedule with a timetable for compliance, interim requirements, and requires emission monitoring and reporting. Final compliance is required as expeditiously as practicable, but not later than July 1, 1979. The source is hereby notified that it may be required (depending on the applicability of Section 120) to pay a noncompliance penalty in the event it fails to achieve final compliance by such date. The State of Ohio has been given thirty (30) days notice of this ORDER.

On October 14, 1977, Mr. Dale S. Bryson, Acting Director, Enforcement Division, Region V, the United States Environmental Protection Agency (hereinafter referred to as U.S. EPA), pursuant to authority delegated to him by the Administrator, issued a Notice to Lawrence Refractories Company (hereinafter referred to as the Company) and the State of Ohio that a dryer mixer and crushing mill owned by the Company and located and operated in Pedro, Ohio, were found in violation of the federally enforceable Ohio Implementation Plan as defined in Section 110(d) of the Act. The dryer mixer and crushing mill are subject to Ohio Air Pollution Control Regulation AP-3-12, restricting of emissions of particulate matter from industrial processes. Regulation AP-3-12 is a currently enforceable regulation. In response to the Notice, the Company indicated that it intended to achieve compliance with the applicable Ohio State Implementation Plan by installing dust collectors. The Company has proposed to achieve compliance by April 1, 1979.

It is found that the violations have continued beyond the 30th day after the date of notification by the Acting Director, Enforcement Division and after a thorough investigation of all relevant facts, it has been determined that because immediate compliance is infeasible, compliance in accordance with the schedule hereinafter set forth is reasonable. Therefore, it is hereby ORDERED:

I. That the Company shall install a wet scrubber for controlling the dryer mixer emissions. This control device shall be equipped with a flow meter and pressure drop indicator. It will have pickup points at the front and rear of the rotary dryer, the bucket elevator, and the box filling station. The Company shall demonstrate compliance with Ohio Regulation AP-3-12 at the dryer mixer by not later than April 1, 1979.

The Company shall also install a baghouse for controlling emissions from the crushing mill. This control device shall be equipped with a pressure drop indicator. It will have pickup points at the dry pan, pan elevator, screens, and hammer mill elevator. The Company shall demonstrate compliance with Ohio Regulation AP-3-12 at the crushing mill by not later than April 1, 1979.

II. That quarterly progress reports be submitted to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, with copies to the Ohio Environmental Protection Agency, beginning April 1, 1979, and ending on January 1, 1982. Said reports shall include certification of compliance with any increment falling due during the previous quarter or detailed reasons for failure to do so, and reports on the Company's compliance with Paragraph VI hereof.

III. The Company must maintain the control devices in good working order, and shall include in its quarterly reports the quantity of excess emissions for each calendar quarter, including the nature and cause of the excess emissions, and corrective action taken. If no excess emissions were recorded, the source should certify this factor to the U.S. EPA in the quarterly report.

IV. That copies of all submissions required to be made pursuant hereto be sent to the Ohio Environmental Protective Agency, P.O. Box 1049, Columbus, Ohio 43216, and the Portsmouth Air Pollution Control Agency, Griffin Hall, Second Street, Portsmouth, Ohio 45662.

V. That this ORDER in no way affects the Company's responsibilities to comply with other Federal, State, and local regulations.

VI. Commencing immediately and throughout the pendency of this Order the Company shall (consistent with good operating practice) operate its dryer mixer, crushing mill and existing control equipment so as to reduce to the maximum extent possible emissions of particulate matter.

Dated: March 20, 1979.

DOUGLAS M. COSTLE,
Administrator.

Lawrence Refractories Company by the duly authorized undersigned, agrees that the foregoing is a reasonable means by which to comply with Ohio Air Pollution Control Regulation AP-3-12.

Dated: February 21, 1979.

E.W. SHARP,
Lawrence Refractories Company.
President.

[FR Doc. 79-9234 Filed 3-28-79; 8:45 am]

[6560-01-M]

[FRL 1080-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Department of Energy, Feed Materials Production Center, Fernald, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the Department of Energy, Feed Materials Production Center (Department of Energy). The Order requires the Department of Energy to bring air emissions from its boilers at Fernald, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Department of Energy's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered by the order.

DATES: This rule takes effect March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40041) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Department of Energy. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No request for a public hearing was received in response to the notice. Following comments made by the Department of energy, a few minor changes were made in the compliance schedule. The result was that the final compliance date was changed from February 1, 1979 to February 23, 1979, and two of four boilers are to be shut down by January 26, 1979.

Therefore, a Delayed Compliance Order effective this date is issued to the Department of Energy by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Department of Energy on a schedule to bring its four boilers at Fernald, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the federally approved Ohio State Implementation Plan. The Department of Energy is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Department of Energy to delay compliance with the SIP regulation covered by the Order until February 23, 1979.

Compliance with the Order by the Department of Energy will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines the Department of Energy is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Department of Energy on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 20, 1979.

DOUGLAS COSTLE,
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400 to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Department of Energy; Feed Materials Production Center	Fernald, Ohio	EPA-5-79-A-18	Sept. 8, 1978	AP-3-11	Feb. 15, 1979.
*	*	*	*	*	*

2. The text of the order reads as follows:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Department of Energy, Feed Materials Production Center, Fernald, Ohio. Proceeding Under Sections 113(d) and 114(a) of the Clean Air Act, as Amended; Order No. EPA-5-79-A-18.

ORDER

The following ORDER is issued this date pursuant to Sections 113(d) and 114(a) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act. This ORDER contains a schedule for compliance, interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than February 15, 1979.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to

as the "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the Department of Energy Feed Materials Production Center in Fernald, Ohio, upon finding that the four boilers located at the Center were found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Center for violation of Ohio Regulation AP-3-11 (hereinafter referred to as AP-3-11), as demonstrated by emission factor calculations and material contained in the Office of Federal Activities file. A copy of this Notice was sent to the State of Ohio.

After a thorough investigation of all relevant facts, it is determined that the Department of Energy is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. Therefore, it is hereby ORDERED that:

I. The Department of Energy shall achieve compliance with AP-3-11 at the Feed Materials Production Center in accordance with the following schedule:

A. Install electrostatic precipitators on boilers 1 and 3 in accordance with the following schedule:

1. Award contract for procurement and erection of electrostatic precipitators—has been completed prior to the issuance of this ORDER.

2. Commence construction of precipitators—has been commenced prior to the issuance of this ORDER.

3. Award contract for tie-in of precipitators—has been completed prior to the issuance of this ORDER.

4. Commence tie-in of precipitators—has been completed prior to the issuance of this ORDER.

5. Complete construction—December 15, 1978.

6. Commence performance testing—January 22, 1979.

7. Complete emission testing—January 26, 1979.

8. Demonstrate compliance with AP-3-11—February 23, 1979.

B. Discontinue use of boilers 2 and 4 no later than January 26, 1979. Use of boilers 2 and 4 shall not be resumed without installation of appropriate control devices to meet applicable emission limitations.

II. The Department of Energy shall achieve and demonstrate final compliance with AP-3-11 at its Feed Materials Production Center by February 23, 1979.

III. Pursuant to the authority granted in Sections 113(d)(1)(C) and Section 114(a)(1) of the Clean Air Act, the Department of Energy shall install a continuous monitoring system for the measurement of opacity on the effluent stacks of boilers 1 and 3, following any control devices. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in 40 CFR 60.13 and Appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Feed Materials Production Center is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio Regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of two years and made available for inspection by the U.S. EPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to Section 113(d)(7) of the Act, during the period in which this ORDER is in effect, the Department of Energy shall minimize particulate emissions by implementation of the following:

A. Maintain and operate the existing control devices in a manner which insures their present collection efficiences will not diminish.

B. Utilize fuel whose ash content to BTU ratio, on a dry basis, does not exceed, on the average, 1.31 x 10 — 5 lb./BTU. This figure was calculated from data contained in the Department of Energy's Semiannual Fuel Analysis, for the Feed Materials Production Center, dated July 28, 1977.

Adherence to the above provisions has been determined to be reasonable and representative of the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in Section I, above) for the period during which this ORDER is in effect.

V. The Department of Energy shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this ORDER. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than February 23, 1979, the Department of Energy shall certify to the U.S. EPA that the Center is in final compliance with AP-3-11.

VI. All submissions and notifications to the U.S. EPA pursuant to this ORDER shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

VII. Nothing in this ORDER shall be construed so as to affect the Department of Energy's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this ORDER shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Department of Energy is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Department of Energy will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This ORDER is effective upon promulgation in the FEDERAL REGISTER (March 29, 1979).

Dated: March 20, 1979.

DOUGLAS M. COSTLE,
Administrator or Delegate.

The Department of Energy has reviewed this ORDER and believes it to be a reasonable means by which the Feed Materials Production Center can achieve compliance with Ohio Regulation AP-3-11. The Department of Energy stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this ORDER.

Dated: December 15, 1978.

By: CHARLES A. KELLER,
Acting Manager.

[FR Doc. 79-9563 Filed 3-28-79; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 197]

PART 1-16—PROCUREMENT FORMS

New Editions of Standard and Optional Forms

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations prescribes the use of the June 1978 editions of Standard Form 37, Report on Procurement by Civilian Executive Agencies, and Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns. The action is taken in order to physically incorporate requirements on the forms for reporting data concerning labor surplus area subcontracting programs. The intended effect of this amendment is to provide for the uniform submission of data concerning labor surplus area subcontracting programs.

EFFECTIVE DATE: This amendment is effective April 30, 1979, but may be observed earlier if the standard forms involved are available.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

SUPPLEMENTARY INFORMATION: a. Subsequent to the development of the June 1978 editions of SF 37 and OF 61, it became necessary to require the reporting of additional data items which do not appear on the new editions of the forms. These additional data item requirements are prescribed by FPR Amendment 192 and FPR Temporary Regulation 48. Although the data items do not physically appear on the June 1978 editions of the forms, they should be reported as provided in the referenced FPR amendment and temporary regulation.

New editions of the forms which include the data items are being developed.

b. It is anticipated that copies of the forms will be available for use by March 15, 1979, and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

The table of contents for Part 1-16 is amended to revise two entries as follows:

Sec.
1-16.804-5 Report by Contractors under Small Business Subcontracting Program, Minority Business Enterprises Subcontracting Program, and Labor Surplus Area Subcontracting Program.
1-16.902-OF 61 Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns.

Subpart 1-16.8—Miscellaneous Forms

1. Section 1-16.804-3 is amended by revising paragraph (a) as follows:

§ 1-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) *Forms prescribed.* (1) Standard Form 37, Report on Procurement by Civilian Executive Agencies (June 1978 edition), is prescribed for use when reporting procurement in accordance with this section. However, where determined advantageous by the reporting agency, mechanized printout reports containing the same information and in the same format as called for on Standard Form 37 may be submitted instead of Standard Form 37.

(2) Pending the publication of a new edition of the form, (i) add a definition of woman-owned business as paragraph C(7) under "General Instructions," as follows:

(7) *WOMAN-OWNED BUSINESS*—A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

(ii) Report data under Remarks on the number and dollar value of awards to woman-owned businesses.

(3) The reporting of the percent of foreign content identified by contractors is not required on Standard Form 37.

* * * * *

2. Section 1-16.804-5 is amended by revising paragraph (a) as follows:

§ 1-16.804-5 Report by contractors under Small Business Subcontracting Program, Minority Business Enterprise Subcontracting Program, and Labor Surplus Area Subcontracting Program.

(a) Optional Form 61, June 1978 edition (illustrated in § 1-16.902-OF 61), is designed for use when obtaining information from large business concerns; e.g., other than small business concerns, on the dollar value of their subcontract and purchase commitments under the Small Business, Minority Business Enterprises, and/or Labor Surplus Area Subcontracting Programs. Reports are not required under prime contracts for standard commercial items unless the contracting agency specifically provides for such reports. In the latter case paragraph (a)(8) of the clause prescribed by § 1-1.710-3(b) must be modified. Also, unless otherwise provided by the contracting agency, reports are not required under contracts or subcontracts with small business concerns, minority business enterprises, and educational and nonprofit institutions.

* * * * *

Subpart 1-16.9—Illustrations of Forms

Sections 1-16.901-37 and 1-16.902-OF 61 are revised to illustrate the June 1978 editions of Standard Form 37 and Optional Form 61.

§ 1-16.901-37 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37. (Insert form, copy attached)

(b) Page 2 of Standard Form 37. (Insert form, copy attached)

[6820-24-C]

§ 1-16.901-37 Standard Form 37: Report on Procurement by Civilian Executive Agencies.

(a) Page 1 of Standard Form 37.

REPORT ON PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES	Read the instructions on the back.	PERIOD COVERED	FORM APPROVED OMB NO. 29-R0018
			INTERAGENCY REPORT CONTROL NO. 1118-GSA-SA

REPORTING AGENCY (Include bureau, office, etc.)

REFER QUESTIONS TO: TYPED NAME AND TITLE

TELEPHONE NUMBER (Or code and extension)

PART I—TOTAL PRIME PROCUREMENT

PROCUREMENTS REPORTED (a)	NET DOLLAR AMOUNT PROCURED (Round to nearest thousand) TOTAL (Cols. c + d) (b)	SMALL BUSINESS CONCERNS (c)	OTHER THAN SMALL BUSINESS (d)	MINORITY BUSINESS ENTERPRISES (e)
1 **TOTAL** *(Add lines 2 + 3 + 4)*				
2 Formally advertised				
3 Negotiated				
4 Procurement under other agency contracts *(Add lines 5 + 6)*				
5 Fed. Sup. Schedule and other GSA contracts				
6 Other agency contracts				

PART II—STATISTICS ON SELECTED TYPES OF PROCUREMENT—BREAKOUTS OF PROCUREMENT REPORTED ABOVE

(Procurement not broken out under agency's reporting system, due to dollar value floors on reportable transactions, may be omitted below; however, the dollar amounts of such cut-offs must be entered under "Remarks.")

NOTE—Round all dollar amounts to nearest thousand ►

PROCUREMENTS REPORTED (a)	NO. OF ACTIONS (b)	NET DOLLAR AMOUNT PROCURED: TOTAL (Cols. d + e) (c)	SMALL BUSINESS CONCERNS (d)	OTHER THAN SMALL BUSINESS (e)
7 **SMALL BUSINESS SET-ASIDES** *(Add lines 8 + 9 + 10)*				
8 Total set-asides other than construction				
9 Partial set-asides other than construction				
10 Construction set-asides				
11 Public or private organizations or individuals				
12 **PROCUREMENT IN LABOR SURPLUS AREAS** *(Add lines 13 + 16)*				
13 Under preference procedures *(Add lines 14 + 15)*				
14 Total labor surplus set-asides (Small Business)				
15 Total labor surplus set-asides (General)				
16 Under nonpreference procedures				
17 **PROCUREMENT OF CONSTRUCTION**				
18 **PROCUREMENT FROM EDUCATIONAL INSTITUTIONS AND NON-PROFIT ORGAN.**				

SPECIMEN

PART III—SMALL BUSINESS SUBCONTRACTING PROGRAM

19 Dollar amount of subcontract and purchase commitments under the Small Business Subcontracting Program			
20 Number of prime contractors submitting small business subcontracting reports ►			

PART IV—MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

PROCUREMENTS REPORTED (Round dollar amounts to nearest thousand) (a)	NET DOLLAR AMOUNT PROCURED: TOTAL (Cols. c + d) (b)	MINORITY BUSINESS ENTERPRISES (c)	OTHER THAN MINORITY BUS. ENTERPRISES (d)
21 Dollar amounts of subcontract and purchase commitments under the Minority Business Enterprises Subcontracting Program			
22 Number of prime contractors submitting minority business enterprises subcontracting reports ►			

PART V—LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

PROCUREMENTS REPORTED (Round dollar amounts to nearest thousand) (a)	NET DOLLAR AMOUNT PROCURED: TOTAL (Cols. c + d) (b)	LABOR SURPLUS AREA CONCERNS (c)	OTHER THAN LABOR SURPLUS AREA CONCERNS (d)
23 Dollar amounts of subcontract and purchase commitments under the Labor Surplus Area Subcontracting Program			
24 Number of prime contractors submitting labor surplus area contracting reports ►			

REMARKS (If more space is required continue on the back of this form.)

SUBMITTED BY (Signature) | TITLE | DATE SIGNED

37-107

STANDARD FORM 37 (REV. 6-78)
Prescribed by GSA, FPR (41 CFR) 1-16.804

(b) Page 2 of Standard Form 37.

I. GENERAL INSTRUCTIONS

A. Submission of Reports. Cumulative reports are to be submitted semi-annually within 45 calendar days after the end of each reporting period. One report for the 6-month period ending March 31, and the other for the 12 month period ending September 30 of each year.

B. Procurements to be Reported. Except as otherwise provided herein, the report shall include the dollar amount of all commitments which obligate the Government to an expenditure of funds for property and services (including maintenance, repair and construction of buildings, roads, etc., and research and development). The dollar amount for small purchases under $10,000 may be developed by generally accepted statistical sampling methods, and purchases under $100 may be excluded from lines numbered 2 and 3. Also, exclude procurements (1) from Governmental sources of supply, such as D.C. Government, Federal Prisons Industries, Inc., Government Printing Office, and General Services Administration (supply depots, fuel yards, etc.), and (2) for transportation by government bill of lading and transportation of personnel.

C. Definitions.

(1) "Net Dollar Amount Procured" or "Dollar Amount" means the actual or estimated cost to the Government of the property or services procurred. In most instances, this is the obligation incurred.

(2) "Small Business Concern" means any firm which meets the criteria established by Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

(3) "Labor Surplus Area" means any geographical area of substantial unemployment, persistent unemployment, and any section of concentrated unemployment or underemployment, as defined and classified in the Department of Labor publication "Area Trends in Employment and Unemployment." (See FPR 1-16.804-4 regarding principal place of performance.)

(4) "Other Than Small Business" means large business concerns, non-profit organizations, educational institutions, and any others which do not meet the criteria for classification as a small business concern.

(5) "Minority Business Enterprise" is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American-Aleuts.

(6) LABOR SURPLUS AREA CONCERN—A labor surplus area concern is a concern that together with its first tier subcontractors will perform substantially in labor surplus area(s) identified by the Department of Labor at the time of contract award as an area of concentrated unemployment or underemployment or area of labor surplus. (See 20 CFR 654.) The term "perform substantially in labor surplus area(s)" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50% of the contract price.

SPECIMEN

II. INSTRUCTIONS FOR LINE ENTRIES

(Except self-explanatory items)

Line 1. Enter the total dollar amount of all reportable procurements for construction, supplies, equipment and services, including set-asides for small business, set-asides under Defense Manpower Policy 4, and minority business enterprise.

Line 2. Enter the dollar amount of reportable procurements awarded by the reporting agency which involve formal advertising (see FPR Part 1-2). NOTE: "Restricted" advertising for small business and balance of payments is reportable in Line 3.

Line 3. Enter the dollar amount of reportable procurement awarded by the reporting agency which involve negotiation (see FPR Part 1-3), including "restricted" advertising for small business, and balance of payments, the set-aside portion for partial set-asides, and minority business enterprise.

Line 4. Enter the dollar amount of reportable procurements, under contracts established by another agency, from non-Federal established sources of supply, including orders placed with commercial suppliers under Federal Supply Schedule contracts, GSA local service contracts, Defense Supply Agency contracts for petroleum, etc.

Line 5. Enter the dollar amount of all procurements (regardless of amount) under Federal Supply Schedule contracts and GSA local service contracts with non-Federal sources of supply.

Line 6. Enter the dollar amount of all procurements under contracts entered into by other agencies, except those reported on Line 5.

Line 11. Enter the dollar amount and number of Small Business set-aside awards to public or private organizations or individuals eligible for assistance under section 7(h) of the Small Business Act (See section 502(c) of Public Law 95-89, August 4, 1977, 15 USC 644(c)).

Line 13. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under preference procedures, including set-asides and tie bids (see FPR 1-1.807).

Line 18. Enter the dollar amount of procurements awarded by the reporting agency in Labor Surplus Areas under non-preference procedures (see FPR 1-1.807).

Line 19. Enter the dollar amount of contracts for construction, alteration, and repair (including painting and decorating) of buildings, bridges, roads or other real property.

Line 19. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Small Business Subcontracting Program (see 1-16.804-5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 20. Enter the number of prime contractors that are currently submitting small business subcontracting reports.

Line 21. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Minority Business Enterprises Subcontracting Program (see FPR 1-16.804-5). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 22. Enter the number of prime contractors that are currently submitting minority business enterprises subcontracting reports.

Line 23. Enter the dollar amount of subcontract and purchase commitments reported by prime contractors under the Labor Surplus Area Subcontracting Program (see FPR 1-1.805-3). Due to timing factors, this dollar amount need not be directly related to prime contracts placed during any reporting period.

Line 24. Enter the number of prime contractors that are currently submitting Labor Surplus Area subcontracting reports.

☆ GPO: 1978 O—260-450/49

STANDARD FORM 37 (BACK) (REV. 6-78)

§ 1-16.902-OF 61 Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns.

(a) Page 1 of Optional Form 61. (Insert form, copy attached)
(b) Page 2 of Optional Form 61. (Insert form, copy attached)

§ 1-16.902-OF 61 Optional Form 61: Subcontracting Program - Quarterly Report of Participating Large Company on Subcontract Commitments (To Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns).

(a) Page 1 of Optional Form 61.

SUBCONTRACTING PROGRAM—QUARTERLY REPORT OF PARTICIPATING LARGE COMPANY ON SUBCONTRACT COMMITMENTS (To Small Business Concerns, Minority Business Enterprises, and Labor Surplus Area Concerns)		Form Approved OMB No. 29-R0190
1. CONTRACTING AGENCY AND REPRESENTATIVE		2. QUARTERLY PERIOD FROM / TO
3a. NAME OF COMPANY, PLANT OR DIVISION COVERED	b. ADDRESS (*Number, Street, City, State and ZIP Code*)	
4a. NAME OF COMPANY IF DIFFERENT FROM ITEM 3a	b. ADDRESS (*Number, Street, City, State and ZIP Code*)	
5a. SUBCONTRACT AND PURCHASE COMMITMENTS TO SMALL BUSINESS CONCERNS (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	c. TOTAL (*5a+5b*)
b. SUBCONTRACT AND PURCHASE COMMITMENTS TO LARGE BUSINESS CONCERNS (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	
6a. SUBCONTRACT AND PURCHASE COMMITMENTS TO MINORITY BUSINESS ENTERPRISES (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	c. TOTAL (*6a+6b*)
b. SUBCONTRACT AND PURCHASE COMMITMENTS TO OTHER THAN MINORITY BUSINESS ENTERPRISES (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	
7a. SUBCONTRACT AND PURCHASE COMMITMENTS TO LABOR SURPLUS AREA CONCERNS (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	c. TOTAL (*7a+7b*)
b. SUBCONTRACT AND PURCHASE COMMITMENTS TO OTHER THAN LABOR SURPLUS AREA CONCERNS (*Net*)	DOLLAR AMOUNT (*To nearest dollar*)	
8a. TYPED NAME AND TITLE OF COMPANY OR SUBDIVISION LIAISON OFFICER	b. SIGNATURE	9. DATE OF REPORT

SPECIMEN

GENERAL INSTRUCTIONS

1. This report is to be submitted for each calendar quarter by all contractors maintaining SMALL BUSINESS, MINORITY BUSINESS ENTERPRISE, and/or LABOR SURPLUS AREA SUBCONTRACTING PROGRAM(S), and required to report. The original and _____ copies of each report shall be submitted to:

Reports shall be submitted not more than 25 calendar days after the close of the quarter being reported. Data pertaining to individual companies will be treated as confidential.

2. Each reporting company, division or plant shall report the required information for the reporting unit as a whole on the basis of the total "mix" of contracting agency business (e.g., commitments for subcontracting work shall not be segregated as between subcontracts under prime or under subcontracts).

SPECIFIC INSTRUCTIONS

ITEM 1.—Specify the agency and its representative who established reporting arrangements under the small business, minority business enterprise, and/or labor surplus area subcontracting program(s).

ITEM 2.—Enter the day, month and year of the first and last days of the period covered by this report.

ITEM 3.—Enter the name of the reporting company or subdivision thereof (e.g., division or plant) which is covered by the data submitted. A company may elect to report on a corporate, division or plant basis.

ITEM 4.—If the report is for a division, plant or other subdivision of a company, enter the name of the company of which the reporting subdivision is a part.

(*INSTRUCTIONS CONTINUED ON REVERSE*)

5061-104

OPTIONAL FORM 61 (Rev. 6-78)
FPR (41 CFR) 1-16.804

(b) Page 2 of Optional Form 61.

ITEM 5a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to small business concerns for agency (*see Item 1*) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a small business concern under Definition No. 1.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to large business concerns for agency (*see Item 1*) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (*see Item 1*) subcontracts and purchases.

ITEM 6a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to minority business enterprises for agency (*see Item 1*) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a minority business enterprise under Definition No. 2.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to other than minority business enterprises for agency (*see Item 1*) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (*see Item 1*) subcontracts and purchases.

ITEM 7a.—Enter the net dollar amount of the commitments made by the reporting organization during the quarter to labor surplus area concerns for agency (*see Item 1*) subcontracts and purchases. The reporting company may accept the representation of a supplier that it is a labor surplus area concern under Definition No. 3.

b.—Enter the net dollar amounts of commitments made by the reporting organization during the quarter to other than labor surplus area concerns for agency (*see Item 1*) subcontracts and purchases.

c.—Enter the total net dollar amount of commitments made by the reporting organization during the quarter to all business concerns for agency (*see Item 1*) subcontracts and purchases.

ITEM 8.—Self explanatory.

ITEM 9.—Enter the date (day, month, year) this report is submitted.

SPECIMEN

DEFINITIONS

1. SMALL BUSINESS CONCERN.—A small business concern is a concern that meets the pertinent criteria established by the Small Business Administration and set forth in Title 13, Chapter 1, Part 121 of the Code of Federal Regulations.

2. MINORITY BUSINESS ENTERPRISE.—A minority business enterprise is a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American-Aleuts.

3. LABOR SURPLUS AREA CONCERN.—A labor surplus area concern is a concern that together with its first tier subcontractors will perform substantially in labor surplus area(s) identified by the Department of Labor at the time of contract award as an area of concentrated unemployment or underemployment or area of labor surplus. (*See 20 CFR 654.*) The term "perform substantially in labor surplus area(s)" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50% of the contract price.

4. SUBCONTRACTS AND PURCHASES.—Subcontracts and purchases as used herein means procurement by a business concern of any article, material or service, including agency (*see Item 1*) portion of stock inventory and, where reasonably determined to be attributable to such agency contracting, purchases of plant maintenance, repair, operation, and capital equipment, entering into the performance of such agency supply, service or facility contract received by that business concern from (*i*) the agency (*see Item 1*), or (*ii*) another business concern. Procurement of Experimental, Development and Research work is to be included.

5. COMMITMENTS.—Commitments as used herein means contracts, purchase orders or other legal obligations executed by the reporting Company for goods and services to be received by the reporting Company. Commitments shall include increases to purchase orders and contracts less downward adjustments to purchase orders and contracts as a result of contract changes, cut-backs, or terminations.

6. SUBCONTRACT AND PURCHASE COMMITMENTS.—Subcontract and purchase commitments will include all commitments (net, after adjustments) to a supplier of subcontracted or purchased articles, materials or services, as defined in 3 above, except purchases from a company, division, or plant which is an affiliate of the reporting company.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-260-481 #52

OPTIONAL FORM 61 Back (Rev. 6-78)

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

Dated: March 14, 1979.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 79-9311 Filed 3-28-79; 8:45 am]

[4310-10-M]

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Aircraft services

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule amends the Interior Procurement Regulations by adding a reference to the requirements of Part 353 of the Departmental Manual which covers the procurement of aircraft and aircraft-related services and maintenance.

EFFECTIVE DATE: This amendment is effective on April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, (202) 343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of Interior, (202) 343-5914

NOTE.—The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is the general policy of the Department of Interior to allow time for interested parties in the rulemaking process. However, the amendments contained herein are entirely administrative in nature. Therefore, the rulemaking process is waived.

Dated: March 21, 1979.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR is amended as stated below.

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The Table of Contents for Part 14-4 is amended by adding new entries as follows:

Subpart 14-4.53—Aircraft Services

Sec.
14-4.5300 Requirements for acquiring aircraft services.

AUTHORITY: 5 U.S.C. 301

2. New Subpart 14-4.53 and § 14-4.5300 are added as follows:

Subpart 14-4.53—Aircraft Services

§ 14-4.5300 Requirements for acquiring aircraft services.

Procurement of aircraft and aircraft-related services and maintenance shall be performed by the Office of Aircraft Services in accordance with the procedures contained in Part 353 of the Department Manual (353 DM).

[FR Doc. 79-9507 Filed 3-28-79; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-160; Amdt. No. 172-47, 173-123, 174-33, 175-7, 176-6, 177-44]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Transportation of Asbestos; Revision of Amendment No. 173-123; Effective Date Extension

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Revision of previous Amendment No. 173-123 and extension of the effective date for all amendments.

SUMMARY: This revision of Amendment No. 173-123 regarding the transportation of asbestos as published on December 4, 1978, in the FEDERAL REGISTER (43 FR 56664) will allow shipments of asbestos when packaged in bags or other non-rigid packagings to be transported in closed freight containers, motor vehicles, or rail cars when loaded by the consignor and unloaded by the consignee; or in bags and other non-rigid packagings that are dust and sift proof which are palletized and unitized. Unitized loads in slings need not be palletized during transportation by vessel. The effective date of the entire Docket HM-160 is revised from April 30, 1979 to August 20, 1979.

EFFECTIVE DATE: August 20, 1979.

ADDRESS: All written comments received in this rulemaking action are available for examination during regular business hours in the Docket Branch, Room 6500, TransPoint Building, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Delmer F. Billings, Standards Division, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street, S.W., Washington, D.C. 20590, phone 202-755-4902.

SUPPLEMENTARY INFORMATION: On December 4, 1978, the MTB published a final rule under Docket HM-160 in the FEDERAL REGISTER (43 FR 56664). Since this publication, the MTB has received several petitions for reconsideration in accordance with the provisions of 49 CFR 106.35. The petitions requested reconsideration of the provisions and/or extension of the effective date of the final rule. This document will incorporate methods of shipment which were identified in the notice of proposed rulemaking (43 FR 8562, March 2, 1978) and also those which were included in the final rule. These amendments represent minimum safety requirements and are intended to reduce the risks to public health associated with the generation of unacceptable airborne concentrations of asbestos that my result from packaging and handling of asbestos shipments in commercial transportation.

Two petitioners based their petitions on the fact that the final rule contained a provision requiring bags and other non-rigid containers of asbestos to be palletized and unitized by some method such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping. It was noted that this requirement was not included in the notice of proposed rulemaking (43 FR 8562), thus making comments on this requirement impossible during the normal comment period for the proposed rulemaking. Petitioners also posed the question of whether or not freight containers, rail cars, etc., constituted rigid, airtight packagings as required in § 173.1090(d)(1). It was stated that if such containers were not included in this provision, all shipments of bags or non-rigid containers would be required to be palletized and unitized according to the provisions of § 173.1090(d)(2), and that this requirement would impose great hardship on the asbestos industry and on shippers

of large volumes of asbestos who normally ship using exclusive use vehicles and rail cars. It was also indicated that neither the equipment nor facilities exist at the present time to achieve compliance with the palletizing and unitizing requirement of the final rule by the published effective date. The MTB has determined that freight containers and, probably, motor vehicles and rail cars would not satisfy the requirements of § 173.1090)d)(1).

By allowing the use of unitized pallet loads as identified in the final rule, the MTB intended to recognized less restrictive handling requirements for bagged asbestos than those that would have been required by the "loading by consignor/unloading by consignee" approach. However, it was not the intent of the MTB to eliminate the more restrictive consignor/consignee approach. Therefore, § 173.1090(d) is being revised to allow the option of either the consignor/consignee approach as identified in the original proposed rulemaking with inclusion of an exclusive use provision or the unitized pallet approach using bags or other non-rigid packagings as required by the final rule.

One petitioner noted that a method of shipment of asbestos via water was the use of slings which are shrink-wrapped or stretch-wrapped and transported in the hold of a vessel without the use of pallets. It was the petitioner's contention that the use of pallets would increase the incidents of unintentional release of asbestos due to the interaction of the pallets against the bags which are unitized by the slings. It was noted that pallets were used in all instances except when placed in the hold of the transport vessel. Given the lack of detailed data on the amount of asbestos fibers released in transportation and the circumstances and cause for such release, the MTB is in general agreement that increased unintentional releases may be likely if pallets were used under the method identified in the petition. Therefore, § 173.1090(d) is being revised to allow slings in loads that are shrink-wrapped or stretch-wrapped to be transported by water without the use of pallets. Future monitoring of hazardous materials incident reports will assist the MTB in determining the safety and efficiency of this and other methods for shipment of asbestos.

One petitioner suggested that the terms "pallet" and "palletized" be defined in the rulemaking. The MTB does not intend to publish a definition of pallet or palletized. It is the MTB's opinion that any rigid platform or board upon which goods may be placed for transportation would meet the requirements when unitizing a load of bags or other non-rigid packagings.

Several petitioners cited a need for the MTB to define the term "dust and sift proof". For the purposes of this amendment, the MTB considers dust and sift proof to mean packagings which are constructed so as to prevent the release of their contents either through materials of construction, seams, or closures during conditions normally incident to transportation.

One petitioner requested that the use of gluing of bags into a unit be allowed as an alternative to the unitizing methods identified in the final rule. It is the MTB's opinion that the use of shrink-wrapping or other similar methods of enclosure assist not only in unitizing a pallet load of bags or other non-rigid packagings, but also assist in the prevention of airborne asbestos contamination of individuals involved in the transportation of asbestos. Simply gluing these packagings together to form a unit would not provide this added measure of safety to which the final rule addresses itself. Therefore, gluing of bags into a unit is not being included as an alternative unitizing method.

One petitioner requested that quantities of less than 2,000 pounds, net weight, per vehicle be excepted from the palletizing and unitizing requirement. It is MTB's opinion that the palletizing and unitizing requirement does not unreasonably restrict the shipment of asbestos in any quantity. This requirement is necessary to provide a minimum level of safety.

Several petitioners requested an extension of the effective date of the final rule. The effective date has been extended to allow five months for compliance as originally intended by the December 4, 1978 publication.

Primary drafters of this document are Delmer F. Billings, Standards Division, Office of Hazardous Materials Regulation, and Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulations.

In consideration of the foregoing, the effective date and paragraph (d) of § 173.1090 as they appeared in the FEDERAL REGISTER published on December 4, 1978 (43 FR 56664) are revised to read as follows:

1. The effective date of the final rule as it appeared in HM-160 on December 4, 1978, is revised to read as follows:

EFFECTIVE DATE: August 20, 1979.

2. In § 173.1090 paragraph (d) as it appeared at 43 FR 56669 is revised to read as follows:

§ 173.1090 Asbestos.

* * * * *

(d) Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, airtight packagings such as metal or fiber drums, portable tanks;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the consignor and unloaded by the consignee; or

(3) Bags or other non-rigid packagings which are dust and sift proof and which are palletized and unitized by methods such as shrink wrapping in plastic film or wrapping in fiberboard secured by strapping. Pallets need not be used during transportation by vessel for loads with slings that are unitized by methods such as shrink wrapping, if the slings adequately and evenly support the loads and the unitizing method prevents shifting of the bags or other non-rigid packagings during conditions normally incident to transportation.

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

NOTE.—The Materials Transportation Bureau has determined that these amendments do not require a regulatory analysis under the items of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C. on March 22, 1979.

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

[FR Doc. 79-9325 Field 3-28-79; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMIMISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-3; Notice 13]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

School Bus Passenger Seating and Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice makes final an existing interim amendment to Standard No. 222, *School Bus Passenger Seating and Crash Protection*, increasing the maximum allowable seat spacing in school buses from 20 to 21 inches. In issuing the original standard, the agency intended that the seats be spaced approximately 20 inches apart (S5.2). However, because of manufacturing tolerances, some school bus manufacturers were spacing their seats at distances less than

20 inches to ensure that the spacing does not exceed the prescribed maximum. A seat spacing specification of 21 inches permits 20-inch spacing of seats by taking manufacturing tolerances into fuller account. This spacing will accommodate large high school students while still ensuring a safe level of school bus seat performance.

EFFECTIVE DATE: Since this amendment merely makes final an existing interim rule, it is effective March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: On December 22, 1977, the National Highway Traffic Safety Administration issued a proposal to increase the allowable seat spacing in school buses from 20 to 21 inches (42 FR 64136). Concurrently with that proposal, the NHTSA issued an interim final rule permitting buses to be constructed immediately with the increased seat spacing (42 FR 64119). This action was taken to provide the amount of seat spacing in school buses originally intended by the agency and to relieve immediately problems created by the unnecessarily limited seat spacing in buses then being built. The action resulted from numerous complaints by school bus users relating to seat spacing. The proposal and interim final rule responded to petitions from the Wisconsin School Bus Association and the National School Transportation Association asking for increased seat spacing.

The agency received many comments in response to its December 1977 proposal. Most comments favored some extension in the seat spacing allowance in school buses. Commenters differed as to the amount of seat spacing needed to accommodate fully the larger school children. Some commenters suggested that the agency provide still more seat spacing than proposed in the December 22 notice. Other commenters supported the agency's suggested modification.

The agency has reviewed all of the comments and the petitions concerning this issue and has concluded that the proposal and interim rule provide sufficient seat spacing in school buses for all school children. To provide greater seat spacing, as suggested by some commenters, might necessitate changing the seat structures to absorb more energy. See the December proposal for further discussion of this point. The NHTSA does not believe that such a costly change is warranted at this time. The agency notes that as a result of the interim rule seat spacing in buses has become adequate to meet the needs for pupil transportation to and from school. The agency continues, however, to research the proper seating for activity buses and will address that issue in a separate notice as soon as all of the research and analysis is completed.

In accordance with the foregoing, Volume 49 of the Code of Federal Regulations, Part 571, Standard No. 222, *School Bus Passenger Seating and Crash Protection*, is amended by making final the existing interim rule as follows:

§ 571.222 [Amended]

1. Paragraph S5.2 of 49 CFR 571.222 is amended to read:

S5.2 *Restraining barrier requirements.* Each vehicle shall be equipped with a restraining barrier forward of any designated seating position that does not have the rear surface of another school bus passenger seat within 21 inches of its seating reference point, measured along a horizontal longitudinal line through the seating reference point in the forward direction.

2. Paragraph S5.2.1 of 49 CFR 571.222 is amended to read:

S5.2.1 *Barrier-seat separation.* The horizontal distance between the restraining barrier's rear surface and the seating reference point of the seat in front of which the barrier is required shall not be more than 21 inches measured along a horizontal longitudinal line through the seating reference point in the forward direction.

The principal authors of this notice are Robert Williams of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 203, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.)

Issued on March 21, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-9141 Filed 3-28-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Kenai National Moose Range, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: These special regulations govern the use of aircraft, snowmobiles and watercraft on the Kenai National Moose Range in Alaska. The Director has determined that these regulations are consistent with the primary objectives for which the range was established, and will provide additional recreational opportunity to the public.

DATES: These regulations are effective from date of publication through May 31, 1980.

FOR FURTHER INFORMATION CONTACT:

James E. Frates, Refuge Manager, Kenai National Moose Range, P.O. Box 500, Kenai, Alaska 99611, 907-283-4877.

SUPPLEMENTARY INFORMATION: The primary author of this document is James E. Frates. Regulations and maps describing the designated areas are available at the Headquarters, Kenai National Moose Range, Kenai, Alaska. The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. The recreational use authorized by these regulations will not interfere with the primary purposes for which the Kenai National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 26.34 Special regulations, concerning public access, use and recreation for individual national wildlife refuges.

ALASKA-KENAI NATIONAL MOOSE RANGE

(a) The landing and operation of aircraft in the Kenai National Moose Range, under other than emergency conditions, is prohibited except as authorized in the following areas: North of the Sterling Highway aircraft may land on lakes except those lakes with recreational developments including campgrounds, camp sites, road waysides with connecting lakes and lakes within the Moose Research Center enclosures including Coyote Lake. Fur-

thermore, the Swan Lake Canoe Area including the several public recreational lakes bounded on the west by the Swanson River Road, bounded on the north by the Swan Lake Road, bounded on the east by the north-south section line immediately west of Arrow Lake (located at the eastern terminus of Swan Lake Road open to the public) and continuing south 5.8 miles to its intersection with the Moose River (one-half mile southwest of the eastern-most shore of Swan Lake), thence downstream the Moose River, and bounded on the south by the Moose Range boundary, is not designated aircraft landing area; south of the north shoreline of the Kenai River and Skilak Lake, aircraft may land on lakes and rivers except the following lakes not authorized for aircraft operations include: Benchland, Cirque, Crater, Emma, Horsetrail, Marmot Lakes, Newman's, Timberline, Trophy and Wolverine.

(1) The landing of aircraft on any road, glacier or ice field is prohibited.

(2) Hidden Lake, Swanson Lake, Gene Lake and Pepper Lake are designated aircraft landing areas in season, for the purpose of sport ice fishing only.

(3) Bottenintnin Lake is a designated aircraft landing area.

(b) The operation of off-road vehicles commonly referred to as all-terrain vehicles (ATV's) is prohibited on the Kenai National Moose Range except the use of lightweight motorized vehicles commonly identified by the general term "snowmobile" are authorized on certain designated areas of the Moose Range and subject to the following special conditions:

(1) Only snowmobiles with an overall width less than 40 inches will be permitted.

(2) The use of snowmobiles may be authorized during the period December 1, 1979 through April 30, 1980, and only when the snow depth is sufficient to protect underlying vegetation and terrain along the route of travel and when determined and announced by the refuge manager.

(3) The use of snowmobiles is prohibited in those game management units of the Kenai National Moose Range during an established moose hunting season. The use of snowmobiles as an aid in big game hunting or for transporting big game animals, except fur animals, is not authorized.

(4) The use of snowmobiles on maintained roads within the Moose Range is prohibited, except that, a snowmobile may cross a maintained road only after stopping and when traffic on the roadway allows crossing safely.

(5) That area above timberline located between Skilak Lake and Tustumena Lake is not authorized for snowmobile use.

(6) The area within T 4 N, R 10 W, Section 5 and those portions of Sections 6 and 7 east of the Sterling Highway right-of-way, including the Soldotna Ski Hill, the cross-country ski trails, Headquarters Lake and Nordic Lake, is not a designated snowmobile area.

(7) The use of snowmobiles for racing purposes is prohibited.

(8) The Swanson River Canoe Route lakes and portages are closed to snowmobile use.

(9) An area including the Swan Lake Canoe Route and several road connected public recreational lakes is not a designated snowmobile area. That area closed to such use is bounded on the west by the Swanson River Road, bounded on the north by the Swan Lake Road, bounded on the east by the section line immediately west of Arrow Lake (which is located at the eastern terminus of Swan Lake Road open to the public) and proceeds south 5.8 miles to its intersection with the Moose River (one-half mile southeast of the eastern-most shore of Swan Lake), thence downstream along the west bank of Moose River, and bounded on the south by the Moose Range boundary.

(c) The use of motorized boats and canoes, other motorized watercraft, engines, including chain saws, auxiliary power units, etc., is prohibited within the Moose Range Canoe System, except that boats and canoes with outboard motors will be permitted on Moose River and Swanson River. The Canoe System includes those lakes and their related shore areas, waterways, tributaries and portages within the existing Swan Lake Canoe Route and Swanson River Canoe Route as described on maps available at Kenai Moose Range Headquarters.

(d) The use of airboats is authorized only on Skilak Lake, Tustumena Lake, the Kenai River and Kasilof River.

(e) The provisions of this special regulation supplement the regulations which govern public entry and use on national wildlife refuges which are set forth in Title 50, Code of Federal Regulations, Part 26.

Dated: March 14, 1979.

KEITH M. SCHREINER,
Alaska Area Director,
U.S. Fish and Wildlife Service.

[FR Doc. 79-9506 Filed 3-28-79; 8:45 am]

[4310-55-M]

PART 26—PUBLIC ENTRY AND USE

Cibola National Wildlife Refuge

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Correction—public access, use and recreation regulation.

SUMMARY: In FR Doc. 79-7672, appearing on page 15495 of the issue for Wednesday, March 14, 1979, an additional special condition No. 9 should be included to make the public access, use and recreation regulations more effective. This document adds special condition No. 9 to the eight already implemented for Cibola National Wildlife Refuge.

DATE: Special Condition No. 9 is effective on April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, Box AP, Blythe, Calif. 92225, Telephone number (714) 922-4433.

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

After condition (8) add:

(9) Camping; i.e., overnight camping is prohibited, effective April 1, 1979. It has been determined that camping is detrimental to the accomplishment of refuge wildlife ecological objectives.

JERRY L. STEGMAN,
Acting Regional Director,
Albuquerque, N. Mex.

MARCH 23, 1979.

[FR Doc. 79-9518 Filed 3-28-79; 8:45 am]

proposed rules

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

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

[Docket No. AO-198-A10]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Termination of Proposed Amendment Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This document terminates amendment proceedings on proposed changes to the marketing order for California raisins because it was not favored by the required two-thirds majority of growers in the referendum. The changes had been proposed by the Raisin Administrative Committee, which administers the order locally for USDA, and three raisin dehydrators. The proposed changes would have clarified existing volume regulation provisions used to tailor supplies to needs, and would have created a new raisin varietal type for regulatory purposes under the order. The marketing order continues in effect unchanged.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued March 30, 1978; published April 4, 1978 (43 FR 14024).

Notice of Recommended Decision—Issued July 12, 1978; published July 17, 1978 (43 FR 30567).

Final Decision—Issued December 26, 1978; published January 2, 1979 (44 FR 47).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900) in Fresno, CA, April 18, 1978, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on July 12, 1978, issued his recommended decision (43 FR 30567), and on December 26, 1978, (44 FR 47) the Assistant Secretary issued a final decision setting forth the proposed amendment as a means of further effectuating the declared policy of the act. The final decision directed that a referendum be conducted among producers in the production area to determine whether or not the required percentage of producers favored issuance of the proposed amendment.

It is hereby determined on the basis of the referendum conducted February 17—March 2, 1979, that the proposed amendment failed to get the required two-thirds favorable producer vote, and therefore, the proposed amendment to the marketing agreement and order should not be made effective. Accordingly, the proceedings with respect to the proposed amendment are terminated.

It is hereby further determined that the order currently effective (7 CFR Part 989) tends to effectuate the declared policy of the act and continues in effect.

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

Signed at Washington, D.C. on March 23, 1979.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 79-9621 Filed 3-28-79;8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211, 212]

[Docket No. ERA-R-77-1]

TERTIARY INCENTIVE CRUDE OIL

Amendment to Permit Higher Prices

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Further Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes to amend 10 CFR § 212.78 of the Mandatory Petroleum Price Regulations to provide "front-end" money to producers engaged in the initiation or expansion of tertiary enhanced crude oil recovery projects that involve substantial pre-production expenses and a high risk of failure by permitting some of the crude oil currently produced by or for the interest of these producers to sell at market-clearing prices. No repayment of this front-end money would be required.

By increasing the incentives for investment in tertiary projects, the proposal would help increase domestic crude oil production since much of the domestic crude oil in place can only be recovered through the application of tertiary enhanced recovery techniques. In addition, the increased number of tertiary projects which we believe would result from this proposal should promote rapid technical and commercial advances in enhanced recovery techniques.

DATES: Comments by May 30, 1979, 4:30 p.m.; requests to speak by April 18, 1979, 4:30 p.m.; hearing date: May 1, 1979.

ADDRESSES: All comments and requests to speak to: Department of Energy, Economic Regulatory Adminisration, Office of Public Hearing Management, Docket No. ERA-R-77-1, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management) Economic Regulatory Administration, Room 2222 A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Douglas Harnish (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.

Eugene Glass (Office of Fuels Regulation), Economic Regulatory Administration, Room 6128-C, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5338.

Lisle Reed (Resource Applications), Department of Energy, Room 3334, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8395.

Raymond J. Braitsch (Energy Technologies), Department of Energy, Room 6G-087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6503.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Proposal.
A. Participation.
B. Recoupment Mechanism.
C. Reporting Requirements.
III. Specific Comments.
IV. Comments Procedures.
V. Other Matters.

I. Introduction

On July 26, 1978, we issued a final rule, effective September 1, 1978, that provided, through the addition of section 212.78 to the Mandatory Petroleum Price Regulations (10 CFR Part 212), that the first sale of the incremental crude oil produced from a qualified and certified tertiary enhanced recovery project could occur at the market-clearing price (43 FR 33679, August 1, 1978). This final rule sought to encourage the implementation, expansion or continuation of tertiary projects through the incentive of higher prices for crude oil produced from such projects. The full background to section 212.78 is set forth in the Notice of Proposed Rulemaking (42 FR 2646, January 12, 1977), a Notice of Decision which announced in advance the concepts that would be embodied in the final rule (42 FR 41572, August 17, 1977), and the preamble of the July 26 Notice.

The July 26 Notice also continued the rulemaking for the limited purpose of determining whether a producer should be permitted higher prices for some current production from a property on which a tertiary project is located in order to permit adequate capital formation for that tertiary project. To qualify, a producer would have been required to show that (1) the project involved both a high risk of failure and substantial pre-production expenses; and (2) the project could not be financed *but for* the release of some current production. The proposal would have required the repayment of such an incentive through an adjustment in the price of any incremental oil produced from a tertiary project that had received the incentive.

A public hearing on this proposal was held on September 27, 1978. Most of the comments opposed adoption of the proposal, even though they agreed that investment money was a serious problem for many tertiary projects. Generally speaking, the comments asserted that the proposal was too restrictive to assist most tertiary projects because the repayment provision would reduce the incentive to undertake tertiary projects and because very little assistance would be offered to projects located on properties currently producing small amounts of crude oil.

On the basis of the comments received, we have determined not to adopt the July 26 proposal at this time. As an alternative, we are proposing an incentive program to provide producers with front-end money to initiate or expand certain types of tertiary projects. Under this proposal, a producer could charge market-clearing prices for some current production, provided that the revenue from such sales in excess of what would otherwise be permitted under the pricing regulations could not exceed seventy-five percent of certain specified expenses actually incurred and reported to DOE. The expenses that could be recouped would be dependent upon the type of enhanced oil recovery (EOR) technique which the project employed. No more than twenty million dollars of expenses could be recouped with respect to a particular project. Unlike the proposal in the July 26 Notice, this proposal does not contain a repayment provision and would permit producers to charge market-clearing prices for crude oil produced from properties other than the one on which their project is located. Moreover, the availability of this proposed incentive would be based on the investment risk presented by a particular project and not on the financial resources of the producer engaged in that project. The proposal and comments requested thereon are discussed below.

II. Proposal

A. Participation

We believe that the proposed incentive should be available, with as little administrative burden as possible, to each producer engaged in the initiation or expansion of a tertiary project that would not otherwise present an attractive investment opportunity. We have determined that certain EOR techniques involve, in most instances, such substantial pre-production expenses and such a high risk of failure that a general finding can be made that projects employing such techniques are not an attractive investment opportunity. (Those techniques determined to be high risk EOR techniques would be set forth in Appendix A to § 212.78.) To require a producer engaged in a project employing such techniques to demonstrate that the project is not an attractive investment opportunity would be an unnecessary burden in light of this finding. Therefore, we are proposing a self-certification procedure in paragraph (e)(1) of § 212.78 that would permit a producer to receive the proposed incentive with respect to a particular project upon certification by it and a professional engineer to ERA by registered mail that it is engaged in a tertiary project and that project employes a EOR technique listed in Appendix A to § 212.78. Although this self-certification procedure would greatly facilitate participation in the proposed incentive program, we recognize its potential for abuse. Accordingly, we would review self-certified projects and take appropriate enforcement action if we discovered fraud or other misuse of the procedure.

We realize that a particular tertiary project which does not employ one of the specified EOR techniques might also involve substantial pre-production expenses and require some front end revenues in order to be an attractive investment opportunity. Therefore, we propose a procedure in paragraph (e)(2) of § 212.78 that would permit a producer engaged in the initiation or expansion of such a project to request ERA to issue an order allowing participation in the proposed incentive program with respect to that project. Such an order would be granted upon a showing that the pre-production expenses and high risk of failure would combine to make the project an unattractive investment opportunity without front-end assistance. The general procedures set forth in subpart G of 10 CFR part 205 (§ 205.90 *et seq.*) would govern applications for such orders. After reviewing an application, we would issue an order, pursuant to § 205.95, either allowing or denying participation. If participation were allowed, the order would include a list of expenses that a producer could partially recoup through charging market-clearing prices for a portion of his current crude oil production.

B. Recoupment Mechanism

Market-clearing prices would be permitted for the first sale of any crude oil produced by or for the interest of a producer as long as the "tertiary incentive revenue" from such sales did not exceed the "incurred recoupable expenses" attributable to that producer. Tertiary incentive revenue would be defined in paragraph (c) of § 212.78 as the amount by which the market-clearing price per barrel exceeded what would otherwise be the ceiling price, less any severance and *ad va-*

lorem taxes attributable to the price increase permitted under this proposal, times the number of barrels sold at the market clearing price.

Incurred recoupable expenses would be defined in paragraph (c) of § 212.78 as seventy-five percent of the "recoupable expenses" for a particular tertiary project that had actually been incurred and reported to DOE pursuant to the provisions of paragraph (h) of § 212.78. Incurred recoupable expenses for a particular project would be attributable to the "qualified producer(s)" (i.e., producers that complied with the requirements of paragraph (e)(1) or (e)(2) of § 212.78) for that particular project. If there would be more than one qualified producer with respect to a particular project, these producers would attribute the incurred recoupable expenses among themselves in whatever proportion they determined, regardless of their actual interest in the project. This flexibility would permit participants in a tertiary project to agree upon internal business arrangements with minimal governmental interference.

The total amount of incurred recoupable expenses with respect to any particular project would be limited to 20 million dollars. We believe this amount would be sufficient, in most instances, to assist producers to initiate at least the first stage of field development. This stage generally involves higher levels of expenses and risks than any other stage in a tertiary project.

We have tentatively determined those EOR techniques for which self-certification would be permitted and the recoupable expenses for each of these techniques. Appendix B to § 212.78 would set forth these expenses. We have based our tentative determinations on the extent to which an expense is directly attributable to a tertiary project and the extent to which the expense may benefit the producer other than through implementation of the tertiary project. We have sought to include only those expenses that are peculiar to a tertiary project and, thus, prevent the use of this program to underwrite non-tertiary ventures of a producer. Recoupable expenses for those projects for which an order is issued pursuant to subparagraph (e)(2) of § 212.78 would be set forth in that order. We anticipate that these recoupable expenses would be similar to those set forth in Appendix B.

In keeping with the general requirement that producers and resellers of crude oil certify to their purchasers the composition (i.e., pricing tiers) of the crude oil sold to such purchasers, a producer that sold crude oil at market clearing prices under this proposal would be required to certify any such crude oil as tertiary incentive crude oil. The Entitlements Program (10 CFR 211.67) would also be amended to provide for the treatment of tertiary incentive crude oil on a parity with other domestic crude oil for which the market-clearing price may be charged.

C. REPORTING REQUIREMENTS

Paragraph (h) of § 212.78 would require the submission of several reports by participating producers. A producer that received tertiary incentive revenue would be required to submit a monthly report to DOE in which the producer would state (1) the incurred recoupable expenses attributed to it during the previous month; (2) the project from which each such expense is attributed; (3) the cumulative total of incurred recoupable expenses attributed to it at the close of the previous month; (4) the amount of tertiary incentive revenue received by it during the previous month; (5) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (6) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property; (7) the maximum lawful selling price(s) of crude oil from each such property absent the provisions of subparagraph (a)(2) of this section; (8) the price at which tertiary incentive crude oil was actually sold at each such property; and (9) the names of the purchasers of tertiary incentive crude oil. We would also require copies of the certifications provided to these purchasers under § 212.131.

With respect to a particular project, the qualified producers would be required to submit a consolidated monthly report in which they would state (1) the incurred recoupable expenses for the previous month; and (2) the amount of such incurred recoupable expenses attributable to each qualified producer. We also would require the qualified producers to submit an annual opinion by a certified public accountant concerning the accuracy of these reports. The qualified producers may also be required to substantiate the incurred recoupable expenses through the submission of invoices, receipts, contracts, or any other document evidencing the actual incurrence of an expense.

We intend to audit participants in this program to insure that reported expenses are actually incurred and that no overrecoupment occurs. In the event of abuses, we would take the appropriate enforcement action.

Also, with respect to a particular project, the qualified producers would be required to file with DOE's Office of Energy Technology an initial report on that tertiary project and, thereafter, an annual report on the status of that project. (Appendix 1 to this Notice describes the type of information that would be requested by these reports.) We would use such reports to establish a program through which potential participants in tertiary projects could obtain information on EOR techniques and how such techniques might relate to their particular circumstances.

III. SPECIFIC COMMENTS

Although we welcome your comments on any aspect of the proposed incentive program, we specifically request comments on the following issues:

A. Appendix A sets forth the EOR techniques for which a general finding can be made that the technique is not an attractive investment opportunity without tertiary incentive revenues. We request your views as to the validity of this finding for each technique and whether it should be extended to include other tertiary enhanced recovery techniques, especially immiscible fluid displacement, massive polymer waterflooding and caustic waterflooding. We also request your comments on any need to revise or clarify the definitions of the techniques listed in Appendix A.

B. We intend to permit a producer that initiates or expands a tertiary project that does not employ an EOR technique listed in Appendix A to apply to ERA for approval of its participation in the proposed incentive program with respect to that project. We welcome any suggestions concerning the establishment of a simple and efficient process for obtaining approval.

C. We are considering in this rulemaking the advisability of limiting the number of projects in a field or reservoir for which the proposed incentive could be received in order to limit the total amount of money that an individual field or reservoir could receive under this program. Such limitation might be premised on the overall number of projects or on the number of projects with respect to an individual producer. We solicit your comments on this option.

D. We are considering what would be an appropriate definition of a tertiary project. Among the questions are whether the definition should include tertiary activity at a single site on a property-wide basis only, whether it should include tertiary activity which influences a contiguous producing area, and whether it should include tertiary activity by an individual producer that does not constitute a tertiary project by itself but is part of an overall plan. We welcome your views on the appropriate definition of a tertiary project and on the appropriate

definition of the extension of a tertiary project.

E. We intend to assist producers with certain high cost items related and peculiar to an EOR technique. These expenses may be generally classified as (1) the cost of injectants at the point of delivery to the project and prepared for injection; or (2) the intangible drilling costs of new wells or of wells converted from producers to injectors needed for the project; or (3) the costs of environmental protection equipment needed for the project. We do not intend to assist producers with normal operating costs.

Appendix B sets forth proposed recoupable expenses associated with EOR techniques for which self-certification would be permitted. We welcome your suggestions for additions to or deletions from this appendix and also as to the need for more specificity in describing these recoupable expenses. We also solicit your comments on the adequacy of a seventy-five percent rate of recoupment for these expenses and especially on the appropriateness of providing higher or lower rates of recoupment for specific expenses. We are especially interested as to whether any recoupment of expenses should be permitted for natural gas used as an injectant.

F. We are proposing that a producer not be permitted to recoup an expense prior to incurring that expense. An expense, however, could be viewed for these purposes as being incurred when a producer becomes liable, or when a producer actually makes payment or at some other point. We invite your comments on the point at which an expense should be considered incurred.

G. Expenses are proposed to be recoupable only to the extent that they represent the fair market value of an item and are incurred in an arm's-length transaction that confers no indirect benefit to any party in the transaction. We welcome your views concerning methods to insure compliance with this standard, especially in transactions between a producer and an entity affiliated with that producer or between a producer and a crude oil purchaser.

H. We welcome your comments as to how adjustments should be made if our audits of producers disclose violations. We also welcome your comments on the need for adjustments regarding producers that receive the proposed incentive with respect to a project that is subsequently abandoned.

I. We are also considering in this rulemaking an additional incentive for independent producers that initiate or expand tertiary projects alone or in conjunction only with other independent producers. Under this supplemental program, independent producers would be allowed to recoup expenses in excess of 20 million dollars. The additional recoupment might be limited, however, to 50 percent of the recoupable expenses. We have not determined whether production (e.g., less than 18,000 BPD), amount of assets, or lack of integrated operations (i.e., no crude oil pipelines, refineries or marketing facilities) should be the criteria for classification as an independent producer. We solicit your comments on this supplemental program. We also solicit your comments on whether this additional incentive should be extended to independent producers engaged in tertiary projects with non-independent producers.

J. We solicit comments generally on the proposed monthly reporting requirement, with particular regard to frequency of the filings and the necessity for certification by a certified public accountant. We currently intend to require the submission of an opinion by a certified public accountant attesting to the accuracy of the monthly consolidated reports with respect to a particular project. We solicit your comments as to what procedures and standards a certified public accountant should be required to abide with in preparing such an opinion. We also request your comments on the necessity for special reports on a particular project to be attested to by a certified public accountant.

As to the proposed annual report to the Office of Energy Technology, we believe that the information described in Appendix 1 is normally gathered in a well-run tertiary recovery project, so that the report would not increase the data gathering burden of the producer. We would welcome comments on the validity of this assumption and on any omissions or unnecessary items on the list. We are considering requiring abbreviated quarterly reports, in addition to the annual report, so that another producer contemplating a similar project could obtain this information more frequently. Any advantages of this quarterly report, however, must be weighed against the burden to the producer. We solicit your comments on whether these additional reports would be justified, or whether less frequent reporting, such as on a semi-annual or annual (as proposed) basis would be adequate. We also solicit your comments on the extent to which these reports, if made publicly available, could inappropriately disclose proprietary information of a producer.

K. Although we currently intend to permit a producer to charge market-clearing prices for tertiary incentive crude oil, we are considering a provision that would permit the Administrator of ERA to set an upper limit on the price that could be charged for such crude oil. We invite your views on the necessity for such a provision, and as to how such a provision could be structured.

L. We are proposing that tertiary incentive revenue be adjusted to reflect *ad valorem* and severance taxes. We request your comments concerning the need to adjust tertiary incentive revenue to reflect other taxes or royalty payments.

M. We welcome your views on the necessity for environmental review, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), of projects that qualify for tertiary incentive revenues, and whether it makes any difference how they qualify (i.e., through self-certification or through specific designation by ERA).

N. Finally, we welcome your comments on any required changes to the existing pricing rule for incremental tertiary crude oil to insure that that rule and the proposed pricing rule for tertiary incentive crude oil are consistent.

IV. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice of proposed rulemaking. All comments should be submitted by 4:30 p.m., e.s.t., May 30, 1979 to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Tertiary Incentive Crude Oil," Docket No. ERA-R-79——. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. Procedure for Request to Make Oral Presentation

The time and place for the hearing are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the

next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. If so, you should describe the interest concerned; if appropriate, state why you are a proper representative of a group or class of persons that has such an interest; and provide a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing. If you are selected to be heard at the hearing, we will notify you before 4:30 p.m., April 20, 1979. You will be required to bring 100 copies of your statement to Room 2214, 2000 M Street, N.W., Washington, D.C. 20461 by 4:30 p.m. on April 30, 1979.

2. Conduct of the Hearing

We reserve the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may also submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before April 27, 1979. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

V. Other Matters

As required by Section 7(a) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had the following comments on this proposal:

On the basis of our preliminary review, we believe that consideration should be given as to the types of site specific projects which may be subject to NEPA review and that an appropriate approach be developed to facilitate early application of the NEPA process. In addition, we are concerned that applicable environmental quality standards, particularly air quality standards, not be violated either directly or indirectly by the proposed regulation.

We would like to direct your attention to the EPA Office of Planning and Evaluation's final report of July 1976 entitled, "Potential Environmental Consequences of Tertiary Oil Recovery." The environmental considerations detailed in that report should form the basis of a site by site analysis of proposed tertiary oil recovery projects.

In accordance with Order No. 12044, on Improving Government Regulations (43 FR 12661, March 24, 1978) and the DOE Interim Management Directive Procedures for the Development and Analysis of Regulations, Standards, and Guidelines (43 FR 18634, May 1, 1978), we have prepared a preliminary regulatory analysis which examines the potential economic impact of these proposed regulations. Copies of the preliminary regulatory analysis may be obtained from ERA's Office of Public Information, Room B-210, 2000 M Street, N.W., Washington, D.C. You are invited to provide comments on the preliminary regulatory analysis at the same time you submit comments on the proposed rule. Such comments will be taken into account before the preparation of a final regulatory analysis on any final rule that may be adopted.

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91), we have referred this proposed rule, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction.

(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, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., March 22, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Section 211.66 is amended by revising paragraph (h)(5) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of August 1978, each refiner shall file with the ERA a report certifying the following information as to the second month prior to the month in which the report is filed:

* * * * *

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

* * * * *

2. Section 211.67 is amended by revising paragraphs (b)(2), (g)(2), (i)(4), and (l) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by refiners.* * * *

(2) To calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, paragraph

(b)(1) of this section and paragraph (c) of this section, each barrel of old oil shall be equal to one barrel of deemed old oil and each barrel of upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less the sum of 21 cents and such weighted average cost per barrel to refiners of upper tier crude oil, and the denominator of which is the entitlement price for that month.

* * * * *

(g) *Exchange of crude oil.* * * *

(2) Subject to the provisions of paragraph (g)(3) below, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), or any other domestic crude oil the first sale of which is exempt from the provisions of Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transaction is sold to another firm.

* * * * *

(i) *Issuance and transfer of entitlements.*

* * * * *

(4) The price at which entitlements shall be sold and purchased shall be fixed by the ERA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, less 21 cents, such costs to be equivalent to the delivered costs to the refinery.

* * * * *

(l) *Certification by non-refiners.* Within twenty-eight (28) days following each month, commencing with the month of January 1978, each firm other than a refiner that has delivered crude oil to a refiner for processing for the account of such firm pursuant to a processing agreement in that month shall certify to that refiner the respective volumes of and that firm's costs for old oil (separately identifying any California lower tier crude oil), upper tier crude oil (separately identifying any California upper tier crude oil), ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the crude oil so delivered to that refiner.

* * * * *

3. Section 212.73 is amended in paragraph (a) to read as follows:

§ 212.73 Lower tier ceiling price rule.

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil; except as provided in § 212.75 for certain crude oil produced from unitized properties; except as provided in § 212.78 for incremental crude oil produced from qualified tertiary enhanced recovery projects and for tertiary incentive crude oil; and except as provided in Subpart C of this Part for exempt crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

* * * * *

4. Section 212.78 is revised to read as follows:

§ 212.78 Incremental crude oil produced from qualified tertiary enhanced recovery projects and tertiary incentive crude oil.

(a) *Rule.* (1) *Incremental tertiary crude oil.* Notwithstanding the provisions of § 212.73(a), and subject to the procedures and limitations hereinafter provided in this section, first sales of incremental crude oil resulting from the implementation or expansion of a qualified tertiary enhanced recovery project are not subject to the ceiling price limitations of this subpart.

(2) *Tertiary incentive crude oil.* Notwithstanding the provisions of § 212.73(a), and subject to the procedures and limitations hereinafter provided in this section, first sales of crude oil by or for the behalf of a producer are not subject to the ceiling price limitations of this subpart, provided that the tertiary incentive revenue from such sales does not exceed the incurred recoupable expenses attributable to that producer.

(3) No domestic crude oil shall be eligible for pricing in accordance with paragraph (a)(1) of this section, unless the producer has obtained the required certifications pursuant to paragraph (d) of this section, and unless such crude oil is sold in accordance with the determinations and conditions of such certifications.

(b) *Applicability of subparagraph (a)(1) to existing tertiary enhanced recovery projects.* (1) Except as provided in paragraph (b)(2) of this section only crude oil which is produced from a qualified tertiary enhanced recovery project initiated after the effective date of this section and after receipt of the required certifications, or crude oil produced from a qualified expansion, initiated after the effective date of this section and after receipt of the required certifications, of a previously existing tertiary enhanced recovery project, may qualify for pricing in accordance with paragraph (a)(1) of this section. For purposes of this paragraph, a project or expansion is initiated at the time of the first expenditure or incurrence of a binding obligation for capital necessary for the project or expansion.

(2) Incremental crude oil produced from a tertiary enhanced recovery project, or expansion thereof, which was initiated prior to the effective date of this section or prior to receipt of the required certifications, may qualify for pricing in accordance with paragraph (a)(1) of this section only if:

(i) The producer affirms that he intends to discontinue the project (or the particular high-cost phase of the project) in the absence of permission to price production therefrom in accordance with paragraph (a)(1) of this section, because continuation of the project (or the particular high-cost phase) would be uneconomic at the otherwise applicable ceiling price;

(ii) There has been a material change of circumstances since the time that the project or expansion was initiated; and

(iii) The project is certified under the criteria and pursuant to the procedures provided in paragraph (d). For the purposes of determining eligibility for certification, an existing project shall be examined prospectively, on the basis of the circumstances existing

at the time such certification is sought.

(c) *Definitions.* For purposes of this section—

(1) A "qualified tertiary enhanced recovery project" is a project for the enhanced recovery of crude oil, to the extent that such project involves the application of one or more of the following techniques and is certified pursuant to paragraph (d) of this section as being uneconomical at the otherwise applicable ceiling prices:

(i) Miscible fluid displacement, i.e., an oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected gas or alcohol and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected gas may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide, nitrogen, or flue gas. Gas cycling, i.e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique within the meaning of this section.

(ii) Steam drive injection, i.e., the continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells).

(iii) Microemulsion, or micellar/emulsion, flooding, i.e., an augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control.

(iv) In situ combustion, i.e., combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells.

(v) Polymer augmented waterflooding, i.e., augmented waterflooding in which organic polymers are injected with the water to improve areal and vertical sweep efficiency.

(vi) Cyclic steam injection, i.e., the alternating injection of steam and production of oil with condensed steam from the same well or wells.

(vii) Alkaline (or "caustic") flooding i.e., an augmented waterflooding technique in which the water is made chemically basic as a result of the addition of alkali metals.

(viii) Carbon dioxide augmented waterflooding, i.e., injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency.

(ix) Immiscible carbon dioxide displacement, i.e., injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained.

(x) Specific variations of any of the above-listed general techniques as determined in any particular case by the certifying authority.

(2) "Certifying authority" means the Administrator, Economic Regulatory Administration, Department of Energy, or any officer of the Department of Energy to whom the Administrator has delegated such functions.

(3) "Incremental crude oil" (resulting from the implementation of a qualified tertiary enhanced recovery project) means, in the case of a new project, the amount of crude oil which is or will be produced as a result of such a project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production employed on the property prior to the receipt of the certifications provided for in paragraph (d) of this section. As applied to expansion of existing tertiary enhanced recovery projects, the term means the amount of crude oil which is or will be produced as a result of the expanded project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from the methods of production employed on the property prior to the receipt of the certifications provided for in paragraph (d) of this section. As applied to an existing project within the meaning of paragraph (b)(2) of this section, the term means the amount of crude oil which is or will be produced as a result of the continuation of the project or of the particular high-cost phase of the project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production (other than the tertiary method, or that phase of such method, that would be discontinued in the absence of the incentive) employed on the property prior to receipt of the certification provided for in paragraph (d) of this section. The actual amount of incremental crude oil in the case of any particular project shall be the amount produced from the property or project area during the period in question which is in excess of the amount of the non-incremental crude oil for that period as determined in the certification issued pursuant to paragraph (d) of this section; *provided*, that no incremental production shall be deemed to occur prior to the date established in such certification for the commencement of incremental production.

(4) "Incurred recoupable expenses" means, with respect to any particular tertiary project, seventy-five percent of the recoupable expenses for that project, up to twenty million dollars, provided that such expenses have been incurred and reported pursuant to paragraph (h) of this section. The assigned recoupable expenses of a particular project shall be attributable to the qualified producer(s) with respect to that project. Where there is more than one qualified producer, the qualified producers shall allocate these expenses among themselves in whatever manner they determine.

(5) "Qualified producer" means, with respect to a particular tertiary project, a producer that possesses an interest in the property on which the project is located and contributes to the initiation or expansion of the project, provided that the producer has complied with the requirements of paragraph (e) of this section.

(6) "Recoupable expense" means an expense listed as recoupable in Appendix B of this section or in a order issued pursuant to paragraph (e)(2) of this section.

(7) "Tertiary incentive revenue" means, in the case of first sales of crude oil pursuant to the provisions of paragraph (a)(2) of this section, the excess of the market-clearing price over the otherwise applicable ceiling price less any *ad valorem* or severance taxes attributable to this excess.

(d) *Certification requirements and procedures for incremental tertiary crude oil.* A producer desiring to initiate a tertiary enhanced recovery project, or to expand an existing project, shall obtain final certification that the project (or expansion) is a qualified tertiary enhanced recovery project within the meaning of paragraph (c) of this section, including a determination that the project would not be economic at the otherwise applicable ceiling prices, prior to charging pursuant to paragraph (a)(1) of this section any price in excess of the ceiling which would otherwise be applicable under any other provision of this subpart. In addition, such producer shall obtain final certification of the amount of incremental and non-incremental crude oil which will result from the implementation (or expansion) of such project, prior to charging any price in excess of the ceiling which would otherwise be applicable to such crude oil under any other provision of this subpart.

(1) *General procedures.* The producer shall submit a signed "Application for Certification of Tertiary Enhanced Recovery Project" to the certifying authority. The producer shall have the burden of establishing entitlement

to certification, and shall submit all data, required by these regulations or guidelines issued pursuant thereto or reasonably demanded by the certifying authority, necessary to enable the certifying authority to determine whether it can make the necessary findings and certifications. Except as otherwise provided in this section, the general procedures of Subpart G of Part 205 of this Chapter (§ 205.90 *et seq.*) shall apply to applications for certification submitted under this section.

(2) *Determinations to be made.* In determining whether and to what extent to certify a project, the certifying authority shall determine: (i) whether the project qualifies as a qualified tertiary enhanced recovery project within the meaning of paragraph (c); and (ii) the amount of incremental and non-incremental crude oil (as defined in paragraph (c)) which will result from such project. The amount of incremental and non-incremental crude oil shall be expressed in terms of both the total amount of incremental and non-incremental recovery over the life of the project (or such shorter period as the certifying authority determines to be appropriate) incremental and non-incremental production estimates, commencing with the time that the project is estimated to begin producing incremental crude oil. The certifying authority will not certify a project as a qualified tertiary enhanced recovery project unless it is determined that, under all the circumstances, the producer could not reasonably be expected to undertake (or expand or continue) the project in the absence of an ability to charge prices for the expected incremental crude oil in accordance with paragraph (a) of this section, because the project would not be economic under the otherwise applicable ceiling price. Except as otherwise provided in this section, the certifying authority may, in the course of making these determinations, further define the terms used in this section.

(3) *Conditions and limitations of certifications.* In addition to the conditions and limitations set forth elsewhere in this section, the certifying authority may, in its discretion and in connection with a grant of certification, prescribe such other conditions and limitations upon such certification as are consistent with the requirements of this section and are determined to be reasonably necessary, either to assure that the tertiary enhanced recovery incentive prices provided in this section are not being or will not be applied in a manner which would frustrate the purposes of this section, or to promote the effective administration of these provisions or of the tertiary enhanced recovery incentive program generally.

(4) Producer pricing obligations. A producer may charge the price permitted for incremental crude oil under paragraph (a) only after receipt of and strictly in accordance with the terms of a final certification. In particular, the producer may not treat any crude oil as incremental crude oil until the date established in the certification for the commencement of incremental production and until the amount of crude oil produced during a particular period exceeds the amount of non-incremental crude oil established for that period in the certification.

(5) *Revocation or modification of certifications.* A final certification shall be subject to revocation or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate: (i) if the producer does not obtain certification in good faith or implement the project in good faith; or (ii) if certification was given on the basis of a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or (iii) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which the certifying authority may prescribe pursuant to paragraph (d)(3) of this section.

(e) *Requirements for qualified producers with respect to tertiary incentive crude oil.* A producer shall not be considered a qualified producer with respect to a particular tertiary project unless the producer complies with the requirements of either subparagraph (e)(1) or (2) of this section.

(1) *Self-certification.* A producer and a nonaffiliated professional engineer shall certify to ERA by registered mail that the producer is engaged in the initiation or expansion of a tertiary project that employs an enhanced oil recovery technique listed in Appendix A to this section.

(2) *Designation by ERA.* A producer shall obtain a final order from ERA that designates it as a qualified producer engaged in the initiation or expansion of a tertiary project that would be an unattractive investment opportunity without the availability of tertiary incentive revenue pursuant to the provisions of paragraph (a)(2) of this section and that sets forth what expenses will be recoupable with respect to that project pursuant to the provisions of paragraph (a)(2) of this section.

(i) *General procedures.* The producer shall submit a signed "Application for Designation as Qualified Producer" to ERA. The producer shall have the burden of establishing entitlement to the designation and shall submit all data, required by these regulations or guidelines issued pursuant thereto or reasonably demanded by ERA, necessary to enable ERA to determine whether it can make the necessary findings. The general procedures of Subpart G of Part 205 of this Chapter (§ 205.90 *et seq.*) shall apply to applications for designation submitted under this section.

(ii) *Determinations to be made.* In determining whether and to what extent to designate a producer as a qualified producer with respect to a particular tertiary project, ERA shall determine: (A) whether the project would be undertaken without the availability of tertiary incentive revenue pursuant to the provisions of paragraph (a)(2) of this section; (B) whether the producer has an interest in the property on which the project is located and will contribute to the initiation or expansion of the project; and (C) the expenses associated with the project that can be recouped pursuant to the provisions of paragraph (a)(2) of this section.

(iii) *Conditions and limitations of designations.* In addition to the conditions and limitations set forth elsewhere in this section, ERA may, in its discretion, prescribe such other conditions and limitations upon such designation as are consistent with the requirements of this section are determined to be reasonably necessary, either to assure that the tertiary incentive revenues provided in this section are not being or will not be applied in a manner which would frustrate the purposes of this section, or to promote the effective administration of these provisions or of the tertiary incentive program generally.

(iv) *Revocation or modification of order.* A final order shall be subject to revocation or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate: (A) if the producer does not obtain the order in good faith or implement the project in good faith; or (B) if the order was issued on the basis of a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or (C) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which ERA may prescribe pursuant to paragraph (e)(2)(iii) of this section.

(f) *Additional procedures and criteria.* The ERA may from time to time publish, or otherwise make available to producers and the public, additional instructions or guidelines setting forth procedures to be followed and criteria to be applied in obtaining or making the determinations provided for in paragraphs (d) or (e) of this section;

provided, however, that such instructions or guidelines shall not be mandatory or binding upon the ERA or the certifying authority, and shall not create or enlarge any procedural or substantive rights against the ERA.

(g) *Base production control level adjustments; measurement of post-certification production.* Notwithstanding any other provision of this part, and except as otherwise prescribed by the certifying authority pursuant to paragraph (d)(3) of this section, a producer receiving certification shall adjust the base production control level for the property (including any unitized property for which a unit base production control level has been established) on which the tertiary enhanced recovery project is being implemented, and shall measure production from such property, as follows:

(1) *Projects involving an entire property.* Where the project is determined to involve or affect the entire property, upon commencement of the production of incremental crude oil (as determined in the certification) the property's base production control level shall be deemed to be the same proportion to the total amount of nonincremental crude oil (as such non-incremental crude oil is determined in the certification for the period concerned) as the amount of old crude oil produced from such property in the twelve-month period immediately preceding the month in which incremental crude oil production commences bears to total crude oil produced from that property during the same twelve-month period. The property's base production control level shall not thereafter be adjusted except as provided in the preceding sentence, i.e., except as the nonincremental crude oil production from the property (as determined in the certification) may vary from period to period.

(2) *Projects involving a portion of a property.* Where the project is determined to involve or affect only a portion of a property (including a unitized property for which a unit base production control level has been established), upon commencement of the production of incremental crude oil (as determined in the certification) the unaffected portion of the property shall receive the entire property's base production control level existing at the time incremental crude oil production commences. The amount of crude oil production to be credited against such base production control level shall be the sum of (i) the separately measured actual production from the unaffected portion of the property, plus (ii) the amount of non-incremental production (as established in the certification) for the project area for the period concerned (or the actual production from the project area for that period, if less than said non-incremental production). The base production control level may thereafter be adjusted as provided in § 212.76. It shall be a condition of any certification applying to only a portion of a property that the producer shall undertake to measure actual production from the affected portion and the unaffected portion separately, by such means as certifying authority may from time to time prescribe either at the time of certification or at any time thereafter.

(h) *Reporting requirements.* (1) By the close of each month, a qualified producer shall file a report in which the producer shall certify (i) the incurred recoupable expenses attributed to it during the previous month; (ii) the project from which each such expense as attributed; (iii) the cumulative total of incurred recoupable expenses attributed to it at the close of the previous month; (iv) the amount of tertiary incentive revenue received by it during the previous month; (v) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (vi) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property; (vii) the maximum lawful selling price(s) of crude oil from each such property absent the provisions of subparagraph (a)(2) of this section; (viii) the price at which tertiary incentive crude oil was actually sold at each such property; and (ix) the names of the purchasers of tertiary incentive crude oil. Copies of the certifications provided to purchasers of tertiary incentive crude oil under § 212.131 shall be attached to this report.

(2)(i) With respect to a particular project, the qualified producers therefor shall submit a consolidated monthly report in which they shall certify (A) the incurred recoupable expenses for the previous month and; (B) the amount of such incurred recoupable expenses attributable to each qualified producer.

(ii) By January 31 of each year the qualified producers with respect to a particular project shall submit an opinion by a certified public accountant attesting that nothing has come to its attention that causes it to believe that the reports with respect to that project submitted during the prior calendar year in accordance with paragraph (b)(2)(i) of this section are inaccurate.

(3) A producer shall file with the Office of Energy Technology an initial report on each project with respect to which the producer is a qualified producer and an annual report on the status of that project. The ERA shall publish guidelines setting forth the data to be included in such reports.

5. Appendix A is added to § 212.78 to read as follows:

APPENDIX A TO § 212.78—DEFINITION OF ENHANCED OIL RECOVERY TECHNIQUES FOR WHICH SELF-CERTIFICATION IS AVAILABLE

(1) Miscible fluid displacement means an oil displacement process in which gas or *alcohol is injected into an oil reservoir,* at pressure levels such that the injected gas or alcohol and reservoir oil are reasonably expected to be miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected fuel may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide or alcohol. The injected fluid must, with reasonable expectations, be more than 25 percent of the reservoir pore volume being served by the injection well or wells (in the case of gas injection), or more than 10 percent of the reservoir pore volume being served by the injection well or wells (in the case of alcohol injection).

(2) Steam drive injection means the continuous injection of at least 50 percent quality steam into one set of wells (injection wells) to effect oil displacement toward and production from a second set of wells (production wells). This applies only to steam drive projects with an average depth greater than 3000′ or steam drive projects which recover oil with a gravity less than 10°API or greater than 25°API.

(3) Microemulsion, or micellar/emulsion, flooding, technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, consurfactant, and electrolyte and water, and polymers for mobility control. The size of the micellar slug (not including the polymers) must be more, with reasonable expectations, than 10 percent of the reservoir pore volume being served by the injection well or wells.

(4) In situ combustion means combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells, provided that such combustion must be intended to continue until at least 15 percent of the reservoir volume being served by the injection well or wells has been burned.

6. Appendix B is added to § 212.78 to read as follows:

APPENDIX B TO § 212.78—RECOUPABLE EXPENSES

1. THERMAL—STEAM FLOODING

● The cost of pressured steam fossil fuel fired boilers plus any additives or

gases in conjunction with the steam flood as incurred by the operator or purchased from a third party. The cost of conventional fossil fuel fired boilers could be recouped only at the rate of depreciation as reported to the IRS.

● The cost of surface boilers not fueled by oil, gas, or coal or non-surface boilers (such as solar or down hole steam generators) could be recouped as obligations are incurred.

● Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

● Environmental protection expenditures including outlays for stack gas scrubbers, waste gas collection equipment and water disposal.

2. THERMAL—IN SITU COMBUSTION

● The costs of compressed air plus any injection of oxygen, steam or water in association with combustion, as incurred by the operator or as purchased at the project site from a third party. The cost of air compressors and prime movers used for air compression could be recouped only at the rate of depreciation as reported to the IRS.

● Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

● Environmental protection equipment and outlays, including waste gas collection and thermal sensors.

3. MISCIBLE FLUID FLOODING

● The costs of injected fluid and additives, as purchased at the project site from a third party or under "arms length" financial transactions by separate organizational entities within the same company. The cost of compressors and prime movers used for the compression of injection fluids could be recouped only at the rate of depreciation as reported to IRS.

● Intangible drilling costs, as defined and recognized by the Internal Revenue Service.

● Environmental protection equipment, including collection and separation of produced gas, expenses incurred in H_2S removal and disposal of waste water or gas.

4. CHEMICAL FLOODING

● The costs of the chemicals (including surfactants, polymers, alcohols, caustics, etc.) injected into the formation plus any fluids (e.g., water) used in association with the surfactant flood as incurred by the operator or as purchased by the operator from a third party.

● The costs of capital equipment used for mixing chemicals on the project site could be recouped only at the rate of depreciation as reported to the IRS.

● All intangible drilling costs, as defined and recognized by the Internal Revenue Service.

● Environmental protection equipment and outlays including chemical storage tanks, waste fluid disposal monitoring of chemical fluid injection vis a vis fresh water acquifers.

7. Section 212.131 is amended by revising paragraphs (a)(2)(i), (a)(3)(i), (a)(3)(ii), (a)(4), and (b)(1) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a)(1) *Stripper well properties.*

* * * * *

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline; and

(D) Incremental tertiary crude oil as determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(2)(i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; *provided, however,* that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

* * * * *

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API in such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any;

(D) Incremental tertiary crude oil determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78; and

(F) Imputed stripper well crude oil, if any, determined pursuant to § 212.75(b).

(ii) With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time written certification to the purchaser of—

(A) The monthly unit base production control level, determined pursuant to § 212.75(b);

(B) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(C) The number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(D) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); *provided, however,* that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

* * * * *

(4) *Other domestic crude oils the first sale of which is exempt from this part.* (i) With respect to each sale of crude oil exempt from the provisions of this part, other than crude oil produced from a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property that the first sale of crude oil produced and sold from that property is exempt from the provisions of this part.

(ii) For purposes of this paragraph (a)(4), domestic crude oil the first sale of which is exempt from the provisions of this part includes U.S.-owned petroleum sold by the Secretary of the Navy under the Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94-258); but domestic crude oil the first sale of which is exempt from this part does not include incremental tertiary crude oil or tertiary incentive crude oil determined pursuant to § 212.78.

* * * * *

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(ii) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil;

(v) Incremental tertiary crude oil;

(vi) Tertiary incentive crude oil; and

(vii) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

* * * * *

APPENDIX 1 TO NOTICE OF PROPOSED RULE MAKING

A. *Initial Report*

1. Name and address of producer (firm or individual)
2. Parent, subsidiary, unit operator
3. Parent company if subsidiary
4. Name, address, and working interest fraction of each working interest in project
5. Location of project: state, counties, field, reservoir (I.D. number if available), leases embraced in project (if fractional leases, describe boundaries precisely)

Include map(s) showing boundaries, existing producing, injection, service and inactive wells and proposed wells in each category.

6. Tertiary method(s) employed.
7. Reservoir characteristics
   - Oil gravity, (°API) ——
   - Oil saturation, (fraction) ——
   - Oil in place
     - Original oil in place (bbls) ——
     - Present oil in place (bbls) ——
   - Oil type
     - Paraffinic ——
     - Naphthenic ——
     - Asphaltic ——
   - Oil viscosity (cp) ——
   - Rock type
     - Sandstone ——
     - Carbonate ——
     - Coarse Clastic ——
     - Other (describe)
   - Depth (feet)
   - Thickness (feet)
   - Temperature (°F)
   - Permeability (md)
   - Free gas
     - Significant
     - insignificant
   - Wettability
     - oil wet
     - water wet
   - Dip
     - significant, degree, direction and
     - insignificant
   - Stratification
     - significant
     - insignificant
   - Salinity (% tds)
   - Consolidation
     - Friable
     - Indurated
   - Clay Swelling
     - Significant
     - Insignificant
   - Other significant reservoir characteristics: describe.
8. Laboratory Analysis
   - Certifying firm (producer) ——
   - Contract Lab —— (Name and address)
9. Project Characteristics (if applicable)

a. In-Situ Combustion Pilots
- Project area, (acres) ——
- Pattern
  - Line
  - Single
  - Multiple (describe)
- Pattern area (acres)
- Presock? (yes, no)
- Method:
  - Wet
  - dry

b. Steam flood and steam soak pilots or projects
- Project area (acres) ——
- Pattern
  - Line
  - Single
  - Multiple (describe)
- Presoak? (yes, no)
- Average operation BHP

c. Micellar-Polymer Pilots and Projects
- Project area (acres)
- Pattern
  - Line
  - Single
  - Multiple
- Preflush? (yes, no)
  - Agent
- Surfactant slug
  - Size
  - Concentration
- Mobility Buffer
  - Size
  - Polymer
  - Synthetic
  - Biologic

d. Miscible Gas
- Miscibility
  - Partial
  - Complete
- Project Area (acres)
- Pattern
  - Line
  - Single
  - Multiple
- Pattern area (acres)
- Slug (% PV)
- Drive fluid
  - Water
  - Other (describe)
- WAG (yes, no)

10. Planned project time schedule
- Laboratory analysis
- Field Pilot (same for Field Development)
  - Workover existing wells
  - Install surface tertiary equipment
  - Preflush
  - Injection
  - Initial incremental response
  - (preceding date of initial incremental response)

11. Project Costs
- Contract; (or inhouse) laboratory analysis
- Contract engineering
- Authorized surface installations
- Authorized downhole equipment
- Authorized drilling
- Injected fluids
  - Preflush
  - Injection
- Direct project supervision
- Direct project operation

Data (If Applicable)

a. Injectant Rate Per Well Per Day (Average/Month)
b. Steam Quality
c. Oil Rate Per Well Per Day (Average/Month)
d. Water Rate Per Well Per Day (Average/Month) Cumulative
e. Injection Volumes Per Well
f. Cumulative Oil Production Per Well
g. Cumulative Water Production Per Well
h. Average Oil Cut Per Well Per Month
i. Average Pressure Per Injection Well Per Month
j. Total Project Oil Rate
k. Total Project Water Rate
l. Total Project Injection Volumes
m. Cumulative Project Oil Produced
n. Cumulative Project Water Produced
o. Cumulative Project Injection Volumes
p. Fluid Being Injected
q. Quality Control of Injected Fluid
r. Number of Producers and Injectors

B. *Annual Report*

The Annual Report will include a narrative and applicable data on the following items:

Well Work
a. New Wells
b. Workovers
c. Remedial Work
Field Facilities
a. Injection Plant
b. Tank Battery
c. Distribution Systems
Injection and Production Status
Problem Areas
Special Testing
Produced Fluid Analysis (if available)
Produced Gas Analysis
Emulsion Treating
Corrosion
Special Tests:
a. Interwell Tracers
b. Injection Profiles
c. Transient Tests
d. Special Logs
Produced Water Handling
Project Economics
a. Development Costs
b. Facility Costs
c. Lease Operating Expenses
d. Compressor Facilities Expenses
e. Summary Project Economics

[FR Doc. 79-9614 Filed 3-28-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-SO-78]

PROPOSED ALTERATION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Victor Airway V-159 in the vicinity of Fort Lauderdale, Fla. The realignment of this airway would provide an alternate route for traffic between Fort Lauderdale and Vero Beach, Fla. The proposed airway alteration would reduce congestion in the Palm Beach, Fla., area.

DATES: Comments must be received on or before April 30, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-78, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 30, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notce may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

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

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign a segment of V-159 between Fort Lauderdale and Vero Beach, Fla. The realignment would provide more flexibility for traffic operations in the area and also reduce traffic congestion in the Palm Beach, Fla., area. This action would increase aviation safety, and reduce controller workload by providing a reliever route thereby improving traffic flow between Fort Lauderdale and Vero Beach. Subpart C of Part 71 was republished in the Federal Register on January 2, 1979, (44 FR 307).

The Proposed Amendment

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

In V-159: "From Miami, Fla., INT Miami 337° and Palm Beach, Fla., 222° radials; Palm Beach; INT Palm Beach 326° and Vero Beach, Fla., 178° radials; Vero Beach;" would be deleted and "From Fort Lauderdale, Fla., via Fort Lauderdale 339°T(339°M) and Vero Beach, Fla., 178°T(178°M) radials, Vero Beach;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on March 22, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-9567 Filed 3-28-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[EDR-373; PDR-64; PSDR-57; Docket 35119]

[14 CFR Parts 221, 302, 399]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS; RULES OF PRACTICE IN ECONOMIC PROCEEDINGS; STATEMENTS OF GENERAL POLICY

Change in Tariff Justification and Revision of Complaint Procedures

March 21, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Proposed Rule.

SUMMARY: The Board is proposing to extend the policies developed for the *Domestic Passenger-Fare Rulemaking* to the U.S. Mainland-Hawaii and Intra-Hawaii ratemaking entities. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within

specified zones. Fares within the zones ordinarily would not be suspended on grounds that they might be unreasonable. The zones would permit fare competition, while the maximums would protect against unwarranted fare increases where competition is an insufficient check. This proposal is consistent with the Board's pro-competition policies and the Airline Deregulation Act of 1978.

DATES: Comments due by: May 29, 1979. Reply Comments due by: June 19, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket 35119, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Steven K. McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-6064.

SUPPLEMENTAL INFORMATION:

I. Background

By Order 76-10-37, the Board in the *Hawaii Fares Investigation*, Docket 25474 (*Hawaii Fares*) determined that carriers in Mainland-Hawaii markets should have maximum flexibility to fashion discount fares so long as they are not unjustly discriminatory or predatory and normal-fare passengers would not have to pay more than the level needed to cover the costs of efficient, adequate service.[1] We also recognized the desirability of a differentiated normal-fare structure [2] and established a minimum relationship between first-class and second-class fares.[3]

Our findings and conclusions in *Hawaii Fares* presaged our recent adoption of policies for broad fare flexibility in the domestic ratemaking entity, *Domestic Passenger-Fare Rulemaking* (PS-80),[3a] which provide new standards for a more price competitive industry. Those policies (1) permit carriers to set fares within broad zones of reasonableness with a limited risk of suspension;[4] (2) replace uniform normal fares for all carriers and markets of equal distance with ceilings; (3) provide downward fare filing flexibility of 50 percent [5] from the ceiling and upward flexibility of 5 and 10 percent, depending upon the number of carriers authorized to serve a market;[6] and (4) eliminate the prescribed relationship between first-class and coach fares.[7]

Congress has since enacted the Airline Deregulation Act of 1978, Pub. L. 95-504, which provides zones of reasonableness with upward and downward flexibility based upon standard industry fare levels. Fares in the zones cannot be found unreasonable by the Board.[8] A downward zone of 50 percent, which became effective on enactment, allows decreases below the standard fare levels for interstate or overseas air transportation, while the upward zone of five percent, which becomes effective on July 1, 1979, allows increases above them. The amended Act provides a mechanism for updating the standard industry fare levels on not less than a semiannual basis [9] and expressly gives the Board power to increase the downward zones of reasonableness.[10] Congress also amended the "Rule of Ratemaking" in section 1002(e). These guidelines along with a new Declaration of Policy,[11] which they incorporate by reference, make clear the intent of the Congress that we rely more upon competitive market forces, actual and potential, in exercising our responsibilities under the Act.[12] Lastly, the Act contains sunset provisions that terminate our authority to regulate fares in interstate and overseas air transportation by January 1, 1983.[13]

As we progress from more to less regulation of fares, we intend to exercise our responsibilities in accordance with the mandate of the Act and, where warranted, to interpret its provisions liberally. It is timely that we implement its provisions in a workable manner so that the objectives of the Act can be reached in an orderly fashion. The policies we have already adopted favoring market forces, now vindicated by the Act, are a good beginning.

The policies we formulate must be consistent with the Act in that they must provide, at a minimum, the

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[1] Second-class fares were deemed reasonable if they did not exceed the fully allocated costs of second-class service, at a 62 percent load factor and DPFI seating configuration standards, plus allowances for peak-day surcharges and for dilution from the Hawaii Common Fares Agreement and from military and basic children's fares.

[2] We approved a continuation of differentials for the midweek-weekend fares and third-class fares.

[3] Implementation of this prescribed minimum relationship was stayed by Order 76-12-123, pending reconsideration of Order 76-10-37. On reconsideration, by Order 78-11-19, we rescinded that portion of Order 76-10-37 concerning first-class fares.

[3a] Amends Part 399—Statements of General Policy on Domestic Passenger-Fare Level, Structure, and Discount Fares, 43 FR 39522, September 5, 1978.

[4] Fares within a zone would not be subject to suspension on grounds or reasonableness unless a complainant could demonstrate that the injury to competition was greater than the injury to the traveling public from being deprived of lower fares during the period of suspension.

[5] Carriers have a downward fare filing flexibility of up to 70 percent on 40 percent of their weekly available seat miles.

[6] Specifically:

(1) In markets where four or more carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(2) In markets where two or three carriers are authorized to provide nonstop service either on an unrestricted or restricted basis, each carrier should have the opportunity to establish fares in a zone ranging up to five percent above the ceiling on 110 days throughout the year; and

(3) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to five percent above the ceiling on 58 days throughout the year.

[7] In addition to these policy changes, the Board modified its policies on the level and division of joint fares.

[8] Section 1002(d)(4). The Board still has authority to determine the reasonableness of increases filed on or after July 1, 1979, by monopoly carriers, defined under section 1002(d)(4)(A), and decreases that would be predatory under the proviso to 1002(d)(4)(B). We read sections 1002(d)(4)(A) and 1002(d)(4)(B) to also permit the suspension of such filings. All other fares set within the statutory zones would not be subject to suspension. *See* section 1002(g) which provides that the Board shall not suspend any proposed tariff unless the Board is empowered to find the proposed fare unjust or unreasonable *and* empowered to determine and prescribe the lawful, or maximum, or minimum fare. With regard to fares within the zones that are not subject to a finding of unreasonableness but may be unjustly discriminatory, unduly preferential, or unduly prejudicial, the Board retains jurisdiction to investigate, but not to suspend, such fares and determine their lawfulness. *See* sections 1002(d)(1) and 1002(d)(2). In any proceeding under section 1002(d)(1), applicable to the interstate and overseas air transportation of persons, the party opposing any fare on the basis that it is too low has the burden of proof.

[9] Section 1002(d)(6)(B).

[10] Section 1002(d)(7).

[11] Section 102(a).

[12] *See* introduction to Joint Explanatory Statement of the Committee of Conference, Conference Report on S. 2493, H. Rept. No. 95-1779, page 53; Congressional Record-House H12650, October 12, 1978.

[13] Section 1601(a)(2).

downward and upward fare flexibility provided by it. The Act provides for standard industry fare levels for each class of service existing on July 1, 1977, and established thereafter. Each class would have, from the date of enactment, a downward zone of reasonableness of 50 percent and, after July 1, 1979, an upward zone of five percent. Both the downward and upward zones would depend on each standard industry fare level. Some difficult choices confront us. At the very least, we have to define the term "standard industry fare level" because the description provided in the Act leaves room for differing interpretations. We must, for example, determine what the standard industry fare level is for a class of service having both peak and off-peak fares because the Act speaks of one level for each class of service, not levels. Moreover, the Act does not say which fare—peak, off-peak, or an average thereof—should be the "standard industry fare level" for a class of service. With regard to the zones of reasonableness provided in the Act for each class of service, one zone based on a standard industry fare level for second-class service can be designed to provide as much fare flexibility on the downside for both second and third-class fares as two zones based respectively on standard industry fare levels for each.[14] A downward zone keyed to second-class service with a floor 50 percent below the standard industry fare level for that class will give carriers the flexibility provided by the Act for second-class fares. For third-class fares, which are normally only a few dollars less than second-class (*e.g.*, $8.00 from West Coast gateways), the added downward flexibility afforded by our proposed zone of 70 percent on 40 percent of a carrier's available seat miles should provide more downward flexibility for most carriers offering third-class service than would the statutory zone of 50 percent applied to the standard industry fare level for third-class service. Some carriers, however, such as Continental, who rely heavily in Mainland-Hawaii markets on the third-class fare, may want more downward flexibility than the 70 percent/40 percent policy provides. In that case, the policy we propose would permit carriers to set fares below those minima, on the basis of such factors as individual costs or specialized marketing needs. Our proposed policy for downward fare flexibility is intended to provide as much as the Act provides for each class of service and then some. On the up side, we propose to let carriers set fares for any class, other than first class which we will discuss separately, above the standard industry fare levels described in the Act, provided the fares do not exceed the upward zones proposed for second-class fares. Those zones would be 10 percent in workably competitive markets and five percent in others, further limited by a specified number of days, except where the statutory criteria for determining the existence of a monopoly carrier would permit upward flexibility without restrictions on the number of days (see discussion, *infra*, of fare flexibility above the ceiling). Our proposal for upward flexibility would give carriers the latitude provided by the Act for each fare class on or after July 1, 1979—*i.e.*, five percent—at an earlier date and would permit more upward flexibility—*i.e.*, 10 percent—than the Act in markets which in our judgment are workably competitive. Our proposed policy for first-class fares, on the other hand, is to give carriers the freedom to set first class fares without limiting them to the statutory zones of reasonableness. This policy recognizes our recent determination in *Hawaii Fares* that first-class fares do not have to bear a fixed relationship to coach fares and parallels our policy for domestic first-class fares.

Because of their importance, we are setting forth our views in this notice on the relationship between Pub. L. 95-504 and our general powers to regulate fares. The new Act does not diminish our powers to regulate fares outside of the statutory zones of resonableness, nor does the legislative history reveal an intent on the part of Congress to do so. The Act restricts the powers of the Board to disapprove fares inside of specified zones:

1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if (increases or decreases are within the specified zones). . . .

This language affects our powers to regulate inside of the statutory zones.[15] We do not intend to reduce the size of the zones specified by Congress, and our proposal is in no way designed to do this. What it does provide for is a gradual expansion of those zones both downward and upward, consistent with the Act as amended.

Congress enacted the provisions on fares in Pub. L. 95-504 to gradually replace our responsibilities to regulate fares. The zones defined in the Act are there because Congress, fully aware of the Board's recent actions giving carriers more pricing freedom, wanted to keep our policies from sliding back to the more restrictive ones of the past and to minimize risks from legal challenges to the innovations.[16] Congress has recognized our authority to approve lower fares, without statutorily imposed zones.[17] On fare increases, Congress understandably held more reservations than on downward flexibility, but they did not take away the Board's powers to approve fares above the statutory zones,[18] even though section 1002(d)(7) expressly authorizes the Board to increase the zone for fare decreases but does not mention increases.

We must conclude that Congress has preserved to us the power to determine the reasonableness of fares outside of the statutory zones including the power to establish policies giving to carriers the opportunities and to the public the safeguards similar to those encompassed by the zones. Whether and how we exercise that power is the subject of the remainder of this rulemaking.

II. The Board's Proposal

A. Introduction

We propose to give carriers serving Mainland-Hawaii and Intra-Hawaii markets downward and upward pricing freedom beyond the statutory zone for fares which are not unjustly discriminatory, unduly preferential and prejudicial, or predatory. Within specified zones, fares would not be subject to suspension unless a strong showing were made that they would ultimately be found predatory. The standard or ceiling fares upon which downward and upward flexibility are based should cover the levels of average costs of normal-fared traffic. We would permit carriers to charge fares up to 10 percent above and down to 70 percent below these standard fare

[14] In PS-80, we adopted a zone of limited suspension with one ceiling fare level and one zone covering all fares of any class. The ceilings were coach-class fares; first-class fares were not subjected to ceilings.

[15] How we exercise those powers will, of course, reflect the amended "Rule of Ratemaking" and Declaration of Policy in the Act.

[16] Comments of Senator Cannon during floor discussion of S. 2493, Congressional Record-Senate S5850, April 19, 1978; Representative Anderson (Calif.) in Committee of the Whole on H.R. 12611, Congressional Record-House H9842, September 14, 1978; Representative Johnson (Calif.) in Committee of the Whole on H.R. 12611, Congressional Record-House H9844, September 14, 1978.

[17] Representative Levitas in Committee of the Whole on H.R. 12611 stated that "much of what needs to be done to improve the regulatory system could be done under inherent powers of the Civil Aeronautics Board in existing law," Congressional Record-House H9845, September 14, 1978; Representative Ertel in Committee of the Whole on H.R. 12611 commented that there was a need for legislation "to catch up with the CAB," Congressional Record-House H9846, September 14, 1978.

[18] *See* Comments of Senators Magnuson and Stevenson, respectively, during floor discussion on S. 2493, Congressional Record-Senate S5859 and 5898, April 19, 1978.

levels in certain markets. Adjustments to the standard fare levels would be made on the basis of the periodic percentage change in the actual operating cost per available seat mile for all interstate and overseas ratemaking entities combined.

We discuss the tentative conclusions below. In arriving at them, we have given full consideration to the Airline Deregulation Act of 1978, the *Domestic Passenger-Fare Rulemaking*, and our existing policies established in the *Hawaii Fares* case. The proposed rule is consistent with the provisions of the new Act. Where the Act restricts our powers to suspend or find fares unreasonable, we will observe those limitations. On the other hand, the Act preserves our powers to determine the reasonableness of fares outside of the statutory zones of reasonableness, and, in keeping with our own policies to give carriers more fare freedom, we propose to expand the zones both upward and downward.

B. CEILING FARES

We propose that the ceilings be the (a) second-class fares for the Mainland-Hawaii markets determined on the basis of a standard industry fare level and (b) first-class fares for Intra-Hawaii markets.

1. *Standard Industry Fare Level for Mainland-Hawaii Markets.* In the Mainland-Hawaii markets, second-class fares are normal fares, with first-class and third-class fares, respectively, set above and below. These classes are augmented by a variety of discount or promotional fares. As we pointed out previously, we are tentatively inclined to adopt second-class fares as the standard industry fare level for all classes inferior to them,[19] and this would include third-class fares.

We again stress that our policies will protect the maximum flexibility of the statutory zones—*e.g.*, for third-class fares—but, in addition, will afford more flexibility for lowering second-class fares, discount fares, and off-peak fares than would the statutory zones. Moreover, simplifying the downward zone concept in this way will permit carriers to file fares below the standard industry fare level without "reaching" to classify them as falling within one class or another. We believe our proposal is consistent with the Act.

We come to the question of what the standard industry fare level should be for second-class service. The Act describes the term "standard industry fare level" as follows:

* * * "standard industry fare level" means the fare level (as adjusted only in accordance with subparagraphs (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977. * * * [Section 1002(d)(6)(A)]

This description leaves us some discretion to decide and does not prescribe what the standand industry fare level is for the Mainland-Hawaii entity.

At the threshold, we are confronted with the problem of determining what the standard industry fare level is for second-class fares in this entity, a class of service which traditionally has consisted of two tiers of fares in these markets.[20] Here second-class fares in effect on July 1, 1977, the reference date in section 1002(d)(6)(A), were set at two fares, peak and offpeak. For example, the second-class peak fare between Los Angeles and Honolulu was $145, whereas the off-peak fare was $129. The differential between these day-of-week peak/off-peak fares was $15, a common standard in all of the markets. This seeming dilemma is more apparent than real. The generally accepted connotation of the term "fare level" as well as the legislative history of section 1002(d)(6) suggest that the term "standard industry fare level" can have a meaning other than "fares in effect." The term "fare level" is often used to describe a fare which will cover the average costs of operations, and there are comments in the legislative history of P.L.95-504 which incorporate this meaning.[21] On the other hand, the fares in effect and the fare level may be the same—*e.g.*, the domestic 48-state coach fares in the summer of 1977 were generally set according to the Board's industrywide *DPFI* fare formula. The terms, nevertheless, do not necessarily mean the same thing.[22]

For purposes of this rulemaking, we have looked at to approaches to establishing a standard industry fare level related to second-class fares. One approach would use the peak fares in effect on July 1, 1977, as the base for a standard industry fare level. The other would estimate the average costs for second-class services during Calendar Year 1977 and, from that base, extrapolate a standard industry fare level. Our preference, tentatively, for a standard industry fare level is one based on the peak second-class fares in effect on July 1, 1977. While this approach produces ceilings which are higher than those based on average costs,[23] it comes closer to meeting the objectives of Pub. L. 95-504 which are, in essence, to let the marketplace function with less regulatory interference.

A standard industry fare level based on peak fares will, as a result of its derivation, cover the average costs of both peak and off-peak services. The peak typifies that fare charged when passenger demand is greatest and capacity is at its peak. The off-peak fares, on the other hand, are lower, and because they are lower, may be used by travellers who would otherwise travel on weekends or not at all. Under our proposal, the average fare charged second-class passengers (*i.e.*, the weighted average yield for both peak and off-peak traffic) should closely approximate the average costs (*i.e.*, long-run marginal costs), if the competitive forces of the marketplace are allowed to function relatively free from regulatory constraints. The presence of multi-carrier service in many of the Mainland gateway-Hawaii markets affords a check on increases within the zones capped by the proposed ceilings and holds promise for lower fares through competitive pricing.[24] Using the peak second-class fares as the base for standard industry fare levels will give carriers more upward flexibility to make peak/off-peak fare adustments than would the average cost approach which produces a lower ceiling.[25] A standard industry fare level

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[19] First-class fares are covered by a separate policy, discussed *infra*.

[20] Section 1002(d) speaks of "the standard industry fare level for the same or essentially similar class of service." For second-class peak/off-peak fares in these markets, the class of service is the same, only the fares differ depending on the day of travel. Tiers of fares for the same class of service are not unique. Third-class fares in the Mainland-Hawaii markets have peaks and off-peaks; in the Mainland-Puerto Rico markets, some fares have up to three tires, depending upon the season and day of the week. For the Mainland-Hawaii markets, the origins of the peak/off-peak pricing concept are summarized in the Initial Decision in *U.S. Mainland-Hawaii Fares Case*, Docket 22364, pp. 32-36.

[21] *See* comments of Senator Magnuson during debate on S. 2493, comparing S. 689 which used the term "fares in effect" and S. 2493 which used "standard industry fare level," Congressional Record-Senate S. 5859, April 19, 1978. Also, *see* discussion of the *DPFI* fare formula in the Committee Report on S. 2493, Report No. 95-631 at p. 101.

[22] S. 689 and H.R. 12611, bills which were considered before S. 2493, both contained the language "fares in effect" rather than "standard industry fare level" to describe the base from which upward and downward fare flexibility would extend. It is doubtful that Congress in adopting "standard industry fare level" to supplant the term "fares in effect" intended that they be synonymous.

[23] *See* Appendix A for fare comparisons. The increments between the standard industry fare levels based on the peak fares and on average costs vary from $3 (shorter-haul markets) to $30 (longer-haul markets).

[24] Most of the west coast gateway-Honolulu markets are served by at least four carriers. In other mainland gateways, applicants have filed for additional authority, and those await Board action.

[25] *See* Appendix A for a comparison of the different ceilings.

based on peak fares permits carriers to maintain, if they choose, the existing $15 differential between peak and off-peak fares and, in addition, provides an environment in which carriers have more discretion to experiment with price differentials and depart from the uniform applications in effect.[26]

In arriving at our tentative conclusion that the standared industry fare level should be based on peak fares, we have followed the revised Declaration of Policy [27] and Rule of Ratemaking [28] in the Airline Deregulation Act of 1978. These guidelines emphasize reliance on competitive market forces to provide low prices, and to determine the variety, quality, and price of air transportation services.[29] They, moreover, stress the desirability of, first, a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service [30] and, second, allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.[31] In a ratemaking entity where existing route authorizations provide a competitive market structure, a standard industry fare level based on peak fares is more in keeping with the letter and spirit of these provisions than is the relatively lower basis of average costs.[32]

Our proposed ceiling would permit carriers to leave in place existing fares, both peak and off-peak, if they choose. For example, in the Honolulu-Los Angeles market, the standard industry fare level, projected to February 1979, would be $161 (*see* Appendix A). The current peak fare in that market is $156, while the off-peak fare is $141. Our proposed policy would also give carriers serving this market an additional ten percent upward fare flexibility on top of the standard industry fare level (*see* discussion, *infra*) because it is a market where at least four carriers are authorized to serve. By contrast, a ceiling based upon average costs would produce a maximum fare of $148 (*see* Appendix A), well below the existing peak fare of $156 in this market. In other markets, such as Dallas, which have less than four carriers authorized to serve them, a standard industry fare level based upon average costs ($218) would not come close to covering the existing peak fare ($231) and, even with the additional five percent upward fare flexibility afforded by our proposed policy in such markets ($229), would still not reach the peak fare.[33]

Encouragement of new entry has been mandated by Congress as being in the public interest [see section 102(10) of the Act], and this statutory policy should be observed in our formulation of ratemaking policies. The less restrictive policy of basing the ceilings on the peak fares should provide more of an incentive for new entry in the Mainland-Hawaii markets than would the more restrictive ceilings based on average costs. The overall goals of the statute will be better served by further entry, rather than rate regulation. We do not expect fares to be increased precipitiously as a result. In the first place, fares in this entity have conventionally lagged behind the maximum permitted by our existing fare policies, and current peak fares are below the maxima permitted under the proposed policy based on the update of costs required by the Act. Next, in the workably competitive west coast-Hawaii markets, such as Los Angeles-Honolulu, the average second-class fare just about equals the average cost of that class. See Appendixes A and D where the average cost-based fare for the market is $148.38 and the average mean fare is $148.50. This relationship contrasts with that in markets where competition has not been as workable. In all markets—west coast/interior gateways/other internal points-Hawaii—we can expect significant entry in the near future. In fact, the threat of new entry is there. Eight carriers have filed applications to serve the west coast gateways Los Angeles/San Francisco-Honolulu; [34] four have filed to serve Portland/Seattle-Honolulu; [35] and six have filed to serve San Diego-Honolulu.[36] For gateway service from interior points, such as Chicago, Denver, Kansas City, and St. Louis, applications are pending with up to six carriers waiting on authority for the Kansas City/St. Louis-Honolulu markets. For other internal points-Hawaii markets, the influx of new entrants into transcontinental and shorter-haul markets with the promise of lower domestic fares will operate to keep a check on increases in through fares to Hawaii. *see, e.g., Transcontinental Low-Fare Route Proceeding*, Order 79-1-75, and applications of several carriers for Dallas/Ft. Worth-Los Angeles authority. In light of these factors, our ratemaking policies should be designed to facilitate the continuation and growth of competition in this entity.

With regard to using a standard industry fare level based on the average costs of peak and off-peak second-class service, we have developed an average cost for Calendar Year 1977 using the methodology applied by the Board in *Hawaii Fares, supra.*[37] In that proceeding, the Board estimated an average fare-per-mile for second-class service which, when increased or decreased by half the differential between peak and off-peak fares, produced fares that would cover the total cost of second-class service, peak and off-peak. Those peak and off-peak fare estimates were then used to determine the reasonableness of existing fares. The standard industry fare levels resulting from this average cost methodology are less adaptable to serve as ceilings on the fare zones proposed than are the peak fares. For example, a ceiling based upon an average of the costs of both peak and off-peak operations will, by definition, be lower than existing peak fares; therefore, carriers may have an incentive to make changes in the fares that will tend toward narrowing the differential or, ultimately, eliminating it. This outcome would not benefit consumers who now have a choice between peak and off-peak fares (and the relative convenience of service) and could eventually destroy the favorable cost advantages of a differentiated fare structure.[38] At the same time, a ceiling

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[26] Today, the peak/off-peak fare differentials are $15 in all markets. Among other things, they ignore differences between markets such as length of haul. *See* Appendix A.

[27] Section 102(a).

[28] Section 1002(e).

[29] *See* Sections 102(a)(4) and 102(a)(9).

[30] Section 1002(e)(4).

[31] Section 1002(e)(5).

[32] The Senate Committee on Commerce, Science, and Transportation in its Report on S. 2493, Report No. 95-631, said:

* * * the proposed Reform Act amends subsection 1002(e) of the Federal Aviation Act governing the standards the Board uses in exercising its pricing powers so as to specifically require the Board to give strong weight to the desirability of increased pricing and service options, including off-peak pricing, and the desirability of allowing each air carrier to determine prices in response to its own costs and the competitive market conditions of the route it serves. * * * (page 108)

Moreover, the Act specifically charges the Board to expand the availability of off-peak fares to greater periods. In order to encourage such expansion, we must consider the opportunity for higher peak fares. *See* section 1002(d)(6)(C).

[33] In the long-haul New York-Honolulu market, a ceiling based upon average costs ($287) does not even cover the current off-peak fare ($290).

[34] Aeroamerica (Dockets 33633, 34532), American (32291), Braniff (33600), Hawaiian (33309), Northwest (32384), Trans International (33541), Trans World (32260), and World (33403).

[35] Aeroamerica (Docket 33633), Braniff (33553), Hawaiian (33557), and United (33566).

[36] Aeroamerica (Dockets 33633, 34532), American (34062), Braniff (33600), Hawaiian (33309), Trans International (33541), and World (33403).

[37] Order 76-10-37, Appendix 2.

[38] An objective of peak/off-peak pricing is to bring prices more in line with true economic costs, and the consequent improvement in the efficiency with which the factors of production are used should lower the average cost of service below what it would be absent a price differential.

based on average costs would tend to retain the relationship between fares and costs produced by the historical peak/off-peak prices. It is reasonable to assume that the current $15 fare differential and the related positions of the peak and off-peak fares have influenced the level of average costs and that those costs are lower than they would be without the differential. It would be presumptuous to conclude, however, that the average cost based on the historical fares and their differentials represents an optimum that should serve as the touchstone of fare policy. Experience in markets where fares have not been regulated reveals that fares (and the related costs of service) have been significantly lower as a result of greater freedom on the part of each carrier to set peak/off-peak fares in relation to its own perceptions.[39]

It is obvious that standard industry fare levels based on peak fares will provide carriers with an environment in which they can maintain and expand the existing peak/off-peak concept. There is no reason to believe that ceilings based on peak fares will open the gates to a flood of fare increases. They will, however, do more to assure the continuation of peak/off-peak fares and encourage innovations.

2. *Standard Industry Fare Level for Intra-Hawaii Markets.* For the Intra-Hawaii markets, first-class fares will be the basis for determining a standard industry fare level. First-class fares are a standard fare in this entity, and the ceiling can be related to them. A comparison of Intra-Hawaii fares and the standard industry fare levels is shown on Appendix A. In this instance, we are tentatively adopting fares in effect on July 1, 1977, as the base for standard industry fare level. As we stated previously, actual fares may, where warranted, serve as the standard industry fare level, but they are not prescribed by the Act. If the standard industry fare levels, updated for anticipatory costs, are below the existing fares, the latter could remain in effect even if they exceed the upward zones of reasonableness proposed in this rulemaking.

C. FARE FLEXIBILITY ABOVE THE CEILING

We propose to extend the upward fare flexibility provided by our domestic fare policies to the Mainland-Hawaii and Intra-Hawaii markets, as long as those policies do not reduce the opportunity to increase fares afforeded by P. L. 95-504. Our domestic policy for fares above the ceiling gives carriers the opportunity to set fares five percent above the ceiling on 58 days annually in monopoly markets, five percent above the ceiling on 110 days annually in two and three carrier markets,[40] and ten percent above the ceiling in four or more carrier markets. The Airline Deregulation Act of 1978 provides for fare increases up to five percent above standard industry fare levels on or after July 1, 1979:

1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be upjust or unreasonable on the basis that such fare is too low or too high if—

(A) With respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides are transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory. * * *

Congress has thus recognized a need for some margin of carrier discretion above industry ceilings, and we must provide that margin of discretionary pricing opportunity to airline management by July 1, 1979. Nevertheless, as we discussed earlier, the Act does not prohibit our adoption now of no-suspend zones above the ceilings. Although our proposed policy involves judgment in many respects, any policy by definition has to look forward, instead of backward, and experimentation accompanied by adequate safeguards is, of necessity, inherent in policymaking. For purposes of some fare freedom above the ceilings proposed, we would permit increases up to ten percent in markets with at least four carriers authorized to serve them. These should be workably competitive—capable of generating their own check on uneconomic price increases. A more limited zone of five percent would apply to markets with fewer carriers. In view of the impending five percent upward flexibility above standard industry fare levels permitted by the Act on or after July 1, 1979, we see little reason not to go ahead and provide it now in all markets with less than four carriers, except monopoly markets. Carriers in monopoly markets—defined in PS-80 as one carrier markets and in section 1002(d)(4)(A) as any pair of points between which any carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points[41]—would have the opportunity to set fares up to five percent above the ceiling on 58 days throughout the year.

The zones we propose are in accordance with the purpose of the amendments to the Act and are lawful, even though they do exceed the zones specified in the Act. For some time now, carriers serving Hawaii have sought discretion to implement a seasonal peak/off-peak pricing differential tailored to the individual characteristics of each market and carrier. Our proposal would, if adopted, open the way for implementation of such programs, particularly in markets served by four or more carriers where each would have upward discretion of ten percent. Travelers in these markets should ultimately benefit from the favorable influence such differentials have on average unit costs and availability of seats during peak seasons. When passengers shift form peak to off-peak seasons, carriers can adjust schedules so that fewer peak season flights are needed. In this way, less peak season capacity (which may not be fully used off-peak) need be purchased by the carrier and paid for by the traveler. At the same time, those shifts in demand reduce peak season queues by leveling demand between seasons. Limited pricing freedom above the ceiling can also reduce degradation of service availability on demand which we have acknowledged in the past is a risk of policies that encourage traffic-generating low fares. We expect carriers to use this upward discretion responsibly. If not, then we can always reevaluate our policy.[42]

D. FARE FLEXIBILITY BELOW THE CEILING

We have tentatively concluded that a downward zone comparable to the

[39] *See* Report of the Senate Committee on Commerce, Science, and Transportation on S.2493, Report No. 95-631, p. 103.

[40] In these markets, we would propose to here permit upward flexibility without a limitation on the number of days.

[41] Whenever the statutory definition of monopoly conflicts with our own, we believe it reasonable and consistent with the purposes of the Act to allow whichever definition to control that gives the carrier more upward flexibility. For example, if a carrier in a market served by two to three carriers provided transportation to 70 percent or more passengers in the market, the carrier would have the five percent upward flexibility provided by our proposed rule.

[42] Our proposed upward flexiblity goes only to the exercise of suspension powers. Unitl the summer of 1979, we still have the power to find any fare increase of fare above the standard industry fare level to be unreasonable. After that date, we would no longer have the power to either suspend fares in the statutory upward zone or find them unreasonable.

one we adopted in the *Domestic Passenger-Fare Rulemaking* should be superimposed on the statutory zones. The results should satisfy both the requirements of the Act and the need for an administratively workable, effective zone of reasonableness. Unlike P. L. 95-504 which specifies a downward zone for each class of service, our proposal would apply to all fares:

Each carrier [43] should have the opportunity to set fares in each market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the ceiling. Fares within these zones will not be suspended by the Board absent the following extraordinary circumstances:

(1) The high probability that the fare would be found to be unlawful after investigation;

(2) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable hare to competition if it were allowed to go into effect;

(3) The harm to competition would be greater than the injury to the travelling public if the proposed fare were available; and

(4) The suspension is in the public interest.

Carriers should be free to set market fares below these minimums on the basis of such factors as their individual costs or specialized marketing needs, unless the level of the proposed fare reductions will result in an inability of the carrier in the market to provide adequate service to the public or the fares are otherwise unlawful.

This would permit carriers to leave existing fares in place or to change them if they choose to do so, in the absence of a substantial likelihood that the fare would be found predatory.

A primary goal of proponents of less regulation has been a system that permits fare decreases to become effective quickly without risk of suspension. In *Hawii Fares,* we adopted a policy which permits discount fares provided they are not predatory or unjustly discriminatory. We continued, though, to require full justification for such fares. In PS-80, we put into effect a "no suspend" policy which gives carriers the opportunity to set fares in a wide zone relatively free from the risks of suspension. The reasonableness of fare decreases, with the exception of those which are predatory, is no longer justiciable under the zones specified in P.L. 95-504. As a matter of law, we cannot suspend or determine a fare decrease unreasonable as long as it falls within the statutory zones.

Section 1002(d)(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low * * * if * * *

* * * * *

(B) with respect to any proposed decrease filed after the date of enactment of this paragraph, the proposed fare would not be more than 50 per centum lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory. * * * [44]

This provision moves us beyond the "no suspend" zone concept of PS-80 to a zone of lawfulness, where airline management may make pricing decisions with little risk of reversal.

There is, however, no permanence in the downward zone of 50 percent. Congress has, in fact, recognized the role of judgment here by authorizing the Board to increase that percentage by rule.[45] We are concerned that the zones be broad enough to encourage new types of fares and service, which may not fit the mold of conventional fare classes.[46] Instead of multiple zones, we believe that one zone, applicable to all fares, can be implemented as readily and administered more effectively.[47] It is not our intention to require changes in existing fares through implementation of the proposed downward zone nor to inhibit subsequent fare filings if they meet the statutory standards. We ask that commenters explore this aspect of our proposed policies thoroughly.

E. FIRST-CLASS FARES

Existing first-class fares in the Mainland-Hawaii entity are generally below the statutory maxima and, in all likelihood, will remain there;[48] nevertheless, we have tentatively decided not to impose any zones of reasonableness at this time on first-class fares. First-class fares in those markets are currently free from restraints on the down side (see Order 78-11-19) and, in keeping with our policy in PS-80, we would not impose a ceiling on first-class fares. As a result, carriers are free to set first-class fares in the Mainland-Hawaii markets.

In the Intra-Hawaii markets, however, first-class fares are a standard fare and should be provided upward flexibility similar to what we are providing other fare classes. Standard first-class fare levels for those markets are shown in Appendix A. In addition, we would permit them the upward fare flexibility afforded by our policies for other fares.

III. Adjustment of the Fare Ceiling

We propose to utilize a methodology for updating the fare ceilings that will be based on changes in costs for the combined ratemaking entities [49] unadjusted for load-factor, seating, utilization, depreciation, and discount fare standards. This comports with our interpretation of the following language in section 1002(d)(6):

(6)(A) For purposes of paragraph (4) of this section, "standard industry fare level" means the fare level (as adjust-

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[43] Monopoly carriers as defined in section 1002(d)(4)(A) of the Act are included under this policy.

[44] After July 1, 1979, fare increases, as well as fare decreases, will not be subject to suspension. See section 1002(d)(4)(A) and note 8, *supra.*

[45] Section 1002(d)(7) states: "The Board may by rule increase the percentage specified in paragraph (4)(B) of this subsection."

[46] The Rule of Ratemaking requires us to consider the desirability of innovative services and prices:

Section 1002(e) In exercising and performing its powers and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

(1) The criteria set forth in section 102 of this Act; (2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service; (3) the effect of prices upon the movement of traffic; (4) *the desirability of a variety of price and service options such as peak and off-peak pricing mechanisms to improve economic efficiency and provide low-cost air service; and* (5) *the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs* * * * (emphasis added)

And the Declaration of Policy states:

Section 102(a) in the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity * * *

(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality and price of air transportation services * * *

[47] See Appendix C for a comparison of existing fares with the floor under a 50 percent zone. From the carriers' standpoint, one zone should facilitate their decisions on prices because they would then not have to decide which class the contemplated fare was like in order to comply with the downward floor standard.

[48] See Appendix A for representative fares and standard industry fare levels.

[49] The 50 states including the domestic 48 states, Mainland-Hawaii, and Mainland-Alaska are used without Mainland-Puerto Rico/Virgin Islands and South Pacific entities. The latter are not reported separately on the Form 41 and allocations would have to be made in order to remove expenses and traffic related to foreign air transportation.

ed only in accordance with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977. (B) *The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.* * * *
(Emphasis added)

The Act clearly changes our conventional method for updating fare level. In the past, we adjusted operating costs to a hypothetical norm, which reflected ratemaking standards for load factor, seating, aircraft utilization, depreciation, and discount fares. The elimination of these from our periodic updates of fare level is, in and of itself, a significant change. We read P.L. 95-504, moreover, to exclude from consideration an allowance for ratemaking return on investment and income tax standards.

Details of the method we have employed are shown in Appendix B. It should be noted that, in determining actual cost per available seat-mile, we did not include costs attributable to traffic other than passengers in scheduled service. For example, we did not include costs related to non-scheduled operations and all-cargo service, and we have offset the revenues from belly-cargo transported on passenger-cargo combination aircraft in order to estimate seat-mile costs. The difference is 6.61 percent. We have also projected costs through February 1979, a midpoint for our semiannual update in fare level.[50] The method used to obtain this percentage change will be used subsequently to adjust ceilings for the Mainland-Hawaii and Intra-Hawaii fares. We encourage comments on the methodology.

IV. Procedures For Fare Filing

In the *Domestic Passenger-Fare Rulemaking*, we also amended our economic and procedural regulations in order to (a) relieve the proponent of a fare within the zones from having to justify the fare initially and (b) provide complainants an opportunity to reply to a justification filed in answer to a complaint. Those modifications should also apply here. We propose to modify section 221.165 of the Board's Economic Regulations so that the requirement of economic data with fare filings no longer applies to fares within the proposed zones. We also propose to amend section 302.505 of our Rules of Procedure in order to give complainants an opportunity to reply to answers filed in justification of fares filed within the zones. Any modifications in tariff notice requirements brought about by the amendments to section 403(c) of the Act will be determined separately.[51]

V. Environment

We find and conclude that our proposal is not a major federal action significantly affecting the environment. No appreciable increase in operations is expected to result from implementation of the proposed policy. Relatively low fares and high load factors already exist in the markets at issue. The Board's staff, in its environmental assessment for the earlier fare rulemaking covering the 48 states (PS-80), concluded that allowing carriers the flexibility to engage in price competition would shift emphasis away from service competition to the former. Since efficiency gains are expected to accompany a system encouraging price competition, these gains may be passed on to the consumer in the form of lower fares. As a result, fare reductions (depending on the relevant price elasticity of demand) will generate traffic and may be expected to lead to an increased number of aircraft operations. In the Mainland-Hawaii markets, however, recent history shows that average yields have been consistently low. In 1978, the reported Mainland-Hawaii average yield was 4.5 cents, well below the experienced domestic average. Thus we do not expect fare decreases of a magnitude that will greatly stimulate additional traffic. Moreover, carriers in the Mainland-Hawaii markets already have considerable upward and downward flexibility to set fares, including peak/off-peak differentials with their implicit traffic levelling tendencies. Given these conditions, we do not expect the proposed policy to affect the levels of traffic and service operated. Consequently, this action will not significantly affect the environment.

Accordingly, we tentatively find and conclude that we should adopt the following:

Proposed Rules

The Board proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221); Part 302 of its Procedural Regulations (14 CFR Part 302); and Part 399 of the Policy Statements (14 CFR Part 399) as set forth below.[52]

[Material in italics is new.]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Amend § 221.165 by revising paragraph d(4) to read as follows:

§ 221.165 Explanations and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) Exceptions:

* * * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to fares for scheduled passenger service within the 48-contiguous states, the District of Columbia, *and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii, on the other,* which are within the zones set forth under Part 399.31 *and Part 399.34* of this Title.

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Amend § 302.505 by revising paragraphs (b) and (f) as follows:

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints; replies to such answers.

* * * * *

(b)(2) A complaint requesting suspension pursuant to 1002(g) of the Act of a fare for the scheduled air transportation of persons within the 48-contiguous states, the District of Columbia, *and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii on the other,* which is within the zones set forth in Part 399.31 *and Part 399.34* of this Title, will not be considered unless made in conformity with this section and filed at least thirty-nine (39) days before the effective date of the tariff or, in the event a posting date is printed on the triff, unless a complaint is filed six (6) days after said posting date.

* * * * *

(f) Answers to complaints shall be filed within six (6) days after the com-

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[50] The Act does not speak of standard industry fare levels in terms of anticipatory costs; however, for our purposes here, we have included them. See 1002(d)(4) re anticipatory costs.

[51] Section 403(c) provides for minimum notice of 30 days whenever a proposed fare is within the statutory zones of reasonableness and 60 days for other filings.

[52] The amended portions below include those proposed in our Rulemaking on U.S. Mainland-Puerto Rico/Virgin Islands Fares. 43 FR 51646 and 51647, November 6, 1978.

plaint if filed: *Provided, however,* That answers to complaints seeking suspension of a tariff pursuant to section 1002(j) of the Act shall be filed within five (5) calendar days after the complaint is filed: *Provided, further,* That answers to complaints requesting suspension of a fare for scheduled air transportation of persons within the 48-contiguous states, the District of Columbia, *and Hawaii or between the 48-contiguous states and the District of Columbia, on the one hand, and Puerto Rico, the Virgin Islands, and Hawaii, on the other,* which is within the zones set forth in Part 399.31 *and Part 399.34* of this Title, shall be filed within seven (7) calendar days after the complaint if filed. (footnote omitted)

PART 399—STATEMENTS OF GENERAL POLICY

1. Add section 399.34 to read as follows:

§ 399.34 Passenger-Fare policies for other entities.

It is the policy of the Board to extend the principles of fare flexibility established for domestic fares to other entities as follows:

* * * * *

(b) For the Mainland-Hawaii and Intra-Hawaii ratemaking entities:

(1) Ceiling fares, other than first class, for the Mainland-Hawaii entity should be based upon second-class peak fares in effect July 1, 1977, adjusted for changes in the actual operating cost per available seat-mile for interstate and overseas transportation combined.

In determining that standard, the Board shall make no adjustment to costs actually incurred. Ceiling fares for the Intra-Hawaii entity should be based upon the first-class fares adjusted for changes in the actual operating cost determined in accordance with the changes for all other entities. Fare proposals priced above these ceilings or the upper limits specified under § 399.34(b)(4) should be suspended unless otherwise justified; [53] carriers may propose fares lower than the ceiling in individual markets;

(2) Each carrier [54] should have the opportunity to set fares in each market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the ceiling. Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent the following extraordinary circumstances:

(i) The high probability that the fare would be found to be unlawful after investigation;

(ii) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowded to go into effect;

(iii) The harm to competition would be greater than the injury to the travelling public if the proposed fare were unavailable; and

(iv) The suspension is in the public interest;

(3) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level of the proposed fare reductions will result in an inability of the carriers in the market to provide adequate service to the public or the fares are otherwise unlawful; and

(4) Each carrier should have the opportunity to set fares above the ceiling fares as follows: [55]

(i) In markets where four or more carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[56] each carrier should have the opportunity to set fares in a zone ranging up to 10 percent above the fare ceiling;

(ii) In markets where two or three carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[57] each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling; and

(iii) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the ceiling on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extrarordinary circumstances.

We are directing that this Notice of Proposed Rulemaking be served on all parties to Docket 25474.

(Secs. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760 and 788, as amended; 49 U.S.C. 1324, 1373, 1374, 1482; and 5 U.S.C. 553.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

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[53] For peak fares above any of these levels, the justification should include a showing that off-peak fares are available in the market.

[54] Monopoly carriers as defined in section 1002(d)(4)(A) of the Act are included under this policy.

[55] As of the date of policy effectiveness, fares already in effect above these zones do not have to be refiled.

[56] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[57] If one carrier has 70 percent or more of the traffic in one of these markets, the no-suspend upward zone provided here would still apply.

APPENDIX A.—*Fares Effective in Selected Markets June, 1977, November, 1978 and Proposed Ceiling Fare (one-way)*

Time period and fare class	To Honolulu from					
	Chicago	New York	Los Angeles	Seattle/ Tacoma	Denver	Dallas
June, 1977 [1]						
Fare Class:						
F	$352	$414	$209	$205	$278	$314
YW	243	287	145	142	192	217
YX	226	270	129	126	176	200
KW	230	.....	137	134	183	205
KX	214	.....	121	119	166	189
November, 1978 [1]						
Fare Class:						
F	374	439	224	231	295	333
YW	258	305	156	163	204	231
YX	243	290	141	148	189	216
KW	244	.....	148	155	194	217
KX	229	.....	133	140	179	202
Ceiling Fare [2]						
Fare Class:						
Y	270	318	161	158	213	241
F [3]	391	459	232	227	308	348

APPENDIX A.—*Fares Effective in Selected Markets June, 1977, November, 1978 and Proposed Ceiling Fare (one-way)*—Continued

Time period and fare class	To Honolulu from					
	Chicago	New York	Los Angeles	Seattle/ Tacoma	Denver	Dallas
	Honolulu to					
	Kamuela	Maui	Lanai	Kauai	Hilo	
June, 1977 [1]						
Fare Class: FH	$17.59	$22.22	$23.15	$35.19	$27.78	
November, 1978 [1]						
Fare Class: FH	21.30	25.93	26.85	38.89	31.48	
Ceiling Fare: FH	19.52	24.66	25.69	39.05	30.82	

[1] Tariff filed with the Civil Aeronautics Board.

[2] The ceiling fare is based upon the peak coach fare on July 1, 1977, increased by the percentage change in industry operating cost per ASM for the year ended June, 1977 to the year ended June, 1978, cost-projected to February 15, 1979 (Appendix B). Constructing and average fare for June, 1977 and cost projecting to the same date would result in the lower ceiling shown below (constructed in Appendix D). Fare Class Y 245 287 148 155 193 218.

[3] As the Board, under PS-80, no longer requires the first class fare to be set as a percentage of coach fare, the shown first class fares are those effective in June, 1977 times the increase percentage developed in Appendix B.

APPENDIX B—*Methodology for Determining Change in Operating Expense per Available Seat-Mile*

1978	Trunks	Locals	Trunks plus locals	Total pass/ cargo
Total Oper. Exp.[1]	$13,721	$1,936	$15,644	$15,978
Less:				
All-Cargo Exp.[2]	261		261	261
Belly offset[3]	884	142	1,026	1,069
Non-Sched.[4]	212	50	262	275
Trans. Related[5]	380	25	405	409
Pass. Oper. Expense	$11,984	$1,718	$13,690	$13,964
Sch. Svc. ASM's (000)	258266	26167	284433	287465
Oper. Exp./ASM	.04640	.06566	.04813	.04858
1977				
Total Oper. Exp.[1]	12,112	1,647	13,759	14,051
Less:				
All-Cargo Exp.[2]	247		247	247
Belly offset[3]	740	99	839	879
Non-Sched.[4]	225	37	262	276
Trans. Related[5]	306	25	331	335
	10,594	1,486	12,080	12,314
Sch. Svc. ASM's (000)	243448	24004	267452	270264
Oper. Exp./ASM	.04352	.06191	.04517	.04557
Percent change in Oper. Exp/ASM	6.62	6.06	6.55	6.61
Projected change from June, 1977 to February 15, 1979[6]				10.96

[1] Total operating expenses for all operations and services.

[2] Operations performed in all-cargo services, carrier estimate.

[3] Total cargo revenues (less carrier all-cargo revenue) carried as by-product in aircraft belly compartments (freight, express, mail, ex. baggage).

[4] Total non-scheduled revenues times .95.

[5] Total transport-related expenses, less any excess of expenses over total transport-related revenues.

[6] For fares effective through May 15, 1979, with costs projected through February 15, 1979. Projection factor is 106.61 to the 1.625 power = 1.625 log 106.61 = 1.1096.

Sources: *Air Carrier Financial Statistics, Air Carrier Traffic Statistics*, CAB Forms 41 and 242.

APPENDIX C.—*Present Peak Full-Fare, Fare Floor with 50 Percent Downward Flexibility, and Selected Current Discount Fares*

	To Honolulu from					
	Chicago	New York	Los Angeles	Seattle/ Tacoma	Denver	Dallas
Present Peak Full-Fare [1]	$516	$610	$312	$326	$408	$462
Proposed Ceiling Fare [2]	540	636	322	316	426	482
Fare Floor [4]	270	318	161	158	213	241
Discount Fare Class [3]						
YWE 40	340	380	.....	.....	340	350
YXE 40	310	340	.....	.....	.....	300
YWG 68	.....	.....	.....	.....	.....	386
YXG 68	.....	.....	.....	.....	.....	325
YWV 10	.....	.....	.....	.....	.....	386
YXV 10	.....	.....	.....	.....	.....	325
YWE 38	340	380	.....	273	330	.....
YXE 38	310	340	.....	223	290	.....
YXV 5	321	363	.....	.....	.....	.....
YWV 5	381	425	.....	.....	.....	.....
YWE 24	370	478	.....	300	330	.....
YXE 24	340	448	.....	270	290	.....
YWV 36	.....	.....	282	293	.....	.....
YXV 36	.....	.....	248	259	.....	.....
KWE 40	.....	.....	.....	.....	330	340
KXE 40	.....	.....	.....	.....	290	290

[1] Round-trip fare effective November 1, 1978.
[2] All fares are round-trip, subject to restrictions, and may not be available on all carriers.
[3] Appendix A, see note 2.
[4] 50 percent of ceiling fare.

APPENDIX D.—*U.S. Mainland-Hawaii Constructed Second Class Average Fare Y.E. December, 1977*

At Cost [1]	.04623
Military Dilution Ratio [5]	1.0092
Hawaii Common Fare Dilution Ratio [5]	1.1140
At Cost Including Dilution (per mile)	.05197
Second Class Average Fare @ 2714 miles [2]	$141.05
West Coast Common-Fare Second Class Average Fare @ 2527 miles [3]	$131.33
Actual Average Fare [4]	$119.85

[1] Solve for x, where 1.88=ratio of first class cost/RPM to second class cost/RPM 731,540=first class RPM's (000) 11,898,858=coach plus economy RPM's (000) $613,736=total economic cost less other revenue (Page 2) 713,540 (1.88x) + 11,898,858X = $613,736 13,274,153X = $613,736X =.04623.
[2] Average length of haul for 12 months ended December, 1977.
[3] West Coast common-fared second class fare times cost escalation from June, 1977 to February 15, 1979 for fares effective through May 15, 1979. Cost escalation factor=1.1096, Appendix B.
[4] Revenues divided by enplaned passengers, CAB Form 41.
[5] Order 76-10-37, Appendix.

TOTAL ECONOMIC COST AT A 12% RATE OF RETURN ON INVESTMENT, U.S. MAINLAND-HAWAII, YEAR ENDED DECEMBER, 1977

Total Operating Expense (000) [1]	$563,570
Investment (000) [1]	343,946
Return at 12% (000)	41,274
Interest [1]	15,552
Net Return [2]	25,722
Tax @ 48% [3]	23,744
Total Economic Cost [4]	628,588
Other Revenue [1]	14,852
Economic Cost less Other Revenue	$613,736

[1] Workpapers for Hawaii fare increase proposals.
[2] Return at 12.0 percent less interest expense.
[3] Net Return times .9231, factor allowance for tax rate of 48 percent.
[4] Return at 12 percent plus tax.

CONSTRUCTED COST-BASED FARE FOR SELECTED MARKETS, C.Y. 1977

City-Pair	Nonstop distance [1]	Cost-based fare [2]	Ceiling fare [3]
Chicago-Honolulu	4,248	$220.77	$244.97
Honolulu-New York	4,974	258.50	286.83
Honolulu-Los Angeles	2,573	133.72	148.38
Honolulu-Seattle	2,677	139.12	154.37
Denver-Honolulu	3,353	174.26	193.36
Dallas-Honolulu	3,785	196.71	218.27

[1] Shortest authorized nonstop mileages, weighted.
[2] Second-class average yield of .05197, Page 1, times distance.
[3] Column 2 fare, times cost escalation factor of 1.1096, Appendix B.

[FR Doc. 79-9395 Filed 3-28-79; 8:45 am]

[4710-06-M]

DEPARTMENT OF STATE

[22 CFR Part 51]

[Docket No. SD-144]

PASSPORTS

Denial of Passport Facilities to Minors; Denial of Passport Facilities in Cases Involving a Criminal Court Order

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the regulation governing passport issuance in cases involving the custody of minors. The proposal would deny issuance of a passport to a minor involved in a custody controversy when the passport issuing office receives an order issued by a court in the country where the passport is being sought. The court order must give custody to the objecting parent, guardian or person in loco parentis or must forbid the child's departure from the country in which the passport services are sought.

In addition, the Department further proposes to amend the regulation governing the denial of passports in cases in which the applicant is subject to a court order, conditions of probation, or conditions of parole any of which forbid the applicant's departure from the United States. The proposal would make this section applicable only to criminal cases in which the applicant's departure from the United States in violation of the court order, condition of parole or condition of probation could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073).

The proposed amendments will clarify the Department's policy with respect to passport denial in cases involving child custody controversies or restrictive actions.

DATES: Comments must be received on or before May 29, 1979.

ADDRESS: Send comments to the Chief, Advisory Opinions Division, Office of Citizenship, Nationality and Legal Assistance, Bureau of Consular Affairs, Department of State, PPT/C/O Room 5813, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kott, (202) 632-0897.

SUPPLEMENTARY INFORMATION: The proposed revision of the Department's passport regulation pertaining to child custody matters is designed to alleviate confusion about the Department's policies and practices with regard to passport issuance in cases where there is controversy concerning the custody of a minor. It is, and has been, the Department's policy to deny issuance of a passport to a child involved in a custody controversy when, prior to issuance of a passport in the United States, the objecting parent provides the Department with a copy of a court order awarding that parent custody of the child or forbidding the child's departure from the United States. The Department's policy has been against denial of passport services to United States citizen minors outside the United States. This section was not designed to serve as a basis for revoking a minor's passport.

A child residing or traveling abroad will be documented upon request unless a court in the country in which passport services are sought has issued an order which restricts the child's travel or which awards custody to the objecting parent and that order is presented to the embassy or consulate where the passport application has been executed.

By amending the regulation pertaining to passport denial in cases in which the applicant is the subject of a court order forbidding his departure from the United States, the Department will clarify the intent of the existing language of the regulation by making it applicable only to cases involving criminal court orders, conditions of probation or conditions of parole the violation of which could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073).

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 51, §§ 51.27 and 51.70 to read as set forth below:

1. In § 51.27, paragraph (d) is revised to read:

§ 51.27 Minors.

* * * * *

(d) Objection by parent or guardian in cases involving the custody of a minor. When there is controversy concerning the custody of a minor, the passport issuing office may deny issuance of a passport to the minor if it receives a court order from a court within the country in which passport services are sought. The court order must give custody of the minor to the objecting parent, legal guardian or person in loco parentis or must forbid the child's departure from the country in which passport services are sought without the permission of the court.

2. In § 51.70, paragraph (a)(2) is revised to read as follows:

§ 51.70 Denial of passports.

(a) A passport except for direct return to the United States, shall not be issued in any case in which:

(1) * * *

(2) The applicant is subject to a criminal court order, condition of probation or condition of parole, any of which forbid departure from the United States and the violation of which could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073); or

* * * * *

(Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 comp., p. 507)

For the Secretary of State.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 79-9508 Filed 3-28-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4708]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Grain Valley, Jackson County, Mo.; Correction

In FR Doc. 79-6995 appearing at page 13516 in the issue for Monday, March 12, 1979, the heading is incorrect. The correct heading is published above.

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 54]

[EE-37-78]

EXCISE TAXES ON EXCESS CONTRIBUTIONS TO PLANS COVERING SELF-EMPLOYED INDIVIDUALS

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for determining when there are excess contributions to "H.R. 10" or "Keogh" plans, and imposing an excise tax upon the excess, if any. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations would provide the public with additional guidance needed to comply with that Act and would affect employers maintaining these plans.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 29, 1979. The amendments are proposed to be effective for employer taxable years beginning on or after January 1, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-37-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (EE-37-78) (202-566-3430). (Not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Pension Excise Tax Regulations (26 CFR Part 54) under section 4972 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2001(f)(1) of the Employee Retirement Income Security Act of 1974 (88 Stat. 955) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

(68A Stat. 917; 26 U.S.C. 7805).

Statutory Provisions

Section 4972 of the Code imposes a nondeductible excise tax of 6 percent on the employer maintaining a qualified "H.R. 10 plan" on account of certain excess contributions to such a plan. The excise tax is imposed for each employer taxable year beginning on or after January 1, 1976, if, with respect to such year, there are excess contributions to such a plan.

Computation of Excess Contributions

Proposed § 54.4972-1(c) defines "excess contributions." In general, they are the sum of employee contributions by owner-employees, and nondeductible employer contributions. The nondeductible employer contributions are computed differently, depending upon whether the plan is a defined benefit or defined contribution plan. Excess contributions can be reduced by correcting distributions from the plan to employees or employers so that the excise tax can be avoided or reduced.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was Richard J. Wickersham of the Employee Plans and Exempt Organizations division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 54 are as follows:

§ 54.4972-1 Tax on excess contributions to plans benefiting self-employed individuals.

(a) *In general.* Section 4972 imposes a tax of 6 percent on the amount of the excess contributions (as defined in section 4972(b) and paragraph (c) of this section) under certain qualified plans (as defined in paragraph (b) of this section) for each taxable year beginning after December 31, 1975, of the employer who maintains such plan. Partnerships and sole proprietors are to report this tax by filing Form 5330 (or other designated form) and the tax is to be paid annually at the time prescribed for filing such return (determined without regard to any extension of time for filing).

(b) *Employers to whom section applies.* The tax under section 4972 is imposed on employers who maintain a qualified plan during their taxable year. For this purpose, the term "qualified plan" means a pension or profit-sharing plan which includes a trust described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a). In addition to being a qualified plan, the plan must provide contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1). For this purpose, the plan does not have to provide contributions or benefits for employees who are employees within the meaning of section 401(c)(1) during the taxable year; it is sufficient that the plan so provided in a prior taxable year.

(c) *Excess contributions*—(1) *In general.* For a taxable year of an employer for purposes of section 4972 and this section, the term "excess contributions" means—

(i) The amount (if any) by which the sum of—

(A) The amount (if any) determined under section 4972(b)(2) and paragraph (d) of this section, plus

(B) The amount (if any) determined under section 4972(b)(3) and paragraph (e) of this section, plus

(C) The amount (if any) determined under section 4972(b)(4) and paragraph (f) of this section, exceeds

(ii) the amount (if any) of any correcting distributions (as defined in section 4972(b)(5) and paragraph (g) of this section) made in all prior taxable years beginning after December 31, 1975.

(2) *Contributions allocable to insurance.* For purposes of section 4972(b) and this section, the amount of any contribution made under the plan which is allocable to the purchase of life, accident, health, or other insurance is not taken into account. The amount of any contribution which is allocable to the cost of insurance protection is detemined in accordance with the provisions of paragraph (g) of § 1.404(e)-1A and paragraph (b) of § 1.72-16.

(d) *Contributions by owner-employees*—(1) *General rule.* In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees, within the meaning of section 401(c)(3), the

amount determined under section 4972(b)(2) and this paragraph for the employer's taxable year is the amount computed separately with respect to each owner-employee equal to the sum of—

(i) The excess (if any) of

(A) The amount contributed under the plan by each owner-employee as an employee (that is, each owner-employee's contributions within the meaning of section 401(c)(5)(B)) for such taxable year of the employer, over

(B) The amount permitted under section 4972(c) and paragraph (h) of this section to be contributed by each owner-employee as an employee for such taxable year of the employer, and

(ii) The amount determined under section 4972(b)(2) and this paragraph for the immediately preceding taxable year of the employer, reduced by the excess (if any) of the amount described in subdivision (i)(B) of this subparagraph over the amount described in subdivision (i)(A) of this subparagraph for such taxable year of the employer.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

EXAMPLE (1). (i) A and B are the only owner-employees covered under the X Employees' trust. The X Partnership, the X Trust, and the X Plan all use the calendar year as their annual accounting period, at all relevant times. The amount determined under section 4972(b)(2) for 1975 is 0 because this section does not apply to contributions made for taxable years beginning before January 1, 1976. In calendar year 1976, A contributes $2,500 and B contributes $2,500 to the trust. The amount permitted to be contributed to the trust for 1976 with respect to A as an employee is $1,800 and with respect to B as an employee is $2,200.

(ii) The amount determined under this paragraph for 1976 with respect to A is $700, computed as follows: the sum of the excess of the amount contributed by A ($2,500) over the amount permitted to be contributed by A ($1,800), and the amount determined under this paragraph for A in 1975 (0).

(iii) The amount determined under this paragraph for 1976 with respect to B is $300, computed as follows: the sum of the excess of the amount contributed by B ($2,500) over the amount permitted to be contributed by B ($2,200), and the amount determined under this paragraph for B in 1975 (0).

(iv) The amount determined under section 4972(b)(2) and this paragraph for 1976 with respect to the employer, X Partnership, is $1,000, the sum of the amounts determined separately under this paragraph with respect to A ($700) and B ($300). The tax under section 4972 for 1976 on the X Partnership (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of $1,000 or $60.

EXAMPLE (2). (i) Assume the facts stated in Example (1). In calendar year 1977, A contributes $1,500 and B contributes $2,300 to the trust. Assume that the amount permitted to be contributed to the trust for 1977, under section 4972 (c) for A and B is $2,500 each.

(ii) The amount determined under this paragraph for 1977 with respect to A is 0, computed as follows: the sum of 0 (the excess of the amount contributed by A ($1,500) over the amount permitted to be contributed ($2,500)) and $700, the amount determined under this paragraph for A in 1976, reduced by $1,000 (the amount permitted to be contributed by A ($2,500) over the amount contributed by A ($1,500)).

(iii) The amount determined under this paragraph for 1977 with respect to B is $100, computed as follows: the sum of 0 (the excess of the amount contributed by B ($2,300) over the amount permitted to be contributed ($2,500)) and $300, the amount determined under this paragraph for B in 1976, reduced by $200 (the amount permitted to be contributed ($2,500) by B over the amount contributed by B ($2,300)).

(iv) The amount determined under section 4972(b) and this paragraph for 1977 with respect to the employer, X Partnership, is $100, the sum of the amounts determined separately under this paragraph with respect to A ($0) and B ($100). The tax imposed under section 4972 for 1977 on the X Partnership (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of $100, or $6.

(e) *Defined benefit plans*—(1) *General rule.* In the case of a defined benefit plan (as defined in section 414(j) and the regulations thereunder), the amount determined under section 4972(b)(3) and this paragraph for the taxable year of the employer is the amount contributed under the plan by the employer during the taxable year plus the amounts, if any, contributed by the employer during any prior taxable year beginning after December 31, 1975, if—

(i) As of the close of the taxable year, the full funding limitation of the plan (determined under section 412(c)(7) and the regulations thereunder) is zero, and

(ii) Such amounts contributed have not been deductible by the employer for the taxable year or for any prior taxable year beginning after December 31, 1975.

See section 404 and the regulations thereunder for the determination of the amount deductible by the employer for the taxable year. If the amounts contributed by the employer exceed the amounts which have been deductible, the amount determined under this paragraph shall not exceed the amounts which have not been deductible. For purposes of this paragraph, the determination of both the amounts contributed and the amounts deductible by the employer for any relevant taxable year includes amounts contributed and deductible on behalf of any employee covered under the plan, including common-law employees and other self-employed individuals who are not owner-employees in addition to owner-employees. The determination of whether the full funding limitation is zero shall be made taking into account all the plan assets unreduced by any deduction carryover under section 404(a)(1)(D). The determination of whether the full funding limitation is zero as of the close of the employer's taxable year shall be made with respect to the plan year ending with or within the employer's taxable year. Consequently, if an employer whose taxable year is the calendar year establishes and maintains a defined benefit plan whose plan year begins on July 1 and ends on June 30, the full funding limitation for that plan will be determined with respect to the plan year ending on June 30 within the calendar taxable year including that June 30.

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

EXAMPLE. (i) X Partnership ("X") adopts the Y Defined Benefit Plan ("Y Plan") on January 1, 1977. The taxable year of X is the calendar year. The Y Plan also has a calendar plan year. For 1977, $25,000 is contributed to the Y Plan by X. Assume that for 1979, (1) only $10,000 is dedutible by X for 1977 under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1977, is greater than zero. For 1978, X makes no additional contributions to the Y Plan. Assume that for 1978, (1) no amount is deductible by X under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1978, is zero. The amount determined under section 4972(b)(3) and this paragraph for the 1978 taxable year is $15,000, computed as follows: the difference between (A) the sum of the amounts contributed by X for taxable year 1978 (0), and the amounts contributed by X for taxable year 1977 ($25,000) and (B) the sum of the amount deductible for taxable year 1978 (0) and the amount deductible for taxable year 1977 ($10,000). The tax imposed under section 4972 for 1978 on X (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of $15,000 or $900.

(ii) For 1979, X makes no additional contributions to the Y Plan. Assume that for 1979, (1) the full funding limitation of the Y Plan determined under section 412(c)(7) is greater than zero. Assume further that $10,000 of the amounts contributed for 1977 is deductible by X for 1979 under section 404. There is no amount determined under section 4972(b)(3) and this paragraph for 1979 because the condition described in subparagraph (1)(i) of this paragraph is not satisfied.

(iii) For 1980, X makes no additional contributions to the Y Plan. Assume that for 1980, (1) no amount is deductible under section 404 and (2) the full funding limitation of the Y Plan (determined under section 412(c)(7)) on December 31, 1980, is zero. The amount determined under section 4972(b)(3) and this paragraph for the 1980 taxable year is $5,000, computed as follows: the difference between (A) $25,000, the sum of the

amounts contributed by X for taxable years 1980 (0), 1979 (0), 1978 (0), and 1977 ($25,000) and (B) $20,000, the sum of the amounts deductible for taxable years 1980 (0), 1979 ($10,000), 1978 (0), and 1977 ($10,000). The tax imposed under section 4972 for 1980 on X (assuming that no other events affecting the determination of the tax under section 4972 occur) is 6 percent of $5,000, or $300.

(f) *Defined contribution plans*—(1) *General rule.* In the case of a defined contribution plan (as defined in section 414(i) and the regulations thereunder), the amount determined under section 4972(b)(4) and this paragraph for the taxable year of the employer is equal to the portion of the amounts contributed under the plan by the employer during the taxable year plus the amounts contributed by the employer during any prior taxable year beginning after December 31, 1975, which has not been deductible by the employer for the taxable year or for any such prior taxable year. For purposes of this paragraph, the determination of both the amounts contributed and the amounts deductible by the employer for any relevant taxable year includes amounts contributed and deductible on behalf of any employee covered under the plan, including common-law employees and other self-employed individuals who are not owner-employees in addition to owner-employees.

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

EXAMPLE. (i) The X Partnership ("X") adopts the Z Defined Contribution Plan and Trust ("Z Plan") on January 1, 1976. X's taxable year and the plan year of Z are both calendar years. For 1976, X contributes $40,000, of which $30,000 is deductible under section 404 for taxable year 1976. The amount determined under section 4972(b)(4) and this paragraph for 1976 is $10,000 (the difference between (A) $40,000, the amount contributed by X for taxable year 1976 and (B) $30,000, the amount deductible for taxable year 1976).

(ii) For 1977, X contributes $25,000, and the amounts deductible by X under section 404 for taxable year 1977 is $30,000 ($5,000 for the contribution carryover from 1976 and $25,000 with respect to the 1977 contribution). The amount determined under section 4972(b)(4) and this paragraph for 1977 is $5,000, computed as follows: the difference between (A) $65,000, the sum of the amounts contributed by X for taxable year 1976 ($40,000) and the amounts contributed by X for taxable year 1977 ($25,000), and (B) $60,000, the sum of the amounts deductible for taxable year 1976 ($30,000) and the amounts deductible for taxable year 1977 ($30,000).

(g) *Correcting distribution*—(1) *General rule.* For purposes of section 4972(b) and this paragraph, the term "correcting distribution" means, for the taxable year of the employer, the sum of—

(i) In the case of a contribution made as an employee by an owner-employee, within the meaning of section 401(c)(3), to a defined benefit or defined contribution plan, the amount, or any part thereof, determined under section 4972(b)(2) and paragraph (d) of this section which is distributed to the owner-employee who contributed such amount to the plan;

(ii) In the case of a defined benefit plan, the amount, or any part thereof, determined under section 4972(b)(3) and paragraph (e) of this section which is distributed from the plan to the employer, and

(iii) In the case of a defined contribution plan, the amount, or any part thereof, determined under section 4972(b)(4) and paragraph (f) of this section which is distributed to (A) the employer or (B) to the employee for whom such amount was contributed.

If, for any employer taxable year in which a defined contribution plan is maintained, there is a correcting distribution to an employee which could be from amounts described in subparagraph (1)(i) and (iii) of this paragraph for such employee, then such correcting distribution shall be deemed to be made first from amounts described in such subparagraph (1)(i) and then from amounts described in such subparagraph (1)(iii) for purposes of this section and section 72. For the income tax treatment of such distributions to employees, see section 72 and the regulations thereunder. Any such distributions to employees shall not be subject to the tax imposed by section 4975 nor result in the defined contribution plan failing to satisfy the exclusive benefit requirement of section 401(a), solely by reason of being a correcting distribution within the meaning of this paragraph. If, for any employer taxable year in which a defined benefit or defined contribution plan is maintained, there is a correcting distribution described in subparagraph (1) (ii) or (iii) of this paragraph to the employer maintaining the plan, such distribution shall not be subject to the tax imposed by section 4975 nor result in the plan's failing to satisfy the exclusive benefit or the definitely determinable requirements under section 401(a). If, for any employer taxable year in which a money purchase pension plan is maintained, a correcting distribution described in subparagraph (1)(iii) of this paragraph is made to an employee who has not yet become eligible to receive retirement benefits under the plan, the qualification of the pension plan (and trust) under section 401(a) may be adversely affected. See § 1.401-1(b)(1)(i). A correcting distribution described in subparagraph (1)(iii) of this paragraph prior to age 59½ must be precluded under the plan. See section 401(d)(4).

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

EXAMPLE. (i) A and B are owner-employees covered under the X Employees' Defined Contribution Plan and Profit-Sharing Trust ("Plan Y"). The X Partnership ("X") and Plan Y are on calendar years. In calendar year 1976, A contributes $2,500 and B contributes $2,500 to Plan Y. The amount permitted to be contributed to Plan Y for 1976 with respect to A as an employee is $1,800 and with respect to B as an employee is $2,200. X contributes to Plan Y $5,000 on behalf of A and $5,000 on behalf of B. Of this amount, assume that $2,700 is deductible with respect to A and $3,300 is deductible with respect to B by X under section 404. The amount determined under section 4972(b)(2) and paragraph (d) of this section (the excess owner-employee contributions made by A and B to Plan Y) for taxable year 1976 is $1,000, computed as follows: the sum of (A) for A, $700, the difference between his own contributions ($2,500) and the amount permitted to be contributed by A ($1,800) and (B) for B, $300, the difference between his own contributions ($2,500) and the amount permitted to be contributed by B ($2,200). The amount determined under section 4972(b)(4) and paragraph (f) of this section (the excess contributions made by X to Plan Y) for taxable year 1976 is $4,000, computed as follows: the sum of (A) by X for A, $2,300, the difference between contributions by X ($5,000) and the amount deductible by X for A ($2,700) and (B) by X for B, $1,700, the difference between contributions by X for B ($5,000) and the amount deductible by X for B ($3,300). During 1976, there is no correcting distribution, within the meaning of section 4972 and this paragraph, because there are no distributions to A, B, or X.

(ii) Assume that, for taxable year 1977, the amounts determined under sections 4972(b)(2) and 4972(b)(4) remain the same as for taxable year 1976, that is, $1,000 ($700 for A and $300 for B) and $4,000 ($2,700 by X for A and $1,300 by X for B), respectively. Assume further that, in 1977, Plan Y distributes $3,000 to A and $1,000 to B. The amount determined under section 4972(b)(5) and this paragraph (the correcting distribution for Plan Y) for taxable year 1977 is $4,000, computed and attributed as follows: the sum of (A) $3,000 with respect to A, the amount of the distribution to A applied first to A's $700 amount described in subparagraph (1)(i) of this paragraph and next to A's $2,300 amount described in subparagraph (1)(iii) of this paragraph and (B) $1,000 with respect to B, the amount of the distribution to B applied first to B's $300 amount described in subparagraph (1)(i) of this paragraph and next to B's $1,700 amount described in subparagraph (1)(iii) of this paragraph. For purposes of computing the excess contributions for taxable year 1977, the correcting distribution of $4,000 would not be taken into account because only correcting distributions for prior years are considered. However, for taxable year 1978 the correcting distribution of $4,000 would be taken into account.

(iii) Assume that, for taxable year 1978, there are no additional amounts determined under sections 4972(b)(2) and 4972(b)(4) and that Plan Y distributes $900 to B. The amount determined under section 4972(b)(5) and this paragraph (the correcting distribution for Plan Y) for the 1978 taxable year is

$900, computed and attributed as follows: the amount of the distribution to B, $900, applied to B's $1,000 amount described in subparagraph (1)(iii) of this paragraph. For purposes of computing the excess contributions for taxable year 1978, the correcting distribution of $900 would not be taken into account. However, for taxable year 1979, the correcting distribution of $900 would be taken into account.

(h) *Amount permitted to be contributed by owner-employee*—(1) *General rule.* Except as provided in subparagraph (2), for purposes of section 4972(b)(2) and paragraph (d), the amount permitted to be contributed under a plan by an owner-employee as an employee for any taxable year of the employer is the smallest of the following—

(i) $2,500,

(ii) 10 percent of the earned income (as defined in section 401(c)(2)) for such taxable year derived by the owner-employee from the trade or business with respect to which the plan is established, or

(iii) The amount of the contribution which would be contributed by the owner-employee (as an employee) if such contribution were made at the rate of contributions which is permitted to be made by employees who are not owner-employees during such taxable year.

(2) *Special rule.* In the case of a taxable year of the employer in which there are no employees other than owner-employees, the amount permitted to be contributed under a plan by an owner-employee (as an employee) is zero.

(i) *Special rules and cross references*—(1) *Time of contributions.* For purposes of this section, time of employer contributions made with respect to any taxable year shall take into account the rules specified in section 404(a)(6), relating to time when contributions deemed made.

(2) *Disallowance of deduction.* For disallowance of deduction for taxes paid under this section, see section 275(a)(6).

(3) *Certain annuity contracts.* For a special rule relating to owner-employee contributions for premiums on annuity, etc. contracts, see § 1.401(e)-4(a).

(4) *Disqualification for excess contributions.* For plan qualification requirements relating to excess contributions, see section 401(d)(5).

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-9571 Filed 3-28-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 77—067]

ANCHORAGE REGULATIONS

Anchorage Grounds, Vieques Passage and Vieques Sound, near Vieques Island, P. R.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to change the size and location of Vieques Passage explosives anchorage and ammunition handling berth (Area 1). A portion of the anchorage area extends into a buoyed channel. This proposal will eliminate a potentially unsafe situation by removing that portion of the anchorage from the channel.

DATES: Comments must be received on or before May 10, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the Office of the Commander, Seventh Coast Guard District (mps), 51 S.W. First Avenue, Miami, Fla. 33130.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1934.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify this notice (CGD 77-067) and give the reasons for the comment. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATION

Vieques Passage explosives anchorage and ammunition handling berth (Area 1) presently extends into a buoyed channel on the north side of the anchorage. This proposal would reduce the radius of the anchorage by 300 yards and move its center southward so that the anchorage lies entirely outside the channel. Moving the anchorage will ensure that vessels navigating the channel do not inadvertently enter the anchorage while explosives are present.

An Environmental Assessment was completed in August 1978 which determined that there would be no impact on the quality of the human environment.

This regulation has been reviewed under DOT Notice "Improving Government Regulations" (44 FR 11035, February 26, 1979) and a Draft Evaluation has been prepared and is available for public inspection at the Project Manager and Commander, Seventh Coast Guard District addresses indicated above.

In consideration of the foregoing it is proposed to amend Part 110 of Title 33 of the Code of Federal Regulations by revising § 110.245(a)(1) to read as follows:

§ 110.245 Vieques Passage and Vieques Sound, near Vieques Island, P.R.

(a) The anchorage grounds—(1) Vieques Passage explosives anchorage and ammunition handling berth (Area 1). A circular area having a radius of 1700 yards with its center at latitude 18°09'00"N., longitude 65°32'40"W.

* * * * *

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); Sec. 6(g)(1)(A), 80 Stat 937, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1)).

Dated: March 23, 1979.

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

[FR Doc. 79-9627 Filed 3-28-79; 8:45 am]

[4910-14-M]

[33 CFR Part 117]

[CGD 78-134]

PROPOSED REGULATIONS FOR THE FLORIDA EAST COAST RAILROAD BRIDGE ACROSS THE NEW RIVER, FLORIDA

Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice—Public Hearing and Extension of Comment Period.

SUMMARY: The Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, to receive comments on the proposed amendment to the regulations governing the operation of the Florida East Coast railroad bridge across the New River, mile 2.5. This hearing is being held to gather information and data necessary to attempt to resolve the differences between various factions who support or oppose the proposed regulation to control the operation of the Florida East Coast Railway Company bridge.

DATES: The public hearing will be held on Wednesday, May 9, 1979, from 7 p.m. to 10 p.m. Written comments must be received by the Commander, Seventh Coast Guard District by close of business June 8, 1979.

ADDRESSES: The public hearing will be held at the Fort Lauderdale City Hall, Commissioner's Room, 100 North Andrews Avenue, Fort Lauderdale, Florida 33302. Written comments will be received by Commander (oan) Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:

James Kretschmer, Bridge Administrator, Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130 (305-350-4108).

SUPPLEMENTAL INFORMATION: This proposal was published in the FEDERAL REGISTER on 30 November 1978 (43 CFR 56060) and distributed as Public Notice 16593/2794 by the Commander, Seventh Coast Guard District, on 24 November 1978.

The existing regulation requires the bridge to open on signal.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Seventh Coast Guard District, by 4 May 1979. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulations by submitting their comments, in writing, on or before 8 June 1979, to the Commander (oan), Seventh Coast Guard District. Each comment should state the reasons for support or opposition or proposed changes to the regulations, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Seventh Coast Guard District. All comments received will be considered before final action is taken on the proposed drawbrige regulation. After the time set for the submission of comments, the Commander (oan) Seventh Coast Guard District, will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, Washington, D.C. 20590, who will make the final determination on this matter.

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

Dated: March 23, 1979.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-9577 Filed 3-28-79; 8:45 am]

[4910-14-M]

[33 CFR Part 117]

[CGD 79-009]

DRAWBRIDGE OPERATION REGULATIONS

Shrewsbury River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the County of Monmouth, N.J., the Coast Guard is considering revising the regulations governing the operation of the drawbridge across the Shrewsbury River, mile 4.0, to provide more restrictive opening periods during periods of peak vehicular traffic in the spring and fall.

DATE: Comments must be received on or before April 30, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York 10004.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-425-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann Mc Cabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

This proposal is being made in an effort to relieve vehicular traffic during the spring, summer, and fall months when it is at its peak. The present regulations restrict openings from May 15 to September 30. This proposal would extend the restricted period to April 15 through October 30. The Coast Guard is requesting comments from interested and affected parties regarding this proposal.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.215(j)(3) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

* * * * *

(j) * * *

(3) Shrewsbury River (South Branch), mile 4.0, N.J. (i) Monmouth County Bridge between the boroughs of Rumson and Sea Bright. From April 15 through October 30, on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day, from 9 a.m. to 8 p.m., local time, the draw shall open on the hour and half-hour if any vessels are waiting to pass.

(ii) From April 15 through October 30, Monday through Friday, delays of the openings of the draw may be made

for a maximum of 10 minutes in order to consolidate vessels or clear road traffic.

(iii) The draw shall not open for a sailboat unless it is under auxiliary power or is towed by a powered vessel.

* * * * *

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

Dated: March 23, 1979.

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

[FR Doc. 79-9628 Filed 3-28-79; 8:45 am]

[4910-14-M]

[33 CFR Part 183]

[CGD 77-191]

BOATS AND ASSOCIATED EQUIPMENT

Raceboats; Safety and Labeling Exemptions

AGENCY: Coast Guard, DOT.

ACTION: Termination of Proposed Rulemaking.

SUMMARY: In an Advance Notice of Proposed Rulemaking published May 25, 1978, the Coast guard sought public participation in the formulation of a proposed rule that would except manufacturers of raceboats from requirements for displaying capacity information, and flotation, design, and construction standards. The Coast Guard is terminating this advance notice due to the unfavorable public response, the inability to adequately resolve anwsers to the questions raised in the advance notice, and because the existing exemption procedures afford the manufacturer an opportunity to seek an exemption from these requirements.

FOR FURTHER INFORMATION CONTACT:

Mr. Lysle B. Gray, Office of Boating Safety (G-BBT-2/TP42), Room 4314, Department of Transportation, TRANSPOINT Building, 2nd and V St., S.W., Washington, D.C. 20590 (202/426-4027).

SUPPLEMENTARY INFORMATION:

DRAFTING INFORMATION

The principal persons involved in drafting this notice are: Mr. Lysle B. Gray, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

DISCUSSION

On May 25, 1978, an advance notice soliciting public participation in the formulation of a proposed rule that would except raceboat manufacturers from the requirements of Part 183 of Title 33 of the Code of Federal Regulations was published in the FEDERAL REGISTER (43 FR 22411).

The Coast Guard received only four comments on this advance notice. All four commenters indicated that they were not in favor of a blanket exception from the regulations for raceboats. They believed that persons manufacturing or using boats which were not truly raceboats would abuse such an exception. The lack of a single comprehensive definition of a "raceboat" seems to be at the root of the problem. The Coast Guard has discused this with the National Boating Safety Advisory Council and with other members of the affected public. No satisfactory definition of "raceboat" has been proposed.

Furthermore, since none of the comments received were from manufacturers of raceboats, the Coast Guard believes that the manufacturers are satisfied with the existing exemption procedures and that there is no need to develop a rule having general applicability as contemplated in the advance notice.

Therefore, the Coast Guard has determined that the continuation of the proposed rulemaking, as indicated in the advance notice, is not appropriate a this time. The termination of this rulemaking does not preclude the Coast Guard from issuing a similar notice in the future nor commit the Coast Guard to any particular course of action.

In consideration of the foregoing, the ruelmaking action as indicated in the advance notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1978, (43 FR 22411) entitled, "Raceboat; Safety and Labeling Exemptions" (CGD 77-191) is hereby terminated.

(46 U.S.C. 1454, 1455; 49 CFR 1.46(n)(1).)

Dated: March 20, 1979.

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

[FR Doc. 79-9630 Filed 3-28-79; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[41 CFR PARTS 101-17, 101-18, AND 101-19]

FEDERAL SPACE MANAGEMENT

AGENCY: General Services Administration, Public Buildings Service.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend its regulations to incorporate appropriate procedures for the planning, acquisition, utilization, and management of Federal space facilities. These revisions are necessary to implement Executive Order 12072, dated August 16, 1978, and the memorandum of the Director of the Office of Management and Budget dated March 9, 1979.

DATE: Comments must be received on or before: May 29, 1979.

ADDRESS: Written comments should be sent to the General Services Administration, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Yiakis, Acting Assistant Commissioner for Space Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1025).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. However, its provisions represent a significant shift in emphasis on GSA's facility siting policies. Specifically, the regulations accomplish the following:

1. Restate and reaffirm GSA's commitment to giving primary consideration to locating Federal activities in central business areas;

2. Establish a limited number of specific circumstances which justify non-central business area locations;

3. Recognize that in urban areas with more than one city Federal activities should be located in the most distressed central city;

4. Establish the framework for close coordination with local elected officials to ensure that Federal activities are housed in a manner consistent with local development objectives;

5. Recognize the application of the Rural Development Act of 1972 to the facility program and provide for central business area locations in order to encourage development, redevelopment and growth of rural areas.

6. Require agencies which acquire and utilize space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, to establish agreements to provide for GSA review of their compliance with Executive Order 12072; and

7. Define the terms "urban areas," "central business areas," "rural areas," and "central cities."

In developing the proposed rules, GSA obtained the advice and guidance of the Interagency Coordinating Council created by Executive Order 12075, the Department of Housing and Urban Development, the Executive Office of the President, the National League of Cities, and the Center for National Policy Review.

Therefore, it is proposed to amend subchapter D of 41 CFR chapter 101 as follows:

PART 101-17—ASSIGNMENT AND UTILIZATION OF SPACE

The table of contents for Part 101-17 is amended by adding four sections and deleting one section as follows:

101-17.003-33 Urban areas.
101-17.003-34 Central business areas.
101-17.003-35 Central city.
101-17.003-36 Rural areas.
101-17.101-1c (Deleted).

1. Section 101-17.001 is revised to read as follows:

§ 101-17.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Executive Order 12072 of August 16, 1978 (43 FR 36869).

2. Section 101-17.002 is revised to read as follows:

§ 101-17.002 Basic policy.

GSA will acquire and use federally owned and leased office buildings and space located in the United States and will issue standards and criteria for the use of such space. GSA will assign and reassign such space to Federal agencies and certain non-Federal organizations. GSA shall have primary responsibility for Federal agency compliance with Executive Order 12072, including space acquisitions accomplished under authority other than the Federal Property and Administrative Services Act of 1949, as amended. GSA and other Federal agencies shall be governed by the following policies for the assignment, reassignment, and utilization of office buildings and space.

(a) Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Such Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

(b) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in an urban area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of cities in urban areas as well as enhance and support the employment and economic base of these cities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socio-economic benefits from such actions.

(c) In meeting space needs in urban areas:

(1) First consideration shall be given to a centralized business area and adjacent areas of similar character in the central city of Standard Metropolitan Statistical Areas (SMSA) defined by the Department of Commerce publication (Government Printing Office Stock Number 041-001-00010-8), including other specific areas of a city recommended by local officials, except where such consideration is otherwise prohibited. Space needs will be met outside the central business area of a central city of an SMSA only when one of the following circumstances exist:

(i) The service area of an activity is limited to a clearly defined sector of a city or a suburban or rural community, as is the case with satellite or branch offices; or where onsite activities are involved, such as inspection and/or maintenance operations at border stations, airports, seaports, or other similar activities;

(ii) Immediate compliance is not possible due to existing leasing commitments in areas outside the central business area (CBA). In these cases, plans for future compliance will be made, i.e., the activity will be relocated to the central business area upon expiration of the lease; and

(iii) Local officials (mayors, city councils, and others) indicate that an activity or facility should be located in an area of the city other than the CBA.

(2) If a location outside an SMSA is required, the central business areas of non-SMSA cities shall be given first consideration; and

(3) If a location outside the central business area is required, location within the city shall be given first consideration.

(d) In SMSA's with more than one central city, or in urban areas with more than one city, GSA will make space assignments in the CBA of the most distressed city. In addition, consideration may be given to meeting space needs in other than central cities when the following conditions exist: (1) A city in an SMSA is not a central city but has over 50,000 population and (2) the level of distress in that city is determined by the Secretary of Housing and Urban Development to be equal to or greater than any of the central cities.

(e) Consistent with the policies cited in § 101-17.002 (a), (b), (c), and (d) above, consideration shall be given to the following criteria in meeting Federal space needs in urban areas:

(1) Impact on economic development and employment opportunities in the urban area, including utilization of human, natural, cultural, and community resources with the objective of targeting distressed areas;

(2) Compatibility of the site with State, regional, or local development or conservation objectives;

(3) Conformity with the activities and objectives of other Federal agencies;

(4) Availability of adequate low- and moderate-income housing for Federal employees and their families on a nondiscriminatory basis; and

(5) Availability of adequate public transportation and parking and accessibility to the public.

(f) Consistent with the policies cited in § 101-17.002 (a), (b), (c), and (d) above, the following alternative sources will be considered in meeting Federal space needs in urban areas:

(1) Availability of existing federally controlled facilities. Maximum use will be made of such facilities which, in the judgment of the Administrator of General Services, are adequate or economically adaptable to meeting the space needs of executive agencies;

(2) Utilization of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507);

(3) Acquisition or utilization of existing privately owned facilities;

(4) Construction of new facilities; and

(5) Opportunities for locating cultural, educational, recreational, or commercial activities within the proposed facility.

(g) Site selection and space assignment shall take into account:

(1) The management needs for consolidation of agencies or activities in common or adjacent space in order to improve management and administration and effect economies; and

(2) Give consideration to the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance of safe and healthful working conditions for employees.

(h) To the maximum extent feasible, GSA will maintain continuous liaison with local planning bodies and elected officials to obtain their advice and consultation with respect to space assignment, acquisition and construction activities. In order to establish the framework for consultation on space

actions, GSA will seek agreements with local governments, which will:

(1) Establish acceptable geographic boundaries of the central business area;

(2) Identify areas of the city outside the central business area targeted for development or redevelopment which would benefit from the stimulus of the location of Federal space;

(3) Define the types and sizes of GSA projects of interest to local government;

(4) Establish appropriate timing for notifying local officials of a GSA project;

(5) Advise local officials of the availability of data on GSA plans and programs, and agree upon the provision of such data to local officials;

(6) Identify appropriate periodic reviews of the agreement to ensure it is providing maximum consultation; and

(7) Include other appropriate information.

(i) Federal facilities and Federal use of space in rural areas shall serve to strengthen the Nation's rural communities. Such Federal space shall encourage growth and economic development and redevelopment in rural areas. Consistent with the provisions of section 601(b) of the Rural Development Act of 1972 (86 Stat. 674), first priority will be given to meeting Federal space needs in rural areas.

(j) In meeting space needs in rural areas:

(1) First consideration shall be given to the central business area of incorporated jurisdictions, including adjacent areas of similar character and specific areas recommended by local officials, except where such consideration is prohibited.

(2) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in a rural area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of communities in rural areas, as well as enhance and support the employment and economic base of these communities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socioeconomic benefits from such actions.

(3) In rural areas with more than one incorporated jurisdiction, space assignments will be made in the most distressed jurisdiction.

(4) Space needs will be met outside the central business area only when one of the exceptions contained in § 17.002(c) (1), (2), or (3) apply, or when the program requirements and needs of their clientele preclude locating an agency's county level field office in the central business area.

(k) Consistent with the policies cited in § 101-17.002 (i) and (j) above, the site selection criteria contained in § 17.002(d) and the alternative space acquisition methods contained in § 17.002(e) shall be considered. In addition, consultation with local officials in rural areas shall be consistent with the requirements of § 17.002(g).

(l) In accordance with the memorandum of the Director, Office of Management and Budget, dated March 9, 1979, heads of executive agencies which acquire or utilize federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall establish notification and review procedures in agreement with the Administrator of General Services. These agreements shall identify: (1) the kinds of space acquisition or utilization activities which will be reviewed by the Administrator; (2) the process and timing for conducting such reviews; and (3) the procedures to be followed in resolving disagreements between the Administrator and the head of executive agencies. Agreements between the Administrator and the heads of executive agencies shall be published as part of this regulation.

2. Section 101-17.003 is amended by adding four subsections as follows:

§ 101-17.003-33 Urban area.

"Urban area" means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce. An area which is not an SMSA is classified as an urban area if it is one of the following:

(a) A geographical area within the jurisdiction of any incorporated city, town, borough, village or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants;

(b) that portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or (c) that portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: The Intergovernmental Cooperation Act of 1968, 40 U.S.C. 535.)

§ 101-17.003-34 Central business area.

"Central business areas" means those areas within a central city in an SMSA or any non-SMSA which encompass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local officials.

§ 101-17.003-35 Central city.

"Central city" means any city whose name appears in the title of an SMSA. Criteria for determining SMSA titles are established by the Department of Commerce.

§ 101-17.003-36 Rural area.

"Rural area" means any area which is within a city or town with a population of less than 10,000 or any area which is not within the outer boundary of any city having a population of 50,000 or more and its immediate adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile.

Subpart 101-17.1—Assignment of Space

1. Section 101-17.101 is amended by revising paragraphs (a) and (b) (1) through (4), as follows:

§ 101-17.101 Request for space.

(a) Except as provided in § 101-17.101-2, Federal agencies shall satisfy their space needs by submitting a Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is required. A listing of GSA regional offices and the areas they service is shown in § 101-17.4801.

(b) * * *

(1) Cooperate with and assist the Administrator of General Services in carrying out his responsibilities with respect to buildings and space, recognizing the requirement that primary consideration be given to locating within the CBA in urban areas.

(2) Give the Administrator of General Services early notice of new or changing space requirements.

(3) Economize in their requirements for space.

(4) Review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services of activities which can be accomplished elsewhere in the Nation without excessive costs or significant loss of efficiency.

2. Section 101-17.101-1c is deleted.

§ 101-17.101-1c [Deleted]

3. Section 101-17.102-1(b) is revised to read as follows:

§ 101-17.102-1 Assignment by GSA.

* * * * *

(b) GSA may, in accordance with policies and directives prescribed by the President, including Executive

Order 12072 of August 16, 1978 (43 FR 36869), under section 205(a) and 210(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a) and 490(e)), and after consultation with the agencies affected, assign or reassign space of any executive agencies after determining that such assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

PART 101-18—ACQUISITION OF REAL PROPERTY

1. Section 101-18.001 is revised to read as follows:

§ 101-18.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 and 490); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601-615), 73 Stat. 479; Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244; 40 U.S.C. 531-535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, the Rural Development Act of 1972, 86 Stat. 657, as amended, and OMB Circular A-95 (41 FR 2052).

Subpart 101-18.1—Acquisition by Lease

Section 101-18.100 is amended by revising paragraph (d) and reserving paragraphs (f) and (g) to read as follows:

§ 101-18.100 Basic policy.

* * * * *

(d) When considering acquisition or when acquiring space by lease, the policies contained in § 101-17.002, regarding determination of the location of Federal facilities, shall be strictly adhered to.

* * * * *

(f) [Reserved]
(g) [Reserved]

PART 101-19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

1. Section 101-19.001 is revised to read as follows:

§ 101-19.001 Authority.

This part 101-19 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Public Buildings Act of 1959 (40 U.S.C. 601-615 as amended); Pub. L. 90-480, 82 Stat. 718, as amended (42 U.S.C. 4151-4156); the Clean Air Act (42 U.S.C. 1857-1858); the Federal Water Pollution Control Act (33 U.S.C. 1151-1175; the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244, 40 U.S.C. 531-535); Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects (Office of Management and Budget Circular A-95 Revised); Section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383 as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)); Executive Order 11752 (3 CFR 829 (1971-1975 compilation)); Executive Order 11724 (3 CFR 777 (1971-1975 compilation)); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

2. Section 101-19.002 is amended to revise paragraph (a) and to reserve paragraph (b) as follows:

§ 101-19.002 Basic policy.

(a) In the process of developing building projects, the policies contained in § 101-17.002, regarding the determination of the location of Federal facilities, shall be strictly adhered to.

(b) [Reserved]

* * * * *

Subpart 101-19.1—General

Section 101-19.100 is amended by revising paragraphs (c)(1), (c)(2), (f)(1), and (f)(4) as follows:

§ 101-19.100 Intergovernmental consultation on Federal projects.

* * * * *

(c) * * *

(1) The GSA Regional Administrator will notify the planning agencies at least 30 calendar days prior to the initiation of any survey conducted for the purpose of preparing a prospectus, or Report of Buildings notification will specify the approximate date(s) on which the survey will be conducted and request that those agencies provide GSA with all pertinent planning and development information that will be considered in connection with the space plan for the community as soon as practicable. This information will include city, county, State, and regional plans for land use and development, model cities and urban renewal, neighborhood revitalization, mass transit, highways, flood control, and air, water, solid waste, and other relevant environmental data.

(2) Within 30 calendar days following the approval of a proposed action by the Congress, the GSA Regional Administrator will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building with a 10-year period or a major lease consolidation which could result in new commercial construction in the community. The letter will request that the GSA Regional Administrator be advised of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

(i) Area or city in which the project will be located;

(ii) Type of building (office building, post office, courthouse, etc.);

(iii) Approximate size of building;

(iv) Specific site location requirements;

(v) Estimated building population; and

(vi) Estimated total project cost.

* * * * *

(f) * * *

(1) GSA will transmit copies of the draft environmental statement, prepared in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act and the regulations of the Council on Environmental Quality to the Environmental Protection Agency, and to the Governor of the State, the U.S. Senators of the State, and the U.S. Representative from the congressional district of the State where the project will be located.

* * * * *

(4) Copies of the final environmental statement will be transmitted to the Environmental Protection Agency and to those persons who submitted substantive comments on the draft statement or requested copies of the final statement. Unless waived by EPA, no irreversible or irretrievable action shall be taken on a project until 30 calendar days after submission of the final statement to EPA.

* * * * *

(Sec. 205(c), 62 Stat. 390; 40 U.S.C. 486(c)).

Dated: March 23, 1979.

DENNIS J. KEILMAN,
Acting Commissioner,
Public Buildings Service.

[FR Doc. 79-9634 Filed 3-28-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

MINING CLAIMS UNDER THE GENERAL MINING LAWS

Clarification of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of clarification of comment period.

SUMMARY: This notice makes it clear that comments on the proposed rulemaking Exploration and Mining—Wilderness Review Program received by the Bureau of Land Management after March 14, 1979, the date listed in 44 FR 2623 as the date by which comments should be submitted will be considered to the extent time permits before final rulemaking is published. This is in keeping with the general policy of the Bureau of Land Management.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert M. Anderson, 202-343-7722, or Robert C. Bruce, 202-343-7424.

SUPPLEMENTARY INFORMATION: This notice clarifies how the Bureau of Land Management will handle comments received on the proposed rulemaking received after March 14, 1979. The Bureau of Land Management published the proposed rulemaking on January 12, 1979, 44 FR 2623. The notice advised the public that comments were to be submitted by March 14, 1979. The Bureau does not expect to publish the final rule until approximately May 15, 1979, and has received questions about its policy on considering written and oral comments received after March 14. The Bureau will analyze and consider comments received after March 14, 1979, and will attempt to incorporate responses in the preamble to the final rulemaking to the extent time permits.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

MARCH 26, 1979.

[FR Doc. 79-9546 Filed 3-28-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 31 and 35]

[CGD 73-243]

FLAMMABLE AND COMBUSTIBLE CARGOES

Information Cards

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is proposing to amend the rules for a barge that carries flammable or combustible cargoes to require cargo information cards for the flammable and combustible cargoes it has on board. The cargo information cards would be required to be displayed on the barge and carried on any towboat handling the barge. The cargo information cards would give emergency information on firefighting and precautions to take if exposed to the cargo as well as indicating what cargoes were on the barge.

DATE: Comments must be received on or before May 11, 1979.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/81) (CGD 73-243), 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, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Query, Office of Merchant Marine Safety (G-MHM/83), Room 8309, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202 426-1217).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 73-243), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (44 FR 11035, February 26, 1979). A draft evaluation has been prepared and placed in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. Robert M. Query, Project Manager, Office of Merchant Marine Safety and Mr. Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATION

Regulations in Part 35 of Title 46 of the Code of Federal Regulations require some cargo hazards to be described on warnings signs for barges carrying bulk flammable or combustible cargoes. At one time, § 35.01-55 of Part 35 required barges carrying some unusually hazardous cargoes to be handled somewhat differently than other barges and display information in addition to the warning sign that described the unusual hazards and described how the crew or emergency personnel should treat spills or fires involving the cargoes. In a rulemaking that partly reorganized the regulations treating unusually hazardous cargoes, § 35.01-55 was removed from Part 35, but references to the section were erroneously left unchanged. This proposal would eliminate those references.

The Coast Guard believes that some of the information originally required for the carriage of unusually hazardous cargoes in § 35.01-55 would be useful to towboat crews and to any emergency personnel that had to deal with accidents involving barges carrying the flammable and combustible cargoes regulated by Parts 30-40. Consequently, the Coast Guard is proposing to add a new § 35.30-3 to Part 35. Section 35.30-3 would require that each towing vessel handling a barge that carries a flammable or combustible cargo carry a cargo information card. The cargo information card would contain emergency information regarding the cargo's appearance and odor, the hazards the cargo poses, instructions on safe handling of the cargo, and handling of the cargo in a fire or other emergency. The barge itself would be required to have a cargo information card posted on deck. This card would serve to show the contents of the barge in addition to describing the cargo's hazards. The watchman responsible for barges carrying liquefied gases or certain grade A cargoes under § 35.01-50 would also be required to have a cargo information card. During cargo transfer, the

person in charge of cargo transfer on a barge would have to ensure that a cargo information card for any flammable or combustible cargo on the barge was posted near the warning sign required by section 35.30-1(b).

Cards meeting the proposed requirements for cargo information cards are available at nominal cost from the Manufacturing Chemists' Association. Alternatively, any legible card meeting the requirements described in the proposed rule could be used.

In consideration of the foregoing, it is proposed that Parts 31 and 35 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 31—INSPECTION AND CERTIFICATION

§§ 31.15-5 and 31.15-6 [Amended]

1. By deleting § 31.15-5(b).

2. In § 31.15-6(a), by striking the reference "§ 35.01-55" and inserting the reference "§ 35.01-50" in place thereof.

PART 35—OPERATIONS

§ 35.01-50 [Amended]

3. In § 35.01-50, by striking the reference "§ 35.01-55" in paragraph (f) and inserting the reference "§ 35.30-3" in place thereof, and by striking the words "and information cards as required by § 35.01-55" in paragraph (g).

§ 35.30-1 [Deleted]

4. By deleting § 35.30-1(d).

§ 35.35-1 [Amended]

5. In § 35.35-1(b), by striking the reference "§ 35.01-55" and inserting the reference "§ 35.01-50" in place thereof.

6. By adding a new § 35.30-3 to read as follows:

§ 35.30-3 Cargo information cards-B/ALL.

(a) *Required on tank barges.* (1) Each tank barge that is not gas free must have a cargo information card for each cargo on board that is listed in Table 30.25-1.

2. The person in charge of a barge shall ensure that the cargo information card is mounted near the warning sign required by § 35.30-1(b) so that the card may be read by a person standing on the deck of the barge.

(b) *Required on towing vessels.* (1) Each towing vessel must have a cargo information card for each cargo in its tow that is listed in Table 30.25-1.

(2) The cargo information card must be carried in the pilothouse or in another accessible location on the towing vessel.

(c) *Description of the cargo information card.* Each cargo information card must be at least 17 cm × 24 cm (6.7 in. × 9.4 in.) and have the following information legibly printed on one side of the card:

(1) The name of the cargo, as listed in Table 30.25-1.

(2) A description of the appearance of the cargo.

(3) A description of the odor of the cargo.

(4) The hazards involved in handling the cargo.

(5) Instructions for safe handling of the cargo.

(6) The procedures to be followed if the cargo spills or leaks, or if a person is exposed to the cargo.

(7) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(46 U.S.C. 170; 46 U.S.C. 391a; 49 U.S.C. 1655(b)(1); 49 CFR 1.46 (b) and (n)(4)).

Dated: March 16, 1979.

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

[FR Doc. 79-9626 Filed 3-28-79; 8:45 am]

[4910-14-M]

[46 CFR Part 157]

[CGD 77-062]

MANNING OF TOWING VESSELS

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Interpretative Rule.

SUMMARY: This document withdraws a proposed interpretative rule regarding the manning of uninspected towing vessels. The proposal is being withdrawn because the comments received indicate that further clarification of the statute is unnecessary and, indeed, might create more problems than it would resolve.

FOR FURTHER INFORMATION CONTACT:

Commander Scott McCowen, Office of Merchant Marine Safety (G-MVP/82), Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-2240.

SUPPLEMENTARY INFORMATION:

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Commander Scott McCowen, Project Manager, Office of Merchant Marine Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION

In the September 14, 1978, issue of the FEDERAL REGISTER (43 FR 41178), the Coast Guard published a proposed interpretative rule (Docket No. CGD 77-062) regarding the application of manning statutes to uninspected towing vessels. Interested persons were given until October 30, 1978 to comment on the proposal. On December 14, 1978, a supplemental notice was published in the FEDERAL REGISTER (43 FR 58394) extending the comment period until February 2, 1979, and announcing public hearings in Portland, Oregon, and Washington, D.C.

The majority of the comments received by mail, as well as those presented at the public hearings, indicate that the issues which the Coast Guard is seeking to clarify by the proposal are for the most part being carried out in the manner indicated in the proposal. Furthermore, the Coast Guard has concluded that publishing a rule regarding what constitutes work time versus rest time would create more problems than it would solve. In light of the foregoing, the Coast Guard has concluded that no useful purpose would be served by issuance of this proposed rule.

Accordingly, the proposal published in the FEDERAL REGISTER (43 FR 41178) on September 14, 1978, entitled "Manning of Towing Vessels" (CGD 77-062) is hereby withdrawn.

(46 U.S.C. 224a, 405(b), 672, 673; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).

Dated: March 16, 1979.

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

[FR Doc. 79-9631 Filed 3-28-79; 8:45 am]

[4910-60-M]

Materials Transportation Bureau

[49 CFR Part 193]

[Docket No. OPSO-46; Notice 4]

LNG Facilities; Federal Safety Standards Development of New Standards; Correction

AGENCY: Materials Transportation Bureau.

ACTION: Correction.

SUMMARY: This document corrects a notice of proposed rulemaking that appeared at page 8142 in the FEDERAL REGISTER of Thursday, February 8, 1979 (FR Doc. 79-4374).

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Walt Dennis (202) 426-2082.

The following corrections are made:

1. On page 8146, column (1), in the last line of the first paragraph, change the word "if" to "is".

2. On page 8147, column (3), in the seventh line of the first new paragraph, change the word "in" to "is".

3. On page 8148, column (1), delete the sentence on the twelfth and thir-

teenth lines which reads "The suggested definitions of "LNG" and "LNG facility" are combined.

4. On page 8151, column (2), in the tenth line of the last paragraph, change the word "if" to "of".

5. On page 8153, column (1), starting at the seventh line of the second paragraph, change the words "probability of being exceeded 0.5 percent" to read "0.5 percent probability of being exceeded."

6. On page 8157, column (1), in the third line from the top delete the word "is".

7. On page 8159, column (1), starting in the eleventh line from the top, delete the incomplete sentence beginning with the words "A choice" and ending with the words "to mixing".

8. On page 8161, column (2), in the first line, add the words "a heat transfer medium such as" immediately after the words "indirectly by" and immediately before the words "steam, or".

9. On page 8164, column (2), in the fourteenth and twenty-second lines of the third paragraph, change the word "dye" to "die".

10. On page 8165, column (2), in line sixteen, add the word "may" immediately after the words "LNG tank" and immediately before the words "justifiably be based".

11. On page 8168, § 193.107(b), the symbol for flame tilt angle is corrected by changing "( )" to "(0)".

12. On page 8170, § 193.107(c)(1) is corrected by deleting the definition of "A" and replacing it with the following:

12. "A=Assumed emissive area of the flame surface in square feet, determined by multiplying the perimeter of the top of the impounding space times the calculated value of the flame length (L) and adding to this product, twice the area of the top of the impounding space."

13. On page 8170, § 193,109(d)(3) is corrected by adding the words "in seconds" immediately after the term "time (t)" and immediately before the words "required for". Also, in the same paragraph, the equation for calculating (t) is corrected to read as follows:

$$t = \frac{2A\left((h_1)^{0.5} - (h_2)^{0.5}\right)}{ca\,(2g)^{0.5}}$$

14. On page 8175, § 193.433 is corrected by changing the word "of" to the word "or", immediately following the words "low temperature" and immediately before the words "fire resulting".

15. On page 8175, § 193.441(a) is corrected by changing the word "of" to the word "or" immediately after the words "tank car" and immediately before the words "tank truck".

16. On page 8177, § 193.527(a)(5) is corrected by adding the words "or other appropriate instrumentation" immediately after the word "thermocouples" and immediately before the words "located at".

17. On page 8177, § 193.535(c)(2) is corrected by changing the word "an" to the word "and" immediately after the words "from shipping" and immediately before the words "operating conditions".

18. On page 8178, § 193.607(a)(2) is corrected by changing the word "or" to the word "and" immediately after the words "the integrity" and immediately before the words "safe operation".

19. On page 8178, § 193.607(b) is corrected by adding the words "as applicable" at the end of the paragraph.

20. On page 8178, § 193.611(a)(1) is corrected by adding the words "to atmospheric pressure" immediately after the words "that system" and immediately before the words "before disconnection".

21. On page 8178, § 193.611(a)(3) is corrected by changing all words immediately after the words "from damage" to the following: "by rail and other land vehicles".

22. On page 8179, § 193.905(a) is corrected by adding the following sentence immediately after the first sentence: "A shut off valve or other device which could make the relief system inoperative is prohibited unless the required relief capacity is otherwise provided.

23. On page 1879, § 193.905(f) is corrected by adding the words "in normal operation" at the end of the paragraph.

24. On page 8179, § 193.909(a)(2) is corrected by changing the words "determined in accordance with" to the words "as described in".

25. On page 8180, § 193.919(b) is corrected by changing all words at the beginning of the paragraph, before the words "a reasonable delay" to the following: "Except for critical components that operate unattended and are remote from the control center,".

26. On page 8181, § 193.1017(b) is corrected by changing "−20°C" "−30°C".

27. On page 8181, § 193.1023 is corrected by adding the word "when" at the end of the first paragraph immediately after the words "be retested".

AUTHORITY: Sec. 3, Pub. L. 90-481, 82 Stat. 721 (49 USC 1672); 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106.

Issued in Washington, D.C., on March 26, 1979.

LUCIAN M. FURROW,
Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-9729 Filed 3-28-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1039]

[Ex Parte No. 346 (Sub-No. 2)]

RAIL GENERAL EXEMPTION AUTHORITY-MISCELLANEOUS COMMODITIES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Commission proposes to consider the following consolidated requests for an exemption under 49 U.S.C. § 10505 for the rail transportation of certain miscellaneous commoditities not covered, by the fresh fruit and vegetable exemption in Ex Parte No. 346 (Sub-No. 1). The commodities are listed in the supplementary information.

DATES: Comments by interested persons must be filed with the Secretary of the Commission on or before May 29, 1979.

ADDRESSES: An orginial and 10 copies, if possible, of each submission should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Office of Proceedings/Section of Rates, Washington, D.C. 20423, (202) 275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 346 (Sub-No. 1) *Rail General Exemption Authority-Fresh Fruits and Vegetables,* we exempted the rail transportation of fresh fruits and vegetables included in: STCC #01 2 Fresh Fruits and Tree Nuts, except 01 232 Bananas, 01 294 Cocoa beans, and 01 295 Coffee, green; and STCC #01 3 Fresh Vegetables, from the provisions of Subtitle IV of Title 49, with the exception of certain informational reporting and accounting requirements. There were requests in that proceeding to expand the commodity list. Accordingly, this proceeding was initiated to consider an exemption under 49 U.S.C. 10505 for the following commodities: 01 143 peanuts; 01 194 potatoes, sweet; 01 195 potatoes,

other than sweet; 01 232 bananas; 01 294 cocoa beans; 01 295 coffee, green; 01 916 mushrooms, fresh; and 09 1 fresh fish or other marine products.

The parties are requested specifically to address the following issues:

(1) Whether a complete exemption from regulation is warranted for these commodities, based on the criteria of section 10505;

(2) Whether a partial exemption from certain statutory provisions is preferable for any of these commodities;

(3) Whether any exemption should be nationwide in scope, or should exclude any geographic or product submarkets;

(4) The particular effects on railroads, shippers, or distinct market areas of any exemption which excludes some geographic or product sub-markets.

Depending on the scope of the exemption sought, specific evidence should be produced that continued regulation (1) is not necessary to carry out the national transportation policy (2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. It must be shown that the transactions or services to be exempted are limited in scope. Particular attention should be given, in the case of commodities whose transportation is not exempt by another mode, to the question of why continued regulation would be an unreasonable burden.

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

Dated: March 21, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-9618 Filed 3-28-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, ...ing 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

SISKIYOU NATIONAL FOREST

Forest Service

Chetco Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Chetco Ranger District, involving the control of competing vegetation on 3,445 acres of conifer plantations and roadside vegetation management on approximately 35 miles of Forest road, has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES(Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Chetco Ranger Station in Brookings, Oregon and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to all proposed treatment areas to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and no treatment will be conducted on the treatment areas for which it was selected.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out, and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9494 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Chetco Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Chetco Ranger District, involving the control of competing vegetation on 2,135 acres of conifer plantations and roadside vegetation managment on approximately 78 miles of Forest road and an administrative study on prevention of resprouting of competing hardwoods on three study sites totaling approximately 5 acres has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Chetco Ranger Station in Brookings, Oregon and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 2,105 acres of conifer plantations and 78 miles of roadside, and manual cutting of hardwoods on 30 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) managment requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wet-

land, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and no treatment will be conducted on the treatment areas of which it was selected.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out, and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9495 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Galice Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Galice Ranger District, involving the control of competing vegetation on 165 acres of conifer plantations and site preparation for planting conifers on 6 acres of forest land has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Josephine and Curry Counties, Oregon. The report is available for public review at the Galice Ranger Station in Grants Pass, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicides 2,4-D to 165 acres, and Dalapon plus Atrazine plus 2,4-D to 6 acres, to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment area. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting, Forest Supervisor.

[FR Doc. 79-9496 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Galice Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Galice Ranger District, involving the control of competing vegetation on 2,279 acres of conifer plantations and site preparation for planting conifers on 212 acres of forest land has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Josephine and Curry Counties, Oregon. The report is available for public review at the Galice Ranger Station in Grants Pass, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicides 2,4-D to 2,367 acres, Tordon to 53 acres, and

glyphosate to 56 acres, and manual cutting of hardwoods on 15 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrivable resource commitments; (d) no known threatened or endangered plants or animals within affected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment area. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9497 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Gold Beach Ranger District FY 1979 Vegetation Managment Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation mangement program on the Gold Beach Ranger District, involving the control of competing vegetation on 1,861 acres of conifer plantations has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Mangement with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Curry County, Oregon, The report is available for public review at the Gold Beach Ranger Station in Gold Beach, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 1,806 acres, and manual cutting of hardwoods on 61 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation mangement program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigaion of potentially significant adverse effects, including: 1. no aerial herbicide applicaton within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetaion management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation mangement methods selected for use on individual treatment areas, with the provisions that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assesement and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These meansures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which applicaion can be carried out and used of low drift additives. State and Federal water quality standards will be met. No action will be taken prior to 30 days from the date this Finding is published in the FEDERAL REGISTER.

The responsibile Official William H. Covey, Forest Supervisor, Siskiyou Nation Forest, P.O. 440, 6th and Midland, Grants Pass, Oregon 87526.

Dated: March 21,1978.

DALE L. FARLEY,
Acting, Forest Supervisor.

[FR Doc. 79-9498 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Gold Beach Ranger District FY 1979 Vegetation Management Program, Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Gold Beach Ranger District, involving the control of competing vegetation on 2,232 acres of conifer plantations has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised) for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Curry County, Oregon. The report is available for public review at the Gold Beach Ranger Station in Gold beach, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 2,223 acres, and manual cutting of hardwoods on 9 acres of conifer plantations to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 4. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementaion Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9499 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Illinois Valley Ranger District FY 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the FY 1979 vegetation management program on the Illinois Valley Ranger District, involving the control of competing vegetation on 1,532 acres of conifer plantations and site preparation for planting conifers on 789 acres of forest land has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Josephine County, Oregon, and Del Norte County, California. The report is available for public review at the Illinois Valley Ranger Station in Cave Junction, Oregon, the Siskiyou National Forest Office in Grants Pass, Oregon, and the Josephine County Library branch in Cave Junction, Oregon.

The proposed program includes application of the herbicides 2,4-D to 304 acres and glyphosate to 357 acres, and manual cutting of hardwoods on 1,660 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treat-

ment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality, the environment, and threatened or endangered plants from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality, minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 22, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9500 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Powers Ranger District Fiscal Year 1979 Vegetation Management Program; Finding of No Significant Impact

An Environment Assessment that discusses the Fiscal Year 1979 vegetation management program on the Powers Ranger District, involving the control of competing vegetation on 90 acres of conifer plantations, has been prepared. The treatments proposed are not included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised), for the proposed treatment areas. All proposed treatment areas are located on National Forest lands within Coos and Curry Counties, Oregon. The report is available for public review at the Powers Ranger Station in Powers, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to all proposed treatment areas to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including: 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment, that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual treatment area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting Forest Supervisor.

[FR Doc. 79-9501 Filed 3-28-79; 8:45 am]

[3410-11-M]

SISKIYOU NATIONAL FOREST

Powers Ranger District Fiscal Year 1979 Vegetation Management Program; Finding of No Significant Impact

An Environmental Assessment that discusses the fiscal year 1979 vegetation management program on the Powers Ranger District, involving the control of competing vegetation on 373 acres of conifer plantations, has been prepared. The treatments and treatment areas proposed are included in the Final Environmental Statement for Vegetation Management with Herbicides, USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised). All proposed treatment areas are located on National Forest lands within Coos and Curry Counties, Oregon. The report is available for public review at the Powers Ranger Station in Powers, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

The proposed program includes application of the herbicide 2,4-D to 307 acres, and manual cutting on 66 acres to achieve vegetation management. The Environmental Assessment does not indicate this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) the treatment alternatives selected for use on each treatment area within the vegetation management program were limited to alternatives that: 1. would not significantly affect the quality of the human environment, or 2. any potentially significant adverse effects could be successfully mitigated; (b) management requirements and constraints ensuring mitigation of potentially significant adverse effects, including 1. no aerial herbicide application within at least 100 feet of any live stream, existing body of water or wetland, 2. no vegetation management treatment within the riparian zone of any stream, body of water or wetland, 3. low-drift additive required adjacent

to any buffer, 4. no flights with loaded spray aircraft over inhabited areas, croplands, recreation facilities or other restricted flight areas, and 5. compliance with policies and precautions outlined in the Final Environmental Statement for Vegetation Management with Herbicides USDA, USDA-FS-R6-FES (Adm) 75-18 (Revised); (c) no irreversible or irretrievable resource commitments; (d) no known threatened or endangered plants or animals within affected effected areas; (e) physical and biological affects are limited to the treatment areas; (f) use of herbicides EPA registered for the intended use, and applied according to all regulations and policies applicable at the time of treatment; and (g) continued review of all new information and regulations involving the use and effects of any of the vegetation management methods selected for use on individual treatment areas, with the provision that if new information shows that use of a particular treatment may have an adverse effect, significantly affecting the quality of the human environment that treatment will not be carried out, and an alternative treatment, if shown in the Assessment as suitable for an individual area, will be carried out on that area. If no alternative treatment is shown as suitable for an individual treatment area, no treatment will be made on the area.

Some public concern has been expressed about possible effects upon water quality and the environment from herbicide application. The Assessment and the Implementation Plan for the proposed project include application measures to protect water quality and minimize drift from the treatment areas. These measures include untreated buffer zones adjacent to water, private land and recreation sites, strict weather conditions under which application can be carried out and use of low-drift additives. State and Federal water quality standards will be met.

No action will be taken prior to April 30, 1979.

The responsible official is William H. Covey, Forest Supervisor, Siskiyou National Forest, P.O. Box 440, 6th and Midland, Grants Pass, Oregon 97526.

Dated: March 21, 1979.

DALE L. FARLEY,
Acting.

[FR Doc. 79-9502 Filed 3-28-79; 8:45 am]

[3410-11-M]

BEAR-SLEDS, CHESNIMNUS AND JOSEPH RANGER DISTRICTS, WALLOWA-WHITMAN NATIONAL FOREST

Site Preparation for Reforestation Project; Finding of No Significant Effect

An Environmental Assessment Report that discusses the Site Preparation for Reforestation on the Bear-Sleds, Chesnimnus and Joseph Ranger Districts in Wallowa County, Oregon is available for public review at National Forest Headquarters for the Wallowa-Whitman National Forest, Federal Office Building, Baker, Oregon or the Chesnimnus-Joseph Ranger Station, Joseph, Oregon.

The Environmental Assessment Report does not indicate there will be any significant effect on the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: 1) control of competing vegetation in reforestation areas; 2) no irreversible or irretrievable resource commitments or losses; 3) no known threatened or endangered plants or animals within the affected area; 4) satisfaction of the Forest Service objective to establish trees on areas requiring reforestation.

Use of Dalapon in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from date this finding is published in the FEDERAL REGISTER.

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Dated: March 14, 1979.

TED YAROSH,
Acting Forest Supervisor.

[FR Doc. 79-9580 Filed 3-28-79; 8:45 am]

[3410-11-M]

CHESNIMNUS/JOSEPH RANGER DISTRICT; WALLOWA-WHITMAN NATIONAL FOREST

Noxious Weed Control Project; Finding of No Significant Effect

An Environmental Assessment Report that discusses the control of noxious weeds along 330 miles of Forest roads on the Chesnimnus and Joseph Ranger Districts in Wallowa County, Oregon is available for public review at National Forest Headquarters for the Wallowa-Whitman National Forest, Federal Office Building, Baker, Oregon or the Chesnimnus-Joseph Ranger Station, Joseph, Oregon.

The Environmental Assessment Report does not indicate there will be any significant effect on the quality of the human environment. Therefore, it has been determined that an environmental statement is not needed.

The determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: 1) control of noxious weeds along roads through rangelands; 2) no irreversible or irretrievable resource commitments or losses; 3) no known threatened or endangered plants or animals within the affected area; 4) satisfaction of the Forest Service objective to control the spread of noxious weeds on rangelands.

Use of 2,4-D in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to thirty (30) days from date this finding is published in the FEDERAL REGISTER.

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Dated: March 14, 1979.

TED YAROSH,
Forest Supervisor.

[FR Doc. 79-9581 Filed 3-28-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 79-3-145; Docket 35121]

ALL AIR TAXI OPERATORS AND COMMUTER AIR CARRIERS

Order Granting Blanket Exemption

Issued under delegated authority March 22, 1979.

On October 24, 1978, the President signed into law the Airline Deregulation Act of 1978 (Pub. L. 95-504). The new law, among other things, amends section 416(b) of the Act by adding a new subsection (4) to provide an exemption from the certificate requirements of section 401(a) to air carriers operating aircraft having a maximum passenger capacity of fewer than 56 seats or a maximum payload capacity of less than 18,000 pounds. The amendment also permits the Board to exempt these carriers from other provisions of the Act and to subject the

carriers to such liability insurance requirements and other regulations as the Board may adopt in the public interest.

At present, Part 298 of the Board's Economic Regulations provides exemptions from all or portions of sections 401, 403, 404, 405, 407, 408, 409, and 412, for air taxi operators and commuter air carriers which operate aircraft in passenger service with a maximum seating capacity of 30 and in all-cargo service with a maximum payload capacity of 18,000 pounds. The new section 416(b)(4) exemption does not go that far, granting relief only from section 401(a), and the Board has not yet amended Part 298 to apply to aircraft in the 30 to 55 seat range.[1] Therefore, operators of aircraft in this size range must now either comply with the provisions of Title IV of the Act (with the exception of section 401(a)) or obtain individual exemptions from Part 298 in order to allow them to use these larger aircraft in their air taxi and commuter operations.[2]

Because Congress clearly intended, in enacting the Airline Deregulation Act, that air taxi operators and commuter air carriers be permitted to operate passenger service with up to 55 seat aircraft and cargo service with aircraft having a maximum payload capacity of 18,000 pounds, we shall grant a blanket exemption from Part 298 to these carriers to engage in such operations until such time as the Board takes final action on EDR-361.[3] In addition, we shall make this authority effective, with respect to any air taxi operator or commuter air carrier, only when that carrier has obtained all required authorizations from the Federal Aviation Administration to permit this type of operation.[4]

For the reasons described above, and acting under authority delegated by the Board in its Regulations, 14 CFR 385, we find that (1) enforcement of the provisions of Part 298 for these operations would not be consistent with the public interest; (2) our action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; (3) our action is not a major regulatory action within the meaning of the Energy Policy and Conservation Act of 1975; [5] and (4) our action is not a hardship which qualifies the carriers involved for additional fuel allocation under the Mandatory Aviation Fuel Allocation Program administered by the Department of Energy.

Accordingly,

1. We exempt all air taxi operators and commuter air carriers from Part 298 of the Board's Economic Regulations to the extent necessary to permit them to operate passenger service with aircraft having a maximum seating capacity of 55 and cargo service with aircraft having a maximum payload capacity of 18,000 pounds;

2. In the conduct of these operations, these carriers are subject to all of the provisions of Part 298 of the Economic Regulations (including the requirement to register with the Board, obtain insurance for their aircraft, and file evidence of such insurance with the Board before commencing operations);

3. We shall make this authority effective only if each carrier involved first secures and maintains from the FAA all required authorizations for the aircraft and operations contemplated;

4. We shall grant this authority for a period terminating upon final Board action on EDR-361; and

5. At its discretion, the Board may amend, modify, or revoke this order at any time and without hearing.

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file their petitions within 10 days after the date of service of this order.

This order shall be effective immediately and the filing of a petition for review shall not preclude such effectiveness.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-9605 Filed 3-28-79; 8:45 am]

[1] In EDR-361, the Board has proposed to increase the capacity limits of Part 298 to 60 seats/18,000 pounds for all operations.

[2] See Order 78-12-127, dated December 19, 1978, in which we granted six air taxi/commuters exemptions to operate under the terms of the Deregulation Act.

[3] The Board plans to take final action on this rulemaking in the near future.

[4] We are not imposing on this interim authority the consumer protection requirements proposed in EDR-361. Rather, the Board will, in taking final action on the rulemaking, resolve the issue of the need for these requirements.

[5] Our action here is merely implementing a previous action taken by Congress, *i.e.*, to allow air taxi/commuters to use larger aircraft. For this reason, our action is not a major action under either the National Environmental Policy Act or the Energy Policy and Conservation Act.

[6320-01-M]

[Docket 33136]

NORTH CENTRAL-SOUTHERN MERGER CASE

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on April 18, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before April 11, 1979*, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., March 27, 1979.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-9604 Filed 3-28-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

1977 CENSUS OF MANUFACTURES SUPPLEMENTAL INQUIRY OF CONSUMPTION OF MATERIALS, PARTS, CONTAINERS, AND SUPPLIES

Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct, as part of the 1977 Census of Manufactures, a sample survey requesting supplementary information on materials consumed under authority of title 13, United States Code, sections 193 and 225. This survey will provide basic statistical data needed by the Bureau of Economic Analysis, Department of Commerce, to prepare the input-output tables that provide the benchmark for the gross national product estimates.

The Bureau of the Census presently collects data once every 5 years on the materials consumed by manufacturing establishments in its census of manufacturers program. However, the industries covered in this supplement inquiry are characterized by the Bureau of Economic Analysis as being substantially undercovered in terms of the reporting of the consumption of specific materials on the 1977 Census of Manufactures report forms. There are no other sources for this kind of consumption information.

This survey shall begin not earlier than April 30, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication to receive consideration.

Dated: March 26, 1979.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 79-9597 Filed 3-28-79; 8:45 am]

[3510-07-M]

1978 SURVEY OF THE CONSUMPTION OF SELECTED HYDROCARBON RAW MATERIALS BY MANUFACTURERS

Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to initiate a new survey on hydrocarbon raw material consumption for the year 1978 and for each year thereafter, under authority of title 13, United States Code, sections 182, 224, and 225. The data colleced in this survey will provide information on the consumption of selected hydrocarbons. This information is timely and important in the consideration of energy supply and usage. Comprehensive raw material consumption data are not currently available for chemical plants, blast furnaces or refineries.

The Bureau of the Census presently collects a limited amount of hydrocarbon raw material consumption data once every 5 years in the census of manufactures, but it is too general for many types of analysis. The new survey will involve report forms specifically designed for chemical plants, blast furnaces, and refineries. Inquiries concerning selected hydrocarbon raw material consumption, produced and consumed fuels, fuel oil stocks, and coal and coke stocks, appear on the forms as applicable. The few detailed items that have been collected previously in the census of manufactures are included among the new items. The responses to the inquiries should provide much more detailed results than before regarding the consumption of fuels for nonenergy purposes. These data will be used as a supplement to the data on fuels used for heat and power that are collected in the annual survey of manufactures, Form MA-100. The statistical aggregates developed from this survey will be used as an aid in policy development by the Department of Energy and as an indicator of economic activity.

This survey shall begin not earlier than April 30, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census on or before April 30, 1979, to receive consideration.

Dated: March 26, 1979.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 79-9596 Filed 3-28-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 30-2B, Amdt. 3]

National Bureau of Standards

STATEMENT OF ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITY

This order effective February 9, 1979 further amends the material appearing at 43 FR 15473 of April 13, 1978, 43 FR 43534 of September 26, 1978, and 44 FR 6976 of February 5, 1979.

Department Organization Order 30-2B dated March 8, 1978, is hereby further amended as shown below. The purpose of this amendment is to (1) abolish Centers as organizational entities reporting to the Director of Administrative and Information Systems, and (2) realign the organizational grouping of divisions to allow more efficient supervision of their operations.

1. Section 6. is revised to read as follows:

"SECTION 6. OFFICE OF THE DIRECTOR OF ADMINISTRATIVE AND INFORMATION SYSTEMS.

"The *Office of the Director of Administrative and Information Systems* shall manage and operate Bureau-wide information and administrative systems; shall establish the related policies and plans, and implement these systems, ensuring maximum responsiveness to the needs of NBS technical programs.

".01 Under the direction of the Deputy Director for Information Systems, information functions shall be carried out by the following divisions:

"a. The *Computing Systems Design Division* shall design, program, implement, and maintain the automated administrative information system; provide consulting, advisory, training, and user-communication services on computing and information processing; serve as a central point for automated information needs by technical and administrative staff members; initiate developmental and experimental projects to evaluate and implement new hardware and software systems; and identify the need for and the implement improvements in central computer resources such as data base management systems, computer graphics, and text handling facilities.

"b. The *Library Division* shall furnish full bibliographic, document, information, and information referral services to the staff of the Bureau; provide consulting and training services for computerized information search and retrieval systems, initiate experimental projects to evaluate applications of new information storage, transmission, and retrieval technologies to the library's operations and services; participate in library and information networking and consortia activities in order to facilitate resource sharing among area and regional libraries; carry out the Bureau's library services and related information retrieval functions using both traditional and computerized information resources and methods; provide limited reference, loan, information, and training services to members of the outside scientific and academic communities.

"c. The *Technical Information and Publications Division* shall carry out the overall planning and management of the NBS publications program, including: NBS policy, editorial, and procedural guidelines, publication budgeting, publication editing, design, and production, research and development on advance electronic typesetting technologies and their adaptation to NBS use, computer automation of publication statistics, and the distribution and archiving of all publications that record results of NBS scientific and technical research; coordinate technical and policy review of manuscripts prepared at Gaithersburg for publication; provide secretariat for the Washington Editorial Review Board; and serve as the central information center for users of the Bureau's outputs.

"d. The *Computer Services Division* shall provide computing and information processing services to NBS and other agencies on a reimbursable basis, together with the supporting technical services, as required, to maintain an effective and responsive central computer facility.

"e. The *Public Information Division* shall serve as the focal point of Bureau communications with the public through interaction with the print and broadcast media, and by means of conferences, tours, and exhibits; advise on the public affairs impact and ramifications of program decisions; and coordinate handling and dissemination of information for the public.

"f. The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; maintain the directives system; perform reports management and committee management functions; and serve as liaison with the Departmental Office of Procurement and ADP Management.

".02 Under the direction of the Deputy Director for Administrative Systems, administrative functions shall be carried out by the following divisions:

"a. The *Plant Division* shall be responsible for the design, construction, alterations, and maintenance of all buildings, structures, roads, grounds, and utilities systems for NBS-Gaithersburg; manage all Bureau-owned and leased real property; operate and maintain the central steam and chilled water generation plant at NBS-Gaithersburg; provide administration and field inspection on all physical plant and construction, alteration, and repair contracts; manage space planning and utilization; and coordinate the energy conservation program for the NBS-Gaithersburg site.

"b. The *Instrument Shops Division* shall design, fabricate, modify, and repair scientific instruments, apparatus, and equipment to meet the requirements of the Bureau's research, developmental work, and other agency work; provide engineering design and drafting, machining, finishing, welding, optical, glassblowing, and electronic fabricating services; and coordinate advisory service to the Statutory Import Programs Staff (ITA) on Scientific Equivalency of Instruments (Florence Agreement).

"c. The *Facilities Services Division* shall provide physical security protection, fire protection, ambulance service, building, laboratory, and office cleaning for the NBS-Gaithersburg site; maintain property records; arrange for the transportation of materials and household moves; operate NBS storerooms; distribute and store Standard Reference Materials; provide audio-visual and conference facilities, mail, messenger, telecommunications, and warehouse services; and manage the NBS motor vehicle fleet.

"d. The *Occupational Health and Safety Division* shall administer the Bureau's occupational safety/health (OSH) program; provide radiation protection services to Bureau users of ionizing and nonionizing radiation sources and lasers; conduct educational and preventive health programs for the staff; provide treatment of minor ailments and injuries with initial treatment and referral of emergencies of a more serious nature; carry out the NBS workman's compensation program; provide technical direction on safety matters to the NBS fire protection unit; and conduct medical surveillance as determined by Occupational Safety and Health Administration (OSHA) standards.

"e. The *Personnel Division* shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development, employee relations, labor relations, and special programs activities; advise and assist operating officials and employees on these and other aspects of personnel management; and process employee security clearances.

"f. The *Office Management Division* shall, within the limitations on procurement authority spelled out in pertinent Department Orders, procure materials/services, prepare awards and administer grants, cooperative agreements, and contracts; arrange for repair of office machines and equipment; provide visual arts, quick copy, and printing services; conduct records and forms management programs; operate NBS records holding area; insure safeguarding of classified records materials; manage the WAE/Clerical Staffing Program; and provide office support for organizations reporting to the Office of the Director of Administrative and Information Systems and for other organizational units in the Bureau who request the service."

2. The organization chart attached to this amendment supersedes the chart dated January 8, 1979. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

Effective date: February 9, 1979.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-9542 Filed 3-28-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available form the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

CHIEF, INTELLECTUAL PROP. DIVISION, OTJAG, DEPARTMENT OF THE ARMY, ROOM 2D 444, PENTAGON, WASHINGTON, D.C. 20310.

Patent application 773,563: Printed Circuit Traveling Wave Tube. Filed Mar. 2, 1977.
Patent application 895,421: High Voltage Nanosecond Pulser Using a Repetitive Series Interrupter. Filed Apr. 12, 1978.
Patent application 907,648: Short Circuit Protection of Regulated Power Supplies. Filed May 22, 1978.
Patent application 931,638: Analog-to-Digital Integrated Converter. Filed Aug. 7, 1978.
Patent application 932,729: Body Armor for Women. Filed Aug. 10, 1978.
Patent application 936,447: Sintered Polycrystalline Nitrogen Stabilized Cubic Aluminum Oxide Material. Filed Aug. 24, 1978.
Patent 4,083,048: Time Allignment Error Sensor System for Range Tracking. Filed Dec. 20, 1976; patented Apr. 4, 1978; not available NTIS.
Patent 4,085,319: Spacial-Multiplex, Spatial-Diversity Optical Communication Scheme. Filed Feb. 1, 1977; patented Apr. 18, 1978; not available NTIS.
Patent 4,087,750: Receiver for Detecting and Analyzing Amplitude or Angle Modulated Waves in the Presence of Interference. Filed May 23, 1968; patented May 2, 1978; not available NTIS.
Patent 4,096,283: Method of Compacting Freeze-Dried Particulate Foods. Filed Nov. 8, 1976; patented June 20, 1978; not available NTIS.
Patent 4,097,868: Antenna for Combined Surveillance and Foliage Penetration Radar. Filed Dec. 6, 1976; patented June 27, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, ASSISTANT CHIEF FOR PATENTS, OFFICE OF NAVAL RESEARCH, CODE C-302, ARLINGTON, VA. 22217.

Patent application 946,003: Chemical Agent Injection System for Fire Fighting Equipment. Filed Sept. 27, 1978.
Patent application 947,379: Adiabatic Laser Calorimeter. Filed Oct. 2, 1978.
Patent application 954,031: Alkanediamide-Linked Polyphthalocyanimes Coordinated with SnC12. Filed Oct. 23, 1978.
Patent application 954,377: An Improved Electrically Excited Mercury Halide Laser. Filed Oct. 24, 1978.
Patent 4,092,627: Calibration Circuit for Expendable Sonobuoys. Filed Dec. 30, 1976, patented May 30, 1978; not available NTIS.
Patent 4,103,849: Catapult Restraint/Release System. Filed Sept. 15, 1977, patented Aug. 1, 1978; not available NTIS.
Patent 4,106,875: Explosively-Separated Tongue and Groove Joint. Filed Sept. 23, 1977, patented Aug. 15, 1978; not available NTIS.

NATIONAL AEORONAUTICS & SPACE ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS, NASA CODE GP-2, WASHINGTON, D.C. 20546.

Patent application 945,043: Time Delay and Integration Detectors Using Charge Transfer Devices. Filed Sept. 22, 1978.

Patent application 961,831: Portable Appliance Security Apparatus. Filed Nov. 17, 1978.

Patent application 966,549: A System for Concurrently Delivering a Stream of Powdered Fuel and a Stream of Powdered Oxidizer to a Combustion Chamber for a Reaction Motor. Filed Dec. 5, 1978.

Patent 4,106,218: Simulator Method and Apparatus for Practicing the Mating of an Observer-Controlled Object with a Target. Filed Feb. 25, 1977; patented Aug. 15, 1978; not available NTIS.

Patent 4,106,687: Totally Confined Explosive Welding. Filed Sept. 10, 1973; patented Aug. 15, 1978; not available NTIS.

Patent 4,107,627: Stabilization of He2(A 3 sigma U+) Molecules in Liquid Helium by Optical Pumping for Vacuum UV Laser 6. Filed Mar. 29, 1977; patented Aug. 15, 1978; not available NTIS.

Patent 4,107,919: Heat Exchanger. Filed Mar. 19, 1975; patented Aug. 22, 1978; not available NTIS.

Patent 4,108,241: Heat Exchanger and Method of Making. Filed Mar. 19, 1975; patented Aug. 22, 1978; not available NTIS.

Patent 4,122,454: Conical Scan Tracking System Employing a Large Antenna. Filed July 25, 1977; patented Oct. 24, 1978; not available NTIS.

[FR Doc. 79-9492 Filed 3-28-79; 8:45 am]

[3510-17-M]

Office of the Secretary

[Dept. Organization Order 10-10, Amdt. 1]

ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION

Statement of Organization and Functions and Delegation of Authority

This order effective March 15, 1979 amends the material appearing at 43 FR 24348 of June 5, 1978.

Department Organization Order 10-10, dated May 9, 1978, is hereby amended as shown below. The purpose of this amendment is to delegate the authority to administer certain portions of the Public Telecommunications Act of 1978.

In Section 5. DELEGATION OF AUTHORITY: A new subparagraph 5.01d. is added to read as follows:

"d. 47 U.S.C. sections 390-394, which relate to the implementation and administration of Title I of the Public Telecommunications Financing Act of 1978 (Pub. L. 95-567 of November 2, 1978)."

Effective date: March 15, 1979.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-9541 Filed 3-28-79; 8:45 am]

[3125-01-M]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

Executive Order 12144; Implementing and Explanatory Documents

MARCH 21, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Implementing Documents Concerning Executive Order 12114.

SUMMARY: On January 4, 1979, the President signed Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957 (Jan. 9, 1979)). The Council has received numerous requests for the implementing and explanatory documents. In order efficiently to respond to such public requests, the relevant documents are reprinted in this issue of the FEDERAL REGISTER. They include: (1) Memorandum for Heads of Agencies With International Activities, from Charles Warren, Chairman, Council on Environmental Quality, and Thomas R. Pickering, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (February 27, 1979), and (2) White House Fact Sheet, Executive Order on Environmental and Scientific Effects Abroad (January 5, 1979).

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C.; 202-395-5750.

NICHOLAS C. YOST,
General Counsel.

FEBRUARY 27, 1979.

MEMORANDUM FOR HEADS OF AGENCIES WITH INTERNATIONAL ACTIVITIES

From: Charles Warren, Chairman, Council on Environmental Quality; Thomas R. Pickering, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Subject: Implementation of Executive Order 12114.

On January 4, 1979, President Carter signed Executive Order 12114, entitled Environmental Effects Abroad of Major Federal Actions. The purpose of this memorandum is to initiate the consultation process required by this Executive Order.

Section 2-1 of the Order provides that every Federal agency taking major federal actions encompassed by and not exempted from the Order, which have significant effects on the environment outside the geographical borders of the United States, its territories and possessions, shall within 8 months after January 4, 1979, have in effect procedures for implementing the Order. This Section requires agencies to consult with the Department of State and the Council on Environmental Quality concerning their implementing procedures before placing them in effect.

Categories of federal activities or programs encompassed by the Order are listed below. The Executive Order defines the activities or programs as those which significantly harm the natural and physical environment even though on balance the agency believes the action to be beneficial to the environment.

1. Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation. This category includes major federal actions significantly affecting Antarctica, and the oceans and weather and stratospheric conditions in areas outside the jurisdiction of any nation. Section 2-3(a).

2. Major Federal actions significantly affecting the environment of a foreign nation which is not participating with the United States in the activity and which is not otherwise involved in the action. This would include, *inter alia*, planning, financing, programming or implementing the action. Section 2-3(b).

3. Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk. Attached to this memorandum is an illustrative list showing the kinds of products, emissions or effluents which are covered by the Order and those that are not. Section 2-3(c)(1).

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances except for actions exempted by Section 2-5(a)(v). This category includes nuclear reactors and nuclear waste management facilities, and excludes nuclear fuel. The Department of State will act as lead agency for conducting environmental reviews for this category of actions. Section 2-3(c)(2).

4. Major Federal action outside the United States, its territories and possessions significantly affecting natural or ecological resources of global importance that are designated for protec-

tion by the President or, in the case of such a resource protected by international agreement binding on the United States by the Secretary of State. There have been no designations by the President or the Secretary of State as yet. Any agency making a recommendation to the President under Section 2-3(d) shall first consult with the Council on Environmental Quality and the Department of State. Agencies will be promptly advised of any designations made by the President and the Secretary of State under Section 2-3(d)

The State Department and the Council on Environmental Quality will be available to assist agencies in preparing their implementing procedures. Questions should be directed to: Foster Knight, 395-4616, Council on Environmental Quality; William H. Mansfield, 632-2418, Department of State.

It would be helpful in planning the consultations under the Executive Order if agencies would inform the Department of State and the Council on Environmental Quality as soon as feasible if they determine their authorities, programs, and activities are not encompassed by the Order.

ILLUSTRATIVE LIST [1] for Determining Compliance With Section 2-3(c)(1) OF EXECUTIVE ORDER 12114

1. The following is an illustrative list of the products, emissions, and effluents encompassed by Section 2-3(c)(1): asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, pesticides, mercury, beryllium, arsenic, cadmium, and benzene.

2. The following is an illustrative list of the products, emissions and effluents not encompassed by Section 2-3(c)(1): chlorine, caustic soda, ammonia, sulphuric acid, phosphoric acid, nitric acid, sulfur dioxide, nitrogen oxides, and sulfate and sulfite liquors.

[For Immediate Release, January 5, 1979]

Office of the White House Press Secretary

WHITE HOUSE FACT SHEET—EXECUTIVE ORDER ON ENVIRONMENTAL EFFECTS ABROAD

Better understanding of the effects which U.S. actions may have on the world's environment is important both for the nation's welfare and for the welfare of present and future generations of mankind. The President has signed an Executive Order which will help to carry out his Administration's strong commitment to global environmental protection through environmental review of U.S. actions affecting the rest of the world.

This Executive Order establishes for the first time government wide procedures for review of environmental effects abroad of major federal actions. The Order reconciles competing but legitimate goals of environmental protection and those of foreign and export policy and national security. The Order is based on my independent Constitutional authority, and also furthers the purpose of the National Environmental Policy Act and other environmental laws.

There is growing concern that governments are undertaking major actions without enough consideration of the environmental consequences. The unintended results may be to endanger health, safety, and the human environment. Under this Executive Order, federal agencies taking certain kinds of actions which may have significant environmental effects abroad will now establish procedures for taking these effects into consideration before taking action. When appropriate, agencies will make this information available to affected foreign nations.

At the same time, consideration of environmental impacts abroad bears on important foreign, economic and national security policy goals and interests. The Order is designed to minimize any adverse effects upon U.S. exports and to further the Administration's nuclear non-proliferation, national security and other foreign policy objectives.

The Executive Order applies to all federal agencies with activities outside the United States. Within eight months these agencies are to put into effect procedures for implementing the Order. The Council on Environmental Quality and the Department of State will work with agencies in preparing their implementing procedures, and will remain available to provide any advice or information that agencies may request to help them review environmental effects of their actions.

TYPES OF FEDERAL ACTIONS COVERED BY THE ORDER

For the *global commons* (such as oceans or Antarctica), the Order provides that environmental impact statements will be prepared for all major federal actions having significant environmental effects.

For *foreign countries* when their environments are significantly affected by major federal actions, agency procedures are to provide for the preparation of environmental review documents in the following situations:

—When the foreign nation affected is not participating with the United States and is not otherwise involved in the project (for example, a U.S.-financed dam in one country that cuts off water to another "innocent bystander" country);

—When the federal action provides a facility which is prohibited or strictly regulated in the United States to protect against radioactive hazards (for example, U.S. exports of nuclear reactors);

—When the federal action provides products or facilities whose principal products, emissions or effluents are prohibited or strictly regulated in the United States because their toxic effects on the environment create a serious public health risk. To clarify the kinds of products and discharges in this category, the President has directed the Export-Import Bank and the Council on Environmental Quality to prepare illustrative lists;

—When the federal action significantly affects natural or ecological resources of global importance that may in the future be designated by the President, or, in the case of resources protected by International agreement, by the Secretary of State.

Where the environmental effects of federal actions are within foreign countries, agencies have flexibility under the Executive Order to prepare either concise environmental reviews of the issues involved, or to undertake bilateral or multilateral environmental studies. Environmental Impact Statements will not be required in these circumstances. The Order does not limit agencies from providing in their procedures for measures in addition to the government-wide requirements in the Order to further the purpose of the National Environmental Policy Act and other environmental laws.

The Order provides agencies with flexibility in developing their procedures. Certain kinds of actions or categories of actions are exempted by the Order altogether. Agencies will also be able to provide for categorical exclusions. Thus, for example, Eximbank may exclude its Exporter Credits, Guarantee and Insurance Program from the procedures that it establishes to implement the Order. The Order also allows agencies to modify their procedures for individual actions to take account of certain important national interests and considerations which are specified in the Order. These decisions will be made by each agency for its own actions. In addition, agencies may provide for other exemptions to meet emergency circumstances or situations involving exceptional foreign policy or national security sensitivities.

The Executive Order clarifies the kinds of environmental reviews required for U.S. actions abroad, and removes uncertainties faced by the agencies and exporters. The Order states that it is not be be construed to create a cause of action. A minor fraction of the dollar volume of U.S. exports will require environmental reviews under this Order. The Order's procedures define and focus on those export actions which should receive special scrutiny because of their serious impacts on the environment and public health.

Nuclear reactors are subject to the environmental review requirements of the Order, but exports of nuclear fuel are not. The President has designated the Department of State as the lead agency to work with other relevant agencies to develop unified procedures for environmental reviews of nuclear exports covered by the Order. These procedures will provide for consideration of environmental issues without impairing U.S. reliability as a nuclear supplier.

This Executive Order supplements the United States efforts to promote international measures to protect the environment. Very recently, Secretary Vance signed the new Great Lakes Water Quality Agreement with Canada—a major element in our continuing cooperation with Canada in environmental protection. Earlier this year, in response to an administration initiative, the major shipping nations undertook stringent new obligations in the protection of the marine environment from oil pollution. The treaty embodying these obligations has been forwarded to the Senate for its action. We have made similar efforts—and progress—in the draft law of the sea treaty. In negotiations now under way, the United States has been pressing strongly for protection of porpoises by all countries involved in Pacific tuna fishing. We are currently working on a number of other international programs in the environmental area, such as

[1] These illustrative lists are non-inclusive, for guidance in complying with Section 2-3(c)(1) of E.O. 12114. At the request of the White House these lists were prepared and agreed on by the Council on Environmental Quality and the Export-Import Bank.

transboundary pollution with Canada and the European states, prevention of desertification with Mexico and implementation of Senate Resolution 49. International cooperation in environmental protection has proved increasingly effective, and the United States intends to continue its strong role in this sphere.

[FR Doc. 79-9493 Filed 3-28-79; 8:45 am]

[3710-GC-M]

DEPARTMENT OF DEFENSE

Army Corps of Engineers

PROPOSED SECOND POWERHOUSE AT McNARY LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON

Intent to Prepare a Draft Supplement to the Final Environmental Impact Statement

The proposed action is the construction and operation of an additional 742 megawatts of generating capacity at McNary Dam. Other features of the proposal include construction of visitor facilities, subimpoundments, levee beautification, and incorporation of water supply facilities into the powerhouse for future use.

Alternatives for additional generating capacity include: No action, thermal power plants, combustion turbines, and pumped storage. Alternatives for the second powerhouse include various plant sizes, locations, and alignments.

A final EIS for a 1,200-MW second powerhouse was filed with the Council on Environmental Quality on February 14, 1977. The purpose of the Draft Supplement is to discuss modifications of the original proposal and new or altered environmental effects. Socioeconomic aspects of construction and effects of aquatic disposal of dredged and fill material will be included.

Coordination with appropriate Federal, state, and local agencies and organizations was begun in December 1973 and has been achieved through information brochures, public meetings, workshops, and informal meetings. The most recent public meetings were held in Richland, Washington, and Hermiston, Oregon, on October 3 and 4, 1978 respectively.

Coordination with the Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act and the Endangered Species Act has been undertaken.

The Draft Supplement is scheduled to be available to the public about May 31, 1979.

Questions about the proposed action and Draft Supplement can be answered by: Witt Anderson, Walla Walla District, Corps of Engineers, Bldg. 603, City-County Airport, Walla Walla, Washington 99362.

Dated: March 20, 1979.

R. T. PHARES,
Executive Assistant.

[FR Doc. 79-9491 Filed 3-28-79; 8:45 am]

[3710-GW-M]

NORTH DAKOTA

Application

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Amerada Hess Corporation has applied for a fuel-carrying pipeline right-of-way in, through, and across the following U.S. Government-owned lands, said lands being a part of Lake Sakakawea Project, North Dakota:

MCKENZIE COUNTY, NORTH DAKOTA

T 154 N, R 95 W
Sec. 33.

The pipeline, in its entirety, will convey gas from a compressor site to an AHC-USA-YTTREDAHL Unit, a distance of approximately 1,500 feet.

The purpose of this notice is to inform the public that the Corps of Engineers will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Those persons who desire to make comments or objections should state their views in detail and send them to the District Engineer, Omaha District, Corps of Engineers, 6014 U.S. Post Office & Courthouse, Omaha, Nebraska 68102, on or before April 30, 1979.

JAMES W. RAY,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-9582 Filed 3-28-79; 8:45 am]

[3710-08-M]

Department of the Army

U.S. ARMY MEDICAL RESEARCH AND DEVELOPMENT ADVISORY PANEL, AD HOC STUDY GROUP ON VIRAL AND RICKETTSIAL DISEASES

Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Viral and Rickettsial Diseases.

Date of meeting: April 17 and 18, 1979.

Time: 0830 hours.

Place: Room 3092, Walter Reed Army Institute of Research.

Proposed agenda: This meeting will be open to the public on April 17, 1979, from 0830 hours to 0915 hours to discuss the scientific research program of the Viral and Rickettsial Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 5526(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 17, 1979, from 0915 hours to adjournment, and on April 18, 1979, from 0830 to 1200 hours for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576-3061) will furnish summary minutes, roster of Committee members, and substantive program information.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administration Management, TAGCEN.

[FR Doc. 79-9544 Filed 3-28-79; 8:45 am]

[3810-71-M]

Department of the Navy

DATA INDUSTRIES, INC.

Intent to Grant Limited Exclusive Patent Licence

Pursuant to the provisions of Part 746 of Title 32, *Code of Federal Regulations*, (41 FR 55711-55714, December 22, 1976) the Department of the Navy announces its intention to grant to Data Industries, Inc., a corporation of the State of Rhode Island, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 3,693,440, issued September 26, 1972, entitled "Electromagnetic Flowmeter," inventor Jack R. Olson.

This license will be granted unless on or before May 29, 1979 an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217, and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of

Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 on or before May 29, 1979. Also, copies of the patent application may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696-4005.

Dated: March 22, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-9583 Filed 3-28-79; 8:45 am]

[3810-71-M]

NAVAL DISCHARGE REVIEW SYSTEM

Notice of Hearing Locations; Correction

In FR Doc. 79-7181, appearing at pages 15756-57 in the FEDERAL REGISTER of March 15, 1979, the telephone number of Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, is corrected to read: 202-696-4881.

Dated: March 23, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-9584 Filed 3-28-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Friday, 27 April, 1979, Pomponio Plaza, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1). Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the intelligence data base required for intelligence assessments.

H. E. LOFDAHL,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 23, 1979.

[FR Doc. 79-9513 Filed 3-28-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NOTICE OF REQUESTS FOR INTERPRETATION FILED WITH THE OFFICE OF GENERAL COUNSEL

Month of February 1979

Notice is hereby given that during the month of February 1979, the Requests for Interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the Requests for Interpretation listed herein are on file in and should be obtained from the DOE's Public Reading Room, Information Access Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-5968.

The statement of issue that follows each Request for Interpretation listed in the Appendix is not intended to be definitive or final. Rather, the issue statement should be regarded as the initial restatement by the DOE of the question that appears to have been presented for resolution. The issue may, of course, be refined and modified during the interpretative process.

Interested parties may submit written comments on the listed interpretation requests on or before April 30, 1979. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 1111, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue, NW., Room 1111, Washington, D.C. 20461, 202-633-9070.

Dated: MARCH 22, 1979.

EVERARD A. MARSEGLIA, Jr.,
Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX.—LIST OF REQUESTS FOR INTERPRETATION RECEIVED BY THE OFFICE OF GENERAL COUNSEL

[Month of February 1979]

Date received	Name and location of requestor	File No.
2/5/79	Winnie Pipeline Company, G. Edward Ellison, Vinson & Elkins, First City National Bank Building, Houston, Texas 77002. Issue: May a natural gas processor compute its maximum lawful selling prices for NGLP's by utilizing the increased product costs attributable solely to the natural gas stream from which the products were removed, or must the processor aggregate these costs with the costs of products derived from other processing plants? (10 CFR 212.163, 212.168, and 212.111).	A-381
2/8/79	Century Oil Management, Inc., Richard C. Russell, 1538 North Century Boulevard, Santa Ana, California 92703. Issue: Are sales of crude oil by an operator of a lease, which purchases crude oil from the working interest owners and then resells it a producer, subject to 10 CFR Part 212, Subpart D?.	A-382
2/9/79	Standard Oil Company (California), Thomas J. Carmichael, 10-5th Street, Astoria, California 97103. Issue: Is a consignee-agent for covered products, who operates a plant, owns the delivery trucks and pays all operating costs including salaries of employees, a wholesale purchaser-reseller as defined in 10 CFR 211.51?.	A-383
2/14/79	The Gulf Companies, Robert F. Ochs, Esq., P.O. Box 3725, Houston, Texas 77001. Issue: Does a former commissioned agent retain motor gasoline allocation rights from the base period supplier upon the mutual cancellation of all agreements regarding the distributorship, the sale of his business assets, and the cessation of his ongoing business so as to enable him to broker such gasoline as an unbranded jobber under 10 CFR 211.11 (a) and (c)?.	A-384

APPENDIX.—LIST OF REQUESTS FOR INTERPRETATION RECEIVED BY THE OFFICE OF GENERAL COUNSEL—Continued

[Month of February 1979]

Date received	Name and location of requestor	File No.
2/16/79	Arizona Fuels Corporation, Martin Lobel, Esq., Lobel, Novins & Lamont, 1523 L Street, NW., Washington, D.C. 20005. Issue: Does the existence of a standard termination clause in a crude oil supply contract constitute mutual consent to terminate a supplier/purchaser relationship in effect pursuant to 10 CFR 211.63?.	A-385
2/23/79	The Termo Company, Eldredge E. Combs, P.O. Box 213, Long Beach, California 90801. Issue: Can a property qualify as a stripper well property under 10 CFR 212.54 if it produced less than 10 barrels of crude oil per well per day for 42 days in a calendar year and no crude oil during the rest of the year because of operational problems?.	A-386
2/26/79	Concord Oil Company, Joseph M. Tomaino, 147 Lowell Road, Concord, Massachusetts 01742. Issue: Does 10 CFR 211.10(g)(5) require a supplier to distribute to a wholesale purchaser-reseller a share of the supplier's surplus product which is based on the wholesale purchaser-reseller's current allocation entitlement, including adjustments?.	A-387
2/26/79	C. M. Dining, Inc., Bruce F. Dining, 104 Epping Road, Exeter, New Hampshire 03833. Issue: May a suppler and wholesale purchaser-reseller in a supplier/purchaser relationship utilize the mutual termination provisions of 10 CFR 211.9 to transfer a portion of a base-period allocation entitlement from the base-period supplier to a new supplier?.	A-388
2/26/79	Cooper Ltd., Garrett F. Cooper, Route 188 & 184, Southbury, Connecticut 06488. Issue: How does a retailer calculate, under 10 CFR 212.93, maximum lawful selling price for gasoline which is offered for sale on a self-service or full-service basis where that retailer sold gasoline on a full-service basis only on May 15, 1973?.	A-389
2/28/79	Sun Production Company, Elaine Boze, Esq., Campbell Centre II, P.O. Box 2880, Dallas, Texas 75221. Issue: Can a liquid hydrocarbon mixture that is collected as a by-product of the natural gas compression process and which consists of approximately 71% pentanes, 18.5% butanes, 9% propane and 1.5% ethane be classified as a natural gas liquid for purposes of the Mandatory Petroleum Price Regulations? (10 CFR 212.31 and 212.162).	A-390

[FR Doc. 79-9409 Filed 3-28-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[ERA DOCKET NO. 79-07-NG]

TENNESSEE GAS PIPELINE CO.

Order Granting Request for Emergency Authorization To Import Canadian Natural Gas Into the United States

On February 21, 1979, the Tennessee Gas Pipeline Company (TGP), a Division of Tenneco, Inc., filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) a request for emergency authorization to import up to 5 billion cubic feet (Bcf) (141.6 million cubic meters or Mm^3) of natural gas from Canada. The gas would be purchased from TransCanada Pipelines Limited (TransCanada). TGP supplemented its application with additional filings and information on February 23, 1979, and March 6, 1979, which, together with the original document, constitute the application in this docket.

TGP states that the natural gas is needed to meet an emergency situation which has developed in natural gas markets served by the TGP system.

TGP states that, as of February 15, 1979, it was forced to restrict deliveries on its system so that only Priority 1 and approximately 87 percent of Priority 2 customers were to be served. (The Priority categories are as defined by FPC Order No. 467-B.) The curtailments were due, according to TGP, to higher than projected demand because of unexpected cold weather in its market areas, and to technical problems in its supply areas causing interruptions in supplies. In addition, TGP states that its storage balances have been sharply reduced and are at dangerously low levels.

TGP asserts a need for this gas to aid it in maintaining its system deliveries during the remaining winter period. Additionally, to the extent the Canadian gas makes withdrawals of base storage gas unnecessary, TGP states that it will not be forced to curtail its summer customers as severely to restore the storage balance necessary for the 1979-80 winter heating season.

The natural gas which TGP proposes to import would be purchased from TransCanada at the rate prescribed by the National Energy Board (NEB) of Canada and permitted by DOE. The price to be paid would include all transmission costs of moving gas in Canada to the international boundary line interconnection, and would not be greater than the current border price of $2.16 (U.S.) per MMBtu. The cost of the gas purchased would be reflected in subsequent purchased gas adjustment filings to be made by TGP.

TGP seeks authorization to import a total of 5 Bcf (141.6 Mm^3) until April 1, 1979, or until such later time as may be needed. The import would utilize existing facilities and would be at a point on the U.S.A.-Canada boundary near Niagara Falls, New York, where the TGP system interconnects with facilities of TransCanada.

TGP further states that it has been advised by TransCanada that the latter's currently available gas supply deliverability exceeds TransCanada's requirements, and that TransCanada is presently seeking authorization from the NEB to export from Canada the volume proposed in TGP's application. TGP also has submitted a copy of an agreement between TGP and TransCanada which confirms the above assertions regarding TransCanada. TGP has further stated to ERA that it and TransCanada anticipate no difficulty in obtaining NEB approval for the import.

On January 3, 1979, ERA issued a "Proposed Special Rule for Temporary Public Interest: Exemption for Use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978" (44 FR 1694-1696, January 5, 1979). The intent of the Special Rule was to encourage short-term switching to natural gas and propane by industrial and utility powerplants which are burning

fuel oil. The purpose was to take advantage of the current surplus of domestic natural gas and propane to help reduce imports of oil and depletion of stocks of middle distillate.

The request of TGP is in some respects consistent with the objectives of the Special Rule. While the gas to be used would be foreign rather than domestic, it would nonetheless tend to ease the pressure on domestic stocks of distillate available for home heating and other high priority uses.

Because the policy embodied in the Special Rule contemplates the substitution of domestic rather than imported gas for fuel oil, ERA has investigated the extent to which domestic rather than Canadian gas would be available in the present case. In that regard, TGP stated in its filing of February 23, 1979:

Since a substantial portion of Priority Category 2 service can use oil as a substitute fuel, the continued service to this category at the highest possible level is an important factor in retaining these loads as a permanent market for domestic natural gas. Increases in either degree of or frequency of curtailment multiply the probability of a consumer's permanently switching to oil. Thus, curtailments work directly contrary to efforts to cause the utilization of domestic gas instead of imported oil. Thus, the proposed purchase from Canada will, in the longer term, aid in the utilization of domestic sources of energy. Particularly, the maintenance of gas markets is important during the interim until Alaskan gas becomes available to the lower 48 States, since any consumer switching to oil decreases the market for that U.S. source of natural gas.

* * * * *

Finally, the proposed purchase simply makes economic sense and results in lower costs to Tennessee's [TGP] customers. As already stated, this gas is available at a price competitive with possible U.S. sources. In addition, the purchase of gas from TransCanada has other advantages. There is an existing interconnection between the facilities of TransCanada and Tennessee [TGP] at Niagara Falls. Thus, the gas can be delivered directly into Tennessee's [TGP] system at a point very near Tennessee's [TGP] storage fields and Tennessee's [TGP] major market areas. A purchase of similar volumes of domestic gas, if available, would be subject to the availability of [TGP's] pipeline capacity from the supply sources in Texas and Louisiana to the market areas. Installation of an interconnection and metering facilities for large daily volumes of gas would probably be necessary, and could be costly and time consuming. Further, if such gas were not delivered directly into Tennessee's [TGP] system (a good possibility) the supply of gas would be subject to necessary arrangements with intermediate pipelines.

Again, valuable time could be lost in negotiating agreements concerning transportation costs and other terms.

TGP has, in addition, made the following assertions to ERA:

1. The price of the Canadian gas, taking into account cost of transportation to the areas in the northeastern U.S.A. where it is primarily needed, would be less than that of emergency purchase domestic gas.

2. TGP has already made emergency purchases of domestic gas from Texas and Oklahoma of up to 200,000 Mcf per day, and requires the Canadian gas in addition to such domestic purchases.

3. The volume of Canadian gas requested would result in the release of approximately 33,500 barrels per day of Number 2 fuel oil, primarily in the northeastern U.S.A. where such oil is in short supply.

On March 12, 1979, ERA published in the FEDERAL REGISTER (43 FR 13572) a notice of receipt of TGP's application and a request that petitions to intervene and briefs on the merits of the application be submitted on an expedited basis. No responses were received.

In view of TGP's uncontested assertions, and in light of the apparent exigent situation, ERA finds that in this instance the importation of limited quantities of Canadian gas for a short period is consistent with DOE's efforts to reduce the use of oil by substituting natural gas; by preserving base storage gas volumes will help insure continued natural gas service to high priority customers during the 1979-1980 winter heating season; and is "not inconsistent with the public interest."

Since TGP has advised ERA that, due to the passage of time, it may not be able physically to move the entire volume of gas requested by April 1, 1979, ERA will allow TGP a reasonable period of time in which to effect the importation, as stated in the order below.

The present application presents ERA with a situation in which prompt regulatory action is required. TGP has requested, in view of the emergency, that ERA waive the procedural requirements for import applications prescribed in Part 153 of the Regulations under the Natural Gas Act (Title 18 CFR), including 18 CFR 153.2, which provides that applications must be filed thirty (30) days prior to the date of importation. Although ERA hereby waives the procedural requirements for good cause shown, ERA conditions this authorization to import upon TGP's complying with the terms of Part 153 as set forth below. It should also be noted that TGP's emergency application has been judged solely on its merits and that ERA's order in this case will have no bearing on any other proceedings in which TGP or TransCanada may be involved before ERA.

ORDER

1. TGP is hereby authorized to import up to 5 Bcf (141.6 Mm^3) of natural gas from Canada, as proposed in its application, for a period of sixty (60) days from the date of issuance of this order, upon the terms and conditions outlined below.

2. TGP shall file within thirty (30) days of the issuance of this order an application complying with the terms of Part 153 of Title 18 CFR including the submission of all relevant contracts pertaining to the importation of this natural gas.

3. DOE shall cause prompt notice of the issuance of this order to be published for comment in the FEDERAL REGISTER and may rescind the import authority granted herein if further proceedings appear warranted and result in a determination that this authorization is inconsistent with the public interest.

Issued in Washington, D.C., on March 17, 1979.

BARTON R. HOUSE,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-9408 Filed 3-28-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

A. TARRICONE, INC.

Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to A. Tarricone, Inc., 1337 Saw Mill River Road, Yonkers, New York on February 16, 1979. This Proposed Remedial Order charges Tarricone with Entitlement Program violations in the amount of $115,785. The violation occurred in the month of November 1974 when Tarricone reported imported residual fuel oil that preceded the inception of the program.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Director, Program Operations Division, Office of Enforcement, 2000 M Street NW., Washington, D.C. 20461. On or before March 13, 1979, any aggrieved person must file a Notice of Objection.

in duplicate, with the Office of Hearings and Appeals in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 23rd day of March, 1979.

BARTON ISENBERG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-9652 Filed 3-28-79; 8:45 am]

[6450-01-M]

COSBY OIL CO.

Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to the Cosby Oil Company, 13601 E. Whittier Blvd., Suite 505, Whittier, CA 90605. This Proposed Remedial Order charges Cosby Oil with pricing violations in the amount of $103,734.61, connected with the resale of motor gasoline during the time period November 1, 1973, through April 30, 1974, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415/556-7200. On or before March 13, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR § 205.193.

Issued in Washington, DC, on the 23rd day of March 1979.

BARTON ISENBERG,
Assistant Administrator, for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-9653 Filed 3-28-79; 8:45 am]

[6450-01-M]

DELTA REFINING CO.

Proposed Remedial Order

Pursuant to 10 CFR 205.191, the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to the Delta Refining Company, 1200 One Energy Square, Dallas, Texas 75206. This Proposed Remedial Order charges Delta Refining Compnay with reporting erroneously and with receiving entitlements in the amount of $404,465.71 over and above the amount which it would have otherwise been issued during the period November 1974 through December 1976.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Director, Program Operations Division, Office of Enforcement, 2000 M St. N.W., Washington, D.C. 20461, Telephone 202/254-8877. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 23rd day of March, 1979.

BARTON ISENBERG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-9564 Filed 3-28-79; 8:45 am]

[6450-01-M]

MORAN OIL CO., INC.

Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Moran Oil Company, Inc., 1923 Southeast Ankeny Street, Portland, Oregon 97124. This Proposed Remedial Order charges Moran Oil with pricing violations in the amount of $84,744.08 connected with the sale of residual fuel during the time period November 1973, to December 1975, in the State of Oregon.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Lyle L. Nelson, Deputy District Manager of Enforcement, 915 Second Avenue, Room 1992, Seattle, WA 98174, phone 206/442-7285. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR § 205.193.

Issued in Washington, D.C., on the 23rd day of March 1979.

BARTON ISENBERG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-9655 Filed 3-28-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. RP79-54]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

MARCH 23, 1979.

Take notice that on March 15, 1979, Arkansas Louisiana Gas Company (Arkla) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 3, the following tariff sheets to become effective on April 1, 1979:

Original Sheet No. 188D
Original Sheet No. 188E
Original Sheet No. 188F
Original Sheet No. 188G
First Substitute 17th Revised Sheet No. 185

These tariff sheets are filed pursuant to Commission Order Nos. 10, 10-A and 10-B and contain provisions whereby Arkla's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect Arkla's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 through September 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to Cities Service Gas Company 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 protests should be filed on or before March 28, 1979. 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. 79-9514 Filed 3-28-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-54]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

MARCH 26, 1979.

Take notice that on March 15, 1979, Arkansas Louisana Gas Company (Arkla) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff

sheets to become effective on April 1, 1979:

Original Sheet No. 12F
Original Sheet No. 12G
Original Sheet No. 12H
Original Sheet No. 12I
First Substitute 19th Revised Sheet No. 4

These tariff sheets are filed pursuant to Commission Order Nos. 10, 10-A and 10-B and contain provisions whereby Arkla's rates will be adjusted to recover tax expenditures under the Louisiana First Use Tax and reflect Arkla's initial First Use Tax Adjustment to recover estimated tax expenditures from April 1, 1979 through September 30, 1979.

Copies of the revised tariff sheets and supporting data are being mailed to Arkla'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 protests should be filed on or before March 28, 1979. 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. 79-9515 Filed 3-28-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-37]

EL PASO NATURAL GAS CO.

Tariff Filing

MARCH 26, 1979.

Take notice that on March 15, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Substitute Original Sheet Nos. 68-E and 68-F to its FERC Gas Tariff, Original Volume No. 1.

El Paso states that, on February 28, 1979, pursuant to the Commission's Order No. 10 which issued August 28, 1978, and Order No. 10-A which issued December 20, 1978, El Paso tendered to the Commission a tariff filing at Docket No. RP79-37 which was designed to: (i) establish a temporary Louisana First-Use Tax tracking provision in El Paso's FERC Gas Tariff, Original Volume No. 1, which provides for semi-annual rate adjustments to coincide with El Paso's semi-annual Purchased Gas Cost adjustment Provision rate adjustments, and (ii) give notice of a change in rate pursuant to the provisions of said LFUT tracking mechanism to be effective April 1, 1979. El Paso states that the proposed LFUT tracking provision provided, *inter alia*, that all revenues collected by El Paso attributable to the LFUT would be placed in escrow during the pendency of litigation concerning the constitutionality of such tax, as required by Commission Order Nos. 10 and 10-A. On March 12, 1979, at Docket No. RP79-37, the Commission noticed El Paso's filing of February 28, 1979.

El Paso states that subsequent to said February 28, 1979, tariff filing, the Commission, pursuant to Order No. 10-B which issued March 2, 1979, at Docket No. RM78-23, modified Order No. 10-A and amended the regulation promulgated therein to allow pipelines to select, on or before March 15, 1979, either said escrow procedure or a corporate undertaking procedure whereby a pipeline will be able to collect the LFUT, subject to refund, pursuant to the tracking mechanism established in the Commission's Order Nos. 10 and 10-A. By the instant filing, El Paso notified the Commission that it selects the corporate undertaking procedure set forth in the Commission's Order No. 10-B, in lieu of the escrow arrangements, and in this regard agrees to comply with the conditions established therein to protect pipeline customers. Further, El Paso states that, in order to implement said tariff modification, it tendered said tariff sheets in substitution for their respective counterparts included in said tariff tender of February 28, 1979.

As required by said Order No. 10-B, El Paso has included in the instant filing its Agreement and Undertaking to comply with the terms and conditions of § 154.38(h) of the Commission's Regulations, which section establishes procedures governing pipeline recovery of the LFUT. El Paso has also included in the instant filing a copy of its Motion to place tariff sheets into effect.

El Paso has requested that the tendered tariff sheets be substituted for their respective counterparts and that such sheets be included as a part of said tariff tender currently pending effectiveness before the Commission in this proceeding. El Paso has requested that tariff filing, reflecting such substitution, be made effective on April 1, 1979, as originally proposed by El Paso. Accordingly, El Paso requested that the Commission grant waiver of its Rules and Regulations, as may be deemed necessary, in order that the substitute tariff sheet tendered in the instant filing, together with the applicable tariff sheets filed on February 28, 1979, be permitted to become effective on April 1, 1979.

El Paso states that the Agreement and Undertaking and the tendered tariff sheets have been served upon all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 28, 1979, 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. 79-9516 Filed 3-28-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-52]

TENNESSEE GAS PIPELINE CO.

Filing of First Use Tax Rate Admustment Provision

MARCH 26, 1979.

Take notice that on March 15, 1979, Tennessee Gas Pipeline, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following:

Substitute Twenty-Fourth Revised Sheet Nos. 12A and 12B
First Revised Sheet No. 213Q
Original Sheet Nos. 213R and 213S

Tennessee states that in conformance with Order No. 10-B these tariff sheets will add a new Article XXVIII to the General Terms and Conditions of its FERC Gas Tariff to provide a mechanism for recovering amounts related to the State of Louisiana First Use Tax as well as the initial Rate Adjustment thereunder. Tennessee proposes that the tariff sheets become effective on April 1, 1979.

Tennessee states that copies of the filing have been mailed to all of its ju-

risdictional 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 March 28, 1979. 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. 79-9517 Filed 3-28-79; 8:45 am]

[1505-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/28B; 1077-5]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Certain Pesticide products Containing Coal Tar, Creosote, and Coal Tar Neutral Oil.

Correction

In FR Doc. 79-7902 appearing on page 15771 in the issue for Thursday, March 15, 1979, the Product Search Listing is inaccurate as published. A corrected version of the Product Search Listing is printed as follows:

[1505-01-C]

**** PRODUCT SEARCH LISTING ****

02/15/79 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR AS AN INERT

REGISTRANT - *NAME AND ADDRESS*

* 000043 CABOT SAMUEL INC
ONE UNION ST
BOSTON MA 02108

********** PRODUCT NAME **********

**00022* CABOT'S CREOSOTE SHINGLE STAINS 280 LIGHT WEATHER BROWN

REGISTRANT *NAME AND ADDRESS*

* 000607 CARBOLA CHEMICAL COMPANY INC
NATURAL BRIDGE, NY 13665

********** PRODUCT NAME **********

**00044* CARBOLA WHITE INTERIOR COATING AND INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 001678 DYALL PRODUCTS
35E. BLECKE AVE
ADDISON IL 60101

********** PRODUCT NAME **********

**00002* NO. 125-WTS TOXIC CERASEAL

REGISTRANT *NAME AND ADDRESS*

* 008763 THOMSON PROCELITE PAINT CO
PO BOX 5550
PHILADELPHIA PA 19143

********** PRODUCT NAME **********

**00001* THOMPSON'S PORCELITE MARINE FIN.SHIPBTM.ANTIFOUL. SUPER TROP.#9805

REGISTRANT *NAME AND ADDRESS*

* 010148 NATIONWIDE CHEMICAL COMPANY INC
395 JOHNSON AVENUE
BROOKLYN NY 11211

********** PRODUCT NAME **********

**00008* COMPLETE VEGETATION KILLER

REGISTRANT *NAME AND ADDRESS*

* 011553 SOUTHERN IMPERIAL COATINGS CORP INC
5042541433
PO BOX 29077
NEW ORLEANS LA 70129

********** PRODUCT NAME **********

**00001* VITRON ANTI-FOULING MASTIC BASE ANTI-FOULING MASTIC CURING AGENT

[6560-01-M]

[FRL 1082-7]

REGION II; GROUNDWATER SYSTEM OF THE BURIED VALLEY AQUIFER SYSTEM OF WESTERN ESSEX AND EASTERN MORRIS COUNTIES, N.J.

Request for EPA Determination Regarding Aquifers

A petition has been submitted by the City of East Orange, New Jersey and the Passaic River Coalition, pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a detemination that the aquifer underlying western Essex and eastern Morris Counties, New Jersey is the sole or principal drinking water source for the central basin of the Passaic River Watershed which, if contaminated, would create a significant hazard to public health.

This petition is reprinted in full below:

Before the United States Environmental Protection Agency; Douglas M. Costle, Administrator, and Eckardt C. Beck, Region II Administrator.

In the matter of the Petition of the city of East Orange, New Jersey and the Passaic River Coalition Under Section 1424 (e) of the Safe Drinking Water Act of 1974 with Respect to the Buried Valley Aquifer System of Western Essex and Eastern Morris Counties, New Jersey.

PETITION

1. The City of East Orange, New Jersey was incroporated in 1909 and is located in Essex County (northeastern), New Jersey. The City has a population of 88,000 and is totally dependent on the Buried Valley Aquifer System, that is the subject of this petition, as a sole source of drinking water for its residents. City Hall is located at 44 City Hall Plaza, East Orange, New Jersey 07017, (201, 675-8049).

The Passaic River Coalition is a non-profit (incorporated in 1971) urban watershed association concerned with water quality, water supply, land use, and the overall quality of the environment in the Passaic River Basin in northern New Jersey. Its main office is located at 246 Madisonville Road, Basking Ridge, New Jersey 07920, (201, 766-7550).

2. A petition to the Administrator and Region II Administrator of the United States Environmental Protection Agency, requesting that the Pleistocene Buried Valley and Associated Bedrock Aquifer System in the Central Basin of the Passaic River Watershed, New Jersey, be designated as a sole source aquifer as provided, under Section 1424 (e) of the Safe Drinking Water Act (Pub. L. 93-523), which provides as follows:

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area in which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

3. President Jimmy Carter's Urban Policy consists of an integrated set of commitments to urban America including Policy Statement number nine:

"Improve the urban physical environment and the cultural and aesthetic aspects of urban life."

Protection of the Buried Valley Aquifer System under Section 1424 (e) of the Safe Drinking Water Act would help protect the environment of the urban centers in northern New Jersey that are dependent on this aquifer as a source of drinking water, thereby responding to objectives of the President's Urban Policy.

4. The area proposed for Sole Source Aquifer designation is a portion of the Central Basin of the Passaic River Watershed in southeast Morris, west Essex and portions of Union and Somerset Counties, New Jersey. Geologically, the area lies within the Piedmont Physiographic Province and is underlain by Triassic-Jurassic (about 190 million years old) shales and sandstones of the Brunswick Formation, along with interspaced basaltic lava flows (the Watchung Mountains). The Brunswick Formation is overlain by a thick covering of Pleistocene (14,000 to 80,000 years ago) glacial deposits, consisting of unconsolidated sands, gravels, silts and clays. The proposed designation would apply to buried valley and channel deposits of glacial origin and the associated bedrock (Brunswick Formation and Watchung Basalt).

5. The boundary of the proposed designation is shown in Figure 1. The area being proposed is generally the Central Basin of the Passaic River Watershed as defined by the U.S. Army Corps of Engineers with some modifications. The area is bordered on the north by Hook Mountain (a basaltic lava flow) and by a line which roughly bisects the Town of Montville. The western boundary is defined by the trace of the Ramapo Fault and the beginning of the Highlands Physiographic Province. The boundary to the south and the east is formed by the Second Watchung Mountain range, including portions of Union, Essex and Somerset Counties, New Jersey.

6. The public water supply systems, as well as a large private water company and many industrial and private well owners depend on this aquifer system as a source of drinking water. Groundwater withdrawn from within the boundary of the designated area is also exported to municipalities outside of the proposed designation area. Therefore, a second map termed the service area (Figure 3) shows distribution outside of the proposed designation area for the aquifer. The two purveyors exporting groundwater outside of the proposed aquifer boundary are the City of East Orange and the Commonwealth Water Company. The total population of the proposed designation area and the service area is approximately 587,188 residents. A total of 31 municipalities are included in the service and designation areas, and of this number nearly 90 percent of the municipalities are dependent on the aquifer as a source of drinking water. Table I gives a breakdown of drinking water sources by municipality, along with population figures.

7. A listing of public water supply systems utilizing the aquifer appears on Table 2.

8. Figure 2 shows an outline of the Buried Valley Aquifer System and shows the location of major public supply and private well fields. Figure 4 shows a cross section of the aquifer and demonstrates the hydraulic connection between the Buried Valley and the surrounding Brunswick Formation and the Watchung Basalt.

9. Continued development in the area makes protection of recharge areas imperative. Development in northern New Jersey has already degraded surface water quality, placing greater reliance and demands on groundwater. The Borough of Chatham, which is totally dependent on the aquifer for drinking water, notes in its Natural Resource Inventory:

"The static water level in our No. 1 well has dropped 31 feet from 1931 to 1969. This is of course due to increased local usage, but it is also indicative of increased urbanization in the surrounding region. With this have come increased demands on the aquifer and, at the same time, a reduced recharge capability due to the construction of homes, buildings, and paved areas in the region. This is supported by the experience of the well fields in Millburn Township and southwestern Livingston where two water companies—Commonwealth, and the City of East Orange—operate pumping stations. Their wells have experienced a drop in the static water level of 54 feet from 1925 through 1965."

10. The U.S. Army Corps of Engineers is currently undertaking a Phase I Advanced Engineering and Design Study of the Passaic River Basin to develop a basin-wide plan for meeting the flood control and other associated water resource and related land resources needs of the basin. The Buried Valley Aquifer is located within their study area. The Army Corps of Engineers, in its Preliminary Draft Plan of Study (August, 1978) of the Passaic River Basin, stated that:

"The major surface water supply developments are located primarily in the upstream tributaries and serve the urban concentrations in the Lower Valley. As a result, groundwater is the major water supply source in the Central Basin and Highland Area. Groundwater provides 75% of the water used above Little Falls and represents 16% of that Area's total developed water supply including that exported below Little Falls."

11. The Policy Advisory Committee of the Northeast Water Quality Planning Program (established under Section 208 of Pub. L. 92-500) recognized the necessity of protecting sole source aquifers and their recharge areas and recommended the following policy:

"The required information for 'sole source determination' of the Buried Valley Aquifer in east Morris and west Essex Counties, New Jersey, should be developed and submitted to the U.S. EPA for Sole Source Designation pursuant to the Safe Drinking Water Act (42 U.S.C. 300F. 300h-3(e); 88 Stat. 1660 et seq. Public Law 93-523)."

12. The City of East Orange, New Jersey (population: 88,000) depends entirely on groundwater from wells overlying the Buried Valley Aquifer System. A 1976 study by Geraghty and Miller, consulting groundwater geologists, Port Washington, New York, of the groundwater conditions at the East Orange Water Reserve determined that increased pumpage and loss of recharge area to urbanization in the region has had a significant effect on the ground-

water resources of the water reserve. The Geraghty and Miller study made the following observation:

"The quality of groundwater within the reserve is more than adequate to meet the needs of a potable water supply but has been degraded over the past 20 years by the effect of changing land-use patterns in the areas surrounding the reserve and from the incursion of highways and sewer lines within the Reserve."

13. A 1978 study by Geraghty and Miller identified a section of the Buried Valley Aquifer near Pine Brook, New Jersey (see Figure 2) which could provide an additional .5 to 1.0 mgd of groundwater. Until further studies are completed, Geraghty and Miller suggested that the designated area should temporarily be set aside and any land development there should be halted until each site can be thoroughly tested as to its potential for groundwater development.

14. The Morris County Master Plan Water Supply Element (1971) recognized the importance of groundwater in the County:

"Despite the extensive development of surface supplies within the County, the major source of supply for consumption within the county is from well water supplies. Over the past three years, surface supplies in the County have accounted for only 10 percent of the consumption from public water supplies within the County."

15. The Township of Livingston, New Jersey (population: 32,500) is totally dependent on groundwater from the Buried Valley Aquifer System. The 1976 Geraghty and Miller study for the East Orange Water Reserve made the following reference to Livingston:

"In Livingston, most of the areas overlying promising sites for groundwater development have been urbanized. In addition, recharge has been reduced due to the covering of prime aquifer recharge areas with impervious surfaces, resulting in a reduction of overall groundwater availability. A third problem is the preponderance of potential sources of groundwater pollution. For example, several well sites have shown that groundwater quality has been impaired as a result of leakage from nearby gasoline and/or oil storage tanks."

16. Thompson (1932) showed the importance of the groundwater resource in supplying drinking water to the area, in the publication, *GROUND WATER SUPPLIES OF THE PASSAIC RIVER VALLEY NEAR CHATHAM, NEW JERSEY:*

"The prinicpal supply of groundwater is obtained from beds of sand and gravel, of Pleistocene age, which lie at a depth of approximately 100 to 135 feet and which are confined to pre-glacial channels cut in the bedrock. Elsewhere in the region the bed rock, which consists of red sandstone and shale and trap rock of Triassic age, is struck at depths as shallow as 60 to 75 feet, and the overlying material consists largely of clay which yields little or no water. In the well fields that have been studied, "the water-bearing formation is overlain by relatively impervious clay and there is little if any recharge directly from rain in the immediate vicinity. An unresolved problem is as to whether there is sufficient recharge to meet the present and future draft."

In addition, Thompson noted that the first well was drilled in the region in 1899.

17. In the *COMPUTER SIMULATION MODEL OF THE PLEISTOCENE VALLEY-FILL AQUIFER IN SOUTHWESTERN ESSEX AND SOUTHEASTERN MORRIS COUNTIES, NEW JERSEY*, Harold Meisler, U.S. Geological Survey, Water—Resources Investigations 76-25, the importance of the Buried Valley Aquifer as a water supply source is noted in the following introductory statement:

"Sand and gravel deposits of Pleistocene age have been an important source of water for communities and industries in southwestern Essex and southeastern Morris Counties for several decades. Withdrawal from these deposits has increased from an estimated 5 Mgal/d during the period 1900-29 to approximately 28.5 Mgal/d during the period 1972-73. Yet virtually all this water was withdrawn from a buried valley-fill aquifer occupying an area of approximately 20 mi^2."

18. Current land use and water quality laws do not adequately protect the Buried Valley Aquifer System or its recharge areas.

19. The highly developed and industrialized environment of northern New Jersey provides for many sources of groundwater contamination including septic systems, accidental spills, landfill leachate, waste lagoons, etc.

20. We, therefore, conclude: The Buried Valley Aquifer System is a sole source of drinking water for municipalities and private well owners in the region, and contamination of this aquifer would create a significant hazard to public health.

Therefore, we respectfully request that the Administrator and Region II Administrator of the United States Environmental Protection Agency Determine that the Buried Valley Aquifer System in eastern Morris and western Essex Counties, New Jersey, be designated as the sole or principal drinking water source for the area and that this determination be printed in the FEDERAL REGISTER, as required by Section 1424(e) of the Safe Drinking Water Act of 1974.

Respectfully submitted,

Dated: January 16, 1979.

THOMAS H. COOKE, Jr.,
Mayor, City of East Orange, New Jersey.

Dated: January 16, 1979.

ELLA F. FILIPPONE,
Executive Administrator, Passaic River Coalition, Basking Ridge, New Jersey.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data, and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Buried Valley Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice should be submitted in writing to Eckardt C. Beck, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 1009, New York, N.Y. 1007, attention: Buried Valley Aquifer; within 60 days of this Notice. Information concerning the Buried Valley Aquifer System will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold a public hearing on May 23, 1979, 7 p.m., at the Northland Recreational Building, Jefferson Court-Rooms 1 and 2, Livingston, N.J.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. John S. Malleck, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1347. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: March 26, 1979.

ECKARDT C. BECK,
Regional Administrator.

[FR Doc. 79-9600 Filed 3-28-79; 8:45 am]

[6560-01-M]

[FRL 1085-8]

THIRD REPORT OF THE INTERAGENCY TESTING COMMITTEE

Extension of the Public Comment Period; Correction

Notice is given that the Environmental Protection Agency is extending the period for public comment on the Third Report to the Interagency Testing Committee (ITC) from March 30, 1979, to May 1, 1979.

In the Availability section of the Agency's request for comments on ITC's Third Report, published on October 30, 1978 (43 FR 50630), it was stated that the Committee would transmit the information dossiers it used in developing its recommendations to EPA within a few weeks. Because of difficulties encountered by EPA in printing the dossiers, they did not become available to the public until March 15, 1979; as a result, the period for public comment is being extended by 30 days, to May 1, 1979.

In transmitting the dossiers to EPA, the ITC sent a correction to an example cited in the rationale for carcinogenicity testing for the category "Glycidol and its Derivatives." The second sentence under the heading "Carcinogenicity" in Chapter 3.3.C of the ITC Report (at 43 FR 50634) is changed to read:

In view of the potential alkylating properties of these compounds, and the demonstrated carcinogenicity of triethylene glycol diglycidyl ether and

the structurally related glycidal, the Committee recommends carcinogenicity studies.

The ITC also noted in transmitting the dossiers to EPA that it has had considerable discussion with manufacturers of glycidyl ethers about the choice of the name of this category. The Committee is aware that the glycidyl ethers and esters are not commercially synthesized from glycidol. However, in the interest of simplicity in naming the category, the term "derivatives" is being used to mean esters and ethers, which are, regardless of synthetic route, considered to be derivatives of the alcohol glycidol.

Copies of the ITC's dossiers are available from: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Room 711-A, EPA, 401 M Street, SW, Washington, D.C., 20460; or call, toll free, 800-424-9065; in Washington, D.C., call 554-1404.

Comments should bear the identifying number OTS-040005 and should be submitted to Joyce Barbour, Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), Room 711-A, EPA, 401 M Street, SW, Washington, D.C., 20460.

All written comments will be available for public inspection in Room 711, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: March 23, 1979.

STEVEN D. JELLINEK,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-9599 Filed 3-28-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1169]

Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

MARCH 26, 1979.

Docket or RM No.	Rule No.	Subject	Date received
19528		Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS);.	
20774	Part 68	Revision of Part 68 of the Commission's Rules to Specify Standard Plugs and Jacks for the Connection of Telephone Network; and.	
21182 (RM-2829)	Part 68	Amendment of Part 68 of the Commission's Rules (Telephone Equipment Registration) to Specify Standard for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems.	
		Filed by Stephen R. Bell & James E. Magee, Attorneys for Independent Date Communications Manufacturers Association.	Mar. 9, 1979.
		Filed by O. J. Gusella, Jr., Chairman, Telephone Equipment Section & John Sodolski, Vice President for the Communications Division, Electronic Industries Association.	Mar. 12, 1979.
		Filed by Richard M. Cahill & Vincent Gallogly, Attorneys for GTE Service Corporation.	Do.
		Filed by William E. Ebben, Asst. Vice President & Edward L. Friedman, T. Larry Barnes and J. Richard Teel, Attorneys for American Telephone and Telegraph Company.	Do.

NOTE.—Oppositions to Petitions for reconsideration must be filed on or before April 13, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-9559 Filed 3-28-79; 8:45 am]

[6712-01-M]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70
"Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"

Notice of 15th Meeting

Monday, April 16, 1979

Conference Room 7202, Nassif (DOT) Building, 400 Seventh Street SW. (at D Street), Washington, D.C.

Agenda

1. Call to Order.
2. Old Business.
3. New Business.
4. Administrative Matters.

Captain Alfred E. Fiore, Chairman, SC-70
U.S. Merchant Marine Academy
Kings Point, New York 11024
Phone: (516) 484-8200

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-9560 Filed 3-28-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 79-19]

SEA-LAND SERVICE, INC., V. EURO-PACIFIC JOINT SERVICE, HAPAG-LLOYD AKTIENGESELLSCHAFT, COMPAGNIE GENERALE MARITIME, AND INTERCONTINENTAL TRANSPORT (ICT) B.V.

Filing of Complaint

Notice is given that a complaint filed by Sea-Land Service, Inc. against Euro-Pacific Joint Service, Hapag-Lloyd Aktiengesellschaft, Compagnie Generale Maritime, and Intercontinental Transport (ICT) B.V. was served March 23, 1979. The complaint alleges that respondents have, without approval of the Commission, chartered space or otherwise employed vessels exceeding the Commission authorized limitations of their joint service in violation of section 15 of the Shipping Act, 1916.

Hearing in this matter, if any is held shall commence on or before September 23, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-9598 Filed 3-28-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 17, 1979.

A. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

PITTSBURGH NATIONAL CORPORATION, Pittsburgh, Pennsylvania (mortgage activities; Kentucky, Ohio, South Carolina): to engage, through its subsidiary, The Kissell Company, in mortgage banking activities, including the making or acquiring and servicing of loans and other extensions of credit. These activities would be conducted from offices in the Chillicothe, Ohio, and Columbia, South Carolina metropolitan areas, and the geographic areas to be served are 16 counties in South Carolina, 11 in Ohio, and 2 in Kentucky.

B. *Federal Reserve Bank of Atlanta*, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FIRST ALABAMA BANCSHARES, INC., Montgomery, Alabama (insurance activities; Alabama): to engage, through its subsidiary, FAB Agency, Inc., in the sale as agent or broker of the following kinds of property and casualty insurance directly related to extensions of credit by its subsidiaries, First Alabama Leasing, Inc., and Real Estate Financing, Inc.: insurance protecting collateral in which the lender has acquired a security interest and insurance customarily sold to individual borrowers in connection with or as part of an insurance package with insurance protecting collateral. These activities would be conducted from office of the subsidiaries in Montgomery, Alabama, and the geographic area to be served is the market area of that city. Applicant also proposes to act as agent or broker for the sale of certain insurance for Applicant's subsidiary banks. Applicant now has subsidiary banks in Notasulga, Athens, Bay Minnette, Birmingham, Cullman, Dothan, Gadsden, Guntersville, Hartselle, Huntsville, Rogersville, Bayou La Batre, Montgomery, Phenix City, Selma, and Tuscaloosa, Alabama, and the geographic areas to be served are the market areas expressed by the city locations of these subsidiaries.

C. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1. CITIZENS BANCORPORATION, Sheboygan, Wisconsin (trust company activities; Wisconsin): to engage through its subsidiary, Citizens Trust Company, in performing or carrying on any activities of a trust company (fiduciary, agency, or custodian activities) in the manner authorized by Wisconsin law, except that the subsidiary will not accept deposits or make loans and investments (other than deposits generated from trust funds not currently invested or other funds received for special use as custodian or agent). The subsidiary would assume the current duties of the Citizens Bank of Sheboygan's trust department and would provide trust services to customers of Applicant's affiliates and other nonaffiliated banks. These activities would be conducted from offices in Sheboygan, Green Bay, Shorewood, Chilton, Kaukauna, Oostberg, and Howards Grove, Wisconsin, and the geographic area to be served is Wisconsin.

2. MIDLAND MORTGAGE CORPORATION, Detroit, Michigan (mortgage servicing activities; Arizona, Colorado, District of Columbia, Florida, Georgia, Maryland, Michigan, Nevada, Ohio, Virginia): to engage through its subsidiary, Midland Mortgage Service Corporation, in servicing real estate mortgage loans. These activities would be conducted from an office in Detroit, Michigan, and the geographic areas to be served are the nine states listed in the caption to this notice and the District of Columbia.

D. *Other Federal Reserve Banks.* None.

Board of Governors of the Federal Reserve System, March 16, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-9530 Filed 3-28-79; 8:45 am]

[6210-01-M]

COMMUNITY HOLDING CO.

Acquisition of Bank

Community Holding Company, Knoxville, Iowa, 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 80 percent or more of the voting shares (less directors' qualifying shares) of The

Community National Bank & Trust Company of Knoxville, Knoxville, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 11, 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 Sysetm, March 15, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-9531 Filed 3-28-79; 8:45 am]

[6210-01-M]

FAMILY FINANCIAL INSTITUTION, INC.

Formation of Bank Holding Company

Family Financial Institution, Inc., Yorktown, 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 84 per cent or more of the voting shares of First National Bank, Yorktown, Texas. 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 April 10, 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, March 15, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-9532 Filed 3-28-79; 8:45 am]

[6210-01-M]

MERCANTILE BANKSHARES CORP.

Proposed Acquisition of Mercantile Insurance Co. of Maryland

Mercantile Bankshares Corporation, Baltimore, Maryland, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mercantile Insurance Company of Maryland, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer, credit life insurance and credit accident and health insurance directly related to extensions of credit by the bank holding company system. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served is the State of Maryland. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 13, 1979.

Board of Governors of the Federal Reserve System, March 15, 1979.

EDWARD T. MULRENIN,
Assistant Secretary, of the Board.

[FR Doc. 79-9333 Filed 3-28-79; 8:45 am]

[6210-01-M]

SCHUYLER BANCORP, INC.

Formation of Bank Holding Company

Schuyler Bancorp, Inc., Springfield, Illinois, 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 per cent or more of the voting shares of Schuyler State Bank, Rushville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 16, 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, March 16, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-9534 Filed 3-28-79; 8:45 am]

[6210-01-M]

STANLEY BANCORPORATION, INC.

Formation of Bank Holding Company

Stanley Bancorporation, Inc., Stanley, Wisconsin, 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 85 per cent or more of the voting shares of Farmers and Merchants State Bank, Stanley, Wisconsin. 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 no later than April 16, 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 dis-

pute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 16, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-9035 Filed 3-28-79; 8:45 am]

[6210-01-M]

WOOD & HUSTON BANCORPORATION, INC.

Formation of Bank Holding Company

Wood & Huston Bancorporation, Inc., Marshall, Missouri, 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 100 per cent (less directors' qualifying shares) of the voting shares of Wood & Huston Bank, Marshall, Missouri, and Missouri Southern Bank, West Plains, Missouri, a proposed new bank. 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 should submit views in writing to the Reserve Bank, to be received not later than April 16, 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, March 15, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc 79-9536 Filed 3-28-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 19 and 22, 1979. 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 receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests 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 requests, comments (in triplicate) must be received on or before April 16, 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, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of a revision to 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. New section 30.34(f) would require those licensees who decide to discontinue a program licensed under Part 30 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 40 licensees annually will be affected by this new reporting requirement and that the reporting burden will average 20 minutes per response.

The NRC requests clearance of a revision to 10 CFR Part 40, Licensing of Source Material. New section 40.41(f) would require those licensees who decide to discontinue a program licensed under Part 40 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner, regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 15 licensees annually will be affected by this new reporting requirement and that the burden per licensee will average 20 minutes.

The NRC requests clearance of a revision to 10 CFR Part 70, Special Nuclear Material. New section 70.32(h) would require those licensees who decide to discontinue a program licensed under Part 70 to notify the Commission in a timely manner. Under the present system the NRC sometimes does not find out that a licensee has discontinued a licensed program until an inspection or the end of the five-year license term. This is the only alternative data source and it is not satisfactory. The report is necessary to allow NRC to communicate with the licensee, in a timely manner, regarding disposition of the licensed material and a cleanup of the facility. The NRC estimates that approximately 12 licensees annually will be affected by this new reporting requirement and that the burden per licensee will average 20 minutes.

The NRC requests an extension-without-change clearance for Form NRC-314, Certificate of Disposition of Materials. Form NRC-314 is completed by NRC licensees whose licenses are expiring and who do not file an application for renewal of their licenses. Form NRC-314 is reviewed by the NRC to determine whether the licensee has materials on hand which must be transferred or otherwise disposed of prior to expiration of the license and, if materials have been transferred or disposed of, to determine whether transfer or disposition of the materials is in accordance with the NRC's regulations. Respondents are firms, institutions, and individuals licensed to possess and use radioactive materials under NRC licenses. The NRC estimates that approximately 200 respondents will file one certificate annually and that preparation time will average 10 minutes per certificate.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-9601 Filed 3-28-79; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

COMMUNITY ORGANIZATION FOR PREVENTIVE HEALTH SERVICES

Open Meeting

The following meeting will be convened by the Bureau of State Services of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: April 17, 1970.
Time: 9 a.m. to 4 p.m.
Place: Room 511, 255 East Paces Ferry Road, N.E., Center for Disease Control, Atlanta, Georgia 30333.

Purpose: To discuss plans for community organization as it pertains to the development of preventive dental health services.
Additional information may be obtained from:

Dr. Vernon N. Houk, Director, Environmental Health Services Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333, Telephones: FTS 236-6645, Commercial: 404/262-6645.

Dated: March 23, 1979.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 79-9585 Filed 3-28-79; 8:45 am]

[4110-35-M]

Health Care Financing Administration

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF CALIFORNIA

Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on September 30, 1979.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have 3 or more PSROs to: (1) help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in California under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physicians groups); or

(2) Organizations and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians.)

Please include biographical data which demonstrates each nominee's qualifications, particularly his or her knowledge of health care in the State and willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Philip Nathanson, Regional Administrator, Health Care Financing Administration, 100 Van Ness Avenue, 14th Floor, San Francisco, California 94102.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA (415) 556-0254.

Dated: March 23, 1979.

PHILIP NATHANSON,
Regional Administrator, Health Care Financing Administration.

[FR Doc. 79-9490 Filed 3-28-79; 8:45 am]

[4110-84-M]

Health Services Administration

PROJECT GRANTS FOR HEMOPHILIA TREATMENT CENTERS

Announcement of Availability of Grants

The Bureau of Community Health Services, Health Services Administration, announces that competitive applications for grants for projects to establish comprehensive hemophilia diagnostic and treatment centers are being accepted. Section 1131(a) of the Public Health Service Act (42 U.S.C. 300c-21) authorizes the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private entities to support projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. The amount available for these grants in fiscal year 1979 is $650,000. It is expected that approximately five awards will be made under this program and that the amount of each award will be approximately $130,000.

The Secretary will make grants to eligible applicants for projects to establish centers which will provide on an outpatient basis, among other things, diagnosis and treatment of individuals suffering from hemophilia and will assure access to services for all such individuals residing within the geographic area served by the project. See, 42 CFR Part 51d, Subpart A, for regulations applicable to these grants.

Application kits, including all necessary forms, instructions, and information may be obtained upon written request from, and completed applications returned to, the address below:

Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Room 6-49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Consultation and technical assistance regarding the development of an application are available from the Bureau of Community Health Services, Room 7-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-2350.

Applicant's proposals must be submitted for review by the Health Systems Agency(s) in the applicant's area and must be submitted for review and comment to State and Areawide A-95 Clearinghouses. It is strongly recommended that applicants submit proposals to reviewing agencies at least 60 days before the deadline for receipt of applications.

Completed applications must be received by June 1, 1979, to be considered for funding.

Dated: March 16, 1979.

GEORGE I. LYTHCOTT,
Administrator, Health Services Administration.

[FR Doc. 79-9489 Filed 3-28-79; 8:45 am]

[4110-39-M]

National Institute of Education

PROGRAM OF RESEARCH GRANTS ON ORGANIZATIONAL PROCESSES IN EDUCATION

Closing Dates for Applications

National Institute of Education gives notice that, under the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), applications are being accepted for support of research related to organizational processes in elementary and secondary education. This notice is a republication of remaining deadline dates in Fiscal Year 1979 (announced December 8, 1978, at 43 FR 57658), and an announcement of planned dates in Fiscal Year 1980.

A. *Types of awards.* The program funds two types of grants. Small grants may be made for projects of up to twelve months' duration in amounts not to exceed $10,000 of direct costs. Grants (other than small grants) may be made in any amount for projects of up to three years' duration. Note the increase in the limit on small grants, from $7,500 to $10,000.

B. *Application procedures.* Application for a grant (other than a small grant) requires a preliminary proposal, which is reviewed by NIE staff, scholars, and educators. NIE returns to the applicant an indication of the relative standing of the preliminary proposal, and information on any major strengths or weaknesses found in the review. An applicant may submit a full proposal for a grant (other than a small grant) only after receiving the review of the preliminary proposal.

Application for a small grant requires only a full proposal, not a preliminary proposal.

In order to conduct its reviews, NIE requires 10 copies of any proposal submitted.

C. *Closing dates.* Applications for new awards are reviewed in batches at four-month intervals. Future closing dates for submitting small grant, preliminary, and full proposals are:

April 16, 1979
August 15, 1979
December 17, 1979
April 14, 1980

D. *Applications sent by mail.* An application sent by mail must be addressed to: National Institute of Education, Proposal Clearinghouse, Washington, D.C. 20208. Attention: Organization Research.

A mailed proposal will be accepted for review if it is mailed on or before the closing date. Proof of timely mailing may consist of a legible U.S. Postal Service postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use first-class mail, registered or certified. Each late applicant will be notified that the proposal will not be considered in the current review cycle. Late applications may be withdrawn or held over for review in the next cycle.

E. *Hand-delivered applications.* An application to be hand-delivered must be taken to the Proposal Clearinghouse, National Institute of Education, room 813, 1200 19th Street NW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:30 p.m. Washington, D.C. time, except Saturdays, Sundays, and federal holidays.

F. *Program information.* Interested persons may obtain a program announcement from the Head, School Organization and Management Studies, Program on Educational Policy and Organization, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. Telephone 202-254-7930. The announcement contains all rules governing the program, as well as information on eligibility and review criteria, available funds and award history, and instructions on how to apply. Persons interested in applying for research support under this program are strongly urged to obtain the program announcement. Written requests for the program announcement should be accompanied by a self-addressed mailing label.

G. *Multiple year awards.* Grants (other than small grants) may be for projects lasting up to three years. If an application for a multi-year project is approved, an initial grant award will be made for one year. Continuation awards will be made on a noncompetitive basis subject to satisfactory performance and the availability of funds in future fiscal years.

H. *Availability of funds and estimated number of awards.* Research projects approved for support in the April 1979 review cycle announced in this notice will be awarded initial funds from the NIE fiscal year 1979 appropriation. From this appropriation, the total amount of funds available for support of new projects of all kinds in this program is about $0.9 million. Approximately 10 new grants will be awarded in the balance of Fiscal Year 1979, of which about 4 will be small grants. The range of funding for projects in 1978 was from about $35,000 to $100,000 per year for grants, and $5,000 to $12,000 for one-year small grants. However, the majority of awards was for under $80,000 per year for grants, and under $9,000 for small grants.

Funds for the program in Fiscal Year 1980 will not be known until fall 1979, but the amount is expected to be approximately the same as in previous years.

The program will support only projects of the highest quality, whether or not the program's resources are exhausted. Nothing in this announcement commits NIE to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun in earlier years, for contract or in-house research, or because of budget or staffing restrictions.

I. *Applicable regulations.* The regulations applicable to this program include the NIE General Provisions Regulations (45 CFR Part 1400) published in the FEDERAL REGISTER on November 4, 1974, at 39 FR 38992, and the final regulations for the Program of Research Grants on Organizational Processes in Education published in the FEDERAL REGISTER on November 22, 1977, at 42 FR 59487.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: MARCH 21, 1979.

PATRICIA ALBJERG GRAHAM,
Director,
National Institute of Education.

[FR Doc. 79-9733 Filed 3-28-79; 8:45 am]

[4110-08-M]

National Institutes of Health

ADVISORY COMMITTEES

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the establishment of the following committees by the Secretary, HEW.

The Biochemical Endocrinology Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to chemical and biochemical aspects of endocrinology, including reproduction. Also covered will be studies on non-endocrine (pharmacological) action of hormones.

Chemical Pathology Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in aid for research projects and for grants and awards for research and training activities relating to various aspects of pathology with emphasis on linking the disciplines of chemistry and pathology in basic and clinical studies of the etiology of disease at the cellular level.

Diagnostic Radiology and Nuclear Medicine Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to various aspects of clinical and basic research in diagnos-

tic radiology, nuclear medicine and ultrasound. A common thread uniting these modalities and areas of scientific expertise is optical imaging and its attendant instrumentation.

Mammalian Genetics Study Section. This committee shall advise the Secretary, the Assistant Secretary for Health and the Director, National Institutes of Health, regarding applications and proposals for grants-in-aid for research projects and for grants and awards for research and training activities relating to the search for new knowledge in the field of mammalian genetics. The subject matter would focus on the broad hereditary aspects of humans and warm-blooded animals. The range would be from theoretical models and basic studies to human clinical studies with the use of molecular, population, or classical methodologies, including somatic cell, immunogenetic, behavioral, cytogenetic, and formal techniques pertaining to genetic defects or diseases of humans. The specific areas covered would be:

1. Biochemical and molecular genetics of higher organisms.
2. Somatic cell genetics and immunogenetics.
3. Human and mammalian developmental genetics.
4. Human and mammalian behavioral genetics.
5. Human and mammalian studies of genetic variability, evolution and population genetics.
6. Human and mammalian cytogenetics and gene mapping.
7. Evaluation of genetic counseling methodologies.

Authority for these Study Sections shall expire on June 30, 1980, unless the Secretary, HEW, formally determines that continuance is in the public interest.

Dated: March 15, 1979.

DONALD S. FREDRICKSON,
Director,
National Institute of Health.

[FR Doc. 79-9520 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Notice of Open Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to dicuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: Breast Cancer Task Force Committee.
Dates: May 3-4, 1979: 1 p.m. to 5 p.m., May 3; 8:45 a.m. to adjournment, May 4.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: (1) Breast Cancer Task Force Committee workshop on aspects of genetic risk for breast cancer and (2) program review.
Executive secretary: Dr. D. Jane Taylor.
Address: Landow Building, Room 4A22, National Institutes of Health.
Phone: 301-496-6718.

Name of committee: Chemical selection subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: May 25, 1979, 9 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive secretary: Dr. James M. Sontag.
Address: Building 31, Room 3A16, National Institutes of Health.
Phone: 301-496-5108.

Dated: March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Office,
National Institutes of Health.

[FR Doc. 79-9521 Filed 3-28-79; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, DIVISION OF CANCER CAUSE AND PREVENTION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCCP, National Cancer Institute, April 26 and 27, 1979, Building 31, 6th Floor, "C" Wing, conference Room 9, National Institutes of Health. This meeting will be open to the public on April 27, 1979, from 9:00 a.m. to 5:00 p.m. to discuss aspects of the research and resources activities of the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub L. 92-463, the meeting will be closed to the public on April 26, 1979, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. David McB. Howell, Executive Secretary, Board of Scientific Counselors, Division of Cancer Cause and Prevention, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496-2927) will furnish summary minutes, roster of committee members, and substantive program information.

Dated March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institute of Health.

[FR Doc. 79-9522 Filed 3-28-79; 8:45 am]

[4110-08-M]

MEETING

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Pursuant to P.L. 92-463, notice is hereby given of the special meeting of the Biomedical Library Review Committee, National Library of Medicine, on May 1-3, 1979, from 8:30 a.m. to 5:00 p.m. on May 1, and May 2, and from 8:30 a.m. to adjournment on May 3, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 to 10:30 a.m. on May 3 for the discussion of program directions in regard to three newly established programs—the new investigator research grants, the research development awards, and the program project support for research in biomedical information systems. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 522b(c)(4) and 522b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 1 and 2 from 8:30 a.m. to 5:00 p.m., and from 10:30 to adjournment on May 3 for the review, discussion and evaluation of individual grant applications.

These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-496-4191, will

provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879-National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institute of Health.

[FR Doc. 79-9529 Filed 3-28-79; 8:45 am]

[4110-08-M]

MICROBIOLOGY AND INFECTIOUS DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on April 24-25, 1979, at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public from 9:00-9:30 a.m. on April 24 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 9:30 a.m. on April 24 until adjournment on April 25 for the review, discussion, and evaluation of individual contract proposals. These proposals and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20014, (301) 496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAU
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9527 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, May 21, 22, and 23, 1979, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will convene each day at 9:00 a.m. and will be open to the public from 9:00 a.m. until noon on May 21 for opening remarks by the Director, National Eye Institute, discussion of procedural matters, and presentations by the extramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(b) of Pub. L. 92-463, the meeting will be closed to the public from 1:00 p.m. until adjournment on Monday, May 21, and the entire day on Tuesday and Wednesday, May 22 and 23, until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A-25, AC 301/496-5248, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9525 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of an ad hoc subcommittee of the National Cancer Advisory Board, National Cancer Institute, April 26, 1979, Building 31, Room 7A24, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment to review the role of the National Cancer Advisory Board. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of Board members, upon request.

Dr. Thomas J. King, Executive Secretary, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5147) will provide substantive program information.

Dated: March 14, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9523 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL DIABETES ADVISORY BOARD

Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meetings of the National Diabetes Advisory Board on April 2 and 3, 1979, which was published in the FEDERAL REGISTER, March 13, 1979, 44 FR 14643, due to unanticipated conflicts with other scheduled meetings.

Dated: March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9524 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL ARTHRITIS ADVISORY BOARD WORK GROUP

Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the Private Sector Work Group, National Arthritis Advisory Board, April 11, 1979, which was published in the FEDERAL REGISTER on March 5, 1979, 44 FR 12108. The full

Board and other Work Groups will meet as planned April 11-12, 1979. Times and meeting location may be obtained by contracting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Dated: March 15, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9528 Filed 3-28-79; 8:45 am]

[4110-08-M]

NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL AND MANPOWER SUBCOMMITTEE AND RESEARCH SUBCOMMITTEE MEETINGS

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, May 31, June 1 and 2, 1979, National Institutes of Health, Building 31, Conference Room 10, at 9 a.m.

This meeting will be open to the public on May 31, from 9 a.m. to approximately 3:30 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held May 30, 1979, at 8 p.m. in Building 31, Conference Room 9 and 10 respectively.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United states Code, and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on May 31, from 3:30 p.m. until recess, and on June 1, from 9 a.m. to adjournment on June 2, for the review, discussion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8 p.m. to adjourment on May 30, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (301) 496-7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: March 21, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-9526 Filed 3-28-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Coal Lease Application C-27103; C-27432]

LAND IN GUNNISON COUNTY, COLO. AND LANDS IN DELTA COUNTY, COLO.

Public Hearing

United States Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on April 18, 1979 at 7:00 p.m. in the Paonia High School gymnasium in Paonia, Colorado. Applications have been made to the United States that it offers for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Technical Examination-Environmental Assessment Report and on the following items: (1) the method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leaseholds may have on the area, including but not limited to impacts on the environment, agriculture, and other economic activities; and (3) methods of evaluation of the coal to be offered. Written requests to testify orally at the April 18th public hearing should be received at the Montrose District Office, Bureau of Land Management, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401, prior to the close of business (4:30 p.m.) on April 16, 1979. People who indicate they wish to testify when they check in at the hearing room may also have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be reveiwed at the public hearings, but speakers will be limited to a maximum of 3 to 5 minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the alloted minutes. Written comments may also be submitted to the District Manager, Montrose District Office at the above address, prior to close of business on April 20, 1979. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments on the fair market value of the coal resources described herein, to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

APPLICATION C-27103

The coal resource to be offered is to be mined underground from the E-seam in the following lands located approximately 12 miles northeast of Paonia, Colorado:

T. 13 S., R. 90 W., 6th P.M.,
Sec. 1: Lots 13, 14, 19, 20;
Sec. 12: Lots 1, 2 and that part of Lot 5, SW¼NE¼, and SE¼NW¼ lying north of the North Fork of the Gunnison River.

Containing approximately 304 acres.

APPLICATION C-27432

The coal resource to be offered is limited to 5,600,000 tons to be mined underground from the D-seam in the following lands located approximately 3 miles north of Paonia, Colorado:

T. 13 S., R. 92 W., 6th P.M.,
Sec. 12, Lots 9, 15;
Sec. 13, Lots 1, 3, 4, 5, 6, 11, 12.
T. 13 S., R. 91 W., 6th P.M.,
Sec. 7, Lots 3, 4, E½SW¼;
Sec. 18, Lots 1, 2, 3, 4, E½W½;
Sec. 19, NW¼NW¼NW¼.

Containing 864.41 acres.

NOTICE OF AVAILABILITY

The draft Technical Examination-Environmental Assessment Report will be available for review in the Montrose District Office, Bureau of Land Management, at the address set out above, and at the Uncompahgre Resource Area Office, Bureau of Land Management, 336 South 10th Street, Montrose, Colorado 81401.

A copy of the Technical Examination-Environmental Assessment Report, the case files and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commentator, will be available for public inspection at the Colorado State

Office, Bureau of Land Management at the address set out above.

MERRILL G. ANDERSON,
Leader, Montrose Team,
Branch of Adjudication.

[FR Doc. 79-9481 Filed 3-28-79; 8:45 am]

[4310-84-M]

MONTANA

Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River

MARCH 21, 1979.

Notice is hereby given that all recreation users on the public lands within the Upper Missouri National Wild and Scenic River corridor from Fort Benton, Montana, to the Fred Robinson Bridge will be required to have in possession a permit issued by the Lewistown District, Bureau of Land Management, Lewistown, Montana.

NONCOMMERCIAL USE

A free use permit will be required for noncommercial recreational users of this River during the primary recreation use season. These permits will be issued on a first come, first serve basis and will not fall under "open season" restrictions. They will be issued at all major launch points along the River.

COMMERCIAL OPERATORS

Filing—Application for a Special Recreation Use Permit (SRUP) must be filed during the "open season" established by the District Manager prior to the beginning of the primary recreation use season (the weekend before Memorial Day through the weekend following Labor Day). This open season will extend until April 30, 1979.

Applicants must submit in duplicate completed Form 6260-5, obtainable from any Bureau of Land Management office, along with required supplementary data, to the District Manager, Bureau of Land Management, Airport Road, Drawer 1160, Lewistown, Montana 59457.

In addition to the information requested in the SRUP, the applications must be accompanied by (1) an estimate of the total number of passenger days required for the upcoming use season, (2) an estimate of the number of passenger days required during the primary recreation use season, (3) a record of past use on the Missouri River extending back a period of five years, (4) a listing of anticipated launch dates (if known) and, (5) a record of any other past outfitting or guiding permits acquired.

Final approval or disapproval of the permit will occur within a maximum of 30 days following the close of the open season. The District Manager will inform the applicant within 15 days following the close of the open season if the decision to issue the permit will be delayed and the reason for the delay.

Approved permits will be valid until December 31 of the year of issuance.

Use allocations will be determined by the District Manager. Allocations will be based on (1) established carrying capacity limits for the river, (2) historic use and, (3) requested use needs. Allocations will be granted for the primary recreation use season only. Use fees and the SRUP will apply, however, to the total annual use actually recorded by each outfitter or guide.

Fees—Applicants for special recreation permits shall include with their application a $10 nonrefundable filing fee. A minimum fee of $25 is required for each 100 passenger days or a fraction thereof. (A passenger day is any calendar day, or portion thereof, on the public lands or use otherwise authorized by special recreation permit.) The following schedule of rates will apply: 1 to 100 passenger days = $25 (minimum payment not subject to refund). Additional passenger days will be compiled in increments of 100 days at $25 per 100 days. Days at the beginning and ending of trips will count as full days.

Payment of use fees will be required at the time the permit is issued. Because the amount of intended use cannot be precisely determined at this time, the fee will be based on an estimation of total annual use and payment will be required of that amount.

PERFORMANCE BONDS

Minimum of a $100.00 Performance Bond will be required. The amount of the bond may be larger and shall be sufficient to defray the cost of restoration and rehabilitation of the lands affected by the permitted use. The amount of the bond will be at the discretion of the district manager.

INSURANCE

An insurance policy, naming the United States as coinsured, will be required for issuance of permits. Amounts of public liability insurance required are:

(1) Property damage in the amount of $5,000;

(2) Damage to persons in the minimum amount of $100,000 in the event of death or injury to one individual; and

(3) The minimum amount of $250,000 in the event of death or injury to more than one individual.

Permit holders will also be required to comply with other applicable State and Federal agency requirements, use restrictions, laws, and regulations. These include, but are not limited to:

(1) U.S. Coast Guard regulations pertaining to water safety, personal flotation devices, and equipment (including inspection),

(2) Montana boating regulations,

(3) Business licenses (if applicable), and

(4) Montana Outfitters and Guides License (if applicable).

EDWIN ZAIDLICZ,
State Director.

[FR Doc. 79-9483 Filed 3-28-79; 8:45 am]

[4310-84-M]

MONTANA

Wilderness Inventory

MARCH 20, 1979.

Notice is hereby given that the Montana Bureau of Land Management has completed the second phase of wilderness inventories on certain public lands in Montana. The inventories which followed guidelines established in the BLM Wilderness Inventory Handbook dated September 27, 1978, were conducted in advance of the statewide inventory. Time commitments previously established for completion of the environmental statement for the Northern Tier Pipeline necessitated the accelerated inventory.

PROPOSED DECISIONS

The Montana State Director's proposed decision on the wilderness inventory of three inventory units crossed by the proposed Northern Tier Pipeline in the Miles City and Butte Districts is as follows:

MT-024-665 Woody-Flat Creek (9,800 acres). This unit originally contained 25,500 acres of public land. 15,700 acres of the original unit were found to be unsuitable for further wilderness consideration on the basis of existing roads and opportunities for solitude or primitive and unconfined types of recreation.

The remaining 9,800 acres in the central portion of the inventory unit were found to have wilderness characteristics and are recommended for further study.

MT-024-684 Terry Badlands (44,515 acres). This unit originally contained 52,000 acres of public land. The boundaries were modified on the basis of roads and other manmade intrusions found during the intensive inventory. The remaining 44,515 acres were found to contain wilderness characteristics and are recommended for further wilderness study.

MT-074-150 Wales Creek (16,143 acres). This unit originally contained 20,056 acres. Boundary modifications were made during the intensive inventory to exclude a roaded area where

extensive logging had taken place which clearly and obviously did not meet wilderness characteristics criteria. A second modification was made to eliminate state and private lands originally included in the unit, but which were not actually contiguous to the remainder of the area. The remaining 16,143 acres were found to contain wilderness characteristics and are recommended for further wilderness study.

MILES CITY DISTRICT INVENTORY UNITS NOT RECOMMENDED FOR FURTHER STUDY

The Montana State Director's proposed decision on the wilderness inventory of six inventory units in the Miles City District proposed to be crossed by the Northern Tier Pipeline is as follows:

MT-048-689 Cabin Creek (13,200 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and distribution of vehicular ways and the impact of manmade intrusions.

MT-048-674 Nelson Creek (5,499 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and impact of manmade intrusions.

MT-048-666 Hagen Gap (10,800 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on the density and impact of manmade intrusions.

MT-024-667 Timber Creek-Big Dry Creek (10,100 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area on the basis of not providing outstanding opportunities for primitive and unconfined recreation.

MT-048-690 Cedar Creek (15,000 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area based on a high level of manmade developments in the form of oil wells and associated equipment.

MT-048-668 Big Dry Arm (9,478 acres). The public lands within this inventory unit clearly and obviously do not meet the criteria for identification as a wilderness study area on the basis of not providing outstanding primitive and unconfined recreational opportunities.

A public review period on the proposed decisions began on March 7, 1979, and will conclude on April 16, 1979. A final wilderness inventory decision will be made by the State Director on or before May 1, 1979.

For further information or to submit written comments on the wilderness inventory for the affected units, individuals should contact:

Wilderness Coordinator, Butte District Office, 220 N. Alaska, P.O. Box 308, Butte, Montana 59701, Telephone: 406-723-6561.

Wilderness Coordinator, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301, Telephone: 406-232-4331.

EDWIN ZAIDLICZ,
State Director.

[FR Doc. 79-9484 Filed 3-28-79; 8:45 am]

[4310-84-M]

[NM 36312]

NEW MEXICO

Application

MARCH 19, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 29 E.,
Sec. 6, SE¼ SE¼.
Sec. 8, NW¼NW¼.

This pipeline will convey natural gas across 0.423 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding will consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-9485 Filed 3-28-79; 8:45 am]

[4310-84-M]

[Colorado 24128 j; Colorado 24128 o; Colorado 24128 p; Colorado 22771 m]

NORTHWEST PIPELINE CORPORATION

R/W Applications for Pipeline

MARCH 22, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4½" o.d. natural gas pipeline for the Philadelphia Creek and Trail Canyon Gathering Systems approximately 3.682 miles long, across the following Public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 2 S., R. 101 W.
Section 9: NW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼
Section 10: S½SE¼
Section 11: SW¼SW¼
Section 12: SE¼SW¼
Section 13: NE¼NW¼, W½NW¼
Section 14: SE¼NE¼, N½SE¼
Section 15: NW¼NE¼, E½NW¼.
T. 4 S., R. 101 W.
Section 11: SE¼NE¼
Section 12: W½NW¼.

The above-named gathering systems will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the applications. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claims or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comments, claims, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-9482 Filed 3-28-79; 8:45 am]

[4310-84-M]

OFFICIAL PROTRACTION DIAGRAM

Approval Outer Continental Shelf

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram, approved on the date indicated, is available for information in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil

and gas lease offers in the geographic area represented.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description: NN 3-5, Unalaska.

Approval date: Revised October 24, 1978.

2. Copies of this diagram are for sale at two dollars ($2.00) per sheet by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The Street address is 800 A Street, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

ROBERT J. BROCK,
Acting Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 79-9480 Filed 3-28-79; 8:45 am]

[4310-84-M]

[2300; U-31031; (U-942)]

UTAH

Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application filed by the Bureau of Land Management, U.S. Department of the Interior, U-31031, for withdrawal and reservation of national resource lands was published as FEDERAL REGISTER Document 75-28561 on pages 49583 and 49584 of the issue for October 23, 1975. A modification of the Proposed Withdrawal was published as FEDERAL REGISTER Document No. 76-6955 on pages 10455 and 10456 of the issue for March 11, 1976. The Bureau of Land Management has canceled its application involving the lands described in the FEDERAL REGISTER publications referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be at 10:00 a.m. on May 4, 1979 relieved of the segregative effect of the above-mentioned application.

PAUL L. HOWARD,
State Director.

March 20, 1979.

[FR Doc. 79-9486 Filed 3-28-79; 8:45 am]

[4310-84-M]

NEVADA

Airport Lease Application

MARCH 20, 1979.

1. Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), County of Lincoln has applied for an airport lease for the following lands:

MOUNT DIABLO MERIDIAN

T. 7 S., R. 60 E.
sec. 1, SE¼;
sec. 12, NE¼.
T. 7 S., R. 61 E.,
sec. 6, SW¼;
sec. 7, NW¼.

2. The application was filed on February 16, 1979, and on that date the land was segregated from all other forms of appropriation under the public land laws.

3. Interested persons may submit comments to the District Manager, Bureau of Land Management, 4765 W. Vegas Drive, Box 5400, Las Vegas, NV 89102.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc. 79-9589 Filed 3-28-79; 8:45 am]

[4310-84-M]

[NM 36310 and 36311]

NEW MEXICO

Notice of Applications

MARCH 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for two 4-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 26 E.,
sec. 34, S½SW¼.
T. 23 S., R. 29 E.,
sec. 4, lots 3, 4, SW¼NE¼, S½NW¼ and N½SE¼;
sec. 6, SE¼SE¼.

These pipelines will convey natural gas across 1.431 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-9587 Filed 3-28-79; 8:45 am]

[4310-84-M]

[NM 36291]

NEW MEXICO

Notice of Application

MARCH 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.,
Sec. 7, lot 12;
Sec. 18, lots 5, 11 and 12.

This pipeline will convey natural gas across 0.40 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. 79-9588 Filed 3-28-79; 8:45 am]

[4310-84-M]

UTAH

Kanab-Escalante Grazing Statement; Notice of Intent To Prepare an Environmental Statement and Scoping Meetings

The Department of the Interior, Bureau of Land Management, Cedar City District Office will be preparing a Grazing Management Environmental Impact Statement in connection with a 1974 Federal court order to prepare site specific environmental statements concerning the effects of livestock grazing activities on public lands. The BLM was directed to address specific areas, identify particular grazing management programs, analyze the environmental impacts associated with the management programs and analyze viable grazing management alternatives.

BLM administered land in Garfield and Kane counties west of Capitol Reef National Park and Glen Canyon National Recreation Area with the exception of those lands along the Sevier River and East Fork of the Sevier River, will be considered. The Cannan

Mountain area of Washington County will also be included.

Three public meetings will be held for the purpose of scoping the environmental statement. Scoping is the process of determining the scope of issues to be addressed, and identifying the significant issues related to the proposed grazing management programs.

The meetings will be held as follows: May 2, 1979, at the BLM office in Kanab, Utah, from 1:00 pm to 7:00 pm; May 3, 1979, at the BLM office in St. George, Utah, from 1:00 pm to 7:00 pm; May 3, 1979, at the BLM office in Escalante, Utah, from 1:00 pm to 7:00 pm. Interested individuals may attend any of these meetings or send written comments to the address below.

These meetings will be held as Open Houses. Those who wish to attend may come at their convenience and will have an opportunity to go over the Management Framework Plan grazing proposals which the environmental statement will address and provide any information they desire to an attendant employee at the Open House.

For information concerning the proposed grazing management programs or the environmental statement, contact the following individual: Morgan S. Jensen, Bureau of Land Management, Post Office Box 724, Cedar City, Utah 84720, Area Code 801-586-2401.

Dated: March 22, 1979.

MORGAN S. JENSEN,
District Manager,
Cedar City, Utah.

[FR Doc. 79-9590 Filed 3-28-79; 8:45 am]

[4310-84-M]

[W-65973 Amendment]

WYOMING

Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana-Dakota Utilities Co. of Bismarck, North Dakota filed an application to amend their existing right-of-way, W-65973, to construct an additional 6 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 49 N., R. 94 W.,
sec. 13, SW¼NE¼, N½NW¼, SE¼NW¼ and NW¼SE¼.

The proposed 6 inch pipeline will transport natural gas from the American Quasar #1-13 well located in the NW¼SE¼ of section 13 to a point of connection with their existing 8 inch pipeline located in the SW¼ of section 12, all within T. 49 N., R. 94 W., Big Horn 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, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-9591 Filed 3-28-79; 8:45 am]

[4310-84-M]

[W-66684]

WYOMING

Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for a right-of-way to construct an 8 inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 48 N., R. 92 W.,
sec. 18.
T. 48 N., R. 92½ W.,
secs. 1, 12 and 13.
T. 49 N., R. 92 W.,
sec. 31.
T. 48 N., R. 93 W.,
sec. 1
T. 49 N., R. 93 W.,
secs. 3, 4, 10, 11, 13, 14, 24, 25 and 36.
T. 50 N., R. 93 W.,
secs. 5, 8, 9, 21, 28 and 33.
T. 51 N., R. 93 W.,
secs. 28, 32 and 33.

The proposed pipeline will transport crude oil from the River Dome Station located in the SE¼SW¼ of section 18, T. 48 N., R. 92 W., Washakie County, Wyoming to the Basin Station located in lot 2 of section 18, T. 51 N., R. 93 W., Big Horn 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, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-9592 Filed 3-28-79; 8:45 am]

[4310-84-M]

[W-62916 Amended]

WYOMING

Notice of Application

MARCH 21, 1979.

Notice is hereby given that pursuant to Sec. 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 amendment to re-route their pending right-of-way application and to change the size of pipeline to be constucted to a 6⅝ inch O.D. and a 4½ inch O.D. for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Secs. 25, 26, 27, 28, 32 and 33.

The proposed pipeline will transport natural gas from the Paparone Federal #1 well located in the NW¼NE¼ of section 25, T. 24 N., R. 111 W., to a point of connection with Northwest Pipeline Corporation's Lateral A-2 pipeline located in the NW¼SW¼ of section 32, T. 24 N., R. 111 W., all within 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. 79-9593 Filed 3-28-79; 8:45 am]

[4310-10-M]

Office of the Secretary

HEARINGS

Lands Withdrawals in Alaska by the Secretary of the Interior Under Section 204(c) of the Federal Land Policy and Management Act

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior will conduct a series of public hearings to collect written and oral testimony on the desirability and need to withdraw lands pursuant to the provisions of Section 204(c) of the Federal Land Policy and Management Act, primarily as additions to the National Wildlife Refuge System.

DATES: Simultaneous public hearings will be held in the following cities on the dates and times listed: Galena and Kotzebue, Alaska, on April 24, 1979; Kaktovik and Bethel, Alaska, on April 25, 1979; Arctic Village and Dillingham, Alaska, on April 26, 1979. All hearings will begin at 2:00 p.m. Written comments will be accepted by the Alaska Area Director, U.S. Fish and Wildlife Service for 30 days following each public hearing. In addition, at a later date, hearings will be held in Anchorage and Fairbanks, Alaska; Denver, Colorado; San Francisco, California; and Washington, D.C. Information concerning these later hearings will be the subject of a subsequent notice in the FEDERAL REGISTER.

ADDRESS: Written requests to testify must be mailed in advance to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99507, (telephone 907-276-3800). Written statements may either be mailed to the Alaska Area Director at the above address in advance of the hearing, or handed to the hearing officer at the hearing.

FOR FURTHER INFORMATION CONTACT: Burkett S. Neely, Jr, Alaska Native Claims Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (telephone 202-343-7533).

SUPPLEMENTARY INFORMATION: The primary author of this document is Burkett S. Neely, Jr.

BACKGROUND

On November 16, 1978, Public Land Order 5653, as amended by Public Land Order 5654, was issued under the emergency withdrawal authority provided to the Secretary by section 204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA). The Secretary of the Interior determined that an emergency situation existed and that extraordinary measures had to be taken to protect values of the approximately 110 million acres that were withdrawn.

On December 1, 1978 President Carter used his authority under the Antiquities Act of 1906 to designate 17 new national monuments in Alaska, totaling appoximately 56 million acres. President Carter's proclamations covered thirteen units to be administered by the National Park Service, two units to be managed by the U.S. Fish and Wildlife Service and two National Forest units which will continue to be managed by the Forest Service. Most of these lands are included within the 110 million acres in Alaska which were withdrawn by the Secretary on November 16, 1978 under Section 204(e) of FLPMA.

DISCUSSION

The public hearings are being scheduled in six Alaskan villages to hear comment on proposals for final withdrawal under Section 204(c) of the FLPMA. The approximately 57 million acres of lands under consideration are generally the remainder of those lands which were withdrawn by the Secretary but not designated as National Monuments by the President. Mostly, these lands would become additions to the National Wildlife Refuge System. These lands are now protected by the emergency withdrawal issued by the Secretary on November 16, 1978, after Congress failed to pass legislation placing these critical federal lands in conservation system units—national parks, national wildlife refuges, wild and scenic rivers.

When the National Monuments were established by Presidential Proclamation, the Secretary was directed to "proceed with necessary steps" for final withdrawals for the remaining areas. These steps involve holding public hearings first and then providing Congress with documentation similar to that submitted in connection with the emergency withdrawals. Appropriate documents pertaining to the areas and withdrawal actions being proposed will be available for review at U.S. Fish and Wildlife Service offices in Anchorage, Fairbanks, Nome, Bethel, Juneau, Kenai, and Kodiak, Alaska, and other locations as appropriate, beginning April 16, 1979. After May 1, documents will be available at all U.S. Fish and Wildlife Service Regional Offices. These documents will also be available during the hearings.

All interested parties including Federal, State, Borough and municipal agencies, local interests, and individual citizens and groups are invited to write to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, requesting to be scheduled to testify at one of the hearings listed above. Those persons scheduled will be afforded 10 minutes to express their views concerning the proposed withdrawals. Oral statements will be heard, but for accuracy of the record, all testimony should be submitted in writing. Translators will be provided for oral testimony as necessary. The record of the hearing will be forwarded to the Secretary for final consideration.

The Department of the Interior encourages written expression relative to the proposal at any time. However, in order to be incorporated in the official record, all communications should be mailed to the Alaska Area Director at the above address within 30 days following each hearing.

Dated: March 26, 1979.

JAMES A. JOSEPH,
Under Secretary
of the Interior.

[FR Doc. 79-9639 Filed 3-28-79; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation

The National Institute of Law Enforcement and Criminal Justice plans to initiate an exploratory research project entitled "Utilization of Forensic Sciences in Police Investigations," intended to develop empirical information that can provide guidance in enhancing the utilization of physical evidence in what is considered the initial stage of the criminal justice process—the criminal investigation responsibility of law enforcement agencies. Recognizing that there is a serious lack of basic information systematically describing the current utilization, costs, and benefits of criminalistic laboratories, as well as their proper role in the criminal justice system, the National Institute is seeking research proposals that address aspects of four general themes which are enumerated in the actual solicitation. The purpose of the solicitation is to invite researchers with a particular interest in this topic area to compete for the research grant.

The solicitation asks for the submission of preliminary proposals rather than formal grant applications. Formal proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than May 1, 1979. The grant is planned for award in July 1979 with funding support not to exceed $150,000 and a grant period of 24 months in duration.

Further information and copies of the solicitation can be obtained by contacting: William E. Saulsbury or David J. Farmer, Office of Research Programs, NILECJ, 633 Indiana

Avenue, N.W., Washington, D.C. 20531 (301/492-9110).

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-9487 Filed 3-28-79; 8:45 am]

[44-1018-M]

Law Enforcement Assistance Administration

NOTICE OF MEETING

Notice is hereby given that the Appeal of Nova University from the denial of a Law Enforcement Education Program (LEEP) grant will be heard on April 5, 1979, at 9:30 a.m. The location of the hearing will be the Federal Court House, 299 East Broward Boulevard, Ft. Lauderdale, Florida, Room 205A.

Administrative Law Judge Paul N. Pfeiffer of the U.S. Consumer Product Safety Commission will preside. The hearing is open to the public. For any further information contact Jay A. Brozost at this number (202) 376-3691.

CHARLES A. LAUER,
Deputy General Counsel.

[FR Doc. 79-9594 Filed 3-28-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-13]

ACCIDENT REPORTS, SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Aviation

Aircraft Accident Report No. NTSB-AAR-79-2, Allegheny Airlines, Inc., BAC 1-11 N1550, Rochester, N.Y., July 9, 1978.—The National Transportation Safety Board's formal investigation report on the runway overrun crash of the British Aerospace Corporation's BAC 1-11 was released March 16.

The report shows that after the aircraft overran the departure end of runway 28 at the Monroe County Airport, it crossed a drainage ditch and came to rest 728 ft past the end of the runway threshold. Although the aircraft was damaged substantially when it hit the drainage ditch, there was no fire. There were 73 passengers and a crew of four on board; one passenger was injured seriously. The landing aircraft passed over the runway threshold at 184 KIAS—61 kns above reference speed—and landed nosewheel first at a point about 2,540 ft down the 5,500-ft runway at a speed of about 163 KIAS—40 to 45 kns above the normal touchdown speed. A go-around was not attempted.

The Safety Board has determined that the probable cause of the accident was the captain's lack of awareness of airspeed, vertical speed, and aircraft performance throughout an ILS approach and landing in visual meteorogical conditions which resulted in his landing the aircraft at an excessively high speed and with insufficient runway remaining for stopping the aircraft, but with sufficient aircraft performance capability to reject the landing well after touchdown. Contributing to the accident was the first officer's failure to provide required callouts which might have alerted the captain to the airspeed and sink-rate deviations. The Safety Board was unable to determine the reasons for the captain's lack of awareness or the first officer's failure to provide required callouts.

The Safety Board made no recommendations as a result of its investigation of this accident.

Highway

Highway Accident Report No. NTSB-HAR-79-1, Osterkamp Trucking, Inc., Truck/Full Trailer and Dodge Van Collision, U.S. 91, near Scipio, Utah, August 26, 1977.—The Safety Board's report on the investigation of this head-on collision was released on March 19. The collision occurred during a moderate-to-heavy rainstorm 8 miles north of Scipio. The eight occupants of the van were killed and the truckdriver was injured.

The Safety Board determined that the probable cause of the accident was that either or both drivers failed to maintain their vehicle in the proper traffic lane for reasons that could not be determined.

As a result of its investigation, the Safety Board on March 6 recommended that the National Highway Traffic Safety Administration accelerate research into commercial vehicle tire skid-resistance and study the full potential effect of low friction pavements on vehicle performance (recommendations H-79-5 and 6), and further recommended that the Federal Highway Administration consider Board accident investigation techniques for possible use in FHWA guidelines which help the States identify highways which are too slippery (H-79-7). (For the full text of these recommendations, see 44 FR 15815, March 15, 1979.)

Highway Safety Recommendations Nos. H-79-8, H-79-9, and H-79-10 and 11.—About 10 a.m. on April 11, 1978, a "schoolbus" type bus, occupied by 56 boys and two adults, was southbound on I-75 near Tifton, Ga., en route to Disney World, Fla., from Ypsilanti, Mich. The bus was operated by the Ypsilanti Boys Club. As the bus exited I-75 at a safety rest area, it went off the road while negotiating a right curve on the exit lane, overturned, and struck a tree. Three passengers were killed and the driver and 25 passengers were injured.

Evidence gathered during the Safety Board's investigation of this accident indicated that somewhere near the exit ramp the accelerator return spring failed, permitting the accelerator to remain in a "wide open" position. Consequently, when the driver removed her foot from the accelerator the engine did not slow down but continued operating at maximum speed. The Board believed that this condition was not detected by the driver because of fatigue. When the brakes were applied the bus did not decelerate normally because the braking action was working against an engine at full throttle. The driver's reaction after she applied the brakes was that "nothing happened." However, in the 700 feet of roadway before the curve the driver took no evasive action other than to apply the brakes which she had already concluded had failed. The driver's evasive action, the Board suggested, could have included turning off the ignition or steering back onto the highway from the slower speed exit lane.

The speed of the bus at the ramp curve could not be determined, but evidence indicated that the speed exceeded the critical speed of the curve, thus preventing the driver from maintaining the degree of turn required by the road's curvature. Further, the Board found that the bus was not maintained properly. Post-crash inspection revealed an inoperative parking brake, broken spring leaves, excessive brake pedal travel and severely underinflated tires. The underinflated tires, the luggage load on the roof of the bus, and poor rear end suspension, could have created an "oversteer condition" resulting in poor handling characteristics.

As a result of it investigation of this accident, the Safety Board on March 22 issued safety recommendation letters to:

State of Michigan—

Provide at least an annual motor vehicle inspection program for vehicles that seat 10 or more persons and buses that are not presently required to be inspected. (H-79-8)

State of Georgia—

Continue pavement edge lines through the length of an exit ramp at locations where these lines have been terminated prior to the ramp's ending. (H-79-9)

National Highway Traffic Safety Administration—

Request that the individual States identify individuals or groups in the State that transport persons on a nonscheduled, not-for-hire basis, with group- or institution-owned vehicles that have a seating capacity of 10 or more persons and encourage the

States to disseminate material to these groups on vehicle maintenance. (H-79-10)

Request that each State identify individuals or groups that transport persons on a not-for-hire basis, with vehicles that seat 10 or more persons and to disseminate information about the National Highway Traffic Safety Administration's Schoolbus Driver Instructional Program and the National Safety Council's Defensive Driving Course to these individuals and groups. (H-79-11)

Each of the above recommendations is designated "Class II, Priority Action." Copies of the Safety Board's report on investigation of this accident are being prepared for release and will be made available in the near future.

Highway Safety Recommendation No. H-79-12.—The Safety Board has completed a safety effectiveness evaluation of the "Passive Restraint Evaluation Program" within the National Highway Traffic Safety Administration. This evaluation was requested by the Senate Appropriations Committee and was performed under the specific authority of the Independent Safety Board Act of 1974. The report will be printed and publicly distributed within the next few weeks.

Based on this evaluation, the Safety Board has concluded that:

1. It is essential that NHTSA evaluate the real world effectiveness of the passive restraint standard.
2. NHTSA is committed to evaluating the passive restraint standard, but the current program is unorganized.
3. An evaluation program plan is required to effectively coordinate the evaluation activities and to address the complexities of this task.
4. NHTSA has a contract study underway to develop an evaluation plan for the period up to the effective date of the standard, September 1, 1981. However, the study appears limited in scope to gross measures of effectiveness.
5. NHTSA has no evaluation plan documented or under development to cover the period after September 1, 1981.
6. The effectiveness of the evaluation program will be improved by providing for public comment on the proposed evaluation plan.

In view of this evaluation, the Safety Board on March 20 recommended that NHTSA:

Develop and publish a formal evaluation program plan to effectively manage NHTSA evaluation activities related to the passive restraint standard (FMVSS 208 as amended July 5, 1977). As part of its development, the proposed program plan should be published for public comment by October 1, 1979. (Class II Priority Action) (H-79-12)

The Safety Board, also on March 20, forwarded a letter to the Chairman of the Subcommittee on Transportation and Related Agencies, Senate Committee on Appropriations, advising of its recommendation to NHTSA.

Railroad

Railroad Accident Report No. NTSB-RAB-79-1, Brief Format, Issue No. 1, 1978.—The first issue of reports of 1978 railroad accidents was released by the Safety Board on March 16. The 165-page volume contains in brief format the basic facts, conditions, circumstances, and probable cause(s) of 152 rail accidents. Each involved a fatality, a passenger train operation, or substantial property damage. The volume may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

NOTE.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, $5 per page for black-and-white photographs, and $4 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Railroad Safety Recommendations Nos. R-79-14 Through 28.—Last June the Conferees of the House and Senate Appropriation Committees directed the Safety Board to conduct a thorough review of hazardous materials rail shipments and the applicable track standards as well as determine how the Federal Railroad Administration can more effectively prevent the occurrence and reduce the severity of derailments of hazardous materials.

The Safety Board believes that, in spite of the facts that the involvement of tank cars in derailments with release of any of their contents is low, every reasonable effort should be made to prevent derailments which involve tank cars and to reduce the severity of those derailments which do occur. The potential for disaster each time a tank car of compressed flammable gas or other toxic gas is involved in a derailment requires additional efforts not indicated by normal statistical trend analyses based on occurrence of derailments.

Based on its safety effectiveness evaluation and findings, the Safety Board by letter dated March 20 recommended that the Federal Railroad Administration:

Select and install a railroad safety expert as Associate Administrator for Safety. Assure that he has the authority commensurate with his responsibility for the railroad safety program. (R-79-14)

Change the organization so that the lines of authority are compatible with the functional requirements of the various organizational elements of the Office of Safety. (R-79-15)

Develop a data base that will allow the definition and rating of railroad safety problems, particularly those problems related to the derailment of hazardous materials. (R-79-16)

Develop and document a track safety program based on risk as indicated by a comprehensive safety analysis which will include: desired level of safety (risk) to be achieved; program goals and objectives based on that level; and criteria by which the success of the program will be measured. (R-79-17)

Insure the selective upgrading of those sections of track with the worst derailment records to a condition which will not cause derailments. (R-79-18)

Immediately revise the track safety standards to eliminate the subjectivity, incompatibility, vagueness, and unenforceability. The requirements should be made more explicit so as to insure the detection and correction of all combinations of track conditions which cause derailments (R-79-19)

Insure that the Automated Track Inspection Program includes goals and objectives and measurable criteria for program evaluation. (R-79-20)

Determine through an independent study why some States have been unable or unwilling to join in the existing State Participation Program and implement a productive program as contemplated by the Federal Railroad Safety Act of 1970 in which the States are true partners. (R-79-21)

Determine in cooperation with the Interstate Commerce Commission the feasibility of establishing hazardous materials routes to bypass populous areas. If hazardous materials routing is operationally feasible, require that the track on those routes be maintained at a minimum of Class 4 condition. (R-79-22)

Maintain the schedule for owners to complete the head shield and insulation program. (R-79-23)

In cooperation with the Inter-Industry Task Force, determine what additional cost-effective steps, based on risk-ranking results, can be taken to make tank cars more resistant to hazardous materials releases in derailments. (R-79-24)

Determine the ultimate safety effect of allowing the indiscriminate lowering of main track classifications instead of maintaining the track at original intended class. (R-79-25)

In cooperation with the Interstate Commerce Commission, develop railroad economic and safety policies which are compatible. (R-79-26)

Revise the policies at the Transportation Test Center to insure that the data which is developed is analyzed systematically and published. (R-79-27)

Require that all trains with placarded loaded tank cars of the 112A and 114A types not equipped with the required shelf couplers and tank head protection, which are loaded with liquefied flammable gases and other liquids or toxic compressed gases, operate at a speed 10 mph less than the maximum speeds authorized for those trains on classes 3, 4, 5, and 6 track. (R-79-28)

Of the above 15 recommendations, Nos. R-79-14, R-79-19, R-79-23, and R-79-28 are designated "Class I, Urgent Action"; the remaining recommendations are designated "Class II, Priority Action." The Safety Board's study, "Safety Effectiveness Evaluation-Review of The Federal Railroad Administration's Hazardous Materials Program and the Applicable Safety

Standards," is being prepared for release and copies will be available in the near future.

Railroad Safety Recommendations Nos. R-79-29 through 31 and R-79-32 through 36.—Last June 9, northbound Conrail commuter train No. 400, consisting of four self-propelled cars, struck the rear of Amtrak train No. 60, the Montrealer, consisting of one locomotive unit and 14 cars, at Seabrook, Md. The impact caused eight cars of train No. 60 and three cars of train No. 400 to be derailed. Sixteen crewmembers and 160 passengers were injured and damage was estimated to be $248,050.

Investigation indicated that train No. 60 received an "approach" indication at signal 128R near the Capitol Beltway Station. After stopping, the train departed from signal 128R at medium speed as authorized by the operating rules. However, the locomotive developed operating problems and the engineer called the Landover (Md.) operator by radio to advise him that he was going to stop. As the train was slowing to a stop, it was struck in the rear by train No. 400.

Investigation showed that many passengers were injured when seats on the passenger train rotated because of defective locking mechanisms, and when passengers on the commuter train were thrown against metal strips and ticket holders on seats. Rescue personnel could not open the commuter car side doors from the outside. Further, train crewmen were not trained to give emergency assistance to passengers.

The Safety Board believes that proper design could have eliminated the new commuter cars' injury-producing features, but neither the Federal Railroad Administration nor the Urban Mass Transportation Administration now requires this despite Board recommendations from four passenger train accidents dating back to 1970.

In light of its findings during investigation of this accident, the Safety Board on March 21 forwarded the following recommendations to:

New Jersey Department of Transportation—Change the emergency release mechanism for the doors on all cars of the type involved in this accident so that the doors can be opened by passengers under emergency conditions, and properly identify the operating emergency equipment. (R-79-29)

Provide a means for emergency personnel to open car doors from the outside. (R-97-30)

Alter the interiors of the commuter cars to correct the injury-producing features of the car design. (R-79-31)

National Railroad Passenger Corporation—Restrict the New Jersey Department of Transportation commuter car from use on the northeast corridor until the interiors of the cars are altered to correct the injury-producing features of the car design. (R-79-32)

Accept the responsibility for training and qualifying train crewmembers operating trains over territory of the National Railroad Passenger Corporation. Require crewmembers operating on the mainline in passenger, freight, and commuter service to be certified by Amtrak as to types of service for which crewmembers are qualified. (R-79-33)

Establish train spacing so a following train will not be scheduled to operate on repetitive restrictive signals. Consideration should given to departure time, train speeds, and station stops to avoid having following trains overtake and closely follow preceding trains. (R-79-34)

Arrange for a program along passenger train routes for training and familiarizing emergency rescue organizations in the type of train equipment being used. (R-79-35)

Establish a program to train crewmembers in the proper procedures for care of passengers in derailment and emergency situations. (R-79-36)

Each of the above recommendations is designated "Class II, Priority Action." The Safety Board's formal report on the investigation of the Seabrook accident is being prepared for release and copies will be available within a few weeks.

Responses to Safety Recommendations

Aviation: A-74-14.—On February 15, 1978, the Federal Aviation Administration updated information on actions taken to implement, in cooperation with the National Weather Service (NWS), a system to relay severe thunderstorm and tornado warning bulletins expeditiously to inbound and outbound flights when such bulletins include the terminal area. The recommendation was issued April 18, 1974, following investigation of the crash of an Ozark FH-227B at St. Louis, Mo., July 23, 1973; the aircraft crashed while on an instrument approach into a thunderstorm.

FAA reports that in the spring of 1978, NWS meteorologists were assigned to 13 air route traffic control centers (ARTCC's). Their function is to provide air traffic personnel with timely weather intelligence. This intelligence should permit air traffic control personnel and pilots to make appropriate decisions concerning flight safety. This weather intelligence is disseminated not only within the center, but to any FAA facility within its boundaries that may be affected. FAA says that it intends to place meteorologists in all ARTCC's throughout the country.

Aviation: A-76-128.—FAA's letter of February 5 advises that action with respect to this recommendation has been completed. The recommendation evolved from a Safety Board special study on flightcrew coordination procedures in air carrier ILS approach accidents, and asked FAA to include in air carrier training programs flightcrew discussions of formal reports involving approach and landing accidents or incidents, placing special emphasis on those mishaps involving human limitations.

FAA reports that Operations Review Program Amendment No. 5, effective June 26, 1978, was issued on May 15, 1978. Federal Aviation Regulations § 121.417(b)(4) requires, during crewmember emergency training, a review and discussion of previous aircraft accidents and incidents pertaining to actual emergency situations.

Highway: H-78-40 through 44.—On February 2 the Federal Highway Administration further responded to the Safety Board regarding recommendations issued as a result of investigation of the May 12, 1977, truck-semitrailer/van collision near Marion, N.C. The recommendations concerned identification of all carriers and drivers under FHWA jurisdiction, compliance with the Federal Motor Carrier Safety Regulations (FMCSR), Federal funding of programs to provide escape routes for out-of-control vehicles, and design and construction of runway-truck control ramps.

FHWA's February 2 letter is in response to the Safety Board's comments of December 12 on FHWA's responses of September 21 with reference to H-78-42 and October 4 with reference to H-78-43 and 44 (see 43 FR 47018, October 12, 1978, and 43 FR 48744, October 19, 1978, respectively). In its December 12 letter, the Board stated that FHWA's safety compliance surveys of the Ford Construction Co., owner of the accident truck, already held and scheduled to be completed were satisfactory and advised that recommendation H-78-42 has been closed—acceptable action. Concerning H-78-43 and 44, the Board's files will be kept open pending completion of actions initiated by FHWA. The Board accepted FHWA's rationale for not wanting to create a new funding category for escape routes and indicated willingness to observe the effect that the technical advisory and notice being prepared by FHWA will have on the States' reaction to the problem of runway vehicles on long and/or steep grades. Also the Board believed FHWA's actions to provide for a design criteria to be satisfactory, especially with respect to the interim technical advisory to provide guidelines until such time as the AASHTO (American Association of State Highway and Transportation Officials) publication is updated.

In response, essentially with reference to H-78-43 and 44, FHWA reports that its notice to emphasize the need for out-of-control truck counter-measures and a technical advisory on the

design of truck escape ramps are in the final stages of preparation and copies will be furnished to the Safety Board as soon as they are issued. FHWA notes that the gathering of Federal fund usage data for escape ramps would be "extremely difficult to obtain." Several States have given positive reaction concerning experiences with escape ramps. In response to the Board's December 12 request for a viewing of the slide/tape presentation on escape ramps, FHWA reports that the program is ready and can be made available for viewing and a copy provided is desired.

The Safety Board on March 15 replied to FHWA's February 2 letter, advising that both recommendations H-78-43 and 44 would be kept open—H-78-43 until copies of the proposed notice and technical advisory are issued and H-78-44 until the new AASHTO policy on geometric design is published. The Board also repeated its December 12 request for a before-and-after funding data comparison as a means to evaluate the effectiveness of the proposed notice and technical advisory on truck ramp construction. The Safety Board will arrange for a viewing of the slide/tape presentation on escape ramps but will not need a copy of the program, believing that highway safety would be better served if it were sent to field unit for use in training design engineers.

With reference to recommendatons H-78-40 and 41, the Safety Board on January 29 replied to FHWA's October 30 response (43 FR 53514, November 16, 1978). The Board was pleased to note that FHWA and the Interstate Commerce Commission are working closely to insure identification of all carriers in interstate commerce and to provide these carriers with information as to their responsibility with regard to the FMCSR. However, noting that FHWA considers the current nonsystematic procedure for identifying drivers in interstate commerce to be "responsive and effective" under current resource levels, the Board suggests that a more systematic procedure would prove more profitable in carrying out FHWA's regulatory responsibilities. The Board asked for certain statistical information regarding registered carriers and owner/operators working under lease agreements with carriers. Since the Board continues to find drivers involved in major accidents, and in violation of one or more FMCSR and claiming no knowledge of these regulations, the Board is continuing to recommend that a systematic procedure be devised to make these drivers aware of the regulations.

The Safety Board is holding both recommendations H-78-40 and H-78-41 open. Believing that the issue of driver awareness of and compliance with FMCSR is extremely important, and that a statement of the status quo is not an acceptable solution to the problem, the Safety Board encourages FHWA to seek ways and means to monitor the activities of drivers involved in interstate commerce through registered carriers, through State agencies, or through an increased Bureau of Motor Carrier Safety effort.

A reponse to the Safety Board's January 29 letter has not yet been received from FHWA.

Intermodal: I-76-9 through 11 and I-78-9 through 12.—On January 24 the Research and Special Programs Administration of the U.S. Department of Transportation provided the Safety Board with a copy of the Department's response to seven recommendations issued by the Committee on Government Operations in a report entitled "Emergency Response to Hazardous Materials Accidents," published last September. The recommendations were based on hearings held before the House Subcommittee on Government Activities and Transportation in April 1978.

DOT's response to the Committee's recommendations includes discussion of the Department's progress in implementing Safety Board recommendations I-76-9 through 11 and I-78-9 through 12. The latter four recommendations were issued to DOT last June 29 (see 43 FR 30149, July 13, 1978), predicated on the three-day, full-Board hearing held April 4-6, 1978, on the hazardous materials derailment problem. Forty-nine witnesses from the railroad industry, tank car builders and operators, shippers, State and local officials, firefighters, labor representatives, and the public testified at the Board hearing.

Marine: M-78-56 through 61.—Letter of January 26 from the U.S. Coast Guard is in response to recommendations issued following investigation of the fire and explosion which occurred on the tankship SS SANSINENA as the ship was pumping seawater ballast into its cargo tanks, preparing to depart Union Oil Co. Terminal Berth 46, Los Angeles Harbor, Calif., on December 17, 1976. (See 43 FR 36533, August 17, 1978.)

Recommendation M-78-56 asked Coast Guard to establish minimum criteria for vapor-emitting operations on tank vessels carrying flammable cargoes in U.S. ports to include monitoring of vapor concentrations on deck and in enclosed spaces located above the cargo tanks, and stopping vapor-emitting operations when vapor concentrations exceed safe limits and under certain low wind velocity conditions. In response, Coast Guard states that protection through operating restrictions is considered as secondary to protection by design. The monitoring and enforcement aspects of the recommendation are considered impractical. Coast Guard has a project underway to investigate vapor concentrations in relation to time, position, wind, humidity, and vessel configuration. This study will provide information on vent height requirements and arrangement and is to be completed by 1981. Coast Guard reports that the results of the International Tanker Safety and Pollution Prevention Conference and the Port Tanker and Safety Act of 1978 are being implemented through regulation. These regulations will deal with ballast tanks and inert gas systems. Coast Guard believes that these regulatory and research efforts will significantly reduce the hazards associated with flammable mixtures and vapors.

Recommendation M-78-57 asked Coast Guard to require operators of tank vessels carrying flammable cargoes in U.S. ports to develop guidelines for the amount of ballast needed in cargo tanks for the expected range of operating conditions to minimize in-port ballasting of cargo tanks, and establish other ballasting requirements which may be imposed when high velocity venting is installed. Coast Guard states that the proposed regulations for tanker safety and pollution prevention will accomplish the intent of this recommendation. New vessels (20,000 DWT crude, 30,000 DWT other tankers) will have segregated ballast tanks; heavier existing vessels (40,000 DWT and over) will have segregated ballast, clean ballast tanks, or crude oil washing. Existing vessels of 20,000 DWT and over will be required to have inert gas systems. These requirements will reduce the probability of discharging an explosive mixture during ballasting more effectively than a reduction in ballasting. According to Coast Guard, it can be done without restricting the master's use of his judgment as to the amount of ballast necessary.

Recommendation M-78058 called for requirements for cargo tank vent systems on tank vessels carrying flammable cargoes in U.S. ports, including independent venting of each cargo tank; location, size, and height of vent outlets, with consideration of ship structures; means of protecting vent systems from flame entry, including proper fit and attachment of flame-quenching devices; and vent system configurations that provide ease of inspection and maintenance. Coast Guard reports that, as related in response to M-78-56, it is working on a study to develop technical information related to vent height and arrangements. As related in M-78-57, Coast Guard is developing regulations for inert gas systems and segregated ballast tanks.

Coast Guard was asked in recommendation M-78-59 to require operators of tankships carrying flammable cargoes in U.S ports to develop training plans for the instruction of persons responsible for cargo handling and vapor-emitting operations, to make these training plans available for Coast Guard review, and to train responsible persons in accordance with the plans, and appropriately document the training. Coast Guard reports that on April 25, 1977, it published a notice of proposed rulemaking concerning tankerman requirements of 46 CFR 10.11 and 46 CFR 12.20. Due to lengthly comments from the public, the General Accounting Office's Liquefied Energy Gas Report, the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the requirements of Public Law 94-474 (Port and Tanker Safety Act of 1978), this proposal is being withdrawn and will be reissued as a new proposal by mid-1979. There will be a requirement for tankermen to complete a Coast Guard approved product school. These regulations will apply only to U.S. seafarers. The recently adopted IMCO International Convention on Standards of Training, Certification and Watchkeeping of Seafarers, 1978, will, when ratified, require minimum service and training for certain crewmembers of all tank vessels.

In response to M-78-60, which asked Coast Guard to require the installation and use of closed cargo level gauging systems on tank vessels carrying flammable cargoes in U.S. ports, Coast Guard states that the inert gas systems previously referred to will require closed gauging arrangements.

Recommendation M-78-61 asked Coast Guard to test flame-quenching devices under conditions of vapor concentrations, constituencies, and size of flammable regions that might occur on the main deck of a tank vessel, to determine the adequacy of such devices. In response, Coast Guard lists two studies to examine the adequacy of commercially available flame-quenching devices: "Experimental Study of Flame Control Devices for Cargo Venting Systems," Arthur D. Little and Company, August 1978; and "Flame Screen Testing," National Aeronautical and Space Administration's Jet Propulsion Laboratory, beginning in January 1979. These studies will be used to recommend possible regulatory changes for existing flame arresting devices. Coast Guard claims that the size of the flammable cloud that might occur on the deck should have no effect on the adequacy of the flame-quenching device. The ability of a device to quench a flame depends on the propagation velocity of the flame front when it encounters the device and the ability of the device to cool the flame below its ignition temperature. An unconfined flame will propagate at a constant speed regardless of cloud size. The only driving force for acceleration of the flame is pressure buildup; there is no pressure buildup if the flame is unconfined, Coast Guard stated.

NOTE.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters and response letters are also available free of charge. All requests 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.

MARCH 26, 1979.

[FR Doc. 79-9548 Filed 3-28-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

AGENCY FORMS UNDER REVIEW

BACKGROUND

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

LIST OF FORMS UNDER REVIEW

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
the office of the agency issuing this form;
the title of the form;
the agency form number, if applicable;
how often the form must be filled out;
who will be required or asked to report;
an estimate of the number of forms that will be filled out;
an estimate of the total number of hours needed to fill out the form; and
the name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

COMMENTS AND QUESTIONS

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

AGENCY CLEARANCE OFFICER—DONALD W. BARROWMAN—447-6202

NEW FORMS

Agricultural Stabilization and Conservation Service
Report of Unmarketed Tobacco
MQ-108-1
Annually
Tobacco producers
478,300 responses, 23,915 hours
Charles A. Ellett, 395-5080

EXTENSIONS

Agricultural Stabilization and Conservation Service
Uniform Rice Storage Agreement

CCC-26, 26-1 and 26-2
On occasion
Rice Warehousemen
275 responses, 275 hours
Charles A. Ellett, 395-5080

Agricultural Stabilization and Conservation Service
* Application for Transfer of Acreage Due To Disaster
ASCS-364
Annually
ELS cotton, peanut, rice, tobacco producers
5,000 responses, 1,250 hours
Charles A. Ellett, 395-5080

Agricultural Stabilization and Conservation Service
Bean Storage Agreement
CCC-28, 28-1 and 28-2
On occasion
Bean warehousemen
370 responses, 370 hours
Charles A. Ellett, 395-5080

Economics, Statistics, and Cooperatives Service
* Fruit Processing Survey
Annually
Fruit processors
1,670 responses, 278 hours
Charles A. Ellett, 395-5080

Food and Nutrition Service
Model Food Stamp Forms
On occasion
Food stamp applicants and State agencies
62,953,340 responses, 17,979,457 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

AGENCY CLEARANCE OFFICER—EDWARD MICHAELS—377-4217

REVISIONS

Bureau of the Census
Annual Survey of Oil and Gas
MA-13K
Annually
Operators and lessees of oil and gas field properties
560 responses, 14,000 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AGENCY CLEARANCE OFFICER—PETER GNESS—245-7488

NEW FORMS

Center for Disease Control
Measles Surveillance Questionnaire
Single time
City, county health officers
150 responses, 60 hours
Richard Eisinger, 395-3214

Health Care Financing Administration (Medicaid)
Survey of State Medicaid Drug Benefit Programs
HCFA-116T
Single time
Pharmacy consultants employed by Medicaid S.A.
39 responses, 39 hours
Richard Eisinger, 395-3214

REVISIONS

Center for Disease Control
Evaluation of Historical Immunization Data with Antibody Level Determinations Made Via Serologic Analysis
Single time
Households in selected SMSA
2,758 responses, 920 hours
Richard Eisinger, 395-3214

National Institutes of Health
*Hypertension Detection and Follow-Up Program Five Year Follow-Up Survey
Other (See SF-83)
HDFP enumerated households—age eligible
45,300 responses, 15,075 hours
Richard Eisinger, 395-3214

Social Security Administration
Applications and Discontinuances for Aid to Families With Dependent Children (AFDC) and Medicaid
SSA-3800
Quarterly
State agencies for public assistance
75 responses, 17,400 hours
Barbara F. Reese, 395-6132

EXTENSIONS

Food and Drug Administration
*Notice of Availability of Sample Electronic Product
FD 2767
On occasion
Electronic product manufacturers and importers
1,000 responses, 250 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AGENCY CLEARANCE OFFICER—JOHN KALAGHER—755-5184

NEW FORMS

Policy Development and Research
Participation and Benefits in the Urban Section 8 Program
Single time
Participants in Section 8 program
12,050 responses, 10,987 hours
Arnold Strasser, 395-5080

Policy Development and Research
Request for Grant Application
Single time
Inventors
200 responses, 200 hours
Arnold Strasser, 395-5080

EXTENSIONS

Policy Development and Research
Preliminary Application and Enrollment Forms of the Housing Assistance Supply Experiment—EMAP
Annually
Households in Green Bay and South Bend
20,000 responses, 21,000 hours
Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

AGENCY CLEARANCE OFFICER—PHILIP M. OLIVER—523-6341

NEW FORMS

Employment Standards Administration
Survey of Employees and Insurers
ESA-78 (T)
Single time
Employ. w/over 100 employees, insurance carriers
570 responses, 188 hours
Arnold Strasser, 395-5080

REVISIONS

Employment and Training Administration
CETA Grant Application and Reporting Requirements
ETA 2202 and 5134, etc.
Other (see SF-83)
State and local agencies
1,997,311 responses, 1,099,000 hours
Arnold Strasser, 395-5080

DEPARTMENT OF STATE (EXC. AID)

AGENCY CLEARANCE OFFICER—GAIL J. COOK—632-3538

NEW FORMS

*Application for Dependent Care/Training Grant
JF-52
On occasion
State department employees and family members
300 responses, 150 hours
Marsha D. Traynham, 395-6140

ACTION

AGENCY CLEARANCE OFFICER—W. D. BALDRIDGE—254-8028

REVISIONS

Action Volunteer Reference Form Peace Corps/Vista
On occasion
Volunteer
320,000 responses, 320,000 hours
Barbara F. Reese, 395-6132

Action Volunteer Application—Peace Corps/Vista
A-35
On occasion
Volunteer
50,000 responses, 50,000 hours
Barbara F. Reese, 395-6132

OFFICE OF PERSONNEL MANAGEMENT

AGENCY CLEARANCE OFFICER—JOHN P. WELD—632-7737

REVISIONS

Financial Disclosure Report for Executive Branch[1] Personnel
SF-278
On occasion
Ethics in government financial disclosure records
500 responses, 500 hours
Marsha D. Traynham, 395-6140

VETERANS ADMINISTRATION

AGENCY CLEARANCE OFFICER—R. C. WHITT—389-2282

REVISIONS

Counseling Record Personal Information
22-1902
On occasion
Veterans
40,000 responses, 30,000 hours
David P. Caywood, 395-6140

STANLEY E. MORRIS,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-9656 Filed 3-28-79; 8:45 am]

[4510-23-M]

PRESIDENT'S COMMISSION ON COAL

SEMINAR ON LABOR RELATIONS ORGANIZATION AND APPROACHES IN THE COAL INDUSTRY

The President's Commission on Coal will conduct a seminar on labor relations organization and approaches in the coal industry on April 12, 1979, from 9:30 a.m. until 4:30 p.m. in room N5437 of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Commission was created by executive order to conduct a comprehensive review of the state of the coal industry in the United States considering, among other issues, "collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate."

After presentations by invited experts and representatives of coal industry labor and management, there will be a round table discussion with Commission members and those who presented papers.

The seminar will not be a formal hearing, but will be open to the public. Interested persons may file written statements with the Commission on the topics under discussion. Theses statements must be filed no later than May 11, 1979, to be included in the record of the proceedings.

Persons wishing more information, or who wish to submit a statement with the Commission on labor relations organization and approaches in the coal industry, should contact Mr. Allen Wampler, The President's Commission on Coal, 600 E Street, N.W., Suite 500, Washington, D.C. 20004; telephone 202/376-2001.

Dated: March 27, 1979.

MICHAEL S. KOLEDA,
Executive Director,
The President's Commission on Coal.

[FR Doc. 79-9830 Filed 3-28-79; 9:11 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5665; File No. 81-467]

APPLIED INDUSTRIES, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Applied Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. As a result of an offer made by the Applicant in September 1978 to repurchase shares of its common stock, the Applicant's number of shareholders was reduced to below 300. Registration of the Applicant's common stock under Section 12(g) was terminated on February 7, 1979 pursuant to Rule 12(g)(4) of the 1934 Act.

2. In Connection with its repurchase offer, the Applicant provided each shareholder with an information statement which contained, among other things, audited financial statements for the years ended June 30, 1978 and 1977.

3. There is very little trading in Applicant's common stock.

4. In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act for the fiscal year ending June 30, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate, in view of the fact that the time, effort and expense involved in the preparation of additional periodic reports will be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested persons not later than April 9, 1979 may submit to the commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9549 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5605; File No. 81-432]

CINERAMA, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Cinerama, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities and Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On August 29, 1978, Applicant merged with and became a wholly-owned subsidiary of Forkel, Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission on October 27, 1978, a Form 8-K which reflects the merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is

[1] The proposed revisions to this report have already been approved for use by OMB because of urgent need as described by the requesting agency. The report itself was originally approved in January. Public comments will still be carefully considered, and any changes indicated will be made either immediately or in the next revision of the report, as warranted.

on file in the offices of the Commission at 1100 L Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9550 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5666; File No. 81-403]

COCA-COLA BOTTLING CO. OF LOS ANGELES

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Coca-Cola Bottling Company of Los Angeles, a California corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

(1) The Applicant was a publicly held company with two classes of securities registered pursuant to Section 12(g) of the 1934 Act, and was thus subject to the reporting provisions of Section 13 of the 1934 Act.

(2) On July 28, 1978, all of the Applicant's registered preferred stock was redeemed pursuant to authorization by its Board of Directors.

(3) On August 10, 1978, the Applicant was merged with a wholly-owned subsidiary of NIW Inc., a Delaware corporation, which is itself a wholly-owned subsidiary of Northwest Industries, Inc. As a result of the merger, each share of the outstanding common stock of the Applicant not then owned by NIW Inc. was converted into the right to receive $40 in cash, and NIW Inc. became the sole shareholder of the Applicant.

Applicant believes that its request for an order exempting it from the reporting provisions of Section 13 and 15(d) of the 1934 Act is appropriate in that NIW Inc. now owns all of the Applicant's common stock, and all of its preferred stock has been redeemed.

Applicant further states that the filing of these reports is unnecessary for the protection of public investors and, if required, would entail considerable expense on the part of the Applicant.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9551 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Release No. 10633; 812-4428]

MERCANTILE NATIONAL BANK AT DALLAS

Two Trusts to be Established Pursuant to the Coastal States—Lo-Vaca Settlement Plan; Filing of Application

MARCH 21, 1979.

Notice is hereby given that Mercantile National Bank at Dallas ("Applicant"), Main at Ervay, Dallas, Texas 75222, the trustee of an irrevocable securities ("Securities Trust") and an irrevocable has search trust ("Gas Trust") which are proposed to be established as a settlement of certain legal claims against Coastal States Gas Corporation and certain of its affiliated companies, filed an application on February 1, 1979 and an amendment thereto on March 15, 1979, pursuant to Sections 6(c) and 6(e) of the Act for an order exempting the Securities Trust and Gas Trust from all provisions of the Investment Company Act of 1940 ("Act") and the rules and regulations thereunder, other than Sections 9, 17, 36 and 37 to the extent set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BACKGROUND LEADING TO CREATION OF THE PROPOSED TRUSTS

Applicant states that as a result of unforeseen increases in well-head prices of natural gas in the early 1970's, Lo-Vaca Gathering Company ("Lo-Vaca"), a subsidiary of Coastal States Gas Producing Company ("Producing"), which in turn is a subsidiary of Coastal States Gas Corporation ("Coastal"), was in a position under its long-term natural gas sales contracts of incurring increased costs for purchased gas, and was initially permitted by the Railroad Commission of Texas ("Railroad Commission") to pass through its increased costs to its customers through a revised rate structure. Subsequently, the Railroad Commission ordered Lo-Vaca to refund such additional charges to its customers and to return to its original contract prices for future gas sales. Applicant represents that if these refunds, estimated by Lo-Vaca to be approximately $1,600,000,000, and the original contract prices had been enforced, Lo-Vaca could no longer have operated and Coastal's continued existence would have been uncertain. Consequently, Applicant states that the parties to the Railroad Commission's order proposed a settlement plan ("Settlement Plan") as an alternative to the order, which was approved by the Railroad Commission and would establish for the benefit of the injured customers of Lo-Vaca the Securities Trust and the Gas Trust ("Trusts") to receive and distribute cash to be received pursuant to certain contract rights established in the Settlement Plan. Applicant, a national bank which is a wholly-owned subsidiary of Mercantile Texas Corporation, has been appointed by the Presiding Judge of the District Courts of Travis County, Texas ("Presiding Judge"), to serve as trustee of the Securities and Gas Search Trusts. Applicant represents that it did not participate in the settlement negotiations or the drafting of the Settlement Trust Agree-

ment ("Agreement") which established the Trusts.

OPERATION OF THE TRUSTS

Pursuant to the terms of the Settlement Plan, the Securities Trust will receive (i) Coastal Common Stock having a pro forma book value of $20,835,000 (approximately 1,171,526 shares), (ii) approximately 2,593,420 shares of Producing Common Stock (having a pro forma book value of approximately $19,220,000), (iii) 1,150,000 shares of Producing Series A Preferred Stock ($115,000,000 aggregate liquidation value), and (iv) an $8,000,000 one-year promissory note of Producing. The Applicant represents that subject to complex resale restrictions it is directed to sell all of these securities (except the one-year note) for cash as promptly as practicable, with an outside limit of seven years, and distribute the net proceeds to the Settling Customers annually as realized. According to the application, Applicant will serve as Escrow Agent to hold certain securities of Coastal and funds of Coastal and Producing to ensure that the Securities Trust realizes at least $115,000,000 from the sale of and dividends on the Producing Series A Preferred Stock.

In addition, Applicant states that a Gas Search Agreement requires Coastal to spend in excess of $180,000,000 over a period of no longer than 15 years for the discovery and development of natural gas reserves, the majority of which will ultimately be sold to customers of Lo-Vaca, including the Settling Customers. Applicant represents that this gas will be sold by Coastal to Producing, which will be recognized, spunoff from Coastal and renamed Valero Corporation ("Valero"), at less than market prices and then resold by Valero to Lo-Vaca at market prices, with the difference being transferred by Valero to the Gas Trust for annual distribution to the Settling Customers. Applicant states that it is impossible to estimate the amount of cash which will be received by the Gas Trust, but if no gas were discovered, Coastal could theoretically pay $190,000,000 into the Gas Trust in lieu of certain additional gas search and development expenditures.

Applicant has the responsibility for making all decisions relating to the timing and method of disposition of securities in the Securities Trust. Because of the size of the Securities Trust and the potential importance of such decisions, however, the Applicant states that it presently intends to engage Duff and Phelps, Chicago, Illinois, an investment adviser registered under the Investment Advisers Act of 1940 who is independent of Applicant, Coastal, Producing and Lo-Vaca, to assist in matters relating to securities in the Securities Trust, including the timing and method of sales. Applicant represents that the investment adviser will be paid on a basis unrelated to proceeds realized on the sale of securities held by the Securities Trust and that such fees are not expected to exceed $20,000 annually.

With regard to the Gas Trust, Applicant states that it will periodically receive cash payments from Valero equal to the bargain element of gas sales, as described above. Applicant states that it will receive reports from Coastal relating to its required expenditures and gas dedications, and from Valero relating to amounts paid to Coastal for the purchase of gas and amounts received from Lo-Vaca from the sale of such gas, and that reports relating to expenditures by Coastal for the development of qualified gas projects will be certified by independent certified public accountants selected and paid for by Coastal. In addition, Applicant represents that gas projects and the amounts of gas dedicated will be certified by independent petroleum engineers selected and paid for by Coastal, and that Lo-Vaca and the Applicant are authorized to engage an independent petroleum engineer, at the expense of Lo-Vaca, to verify the amounts of gas dedicated. Applicant states that annual reports relating to the employment of correct accounting procedures in the determination of amounts to be paid by Valero and Coastal to the Applicant under the Gas Search Agreement will be certified by officers of Coastal and Valero, respectively.

Applicant represents that it is required to make annual distributions of cash held by the Trusts and that all funds held pending distribution are required to be continually invested in interest bearing bank deposits or short-term fixed income securities explicitly authorized by the Agreement. Applicant states that any amounts which are not invested in such authorized securities must be either fully insured by an agency of the United States, or fully collaterized to the extent of market value by earmarked authorized securities, or a combination of both.

With respect to compensation for its duties as trustee, Applicant represents that it has negotiated with the Settling Customers having the largest interests in the Trusts, and that although the compensation arrangement is not yet finalized, it will be substantially in the following manner. Applicant will receive an acceptance fee of $150,000 plus reimbursement of its expenses upon consummation of the Settlement Plan. For as long as there are assets in the Securities Trust, Applicant will receive annual fees of $50,000 for administering both trusts, and when the Securities Trust no longer has assets, the Applicant will receive annual fees of $25,000 for administering the Gas Trust (subject to downward adjustments in years in which the gas Trust only realizes small amounts). Applicant will receive aggregate investment management fees for the Securities Trust equal to 0.75% of the net proceeds of sales of securities held in the Securities Trust, and management fees for the gas Trust based on hourly rates for officer time, ranging from $40 to $125 per hour. As compensation for short-term investment management of funds held pending distribution, Applicant will receive 3% of net investment income. Applicant represents that its total compensation, other than the acceptance fee, will be subject to an upper limit of $50,000 per year, plus officer time at the above hourly rate, plus 0.02% of the cash invested by Applicant.

Applicant represents that throughout the duration of the trusts, the presiding Judge and the Railroad Commission will be monitoring the performance of Coastal, Valero and Applicant. Applicant states that the Railroad Commission's order approving the Settlement Plan specifically requires that it receive all reports furnished by Coastal, Valero or Applicant, and that Applicant is required to make quarterly and annual reports to the Settling Customers, the presiding judge and the Railroad Commission detailing all receipts and dispositions of assets, including expenses by the Trusts. Applicant states that the presiding judge will have continuing jurisdiction over all of the parties to ensure their compliance with all of the provisions of the Settlement plan and related agreements, and that any Settling Customer may petition the Presiding judge for the appointment of a successor trustee, or the Presiding Judge may act *sua sponte* with respect to any matter affecting the Trusts. Lastly, Applicant states that Valero, through Lo-Vaca, will be subject to the jurisdiction of the Railroad Commission, which controls the rates charged by Lo-Vaca for the transmission of gas.

THE EXEMPTION REQUEST

Applicant submits that by virtue of the assets to be held by the Trusts and the transactions contemplated, the trusts might be deemed an investment company within the meaning of Section 3(a) of the Act. Accordingly, Applicant has sought an order pursuant to Sections 6(c) and 6(e), exempting the Trusts from all provisions of the Act and the rules and regulations thereunder, which Applicant submits would be in the public interest, consistent with the protection of Settling Customers and within the policy intendment of the Act.

Applicant submits that the Trusts lack "key characteristics" of investment companies such as the continuous purchase of securities of the investment company by the investing public and the continuing trading activities of the investment company. In this regard, Applicant states that after formation of the Trusts, no further interests in the Trusts will be created and the already existing interests in the Trusts will not be transferable. Similarly, Applicant asserts that the Trusts are not viewed by the parties as an investment vehicle, but rather as a means of permitting the realization of cash settlement of claims pending against coastal and others through the sale of Coastal and Producing securities, and of receiving funds and monitoring Coastal's performance under the Gas Agreement.

In order to effectuate the Settlement Plan, Coastal and Producing have filed a registration statement pursuant to the Securities Act of 1933 registering the offering of interests in the Trusts to the Settling Customers. Applicant states that a complete description of the settlement plan and the Trusts is contained in the registration statement. Applicant states that substantially all of the economic interest in the Trusts is accounted for by customers who, it is alleged, are large sophisticated corporations and municipalities which have been well represented and have carefully reviewed the terms of the Settlement Plan. The provisions of the Settlement Plan and the Trusts have been reviewed and approved by the Presiding Judge and the Railroad Commission.

Applicant further submits that it did not participate in the settlement negotiations and that the Trusts will not be subject to domination by their investment adviser or by a combination of their investment adviser and board of directors, stating that the Applicant's acts will be subject to the scrutiny of the Presiding Judge and that Applicant may be removed by 51% of the Settling Customers. Applicant represents that it has no pre-existing business relationships with Coastal or Valero and is required by the settlement Agreement to be unaffiliated with Coastal and valero within the meaning of Section 2(a)(3) of the Act. Applicant also submits that it is subject to the regulations of the Federal Reserve Board, the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

Moreover, Applicant claims that the policy objectives inherent in the exemptions contained in Sections 7(a) and 7(b) of the Act for transactions incidental to the dissolution of an investment company argue in favor of the exemption. From the moment the Trusts are established, all of their transactions will be directed toward the liquidation of all of the assets of the Trusts into cash and the distribution of the cash proceeds to the Settling Customers.

Finally, Applicant submits that each provision of the Act and the rules and regulations thereunder, other than those from which complete exemption is not sought, is either inapplicable to the Trusts, or if applied would unnecessarily duplicate regulation provided by other federal agencies, or would not serve the public interest or that of the Settling Customers. No exemption is sought with respect to section 9, which relates to ineligibility of certain persons to serve investment companies in certain capacities, with respect to the Applicant and any employee or agent of Applicant who services the Trusts or has access to assets of the Trusts. Applicant and the Trusts undertake that all transactions by the Trusts with affiliated persons of a type which are not contemplated or authorized by the Settlement plan, the Agreement or the Gas Search Agreement, will be subject to the provisions of Section 17, which prohibits or regulates certain transactions between investment companies and their affiliates. Lastly, the Trusts, Applicant and its investment adviser undertake to be bound by the provisions of Sections 36 and 37 which relate to breaches of fiduciary duty and larceny or embezzlement.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(e) of the Act provides that, if, in connection with any order under Section 6 exempting any investment company from section 7, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of the Act pertaining to registered investment companies shall be applicable in respect of such company, the provisions so specified shall apply to such company, and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Notice is further given that any interested person may, not later than April 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9554 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Release No. 20969; File 70-6280]

NORTHEAST NUCLEAR ENERGY CO.

Proposed Nuclear Fuel Financing

MARCH 22, 1979.

Notice is hereby given that Northeast Nuclear Energy Company ("NNEC"), P.O. Box 270, Hartford, Connecticut 06101, a wholly owned subsidiary of Northeast Utilities ("Northeast"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(d) of the Act and Rules 44 and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NNEC acts as agent for The Connecticut Light and Power Company, The Hartford Electric Light Company and Western Massachuseets Electric Company (collectively, the "Owners"), each a public utility subsidiary of Northeast and owners as tenants in common of the nuclear generating units known as Millstone Units 1 and 2. NNEC owns the nuclear fuel for Millstone Units 1 and 2 and supplies such fuel to the Owners for use in the reactors of Millstone Units 1 and 2.

NNEC has financed the acquisition, conversion, enrichment and fabrication into assemblies of nuclear fuel through a variety of methods, including unsecured bank borrowings by NNEC and the use of internally generated funds provided by the Owners to NNEC pursuant to the fuel supply contract between the Owners and NNEC. The long-term financing of the nuclear fuel assemblies after their arrival at the plant site has been accomplished through the sale by NNEC of secured notes under the Trust Indenture dated December 1, 1972 ("Indenture") between NNEC and the Connecticut Bank and Trust Company, as trustee.

In February 1978, in order to provide a comprehensive framework for the financing of nuclear fuel primarily during the off-site portions of the nuclear fuel cycle, NNEC entered into arrangements for Millstone Units 1 and 2 with Manufacturers Hanover Trust Company, not in its individual capacity but solely as trustee ("Trustee") of the Waterford Fuel Supply Trust ("Trust"), which was specially created for the purpose of such financing pursuant to a Trust Agreement ("Trust Agreement") dated November 15, 1977 between The Connecticut Bank and Trust Company as trustor ("Trustor"), the Trustee and NNEC, as Beneficiary. Pursuant to a Nuclear Fuel Sale Agreement ("Sale Agreement") dated November 15, 1977 between NNEC and the Trustee, NNEC agreed to assign to the Trustee all of its rights, title and interest in and to all or part of certain nuclear fuel contracts and nuclear fuel pursuant to one or more assignments ("Assignments"). The Trustee, in turn, agreed to either reimburse NNEC for payments made to fuel vendors under the assigned nuclear fuel contracts or to make such payments directly to the fuel vendors. The Sale Agreement and the Assignments allow NNEC to assign to the Trustee the nuclear fuel contract rights with respect to one or more reload batches of fuel, and to request the Trustee to finance such reload batches, without assigning or asking the Trustee to finance all of the reload batches covered by a given contract.

Upon making a payment with respect to any nuclear fuel, the Trustee acquires title to such nuclear fuel (or, in some circumstances, the right to acquire title in the future) and the related nuclear fuel contract rights. Upon the completion of the processing and fabrication of the nuclear fuel assemblies constituting a reload batch and delivery of such fuel assemblies to the plant site, or, on any earlier date selected by NNEC, NNEC is required under the Sale Agreement to repurchase such fuel assemblies at a price equal to the "seller's cost", as defined in the Sale Agreement. Under the Sale Agreement, NNEC's obligation to repurchase the fuel and to make such payments to the Trustee is absolute and unconditional. NNEC is required to repurchase the fuel assemblies at a time no later than the day preceding insertion into a nuclear reactor. The Sale Agreement will terminate on the earlier of June 30, 1987, or the occurence of certain other events specified therein.

Pursuant to a Credit Agreement ("Credit Agreement") dated November 15, 1977 between the Trustee and Manufacturers Hanover Trust Company, acting in its individual capacity ("Bank"), the Trustee finances its own payments to NNEC and the fuel vendors through the sale of the Trust's commercial paper notes ("CP Notes"), backed by irrevocable letters of credit of the Bank, which are preprinted on the CP Notes. If the Trustee cannot sell the CP Notes or if certain other circumstances arise, the Bank is obligated to make loans to the Trustee which are sufficient in amount to enable the Trustee to make nuclear fuel payments to NNEC or to fuel vendors. NNEC may also instruct the Trustee to borrow from the Bank instead of issuing CP Notes. The Bank's obligation to extend credit to the Trustee by issuing letters of credit preprinted on CP Notes or making loans is limited to a total commitment of $35,000,000. The Trustee must pay to the Bank a letter of credit fee computed at a rate of 1¼% per annum through December 31, 1978 and 1⅛% per annum thereafter of the daily average amount of letters of credit outstanding during each calendar quarter. In addition, the Trustee must pay the Bank a commitment fee computed at the rate of ⅛ of 1% per annum on the daily average unused portion of the commitment during each calendar quarter. The Trustee is required to pay the Bank interest on loans made by the Bank at a rate equal to 125% of the Base Rate, which is defined in the Credit Agreement as the higher of the Bank's prime rate or the then current commercial paper rate.

The Bank has also agreed to act as the Trustee's agent for the issuance, delivery and payment of the Trust's CP Notes in accordance with the terms of a Depositary Agreement ("Depositary Agreement") dated as of November 15, 1977. The Bank receives a fee of $6.50 per CP Note issued under the Depositary Agreement. Pursuant to the terms of a Dealer Agreement dated February 7, 1978 between the Trustee and Lehman Brothers, Kuhn Loeb Incorporated, acting for itself and for Lehman Commercial Paper Incorporated (collectively "Lehman"), Lehman has agreed to act as dealer for the sale of the CP Notes of the Trust. For arranging the sale of any CP Note, Lehman receives a fee equal to ⅛% of the principal amount thereof.

In order to secure the Trustee's obligations to the Bank, the Trustee has assigned to the Bank, as collateral security, all of its rights in the nuclear fuel being financed by the Trustee and the related nuclear fuel contract rights and has granted a security interest to the Bank in such fuel and such nuclear fuel contract rights. These arrangements have been accomplished pursuant to a Security Agreement and Assignment of Contracts ("Security Agreement") dated November 15, 1977 between the Trustee and the Bank, which also provides for the assignment to the Bank of all of the Trustee's rights (but not its obligations) under the Sale Agreement and the Assignments. When NNEC repurchases the nuclear fuel from the Trustee, the Bank will release to the Trustee all of its rights in such fuel, including its security interest.

Since February, 1978, the Trustee has made payments to NNEC totaling approximately $23,000,000 pursuant to these arrangements. The use of these arrangements has permitted NNEC to obtain a portion of the funds necessary for the off-site portion of its nuclear fuel procurement program in a manner which is consistent with the terms of NNEC's Indenture and the Commission's own limitations on NNEC's short-term borrowings.

It is proposed that the Sale Agreement between NNEC and the Trustee, will be amended to allow NNEC to repurchase nuclear fuel from the Trustee up to 30 days following the day on which nuclear fuel is placed in a nuclear reactor. The amendment is designed to cure the existing arrangements under which it is possible that NNEC would be required by the Sale Agreement to repurchase fuel assemblies prior to the time that it was able to obtain the funds needed for such repurchase through the issue and sale of additional secured notes under its Indenture. The additional 30-day grace period is expected to provide greater flexibility in coordinating the sale of additional secured notes with the repurchase of fuel from the Trustee. As a result of this proposed modification, it is possible that the Trustee will own nuclear fuel assemblies after they have been inserted into a reactor.

In addition, NNEC proposes to add three more nuclear fuel contracts to the list of fuel contracts which may be financed pursuant to these arrangements and to execute assignments partially assigning such contracts to the Trustee.

It is proposed that the Credit Agreement between the Trustee and the Bank, will be amended to implement

the following changes. First, the total commitment of the Bank to extend credit to the Trustee by letters of credit or loans will be increased from $35,000,000 to $50,000,000. Second, in connection with the increase in the commitment as described above and the amendment to the Sale Agreement allowing financing of fuel provided under the Millstone 1 Fuel Contract, the following arrangements have been agreed upon with respect to the Bank's letter of credit fee and commitment fee. For financing any nuclear fuel for a reload batch for Millstone Unit 2, the Trustee must pay to the Bank a letter of credit fee computed at the rate of 1¼% per annum on the daily average amount of letters of credit outstanding during each calendar quarter; for financing any nuclear fuel for a reload batch for Millstone Unit 1, the Trustee must pay to the Bank a letter of credit fee computed at the rate of 1% per annum on the daily average amount of letters of credit outstanding.

The Security Agreement and Assignment of Contracts will be amended to provide that the total amount of the obligations of the Trustee to the Bank which are secured thereby will be increased from $35,000,000 to $50,000,000 to reflect the increase in the Bank's commitment. In addition, the Security Agreement will be amended to reflect the addition of the three nuclear fuel contracts referred to above.

Although no formal commitments for NNEC's bank borrowings to be effected in continuance of the financing program have been made with any bank, NNEC expects that such borrowings will be effected from the following banks through the use of joint usage credit lines of Northeast. These joint usage credit lines were approved in the Commission's order of June 26, 1978 (HCAR No. 20601):

Bank	Maximum amount
The First National Bank of Boston, Boston, Massachusetts	$8,000,000
Chase Manhattan Bank, New York, New York	10,000,000
The Connecticut Bank and Trust Company, Hartford, Connecticut	8,000,000
Hartford National Bank and Trust Company, Hartford, Connecticut	8,000,000
The Colonial Bank and Trust Company, Waterbury, Connecticut	5,000,000
Connecticut National Bank, Bridgeport, Connecticut	3,000,000

NNEC presently contemplates that its projected capital requirements will necessitate the borrowing of up to $30,000,000 from the above banks, and the maximum aggregate amount of such borrowings outstanding at any time will not exceed $30,000,000.

The notes which will be issued to evidence these bank borrowings ("Bank Notes") will each be dated the date of issue, will have a maximum maturity date of nine months with right or renewal, will bear interest at the prime rate in effect from time to time at the lending bank or at the prime rate plus a fraction thereof, will be subject to prepayment at any time at NNEC's option without premium and will be subordinated to any secured notes issued by NNEC. Compensating balances of up to 10% of the credit line plus up to 10% of the average borrowings are required by the above banks. The maximum cost for any of these borrowings will not exceed an amount equal to the sum of (i) interest computed at the prime rate, plus (ii) the cost of maintaining compensating balances equal to (a) 10% of the credit line, plus (b) 10% of the average borrowings. Based on the assumed prime rate of 11.5%, the maximum effective interest rate would be 14.375%. No minimum interest rate is specified by any bank.

Although NNEC's permanent financing program contemplates that the Bank Notes will be issued, renewed, repaid and/or re-issued from time to time through December 1, 1982 to meet the proposed financing program, NNEC proposes to issue Bank Notes to the banks specified above in an aggregate amount not to exceed $30,000,000 at any time only for the period through June 30, 1980.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The proposed transactions have been approved by the Connecticut Public Utilities Control Authority. It is stated that no other state commission and no federal commission, other than this commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issuance of facts or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9552 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Release No. 10639; 812-4431]

SELECTED MONEY MARKET FUND, INC.

Filing of Application

MARCH 22, 1979.

Notice is hereby given that Selected Money Market Fund, Inc. ("Applicant"), 111 West Washington Street, Chicago, Illinois 60602, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 8, 1979 and an amendment thereto on March 14, 1979, for an order, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose investment policy is to maximize current income consistent with preservation of capital through investment in short-term debt instruments. Applicant states that its portfolio presently may be invested in a variety of money market instruments, including United States Government securities, domestic and Canadian bank certificates of deposit, domestic savings and loan certificates and other money market instruments maturing in 30 months or less. However, Applicant may not invest over 20 percent of the value of its portfolio in securities maturing in over one year.

Applicant asserts that in actual practice and in keeping with its policies, its portfolio since its inception in 1977, has been invested largely in commercial paper of major United States corporations, United States Government obligations and the certificates of deposit of banks which are among the largest commercial banks in the United States and Canada and has not purchased any securities with maturities in excess of one year from acquisition.

Applicant states that it values its portfolio securities maturing over 60 days at market and its portfolio securities maturing in 60 days or less at amortized cost and includes unrealized portfolio gains or losses in determining its daily dividend so that its net asset value per share has remained at $10.00 a share since it commenced operations on November 9, 1977. Applicant states that if the Application is granted, it will (a) no longer include unrealized gains or losses in its dividend determinations, and (b) pay an approximately 900 percent stock dividend on its outstanding shares on a basis of approximately 9 new shares for each old share outstanding, so that after the dividend, each new share will have a net asset value of $1.00. Applicant expects that, as a result of rounding the net asset value per share to the nearest cent on a $1.00 price, its price per share for the purpose of sales and redemptions normally should remain at $1.00.

Applicant states that its board of directors believes this proposal will benefit Applicant and its shareholders. Applicant, designed as an investment vehicle for institutional and individual investors who seek liquidity for their investment, has as its investment objective the maximization of current income consistent with the preservation of capital. Applicant asserts that its investors prefer that the daily income dividends declared by Applicant reflect income as earned, and that its sales and redemption price remain fixed. Applicant's directors have concluded that stability of capital and a steady, relatively consistent flow of investment income would benefit existing shareholders. Moreover, it is asserted that, with a relatively fixed price per share, investors will have the convenience of being able to determine the value of their holdings, simply by knowing the number of shares they own. The task of maintaining an investment record would also be made easier for Applicant's shareholders. Furthermore, Applicant expects this proposal to eliminate the need to include unrealized gains or losses in calculating its dividends, thereby providing more stability in its dividend payments.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission expressed its view that it is inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer the public a stable $1.00 price for their shares. Applicant has agreed that, in order to attempt to assure the stability of its price per share, the order it seeks may be conditioned upon its adherence to the following conditions:

1. Applicant's board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of sales and redemptions, rounded to the nearest cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its purchases of portfolio instruments to the following:

A. Obligations issued or guaranteed by the United States Government or its agencies or instrumentalities.

B. Domestic bank and savings and loan association certificates of deposits and bankers' acceptances of issuers which have total assets of at least one billion dollars ($1,000,000,000) and which are subject to regulation by the United States Government or any agency thereof.

C. Repurchase agreements with respect to which the underlying securities are issued or guaranteed by the United States Government or its agencies or instrumentalities, limited to transactions with financial institutions believed by Applicant's adviser to present minimum credit risks.

D. Commercial paper of domestic issuers, rated A1 or A2 by Standard & Poor's Corporation or Prime 1 or Prime 2 by Moody's Investors Service, Inc. or issued by companies having an outstanding unsecured debt issue rated AA or better by Standard & Poor's Corporation or Aa or better by Moody's Investors Service, Inc.

E. Other non-convertible debt securities of domestic issuers rated A or better by Standard & Poor's Corporation or Moody's Investors Service, Inc.

Notice is further given that any interested person may, not later than April 16, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules

and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9553 Filed 3-28-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5671; File No. 81-473]

UPDW, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that UPDW, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("The 1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act for reports required to be filed by The United Piece Dye Works, Inc. (the "Company").

The Applicant states, in part:

1. On January 26, 1979, the Company was merged into the Applicant. As a result, there is no longer any market for the Company's securities. All of Applicant's shares of common stock are owned by three corporate shareholders.

2. The Company has filed its report on Form 10-Q for the period ended October 1, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street NW., Washington, D.C. 20549.

Notice if further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-9555 Filed 3-28-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0209]

EVERGREEN CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations, governing small business investment companies (13 CFR 107.102 (1978)), under the name of Evergreen Capital Corporation, 1500 City National Bank Building, 9th and Congress, Austin, Texas 78701, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and major shareholders are as follows:

John F. Turben, Chairman of the Board, Secretary, 8966 Booth Road, Kirtland Hills, Ohio 44060.

Jack R. Crosby, Vice Chairman, 28.0 percent shareholder, 752 East Bee Caves Road, Austin, Texas 78746.

Frank P. Krasovec, President, Treasurer, Director, 2.75 percent shareholder, 2600 Woolridge Drive, Austin, Texas 78703.

Peter B. Fritzsche, Chairman of Executive Committee, Director, 901 Green Bay Road, Winnetka, Illinois 60093.

John W. Cullen III, Director, 6 Meadow Lane, Baltimore, Maryland 21212.

Robert W. Hughes, Director, 2.75 percent shareholder, 3405 Timberwood Circle, Austin, Texas 78703.

George B. Sweeney, Jr., Director, 589 Magnolia Circle, Houston, Texas 77024.

Houston H. Harte, Director, 2207 Camelback, San Antonio, Texas 78209.

Jeffrey C. Garvey, Executive Vice President, Investment Manager, 451 Elliger Avenue, Ft. Washington, Pennsylvania 19034.

Chagrin Valley Company, Ltd., 50 percent shareholder, Three Commerce Park Square, 23200 Chagrin Boulevard, Cleveland, Ohio 44122.

There will be two classes of stock authorized: One million shares each of common and preferred. Initially only 20,000 shares of common stock will be issued with a resultant private capital of $2 million. Applicant proposes to conduct its operations principally in the states of Texas, Ohio and Illinois.

On or about April 15, 1979, Applicant's main office will be located at Suite 180, 7700 San Felipe, Houston, Texas 77024. The branch offices will be at Three Commerce Park Square, 23200 Chagrin Boulevard, Cleveland, Ohio 44122, and at Suite 1990, 208 South LaSalle Street, Chicago, Illinois 60604.

Applicant intends to follow a diversified investment policy with emphasis on "venture capital" type investments.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 13, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in newspapers of general circulation in Austin and Houston, Texas; Chicago, Illinois; and Cleveland, Ohio.

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

Dated: March 22, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator, for Investment.

[FR Doc. 79-9608 Filed 3-28-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1370; Amdt. No. 3]

IDAHO

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 56657) Amendment No. 1 (see 42 FR 58472) and Amendment No. 2 (see 43 FR 6667) are amended by reopening the filing period for physical damage until the close of business on May 31, 1979, and for economic injury until the close of business on May 31, 1979. Applications will be processed under the provisions of Public Law 95-89.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 22, 1979.

WILLIAM H. MAUK, Jr.,
Acting Administrator.

[FR Doc. 79-9612 Filed 3-28-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1572; Amendment No. 1]

ILLINOIS

Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 7858), is amended by extending the filing date for physical damage until the close of business on June 1, 1979. All other information remains the same; i.e., the termination date for filing applications for economic injury is until the close of business on November 1, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 23, 1979.

WILLIAM H. MAUK, Jr.,
Acting Administrator.

[FR Doc. 79-9613 Filed 3-28-79; 8:45 am]

[8025-01-M]

[Proposed License No. 02/02-0359]

LAMONT & WATERMAN CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Lamont & Waterman Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York and it will commence operations with a capitalization of $2,000,000 which will be raised through a private placement of 36,000 shares of Class A Common Stock, 4,081 shares of Class B Common Stock, and 9,134 shares of Class C Common Stock.

The Applicant will have its principal place of business at 230 Park Avenue, New York, New York 10022, and it intends to conduct operations primarily in the State of New York.

The proposed officers, directors and stockholders are as follows:

Name

George H. Waterman, 898 Park Avenue, New York, New York 10021; Chairman of the Board—Secretary, Director.

Nicholas S. Lamont, 8318 St. Martins Lane, Philadelphia, PA. 19118; President-Treasurer and Director.

Joseph P. Wells, 5222 Klingle Street, Washington, D.C. 20016; Chief Operating Officer—Director.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant, under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may not later than April 13, 1979, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York

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

Dated: March 26, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-9607 Filed 3-28-79; 8:45 am]

[8025-01-M]

REGION II ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, New York, will hold a public meeting at 9:00 a.m., on Friday, April 27, 1979, at the School of Hotel Administration, Statler Hall, West Lounge Statler Inn, Cornell University, Ithaca, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 1071 Federal Building, 100 South Clinton Street, Syracuse, New York 13260, (315) 423-5371.

Dated: March 26, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-9609 Filed 3-28-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1579; Amdt. No. 1]

NEW YORK

Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 11019) is amended by extending the filing date for physical damage until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 13, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-9611 Filed 3-28-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1358; Amdt. No. 3]

OREGON

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 44323), Amendment No. 1 (see 42 FR 56990) and Amendment No. 2 (see 43 FR 6666) are amended by reopening the filing period for Baker, Grant, Harney, Malheur, Union and Wallowa Counties for physical damage until the close of business on May 31, 1979, and for economic injury until the close of business on May 21, 1979. Applications will be processed under the provisions of Public Law 95-89.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 22, 1979.

WILLIAM H. MAUK, Jr.,
Acting Administrator.

[FR Doc. 79-9606 Filed 3-28-79; 8:45 am]

[8025-01-M]

REGION V ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Cleveland, Ohio, will hold a public meeting from 9:00 a.m. to 12:00 Noon on Friday, April 20, 1979, in the Small Business Administration Conference Room 317, of the AJC Federal Building, 1240 East Ninth Street, Cleveland, Ohio, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call S. Charles Hemming, District Director, U.S. Small Business Adminis-

tration, AJC Federal Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199—(216) 293-4182.

Dated: March 23, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-9610 Filed 3-28-79; 8:45 am]

[4710-01-M]

DEPARTMENT OF STATE

INTERNATIONAL SECURITY ASSISTANCE PROGRAMS

Secretarial Determination

In accordance with Section 502B of the Foreign Assistance Act of 1961, as amended (the Act), I have reviewed the international security assistance programs of the United States for the fiscal year 1979 in order to assure that:

(1) all security assistance programs are consistent with the provisions of Section 502B of the Act concerning the promotion and advancement of human rights and the avoidance of United States identification with human rights violations, and

(2) with respect to those countries where human rights conditions give rise to the most serious concerns, the security assistance provided by the United States is warranted in each case by extraordinary circumstances involving the national security interests of the United States.

On the basis of this review, I certify that these security assistance programs are in compliance with the requirements of section 502B of the Act.

This determination shall be reported to the Congress and published in the FEDERAL REGISTER as required by law. Specific allocations of funds for security assistance programs for the fiscal year 1979 have been reported to the Congress in accordance with Section 653(a) of this Act.

WARREN CHRISTOPHER,
Acting Secretary of State.

[FR Doc. 79-9488 Filed 3-28-79; 8:45 am]

[8120-01-M]

TENNESSEE VALLEY AUTHORITY

POLICIES RELATED TO ELECTRIC POWER RATES

Notice of Intent to Prepare an Environmental Impact Statement

The Tennessee Valley Authority (TVA) hereby gives notice that it intends to prepare, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.* (1976), and Environmental Impact Statement (EIS) on policies relating to electric power rates. In accordance with the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. No. 95-617, TVA is required to consider whether it is appropriate to implement certain Federal standards, as defined in that act, regarding rates. The EIS will consider the proposed adoption of these standards and the changes in rates to the consumers of TVA power needed to implement the standards. The rates considered will include those applicable to industries served directly by TVA and to residential, commercial, and industrial customers served by the distributors of TVA power.

A basic purpose of PURPA is to encourage conservation of energy and to promote the efficient use of power generation and transmission facilities to avoid or delay the need to construct new plants. In considering the PURPA standards and any rate changes necessary to implement those standards, TVA will recognize the desirability of these objectives as well as the other requirements and purposes of PURPA and the Tennessee Valley Authority Act of 1933, 48 Stat. 58, *as amended*, 16 U.S.C. §§ 831-831dd (1976). The rate changes considered will be of a conceptual or rate design nature. The EIS will not consider the level of rates needed to produce sufficient revenue to meet the financial tests required by the TVA Act and TVA's bond convenants. Rate levels will continue to be adjusted up or down to assure adequate revenues in accordance with regular adjustment procedures in TVA's power contracts.

After the draft EIS is prepared and released to the public, TVA will hold the public hearing on rate standards required by PURPA, and in connection therewith will accept comments from the public concerning the EIS.

The rate concepts which are expected to be discussed in the statement are: rates based on cost of service, inverted rates, flat rates, time-of-day rates, seasonal rates, load management techniques, and interruptible rates. In 1976 TVA made an envrionmental assessment of the environmental impacts which might be associated with certain alternative rate concepts. Public hearings were held on the draft statement and a final statement made available to the public on Octover 1, 1976. With the exception of interruptible rates, the alternatives to be covered in the present EIS were discussed in the 1976 assessment. While lifeline rates were considered in the 1976 assessment and are required to be considered by PURPA, section 114 of PURPA provides a separate procedure for their consideration. Thus, lifeline rates will not be one of the alternatives in this EIS.

As a first step in its preparation of the EIS, TVA will determine its scope utilizing the scoping process described in the Council on Environmental Quality regulations. Written comments from the public as to the scope of the document are requested now. Since a detailed assessement of the same matters was prepared in 1976, and public hearings were held in connection with it, no hearings are needed for the scoping process.

A hearing on the draft EIS itself will be held at a time and place to be announced later. Comments on the draft EIS can be submitted in writing or at the hearing. TVA will consider the written comments on the draft and the record of the hearings in preparing the final EIS.

TVA requests comments concerning the scope of the EIS from interested Federal, state, and local agencies, and other interested persons. TVA's preliminary views on the scope of the document are that the principal impacts to be considered are changes in the emission of pollutants, consumption of natural resources, and socioeconomic effects, such as changes in employment. These effects may result from changes in the operation of TVA's electric generating plants, changes in the need for new generating capacity, and the substitution of other energy sources, such as natural gas, coal, oil, and wood for electricity by the ultimate consumer. It is expected that the relatively insignificant impacts on water quality and land use will not require extensive analysis.

Comments and suggestions about the scope of the EIS may be submitted in writing on or before [30 days after publication] addressed to Robert F. Hemphill, Jr., Director of Energy Conservation, 830 Power Building, Chattanooga, Tennessee 37401.

Copies of the 1976 assessment are available for inspection at TVA's technical libraries in Knoxville, Chattanooga, and Muscle Shoals, and at various public libraries in the TVA region. A limited number of copies is avialable for distribution. Requests for single copies should be addressed to the Director of Information, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902. Copies of the draft EIS may also be reserved by writing this address.

Requests for further information should be directed to Robert F. Hemphill, Jr., Director of Energy Conservation, 830 Power Building, Chattanooga, Tennessee 37401, telephone number (615) 755-2061.

Dated: March 22, 1979

LEON E. RING,
General Manager.

[FR Doc. 79-9595 Filed 3-28-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-044]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held at the U.S. Coast Guard Academy, New London, CT, on Monday, Tuesday, and Wednesday, April 23-25, 1979. The sessions on Monday will be held from 10:30 to 11:45 a.m., and from 2:00 to 3:15 p.m. An open session will also be held on Wednesday to begin at 10:15 a.m. and adjourn at 11:15 a.m.

The agenda for this meeting is as follows: (a) faculty, (b) curricula, (c) cadets, (d) physical facilities, equipment, (e) summer program, (f) admissions, recruiting.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend or present oral statements should notify, not later than the day before the meeting: CAPT Roderick M. White, USCG, Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT, 06320, phone 203-443-8463.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on March 20, 1979.

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

[FR Doc. 79-9576 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 78-169]

NATIONAL PLAN FOR NAVIGATION

Implementation of Loran-C Radionavigation System

This notice announces the activation of a new Loran-C radionavigation service for the U.S. East Coast and the Gulf of Mexico, and changes the previously published termination date of existing East Coast Loran-C service. In addition, announcement of updated information concerning reconfiguration plans for U.S. East Coast Loran-C service is included.

The Coast Guard's plans for implementing Loran-C radionavigation service throughout the Coastal Confluence Zone (CCZ) of the United States were published in the FEDERAL REGISTER on March 10, 1977 (42 FR 13372) and the Department of Transportation National Plan for Navigation, November 1977, available from the National Technical Information service, Springfield, VA 22161.

In order to implement the expanded Loran-C service along the U.S. East Coast and provide service in the Gulf of Mexico, the Coast Guard has added five new transmitting stations to four existing stations to form two new partial Loran-C chains. These changes were accomplished by establishment of a new partial Northeast U.S. chain and a new partial Southeast U.S. Loran-C chain. The partial Northeast U.S. chain began operating on September 9, 1978, and the partial Southeast U.S. chain began operating on December 27, 1978. Additionally, Loran-C service from the existing East Coast chain was to continue until approximately July 1, 1979. The Commandant of the U.S. Coast Guard has approved an extension of service from the existing East Coast Loran-C chain until September 30, 1979, which supersedes the previously published July 1, 1979 termination date.

This action will allow users of the existing East Coast Loran-C chain additional time for changeover from the present East Coast Loran-C service to the new service.

The arrangement of stations to form the three chains is shown in the following tables:

TABLE 1.—*Existing east coast Loran-C chain (rate 9930)*

Station	Function
Carolina beach, NC	Master.
Jupiter, FL	Secondary.
Nantucket, MA	Do.
Dana, IN	Do.
Cape Race, Newfoundland	Do.

Cape race is dual-rated, transmitting on rate 7930 as part of the existing North Atlantic chain, as well as on rate 9930 as part of the existing East Coast chain:

TABLE 2.—*Partial Southeast U.S. Loran-C chain (rate 7980)*

Station	Function
Malone, FL	Master.
Grangeville, LA	Secondary.
Raymondville, TX	Do.
Jupiter, FL	Do.

TABLE 3.—*Partial Northeast U.S. Loran-C chain (rate 9960)*

Station	Function
Seneca, NY	Master.
Caribou, ME	Secondary.
Nantucket, MA	Do.
Carolina Beach, NC	Do.

Upon termination of service from the existing East Coast Loran-C chain on September 30, 1979, certain reconfiguration actions planned previously will occur at the dates indicated. The station at Dana, Indiana, was schedule to go off-air for about two months, beginning July 1, 1979, to permit installation of additional equipment before joining and completing the Northeast U.S. chain. The off-air period has been eliminated and the Dana Station is now scheduled to join the Northeast U.S. Chain in April, 1979. When the existing East Coast chain is terminated, Cape Race, Newfoundland, will continue transmitting onrate 7930 as a part of the North Atlantic Loran-C Chain; Seneca, Caribou, Nantucket, and Carolina Beach will continue transmitting on the Northeast U.S. rate; Carolina Beach will begin dual-rated operation, joining the Southeast U.S. chain in addition to the Northeast U.S. chain; Jupiter will continue transmitting on the Southeast U.S. rate. The additon of Carolina Beach will complete the Southeast chain.

On October 1, 1979, the configuration of the two new Loran-C chains will be as shown in Table 4 and Table 5:

TABLE 4.—*Southeast U.S. Loran-C chain (rate 7980)*

Station	Function
Malone, FL	Master.
Grangeville, LA	Secondary.
Raymondville, TX	Do.
Jupiter, FL	Do.
Carolina Beach, NC	Do.

TABLE 5.—*Northeast U.S. Loran-C chain (rate 9960)*

Station	Function
Seneca, NY	Master.
Caribou, ME	Secondary.
Nantucket, MA	Do.
Carolina Beach, NC	Do.
Dana, IN	Do.

On approximately February 1, 1980, the planned expansion of Loran-C service in the continental United States will be completed by formation of the Great Lakes Loran-C chain. This will be accomplished by dual-rating Seneca, Dana, and Malone, and the addition of one new station at Baudette, MN. Table 6 shows the ar-

rangement of stations that will make up the Great Lakes chain.

TABLE 6.—*Great Lakes Loran-C chain (rate 9930)*

Station	Function
Dana, IN	Master.
Seneca, NY	Secondary.
Baudette, MN	Do.
Malone, FL	Do.

Dated: March 19, 1979.

F. P. SCHUBERT,
Captain, U.S. Coast Guard Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-9632 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 79-042]

PROPOSED HIGHWAY BRIDGE ACROSS TURNER CUT, MILE 2.3, NEAR STOCKTON, CALIF.

Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Twelfth Coast Guard District, at the Stagg High School, 1621 West Brookside Road, Stockton, California, at 8:00 p.m. on Friday, April 27, 1979. The purpose of the hearing is to consider the application from the County of San Joaquin and Reclamation District Number 2030 for a Coast Guard permit to construct a fixed highway bridge across Turner Cut near Stockton, California. All interested persons may present data, views and comments orally or in writing at the public hearing concerning the impacts the proposed bridge may have on the environment and on navigation. Of particular importance at this time are the effects a fixed bridge with a vertical clearance of 20 feet above MHW may have on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126, by April 23, 1979. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statements to the hearing officer. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan), Twelfth Coast Guard District, by May 11, 1979. Each comment should identify the proposed project, and clearly state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Twelfth Coast Guard District. All comments received will be considered before final agency action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, Twelfth Coast Guard District, will forward the case record, including all written comments, his findings, conclusions and recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will review the case record and make the final determination of issuance or denial of the bridge permit application.

Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10)

Dated: March 26, 1979.

F. P. SCHUBERT,
Captain, U.S. Coast Guard Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-9575 Filed 3-28-79; 8:45 am]

[4910-14-M]

[CGD 78-163]

EQUIPMENT REQUIREMENTS

Windsurfer Personal Flotation Device Exemption

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice solicits public participation in a review of an exemption from the Personal Flotation Device (PFD) carriage requirement granted to Windsurfing International, Inc. on February 18, 1973. The Coast Guard is considering whether it would be appropriate to extend the exemption to other similar devices or, because of objections raised to the grant of exemption, withdraw the exemption entirely.

DATES: Comments must be received on or before April 30, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), 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.

FOR FURTHER INFORMATION CONTACT:

Mr. David R. Gauthier, Office of Boating Safety (G-BLC-3/TP42), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written data, views, or arguments. Written comments should include the docket number (CGD 78-163), the name and address of the person submitting the comments, and the specific question to which each comment is addressed.

DRAFTING INFORMATION

The principal persons involved in drafting this notice are: Mr. David R. Gauthier, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION

The Windsurfer is basically a surfboard with a triangular sail on a swivel mounted mast. There is no rudder nor any rigging or stays. The operator maneuvers the boat through the trim of the hand-held sail and distribution of body weight on the surfboard. On February 18, 1973, the Coast Guard granted a request from the manufacturer of Windsurfers for exemption from 33 CFR 175.15, allowing the device to be used without a PFD aboard.

This advance notice of proposed rulemaking is being issued to seek public assistance in deciding whether to expand or withdraw the exemption granted to Windsurfers, or in suggesting alternative approaches to the problem. Comments are specifically requested in the following areas:

A. OTHER MANUFACTURERS

(1) Since the exemption was granted to Windsurfing International, Inc. in 1973, several other persons have begun producing or importing similar devices. One of the alternatives being considered is extending the exemption to the other Windsurfer-type devices. This could involve amending the PFD carriage requirement to provide a general exception for Windsurfer-type devices and could include developing a general term for this type of device as well as a definition of the term.

Questions

(1) Who are the manufacturers and importers of Windsurfer-type devices?
(2) Can a definition of Windsurfer-type devices be developed which could be used as a general exception category in a regulation rather than granting exemptions through individually named manufacturers?

B. BASIS FOR EXEMPTION

(1) The exemption was granted on the basis of several assumptions. These assumptions were:
(a) The Windsurfers had limited ability to travel offshore.
(b) There were only about 1,500 boats involved.
(c) There existed no accident statistics indicating any hazard existed. These assumptions may no longer be valid and should be reviewed.

Questions

(1) How far away from shore can Windsurfers operate? What is the typical sailing range?
(2) How many Windsurfer-type devices are used in the United States? Are they concentrated in any one region of the country?
(3) Have there been any accidents involving injuries or fatalities on Windsurfer-type devices? Were PFDs carried? Were they effective in saving lives? If PFDs were not carried, would PFDs have saved lives or prevented injuries?

C. BOATING LAW ENFORCEMENT

Law enforcement and boating safety officials in several States continue to object to the exemption. These officials find that not only does the exemption itself run contrary to good boating safety practices, but it also misleads the public about boating safety regulations for small sailing craft. Additionally, carriage requirement exemptions unnecessarily confuse the job of the water safety enforcement officer. The Coast Guard is reviewing the exemption to Windsurfer in light of these objections.

Questions

(1) What effect does the existing exemption have on boating safety enforcement?
(2) Could any PFD carriage requirement reasonably be enforced on Windsurfer-type devices while underway?

(46 U.S.C. 1454, 1455, 1458; 49 CFR 1.46(n)(1).)

Dated: March 23, 1979.

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

[FR Doc. 79-9629 Filed 3-28-79; 8:45 am]

[4910-13-M]

Federal Aviation Administration

EIELSON RADAR APPROACH CONTROL

Notice of Closing

Notice is hereby given that on or about March 20, 1979, the Eielson Radar Approach Control (RAPCON), Fairbanks, Alaska, will be closed. Air traffic services formerly provided by this facility will be provided by the Fairbanks Terminal Radar Approach Control (TRACON).

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Anchorage, Alaska on March 13, 1979.

DONALD T. KEIL, Jr.
Acting Director, Alaskan Region.

[FR Doc. 79-9512 Filed 3-28-79; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 134—ELECTRONIC TEST EQUIPMENT FOR GENERAL APPLICATION

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 134 of Electronic Test Equipment for General Application to be held April 19-20, 1979, in Conference Room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Virginia commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting held February 15 and 16, 1979; (3) Consideration of Issue Papers submitted by Working Groups; (4) Review Committee List of Issue Papers, Work Schedule and Priorities; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 19, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-9511 Filed 3-28-79; 8:45 am]

[4910-13-M]

TURBOJET SUBSONIC AIRPLANES

Fleet Inventory and Noise Rules Compliance

AGENCY: Federal Aviation Administration.

SUBJECT: Report of Fleet Inventory and Status of Compliance with FAR Part 36 or Subpart E of FAR Part 91 for turbojet subsonic airplanes with maximum gross weights of 75,000 pounds or more. Subpart E of Part 91 specifies phased compliance dates for FAR Parts 121 and 135 certificate holders, and a final compliance date of January 1, 1985, for all operators.

SUMMARY: A report of the fleet inventory and noise rules compliance status of turbojet subsonic airplanes as of January 1, 1977, is published below. The inventory information was obtained from FAA aircraft records, while the compliance status was, in most instances, provided by the individual operator. Where operator-provided data were not available, the FAA has shown the status of the aircraft at the time they were placed on the records.

As stated in the preamble to Subpart E (Amendment 91-136, 41 FR 56046, December 23, 1976), compliance can be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes or through their replacement with complying airplanes. The purpose of the amendment is not to force the retrofit (acoustical modification or re-engining) of older airplanes but rather to encourage each operator to select that option or those options which are best suited to each individual economic situation, and to the airplane fleet age and mix.

The FAA will monitor the progress being made by Parts 121 and 135 certificate holders in meeting the phased compliance dates of § 91.305(b) and administer replacement plans submitted under § 91.305(c). The FAA will also monitor the fleet mix being operated by Parts 91 and 123 operators which must be brought into compliance on or before December 31, 1984. Compliance requirements for airplanes engaged in foreign air commerce as addressed in § 91.307 (for U.S. operators and for airplanes being operated at U.S. airports by Part 129 certificate holders) will be the subject of future rulemaking.

The January 1977 fleet inventory summary shows, for each operator, the number of airplanes by make and model and their reported compliance status with Part 36 or Subpart E of Part 91. Those noncomplying (Stage I) airplanes must be brought into compliance with Part 36 without the use of tradeoffs (see § 91.301(b)) unless the operator shows that, after full applica-

tion of existing technology, the use of tradeoffs is required for compliance with Part 36 (column marked E/Part 91 NO). All other airplanes have been reported as meeting either the Stage II or Stage III requirements of Part 36 (column marked Part 36 YES).

FOR FURTHER INFORMATION: Operators desiring to submit updated information and compliance/replacement plans and persons desiring a more detailed listing identifying each individual airplane should address Richard N. Tedrick, Noise Policy and Regulatory Branch, AEE-110, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 755-9027.

Issued in Washington, D.C. on March 16, 1979.

JOHN E. WESLER,
Acting Director
of Environment, and Energy.

[4910-13-C]

SUMMARY OF
U.S. REGISTERED CIVIL SUBSONIC TURBOJET AIRPLANES OF
75000 POUNDS OR MORE WITH STANDARD AIRWORTHINESS CERTIFICATES
IN THE OPERATOR'S FLEET JANUARY 1, 1977

AIR CARRIER INVENTORY

OPERATOR	AIRPLANE (Make/Model)	TOTAL No.	REPORTED COMPLIANCE STATUS PART 36 YES	PART 91 NO	PART 36 (%)
*Aero America, Inc.	B-720	8	-	8	0
	FLEET	8	-	8	0
Air California, Inc.	B-737	8	-	8	0
	FLEET	8	-	8	0
Airlift International, Inc.	B-727	1	-	1	0
	DC-8	8	-	8	0
	FLEET	9	-	9	0
Alaska Airlines, Inc.	B-727	9	-	9	0
	FLEET	9	-	9	0
Allegheny Airlines	BAC 1-11	31	-	31	0
	DC-9	49	8	41	16.3
	FLEET	80	8	72	10.0
Aloha Airlines	B-737	6	-	6	0
	FLEET	6	-	6	0
American Airlines	B-707-100	47	-	47	0
	B-707-300	41	-	41	0
	B-720	1	-	1	0
	B-727	115	17	98	14.8
	B-747	10	-	10	0
	DC-10	25	25	-	100.0
	FLEET	239	42	197	17.6
Braniff International	BAC 1-11	1	-	1	0
	B-727	73	21	52	28.8
	B-747	1	1	-	100.0
	DC-8	12	-	12	0
	FLEET	87	22	65	25.3
Capitol International Airways	DC-8	12	-	12	0
	FLEET	12	-	12	0
Continental Airlines	B-727	52	8	44	15.4
	DC-10	15	15	-	100.0
	FLEET	67	23	44	34.3

OPERATOR	AIRPLANE (Make/Model)	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	E/PART 91 NO	PART 36 (%)
Delta Airlines	B-727	84	71	13	84.5
	B-747	3	-	3	0
	DC-8	31	-	31	0
	DC-9	58	-	58	0
	L-1011	21	21	-	100.0
	FLEET	197	92	105	46.7
Eastern Airlines	B-727	118	6	112	5.1
	DC-8	2	-	2	0
	DC-9	87	10	77	11.5
	L-1011	30	30	-	100.0
	FLEET	237	46	191	19.4
Evergreen International Airways	DC-8	3	-	3	0
	FLEET	3	-	3	0
Flying Tiger Line	B-747	3	3	-	100.0
	DC-8	16	-	16	0
	FLEET	19	3	16	15.8
Frontier Airlines	B-737	21	1	20	4.8
	FLEET	21	1	20	4.8
Hawaiian Airlines	DC-9	13	3	10	23.1
	FLEET	13	3	10	23.1
Hughes Airwest	B-747	3	3	-	100.0
	DC-9	34	-	34	0
	FLEET	37	3	34	8.1
National Airlines	B-727	41	-	41	0
	DC-10	15	15	-	100.0
	FLEET	56	15	41	26.8
North Central Airlines	DC-9	27	8	19	29.6
	FLEET	27	8	19	29.6
Northwest Airlines	B-707-300	8	-	8	0
	B-727	63	8	55	12.7
	B-747	20	3	17	15.0
	DC-10	22	22	-	100.0
	FLEET	113	33	80	29.2
*Overseas National Airways	DC-8	12	-	12	0
	FLEET	12	-	12	0
Ozark Airlines	DC-9	27	1	26	3.7
	FLEET	27	1	26	3.7

OPERATOR	AIRPLANE (Make/Model)	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	E/PART 91 NO	PART 36 (%)
*Pacific American Airlines	BAC 1-11	1	-	1	0
	FLEET	1	-	1	0
Pacific Southwest Airlines	B-727	24	1	23	4.2
	FLEET	24	1	23	4.2
Pan American World Airways	B-707-300	68	-	68	0
	B-720	2	-	2	0
	B-727	13	-	13	0
	B-747	38	14	24	36.8
	FLEET	121	14	107	11.6
Piedmont Aviation, Inc.	B-737	19	-	19	0
	Fleet	19	-	19	0
Seaboard World Airlines	B-747	2	2	0	100.0
	DC-8	12	-	12	0
	FLEET	14	2	12	14.3
Southern Airways, Inc.	DC-9	28	-	28	0
	FLEET	28	-	28	0
Southwest Airlines	B-737	6	3	3	50.0
	FLEET	6	3	3	50.0
Texas International Airlines	DC-9	25	2	23	8.0
	FLEET	25	2	23	8.0
Trans International Airlines	DC-8	11	-	11	0
	DC-10	3	3	-	100.0
	FLEET	14	3	11	21.4
Trans World Airlines	B-707-100	40	-	40	0
	B-707-300	60	-	60	0
	B-727	74	39	35	52.7
	B-747	11	-	11	0
	CV-22	25	-	25	0
	DC-9	19	-	19	0
	L-1011	30	30	-	100.0
	FLEET	259	69	190	26.7
United Airlines	B-727	150	-	150	0
	B-737	59	-	59	0
	B-747	18	6	12	33.4
	DC-8	100	-	100	0
	DC-10	37	37	-	100.0
	FLEET	364	43	321	11.8

OPERATOR	AIRPLANE (Make/Model)	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	E/PART 91 NO	PART 36 (%)
Western Airlines	B-707-300	5	-	5	0
	B-720	18	-	18	0
	B-727	21	15	6	71.4
	B-737	24	-	24	0
	DC-10	7	7	-	100.0
	FLEET	75	22	53	29.4
Wien Air Alaska	B-737	7	3	4	42.9
	FLEET	7	3	4	42.9
World Airways, Inc.	B-727	4	-	4	0
	B-747	3	3	-	100.0
	DC-8	5	-	5	0
	FLEET	12	3	9	25.0
U.S. AIR CARRIER FLEET TOTALS		2256	465	1791	20.6

NON-AIR CARRIER INVENTORY

OPERATOR/OWNER	AIRPLANE Make/Model	TOTAL NO.	COMPLIANCE STATUS PART 36 YES	E/PART 91 NO	PART 36 (%)
American Capitol Aviation Corp.	B-727	1	1	-	100.0
	DC-9	1	-	1	0
	FLEET	2	1	1	50.0
Ambassadair, Inc. Travel Clubs	B-720(FLEET)	1	-	1	0
*Airmanmia, Inc.	B-720(FLEET)	1	-	1	0
*Air Travel, LTD.	CV-22(FLEET)	1	-	1	0
Allis Chalmers Corp.	BAC 1-11(FLEET)	1	-	1	0
*American Jet Industries	CV-22	2	-	2	0
	DC-8	2	-	2	0
	FLEET	4	-	4	0
Amway Corporation	BAC 1-11(FLEET)	2	-	2	0
Atlas Aircraft Corp.	B-720(FLEET)	1	-	1	0
Aviation Sales, Inc.	B-720(FLEET)	4	-	4	0
Aero Exchange	DC-8(FLEET)	2	-	2	0
Aero Service Corp.	SE-210(FLEET)	1	-	1	0
*Aircraft Investors(1976)	DC-9(FLEET)	1	-	1	0
*Aircraft Investors Retaining Corp.	CV-22(FLEET)	5	-	5	0

OPERATOR/OWNER	AIRPLANE Make/Model	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	E/PART 91 NO	PART 36 (%)
Aircraft Owners (1975)	DC-9(FLEET)	1	--	1	0
*Frederick B. Ayers & Assoc.	CV-30	1	-	1	0
	DC-8	3	-	3	0
	FLEET	4	-	4	0
*Basna Air Services, Inc.	B-707-300(FLEET)	1	-	1	0
Boeing Commercial Airplane Company	B-707-100	1	-	1	0
	B-727	2	-	2	0
	B-737	1	-	1	0
	B-747	1	-	1	0
	FLEET	5	-	5	0
Cameron Iron Works, Inc.	BAC 1-11(FLEET)	1	-	1	0
*Chandler Air Lease Corp.	B-727(FLEET)	1	-	1	0
Charollte Aircraft Corp.	DC-8(FLEET)	5	-	5	0
Chase Manhatten Bank	B-737(FLEET)	1	-	1	0
Chemical Bank Trustee	B-707-300(FLEET)	4	-	4	0
Chessie Services, Inc.	BAC 1-11(FLEET)	1	-	1	0
*Concare Aircraft Leasing Corp.	DC-8(FLEET)	1	-	1	0
*Contempory Entertainment	B-720(FLEET)	1	-	1	0
*Continental ILL. Nat'l Bank	B-727(FLEET)	1	-	1	0
*Commonwealth Plan	BAC 1-11(FLEET)	1	-	1	0
Crocker National Bank	DC-8(FLEET)	1	-	1	0
Doral Trading Corp.	B-720(FLEET)	1	-	1	0
Douglas Aircraft	DC-8	4	-	4	0
	DC-9	10	1	9	10.0
	DC-10	1	1	-	100.0
	FLEET	15	2	13	13.4
DOT/FAA	B-720	1	-	1	0
	B-727	4	-	4	0
	CV-22	1	-	1	0
	DC-9	1	-	1	0
	FLEET	7	-	7	0
Dresser Industries	BAC 1-11	3	-	3	0
	B-707-100	1	-	1	0
	FLEET	4	-	4	0

OPERATOR/OWNER	AIRPLANE Make/Model	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	PART 91 NO	PART 36 (%)
*Eastern Aircraft Services	B-720(FLEET)	1	-	1	0
*Exchange National Bank	B-727(FLEET)	1	1	-	100.0
Vincent Faix	CV-22(FLEET)	1	-	1	0
*Four Winds, Inc.	CV-22(FLEET)	1	-	1	0
*First National Bank Chicago	BAC-1-11(FLEET)	1	-	1	0
*General Synamics Corp.	CV-30(FLEET)	1	-	1	0
*General Electric Credit Corp.	BAC 1-11(FLEET)	1	-	1	0
*James H. Goodwin and Associates	DC-8(FLEET)	1	-	1	0
Hilton Hotels	BAC 1-11(FLEET)	1	-	1	0
Hirchman Corporation	CV-22(FLEET)	1	-	1	0
Independent Air. Inc.	B-720	1	-	1	0
	SE-210	2	-	2	0
	FLEET	3	-	3	0
*International Air Leases, Inc.	B-720	1	-	1	0
	B-727	1	-	1	0
	CV-22	1	-	1	0
	FLEET	3	-	3	0
*International Air Limited	SE-210(FLEET)	3	-	3	0
*International Tele & Tele Corp.	B-727(FLEET)	1	-	1	0
*International Transport Leasing Corp.	DC-8(FLEET)	1	-	1	0
*International Travel Marketing Corp.	B-720(FLEET)	1	-	1	0
*Jet Power, Inc.	B-707-100	1	-	1	0
	B-707-300	1	-	1	0
	DC-8	1	-	1	0
	FLEET	3	-	3	0
Jet Set Travel Club	B-720(FLEET)	1	-	1	0
Kidde Credit Corp.	BAC 1-11(FLEET)	1	-	1	0
Ely Lilly International Corp.	BAC 1-11	1	-	1	0
	B-707-300	1	-	1	0
	FLEET	2	-	2	0
Ledbetter Leasing Co	B-727(FLEET)	1	-	1	0
Los Angeles Dodger, Inc.	B-720(FLEET)	1	-	1	0
*L & S Leasing Co	B-707-300(FLEET)	1	-	1	0
Mark III Leasing Co	B-727(FLEET)	1	-	1	0
Miba, Inc.	DC-8(FLEET)	1	-	1	0
*W. A. Moncrief	BAC 1-11(FLEET)	1	-	1	0
My Seven Children, Inc.	B-720(FLEET)	1	-	1	0
*National Aircraft Leasing Ltd.	BAC 1-11	7	-	7	0
	B-707-100	1	-	1	0
	B-727	1	-	1	0
	FLEET	9	-	9	0
National Aircraft Leasing	BAC 1-11(FLEET)	2	-	2	0
*National Equipment Rental, Ltd.	B-720(FLEET)	1	-	1	0
Nomands, Inc.	CV-30(FLEET)	1	-	1	0

OPERATOR/OWNER	AIRPLANE Make/Model	TOTAL NO.	REPORTED COMPLIANCE STATUS PART 36 YES	PART 91 NO	PART 36 (%)
Offset, Inc.	B-707-100(FLEET)	1	-	1	0
*Oceanic Air, Inc.	BAC 1-11(FLEET)	1	-	1	0
*Omni Aircraft Sales, Inc.	B-727(FLEET)	1	-	1	0
Onyx Aviation, Inc.	CV-22(FLEET)	1	-	1	0
Orient Pacific Airways	CV-22(FLEET)	1	-	1	0
*Perfect Air Tours, Inc.	B-707-300(FLEET)	2	-	2	0
Ports of Call Travel Club	CV-30(FLEET)	7	-	7	0
Pegasus International T.C.	DC-8(FLEET)	1	-	1	0
Elvis A. Presley	CV-22(FLEET)	1	-	1	0
Walter Probst	BAC 1-11(FLEET)	1	-	1	0
*RDC Marine, Inc.	CV-22(FLEET)	1	-	1	0
Rockwell International Corp.	BAC 1-11	1	-	1	0
	B-727	1	-	1	0
	FLEET	2	-	2	0
Roger Brothers	BAC 1-11(FLEET)	1	-	1	0
Rosenbaum Aviation, Inc.	DC-8(FLEET)	6	-	6	0
Richard M. Scaife	DC-9(FLEET)	1	-	1	0
Sharon Steel Corp.	BAC 1-11(FLEET)	1	-	1	0
*James E. Stewart	BAC 1-11(FLEET)	1	-	1	0
*Tenneco, Inc.	BAC 1-11(FLEET)	1	-	1	0
Todd Equipment Leasing	B-720(FLEET)	1	-	1	0
Tracinda Investment Corp.	B-707-100(FLEET)	1	-	1	0
*Transexecutive Aviation Inc.	CV-22(FLEET)	5	-	5	0
Trans Union Aircraft Leasing	DC-8(FLEET)	1	-	1	0
*Unilease, Inc.	DC-8(FLEET)	1	-	1	0
*Universal Applicators, Inc.	B-720(FLEET)	1	-	1	0
*United Aircraft Leasing Corp.	DC-8(FLEET)	5	-	5	0
United States Trust Co.	B-737	2	-	2	0
	B-747	4	4	-	100.0
	DC-10	2	2	-	100.0
	FLEET	8	6	2	75.0
United Technologies	B-727(FLEET)	1	-	1	0
*United Trade International, Inc.	B-707-300(FLEET)	1	-	1	0
*Westinghouse Electric Corp.	DC-9(FLEET)	1	-	1	0
Williams Companies	BAC 1-11(FLEET)	1	-	1	0
Wilmington Trust Co.	B-747(FLEET)	2	2	-	100.0
U.S. NON-AIR CARRIER FLEET TOTALS		191	12	179	6.3
OVERALL U.S. REGISTERED FLEET		2447	477	1970	19.5

(Combined air carrier and non-air carrier - 1/1/77)

*NONVERIFIED BY OWNER

[FR Doc. 79-9510 Filed 3-28-79; 8:45 am]

[1505-01-M]

Materials Transportation Bureau

GRANTS AND DENIALS OF APPLICATIONS FOR EXEMPTIONS

NOTE.—This document was originally published in the FEDERAL REGISTER on Monday, March 19, 1979, at page 16527. Due to extensive printing errors, this document is being republished today.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted February 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWALS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2709-X	DOT-E 2709	U.S. Department of Defense, Washington, D.C.	49 CFR 173.52, 177.834(L)(1)	To ship a Class A explosive in non-DOT specification drums. (Mode 1.)
3095-X	DOT-E 3095	Dow Chemical Co., Midland, Mich.	49 CFR 173.119(b), 173.263, 173.245.	To ship certain corrosive liquids and flammable liquids in non-DOT specification cargo tank motor vehicles. (Modes 1, 3.)
3330-X	DOT-E 3330	Babcock and Wilcox Co., Lynchburg, Va.; General Electric, Schenectady, N.Y.	49 CFR 173.214(d)	To ship a flammable solid in insulated containers overpacked in a DOT Specification 17C, 17H, or 37A metal drum. (Modes 1, 2.)
4612-P	DOT-E 4612	Aldrich Chemical Co., Inc., Milwaukee, Wis.	49 CFR Part 173	To become a party to Exemption 4612. (See Application No. 4612-X). (Mode 1.)
5792-X	DOT-E 5792	Northern Petrochemicals Co., Des Plaines, Ill.; Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.314(c)	To ship a flammable liquefied compressed gas in AAR proposed specification 113D60W tank cars. (Mode 2.)
5959-P	DOT-E 5959	Mobil Chemical Co., Beaumont, Tex.	49 CFR 172.101, 173.315(a)	To become a party to Exemption 5959. (See Application No. 5959-X). (Mode 1.)
6083-X	DOT-E 6083	Stauffer Chemical Co., Westport, Conn.	49 CFR 172.101, 173.273, 175.3	To ship a corrosive material in any DOT specification cylinder except those prescribed for acetylene. (Modes 1, 2, 4.)
6281-X	DOT-E 6281	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101, 173.272(a)(5)	To ship certain corrosive liquids in DOT specification MC-311 or MC-312 cargo tanks. (Mode 1.)
6418-X	DOT-E 6418	Dow Chemical Co., Midland, Mich.	49 CFR 173.357(b)	To ship Class B poisonous liquids in DOT Specification MC-303, MC-304, MC-306 or MC-307 steel cargo tanks. (Mode 1.)
6944-X	DOT-E 6944	U.S. Department of Defense, Washington, D.C.	49 CFR 173.69(a), 177.834(L)(1).	To ship a certain Class A explosive in non-DOT specially designed stainless steel desiccators. (Mode 1.)
7052-P	DOT-E 7052	Battery Engineering, Inc., Newton, Mass.; Jet Propulsion Laboratory, Pasadena, Calif.	49 CFR 172.101, 173.302(e)(1), 175.3.	To become a party to Exemption 7052. (See Application No. 7052-X). (Modes 1, 2, 3, 4.)
7063-X	DOT-E 7063	Hooker Chemicals and Plastics Corp., Niagara Falls, N.Y.	49 CFR 173.191(a)	To ship a corrosive material in a non-DOT single-trip, removable-head polyethylene container. (Modes 1, 2, 3.)
7076-X	DOT-E 7076	LaMotte Chemical Products Co., Chestertown, Md.	49 CFR 173.286(b)	To ship certain corrosive liquids and flammable liquids in inside polyethylene containers as chemical kits. (Modes 1, 2, 3.)
7435-X	DOT-E 7435	Ross Aviation, Inc., Albuquerque, N. Mex.	49 CFR 172.101, 172.204(c)(3), 173.27, 173.304(a)(1), 175.320(b); 49 CFR Part 107.	To transport a type or quantity of Class A and Class B explosives that are not permitted for shipment by air in 49 CFR Parts 172 through 178. (Mode 4.)
7574-X	DOT-E 7574	Remmers-Tomkins Flight Service, Inc., Burlington, Iowa.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b); 49 CFR Part 107.	To transport a type or quantity of Class A, B, and C explosives that are not permitted for shipment by air in 49 CFR Parts 172 through 178. (Mode 4.)
7773-X	DOT-E 7773	Valley Chemical Co., Greenville, Miss.; Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.358, 173.359	To ship certain Poison B liquids in a DOT Specification MC-312 cargo tank. (Mode 1.)
7938-X	DOT-E 7938	Eurotainer, Paris, France; Lowaco, S.A., Geneva, Switzerland; Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR Part 173	To ship certain flammable, corrosive, Class B poisonous and combustible liquids and ORM-A materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8000-X	DOT-E 8000	Fauvet-Girel, Paris, France	49 CFR Part 173	To ship certain flammable, corrosive, irritating, Class B poison and combustible liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8116-X	DOT-E 8116	U.S. Environmental Protection Agency, Cincinnati, Ohio.	49 CFR Parts 100-199	To ship small quantities of several liquid hazardous materials in special type composite packagings. (Modes 1, 2, 3, 4, 5.)

NEW EXEMPTIONS

8021-N	DOT-E 8021	Degussa, Frankfurt, Germany	49 CFR 173.119	To ship methyl methacrylate, a flammable liquid, in non-DOT specification portable tanks. (Modes 1, 3.)
8023-N	DOT-E 8023	Acurex Corp., Mountain View, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), (d)(3), 173.336(a)(2), 173.337(a)(1), 175.3.	To manufacture, mark and sell non-DOT specification seamless FRP aluminum cylinders for shipment of various compressed gases and other hazardous materials. (Modes 1, 2, 3, 4, 5.)
8060-N	DOT-E 8060	Ugine Kuhlmann, Paris, France	49 CFR 173.315(a)	To ship certain nonflammable, liquefied gases in non-DOT specification portable tanks. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8067-N	DOT-E 8067	Container Corporation of America, Wilmington, Del.	49 CFR 173.272(g)	To manufacture, mark and sell DOT Specification 34 polyethylene containers for shipment of sulfuric acid. (Modes 1, 2, 3.)
8071-N	DOT-E 8071	Ethyl Corp., Baton Rouge, La	49 CFR 173.206	To ship sodium potassium alloy in DOT Specification 51 portable tanks. (Modes 1, 2, 3.)
8079-X	DOT-E 8079	Container Corporation of America, Wilmington, Del.	49 CFR 178.35a-1	To manufacture, mark and sell inside polyethylene containers having material properties deviating from DOT Specification 2SL for shipment of certain hazardous materials. (Modes 1, 2, 3.)
8095-N	DOT-E 8095	U.S. Department of Defense, Bethesda, Md.	49 CFR 172.402(a), 173.65	To ship a radioactive Class A explosive in DOT Specification 7A containers. (Modes 1, 2.)
8115-N	DOT-E 8115	Acurex Corp., Mountain View, Calif.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell a limited number of non-DOT specification FRP seamless aluminum cylinders for shipment of compressed air for underwater test purposes. (Modes 1, 2, 3, 4, 5.)
8120-N	DOT-E 8120	Starflight Inc., Memphis, Tenn	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b); 49 CFR Part 107.	To transport Class A, B and C explosives of a type or quantity not permitted for air shipment in 49 CFR Parts 170-178. (Mode 4.)

EMERGENCY EXEMPTIONS

APPLICATIONS RECEIVED AND GRANTED

EE7621-X	DOT-E 7621	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.353, 173.357	To ship chloropicrin, liquid in a non-DOT specification portable tank. (Modes 1, 2, 3.)

DENIALS

6611-X Request by Air Products and Chemicals, Inc. Allentown, Pa.—For reconsideration of denial of application to modify portions of DOT Exemption 6611, denied February 26, 1979.

7060-P Request by NRG Scientific Inc., Bayse, Va.—To become a party to Exemption 7060 for shipment of radioactive materials in small aircraft with certain exceptions, denied February 26, 1979.

8026-N Request by Oscar E. Erickson, Inc., Richmond, Calif.—To transport corrosive and flammable materials in non-DOT specification cargo tanks, denied February 13, 1979.

8112-N Request by IRECO Chemicals, Salt Lake City, Utah—To authorize the transportation of nitro carbo nitrate and ammonium nitrate through the Port of Gulfport, Mississippi, denied February 9, 1979.

EE8161-N Request by Carib West Airways Limited, Miami, Fla.—For an emergency exemption to transport a shipment of high explosives (shaped charges) to an overseas destination, denied February 8, 1979.

J.R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-8034 Filed 3-16-79; 8:45 am]

[1505-01-M]

GRANTS AND DENIALS OF APPLICATIONS FOR EXEMPTIONS

NOTE.—This document was originally published in the FEDERAL REGISTER on Monday, March 19, 1979, at page 16528. Due to extensive printing errors, this document is being republished today.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted January 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo-vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWALS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479-X	DOT—E 1479	U.S. Department of Defense, Washington, DC.	49 CFR 173.315(a)(1)	To ship a nonflammable compressed gas in non-DOT specification cargo tanks. (Mode 1.)
2000-X	DOT—E 2000	Union Carbide Corp., Tarrytown, NY	49 CFR 172.101, 173.304(a)(2), 173.316(a)(2).	To ship flammable liquefied compressed gases in a non-DOT specification portable tank or a DOT Specification 4L cylinder. (Mode 1.)
3126-P	DOT—E 3126	Hercules Inc., Wilmington, Del	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	To become a party to Exemption 3126. (See Application No. 3126-X). (Mode 1.)
3193-X	DOT—E 3193	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c), 173.315(a)(1)	To ship liquefied compressed gases in DOT Specification 105A300-W, 105A500-W, Class 106A tank car tanks, MC-330 and MC-331 cargo tanks, and DOT-51 portable tanks. (Modes 1, 2, 3.)
3667-X	DOT—E 3667	Greondyke Transport, Inc., Enid, Okla.; Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.315(a)	To ship a flammable liquefied compressed gas in a DOT Specification MC-330 cargo tank. (Mode 1.)
4453-X	DOT—E 4453	Maynes Explosives Co., Lee's Summit, Mo.	49 CFR 173.182(c)	To ship an oxidizer in a non-DOT specification bulk, hopper-type tank. (Mode 1.)
4490-X	DOT—E 4490	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.316(a)	To ship a flammable gas in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
4684-X	DOT—E 4684	Honeywell, Inc., Minneapolis, Minn	49 CFR 173.202, 173.206, 175.3	To ship liquid sodium and potassium in valve actuators individually packed in a non-DOT fiberboard container. (Modes 1, 2, 4.)

RENEWALS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4717-X	DOT—E 4717	Northern Petro-chemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.; Union Carbide Corp., Bound Brook, NJ.	49 CFR 172.101, 173.314(c)	To ship a flammable liquefied compressed gas in a non-DOT specification, insulated tank car tank designed and constructed to comply with the AAR proposed specification 113D120W. (Mode 2.)
5186-X	DOT—E 5186	Liquid Carbonic Corp., Chicago, Ill	49 CFR 172.101, 173.315	To ship a flammable liquefied compressed gas in a non-DOT specification cargo tanks. (Mode 1.)
5649-X	DOT—E 5649	Great Lakes Chemical Corp., Adrian, Mich.	49 CFR 173.154(a)	To ship an oxidizer in non-DOT specification polypropylene or polyethylene bags overpacked in fiberboard boxes. (Modes 1, 2.)
5704-X	DOT—E 5704	IMC Chemical Group, Inc., Allentown, Pa.; U.S. Department of Defense, Washington, DC.	49 CFR 173.93(e), 173.62	To ship certain Class A and B explosives in DOT and non-DOT specification metal drums. (Modes 1, 2, 3.)
5895-X	DOT-E 5895	Explosive Technology, Fairfield, Calif	49 CFR 173.100(cc), 173.104(b), 175.3.	To ship a Class C explosive in non-DOT specification inner containers overpacked in a DOT 12H fiberboard box. (Modes 1, 2, 3, 4.)
5995-X	DOT-E 5995	Roper Plastics, Inc., Oakbrook, Ill	49 CFR 173.154(a), 172.101	To manufacture, mark and sell non-DOT specification removable head polyethylene containers for shipment of certain organic peroxides. (Modes 1, 2, 3.)
6016-X	DOT-E 6016	Airco Welding Products, Springfield, N.J.; O. E. Meyer & Sons, Inc., Sandusky, Ohio; Wilson Welding Supply, Warren, Mich.; Acety-Arc, Inc., Paduch, Ky.; Harvey Co., Greensburg, Pa.; Guttman Supply Co., Belle Vernon, Pa.; Weiler Welding Co., Inc., Dayton, Ohio.	49 CFR 173.315(a)	To ship certain non-flammable gases in non-DOT specification portable tanks. (Mode 1.)
6293-X	DOT-E 6293	Olin Corp., East Alton, Ill	49 CFR 173.21(b), 173.245(a)(31).	To ship certain corrosive liquids in DOT Specification MC-311 or MC-312 tank motor vehicle. (Mode 1.)
6334-X	DOT-E 6334	Allied Chemical Corp., Morristown, N.J	49 CFR 172.101, 172.504	To ship an oxidizer in DOT Specification MC-312, MC-330 or MC-331 cargo tanks. (Mode 1.)
6369-X	DOT-E 6369	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101, 173.346(a)(10), 173.347(a)(2), 173.352(a)(4), 173.374(a).	To ship certain Class B poisonous liquids in DOT Specification 105A400W, 112A400W, 114A400W, 120A300W and proposed 120A400W tank car tanks. (Mode 2.)
6392-X	DOT-E 6392	Northern Petrochemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.	49 CFR 172.101, 173.314(c)	To ship a liquefied flammable compressed gas in a non-DOT specification vacuum insulated tank car tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.)
6484-X	DOT-E 6484	International Minerals and Chemical Corp., Mundelein, Ill.	49 CFR 172.101	To ship flammable liquids in MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6518-X	DOT-E 6518	Union Carbide Corp., Bound Brook, N.J	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154.	To ship a flammable liquid or solid in non-DOT specification steel portable tanks. (Mode 1, 3.)
6543-X	DOT-E 6543	The Synthatron Corp., Edgewater, N.J.; M & T Chemicals, Inc., San Francisco, Calif.	49 CFR 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To ship certain corrosive liquid and certain flammable liquids in non-DOT specification stainless steel cylinders. (Modes 1, 2, 4.)
6610-X	DOT—E 6610	Oxirane Chemical Co., Pasadena, Tex	49 CFR 173.221	To ship an organic peroxide in DOT Specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1, 2.)
6611-P	DOT—E 6611	Cities Service Co., Tulsa, Okla.; L'Air Liquide, Paris, France; L'Air Liquide Belge, Liege, Belgium.	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6611. (See Application No. 6611-X). (Modes 1, 3.)
6632-X	DOT—E 6632	Roper Plastics, Inc., Oakbrook, Ill	49 CFR 173.217(a)	To manufacture, mark and sell non-DOT removable-head polyethylene containers for shipment of certain oxidizing materials. (Modes 1, 2, 3.)
6657-P	DOT—E 6657	Kelsey Welding Supply Corp., New Berlin, Wis.	49 CFR 173.34(e)(15)(i), 175.3	To become a party to Exemption 6657. (See Application No. 6657-X). (Modes 1, 2, 3, 4, 5.)
6672-X	DOT—E 6672	Chandler Evans, Inc., West Hartford, Conn.	49 CFR 173.302(a)(4), 175.3	To manufacture, mark and sell non-DOT specification cylinders for shipment of certain nonliquefied compressed gases. (Modes 1, 2, 4.)
6793-X	DOT—E 6793	Trafpak Limited, Aylesbury, England; Containers and Pressure Vessels Ltd., Monaghan, Ireland.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347; 46 CFR 90.05-35, 98.35-3.	To ship hazardous materials in a non-DOT specification portable tank. (Modes 1, 2, 3.)
6802-X	DOT—E 6802	Fitch Industrial and Welding Supply, Lawton, Okla.; Lincoln Welding Supply Co., Lincoln, Neb.; Harvey Co., Greensburg, Pa.	49 CFR 173.315(a)	To ship certain nonflammable liquefied compressed gases in a non-DOT specification cargo tank. (Mode 1.)
6815-X	DOT—E 6815	Mobay Chemical Corp., Kansas City, Mo.	49 CFR 173.359	To ship a poison B liquid in DOT Specification MC-312 tank motor vehicle (Mode 1.)
6894-X	DOT—E 6894	U.S. Department of Defense, Washington, DC.	49 CFR 173.302(a)(1)	To ship certain nonliquefied gases in a non-DOT specification pressure vessel assembly. (Modes 1, 2.)
6901-X	DOT—E 6901	Monsanto Co., St. Louis, Mo	49 CFR 173.28(m), 173.365(a)(2)	To ship certain Class B poisonous solids in reconditioned DOT Specification 17E steel drums. (Mode 1.)
6939-X	DOT—E 6939	Warren Petroleum Co., Tulsa, Okla	49 CFR 173.315(a)(1), (c)(1)	To ship a flammable gas in a DOT Specification MC-331 tank motor vehicle. (Mode 1.)
6969-P	DOT—E 6969	Fairbanks Memorial Hospital, Fairbanks, Alaska; Providence Hospital, Anchorage, Alaska.	14 CFR 121.574(a), 135.114(a); 49 CFR 175.85(a), (e).	To become a party to Exemption 6969. (See Application No. 6969-X). (Mode 5.)

RENEWALS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification aluminum lined FRP cylinders for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7413-X	DOT-E 7413	Chilton Metal Products Division, Chilton, Wis.	49 CFR 173.304(a)	To mnufacture, mark and sell nonspecification brazed steel cylinders for shipment of carbon dioxide, liquefied. (Modes 1, 2, 4.)
7543-X	DOT-E 7543	Monsanto Co., St. Louis, Mo	49 CFR 173.154	To ship a flammable solid in DOT Specification 56 portable tanks. (Mode 1.)
7600-X	DOT-E 7600	Lubbock Manufacturing Co., Lubbock, Tex.	49 CFR 172.101, 173.315(a)(1)	To manufacture, mark and sell non-DOT specification insulated cargo tanks for shipment of a flammable gas. (Mode 1.)
7620-X	DOT-E 7620	W. P. Butterfield (Engineers) Ltd., Shipley West Yorkshire, England; Eastern Mediterranean (Containers) Co., Ltd., London, England.	46 CFR 90.05-35; 49 CFR Part 173.	To ship hazardous materials in a non-DOT specification portable tank. (Modes 1, 3.)
7650-X	DOT-E 7650	ICI Americas, Inc., Wilmington, Del	49 CFR 173.315	To ship certain nonflammable compressed gases in non-DOT Specification portable tanks. (Modes 1, 3.)
7677-X	DOT-E 7677	San Diego Gas and Electric Co., San Diego, Calif.	49 CFR 172.101, 173.315(a)	To ship a flammable gas in a non-DOT specification truck mounted portable tank. (Mode 1.)
7752-X	DOT-E 7752	Hugonnet, S.A., Paris, France	46 CFR 90.05-35; 49 CFR Part 173.	To ship certain hazardous materials in non-DOT specification IMCO Type 2 insulated portable tanks. (Modes 1, 2, 3.)
7765-X	DOT-E 7765	Carleton Controls Corp., East Aurora, N.Y.	49 CFR 173.302(a)(4), 175.3	To ship a nonflammable gas in non-DOT specification spheres. (Modes 1, 2, 4.)
7840-X	DOT-E 7840	Douglas Aircraft Co., Long Beach, Calif...	49 CFR 173.87, 175.3, 176.83	To ship Class C explosive and a nonflammable compressed gas in DOT Specification 3AA2100 steel cylinder. (Modes 1, 2, 3, 4, 5.)
7876-X	DOT-E 7876	Ashland Chemical Co., Columbus, Ohio...	49 CFR 173.299(a)	To ship corrosive materials described as etching acid, liquid. (Modes 1, 2, 3, 4.)
7881-X	DOT-E 7881	FMC Corp., Philadelphia, Pa	49 CFR 173.245b(a)(4), (a)(7)	To authorize stowage of sodium sulfide, shipped as a corrosive solid, under deck. (Mode 3.)
8077-X	DOT-E 8077	Depandable Welding Service, Berkeley, Calif.	49 CFR 173.136(a)(3), 173.247(a)(7).	To manufacture, mark and sell non-DOT specification steel drums for shipment of corrosive materials and flammable liquids. (Modes 1, 2.)

NEW EXEMPTIONS

7939-N	DOT-E 7939	Lea-Ronal, Inc., Freeport, N.Y	49 CFR 173.346(a)(20), 175.3	To ship certain Class B poisonous liquids in DOT Specification 37M cylindrical steel overpack with inside DOT Specification 2SL polyethylene container. (Modes 1, 2, 4.)
8046-N	DOT-E 8046	Degussa Central Transport Department, Frankfurt, Germany.	49 CFR 173.247	To ship certain corrosive liquids in non-DOT specification portable tank. (Modes 1, 2, 3.)
8055-N	DOT-E 8055	NL Industries, Inc., New York, N.Y	49 CFR 173.154	To ship a certain flammable solid in DOT Specification 44C multiwall paper bag. (Modes 1, 2, 3.)
8056-N	DOT-E 8056	Hapag-Lloyd AG, Hamburg, Germany	49 CFR Part 173; 46 CFR 90.05-35.	To ship certain flammable, corrosive, Class B poisonous and combustible liquids and oxidizing materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8057-N	DOT-E 8057	Hapag-Lloyd AG, Hamburg, Germany	49 CFR Part 173; 46 CFR 90.05-35.	To ship certain flammable, corrosive, Class B poisonous and combustible liquids and oxidizing materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8072-N	DOT-E 8072	Mobay Chemical Corp., Kansas City, Mo.	49 CFR 173.377(b)(6)	To ship organic phosphate compound mixtures in DOT Specification 12B fiberboard boxes. (Modes 1, 2, 3.)
8078-N	DOT-E 8078	Aerojet Solid Propulsion Co., Sacramento, Calif.	49 CFR 172.101(b)(6); 175.3	To ship a rocket motor, Class B explosive, exceeding the weight limitation presently authorized by cargo-only aircraft. (Mode 4.)
8078-P	DOT-E 8078	National Aeronautics and Space Administration, Greenbelt, Md.	49 CFR 172.101(b)(6); 175.3	To become a party to Exemption 8078. (See Application No. 8078-N). (Mode 4.)
8084-N	DOT-E 8084	Ireco Chemicals, Salt Lake City, Utah	49 CFR 173.65(a)(5)	To ship high explosives with no liquid explosive ingredient nor any chlorate, containing over 5% moisture, in laminated plastic tubes overpacked in wooden or fiberboard boxes. (Mode 1.)
8091-N	DOT-E 8091	Western Electric Co., Inc., Greensboro, N.C.	49 CFR Parts 100-177	To ship mercury relays excepted from the majority of the regulations. (Modes 4, 5.)
8096-N	DOT-E 8096	Pressure-Pak Container Co., East Hampton, Conn.	49 CFR 173.302(a)(1), 175.3, 178.42.	To manufacture, mark and sell non-DOT specification steel cylinders made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
8098-N	DOT-E 8098	Witco Chemical Corp., Richmond, Calif...	49 CFR 173.157	To transport benzoyl peroxide, wet in DOT Specification 21C fiber drums. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8101-N	DOT-E 8101	U.S. Department of Defense, Washington, D.C.	49 CFR 173.392(c)(7)	To ship rocket ammunition, class B explosive containing depleted uranium, in the same outside container with packages of Class A explosives, without displaying the "radioactive" placards. (Mode 1.)
8111-N	DOT-E 8111	U.S. Department of Energy, Washington, D.C.	49 CFR 173.304(a)	To ship a nonflammable gas mixture in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)

EMERGENCY EXEMPTIONS
APPLICATIONS RECEIVED AND GRANTED

EE8138-N	DOT-E 8138	Metropolitan Sewer District, Louisville, Jefferson County, Ky.	49 CFR 173.365	To ship a Class B poison waste sludge in non-DOT specification metal boxes. (Mode 1.)

DENIALS

6538-X Request by Wonder Corporation of America, Stamford, Conn.—To allow the placing of three notches in the top of the cylinder manufactured under the terms of DOT-E 6538, denied January 23, 1979, as being unnecessary.

6672-X Request by U.S. Department of Defense, Washington, D.C.—To renew the exemption for shipment of certain nonliquefied compressed gases in non-DOT specification cylinders, denied January 23, 1979.

7914-X Reguest by Southern Pacific Transportation Co., San Francisco, Calif.—For reconsideration of denial of application to allow operation of unit tank car trains of petroleum crude oil without buffer cars, denied January 19, 1979.

8066-N Request by International Marketing Associates, New York, N.Y. To transport certain devices as toy caps without the Class C explosives label applied to the outside packaging, denied January 30, 1979.

8135-N Request by Schlumberger Well Services, Houston, Tex.—To transport charged oil well jet perforating guns by air when highway or water transportation is not available, denied January 30, 1979.

EE8143-N Request by LNG Services, Inc., Pittsburgh, Pa.—For an emergency exemption to make one shipment of liquefied natural gas in a tank motor vehicle, denied January 25, 1979.

EE8160-N Request by Uniroyal, Inc., Middlebury, Conn.—For an emergency exemption for a 90-day extension of the shelf coupler retrofit deadline for eight tank cars in vinyl chloride monomer service, denied January 31, 1979.

WITHDRAWALS

6348-P Request by Georgia-Pacific Corp., Newport Beach, Calif.—To become a party to Exemption 6348 for shipment of certain dry ozidizing materials in non-DOT specification polyethylene container, withdrawn January 22, 1979.

6530-X Request by Burdett Oxygen Co., Norristown, Pa.—To ship certain flammable gases in DOT Specification 3A, 3AA, 3AX, or 3AAX steel cylinders, withdrawn January 22, 1979.

8117-N Request by U.S. Department of Defense, Washington, D.C.—To ship ammunition for cannon, Class A or B explosive, containing depleted uranium in non-DOT specification containers in other than exclusive use vehicles, withdrawn January 30, 1979.

NOTE.—Inadvertently omitted from the 44 FR 23 publication of Exemptions issued during December 1978 is the following:

7884-N Request by Suburban Airservice, Inc., Laurel, Md.—To carry radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50 and/or the separation criteria cannot be met, denied December 27, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-8035 Filed 3-16-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-10; Notice 2]

PINETREE SERVICE CORP.

Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Pinetree Service Corp. of Long Beach, California, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.222, Motor Vehicle Safety Standard No. 222, *School Bus Passenger Seating and Crash Protection.* The basis of the petition was that the noncompliance is inconse-

quential as it relates to motor vehicle safety.

Notice of recepit of the petition was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55027), and an opportunity afforded for comment.

Pinetree is an alterer of motor vehicles, modifying vans produced by Dodge Division of Chrysler Corp., to school buses. Paragraph S5.3.1.1 of Standard No. 222 establishes head impact protection zones which are the spaces in front of each school bus passenger seat that are not occupied by bus sidewall, window, or door structures, and which, in relation to that seat and its seating reference point, are enclosed by certain specified planes. One of these horizontal planes is 40 inches above the seating reference point. On 60 vehicles converted by Pinetree the planes measure only 34 inches (outboard) and 36 inches (inboard) above the reference point. The effect is that impact absorbant padding would have to be added to correct the noncompliance.

Pinetree argued that the noncompliance was inconsequential because it operates the buses itself under contract with school districts. All buses are equipped with seat belts, there are signs posted in the buses requiring all passengers and the driver to use seat belts, and company rules and contract require the belts to be used while the vehicles are in motion. The petitioner further argued that "the use of seat belts modifies this impact zone providing they are used and enforced." The agency's investigative file in this matter is CIR 1959.

One comment was received on the petition from the California Highway Patrol which opposed it. In the opinion of the Patrol, "there is good probability that some of the occupants will be unrestrained and their heads may enter the obstructed and unpadded area during an accident."

The National Highway Traffic Safety Administration concurs with this comment. Although the petitioner, who is the operator as well as the manufacturer of the school buses, is contractually required to enforce the use of seat belts, there is no information about the effectiveness of the enforcement effort and there is no assurance that enforcement efforts will be continued by the present owner, or future owners, throughout the life of the buses. Since petitioner as operator appears to have the buses under its control, recall and remedy of all 60 should be a relatively simple matter.

The regulatory scheme of the National Traffic and Motor Vehicle Safety Act requires the establishment of "minimum standards for motor vehicle performance." To decide that a deviation of 5 inches is "inconsequential" could encourage manufacturers to be less careful in design and production, and possibly lead to further deviations and erosion of the standard.

Petitioner has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety. Accordingly its petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on March 22, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-9538 Filed 3-28-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN VALVES AND PARTS THEREOF FROM JAPAN

Receipt of Countervailing Duty Petition and Initiation of Investigation

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

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Japan to manufacturers or exporters of certain valves and parts thereof. A preliminary determination will be made not later than August 16, 1979, and a final determination not later than February 16, 1980.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on February 16, 1979, alleging that benefits conferred by the Government of Japan upon the manufacture, production or exportation of valves and parts thereof from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "valves and parts thereof" include taps, cocks, valves, and similar devices, however operated, used to control the flow of liquids, gases, or solids, all the foregoing and parts thereof. The imports of valves from Japan subject to this investigation are classified in the Tariff Schedules of the United States under item numbers 680.20, 680.22, 680.25, and 680.27.

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen. These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligibile firms.

(e) Revision of an already existing law, to now allow eligibile firms to carry-back losses incurred currently to the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) Under the "Specific Depressed Industries Stabilizing Temporary Measures Law," a special credit fund was created by the Government of Japan which guarantees repayment of loans obtained by depressed industries to assist in the disposition of idle facilities.

(3) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(4) Promotional assistance for exports from the Japanese External Trade Organization (JETRO).

(5) Preferential financing by the Japan Development Bank (JDB).

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within six months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within twelve months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than August 16, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than February 16, 1980.

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

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 22, 1979.

[FR Doc. 79-9556 Filed 3-28-79; 8:45 am]

[4810-22-M]

CERTAIN SCALE AND WEIGHING MACHINERY FROM JAPAN

Receipt of Countervailing Duty Petition and Initiation of Investigation

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

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that an investigation has been started for the purpose of determining whether or not benefits are paid by the Government of Japan to manufacturers/exporters of certain scale and weighing machinery which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than August 15, 1979, and a final determination not later than February 15, 1980.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

David R. Chapmen, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on February 15, 1979, alleging that benefits conferred by the Government of Japan upon the manufacture, production or exportation of certain scale and weighing machinery from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The merchandise specified in the petition is described as fully automatic weighing machinery requiring no manual operation for weight determinations, and accurate to 1/20 of 1 percent or better of the maximum weighing capacity, on weight tests within the weighing range of the scale, as provided for under item 662.26 of the Tariff Schedules of the United States (TSUS), and other weighing machinery and scales as provided for under item 662.30 of the Tariff Schedules of the United States (TSUS).

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize Business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen. These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(e) Revision of an already existing law, to now allow eligible firms to carry-back losses incurred currently to the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(3) Promotional assistance provided by the Japanese External Trade Organizational (JETRO).

(4) Preferential financing to small and midsize enterprises from Government owned banks including the Small Business Finance Corporation, the Peoples Finance Corporation and the Bank for Commerce and Industrial Cooperatives.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

Therefore, a preliminary determination on this petition will be made no later than August 15, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than February 15, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

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

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 22, 1979.

[FR Doc. 79-9557 Filed 3-28-79; 8:45 am]

[4810-22-M]

Office of the Secretary

SODIUM ACETATE FROM CANADA

Antidumping Proceeding Notice

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to adivse the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether sodium acetate from Canada is being sold, or is ıikely to be sold, to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constittuion Avenue, NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 5, 1979, a petition in proper form was recieved pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from the Niacet Corporation of Niagara Falls, New York, a domestic producer of sodium acetate, alleging that sodium acetate from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

For purposes of this investigation, the term sodium acetate means sodium acetate as provided for in item number 426.8600, Tariff Schedules of the United States Annotated (TSUSA).

Based upon the information set forth in the petition and that derived from the Customs Service's summary investigation, it appears that that margin of dumping is 65 percent.

There is evidence on record concerning injury to, or likelihood of injury to, the United States from the alleged less than fair value imports of sodium acetate from Canada. This information indicates that the petitioner has experienced declining production, price suppression, low profitability, and a declining level of production workers and capacity utilization. Further, the margins of underselling claimed in the petition are completely accounted for by the alleged dumping margins.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30) of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 22, 1979.

[FR Doc. 79-9558 Filed 3-28-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 23]

PERMANENT AUTHORITY DECISIONS

Decision-Notice

MARCH 15, 1979.

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 on or before April 30, 1979. 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 transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted 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 transportation policy of 49 U.S.C. § 10101 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 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

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 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Secretary.

MC 13123 (Sub-96F), filed January 22, 1979. Applicant: WILSON FREIGHT COMPANY, a corporation, 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Electric Company at or near Mt. Vernon, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 26396 (Sub-222F), filed January 17, 1979. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and wood products*, from Lewistown, MT, to points in AR, CO, IA, IL, IN, KS, KY, MN, MO, NE, ND, OK, SD, TN, WI, and WY. (Hearing site: Billings, MT.)

MC 33641 (Sub-140F), filed January 11, 1979. Applicant: IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 30277, Salt Lake City, UT 84125. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, (A) 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 Cedar City, UT, and New Orleans, LA: from Cedar City, over Interstate Hwy 15 to junction UT Hwy 59, then over UT Hwy 59 to the UT-AZ State line, then over AZ Hwy 389 to junction Alternate U.S. Hwy 89, then over Alternate U.S. Hwy 89 to junction U.S Hwy 89, then over U.S. Hwy 89 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 20 at Fort Worth, TX, then over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge, LA, then over Interstate Hwy 10 to New Orleans, and return over the same route, and (2) Between Fort Worth, TX, and Baton Rouge, LA: from Fort Worth, over Interstate Hwy 20 to junction Interstate Hwy 45, then over Interstate Hwy 45 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Baton Rouge, and return over the same route, serving in (A)(1) and (2) above, the intermediate and off-route points of Dallas, Fort Worth, Tyler, Longview, Houston, Beaumont, Galveston, and Amarillo, TX, and Shreveport, and Baton Rouge, LA; and (B) over irregular routes, transporting *potato products, and frozen foods*, from those points in ID in and south of Adams, Valley, and Lemhi Counties, to points in TX and LA. (Hearing sites: Salt Lake City, UT, Houston, TX, New Orleans, LA, Dallas, TX, and Boise, and Pocatello, ID.)

MC 41951 (Sub-37F), filed January 19, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Hwy, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting unfrozen *foodstuffs* (except in bulk), from the facilities of RJR Foods, Ind., at or near Cambridge, MD, to Kansas City, KS, Garland and Houston, TX, and Kenner, LA. (Hearing site: Washington, DC, or Cambridge, MD.)

MC 47583 (Sub-81F), filed January 15, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fibrous glass products and materials, mineral wool, mineral wool products and materials, air ducts, insulating products and materials, glass fiber rovings, yarn and strands, and glass fiber mats* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of CertainTeed Products Corporation at or near (a) Athens, GA, (b) Kansas City, MO, (c) Williamstown Junction, NJ, and (d) Mountain Top, PA, 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: Kansas City, MO.)

MC 51146 (Sub-673F), filed January 12, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Ralston Purina Company, at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, MI, OH, and WI. (Hearing site: Chicago, IL.)

MC 51146 (Sub-674F), filed January 15, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tires, inner tubes, and wheels*, from Carlisle, PA, to Indianapolis, IN. (Hearing site: Chicago, IL.)

MC 58923 (Sub-53F), filed January 22, 1979. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., P.O. Box 6944, Atlanta, GA 30315. Representative: William W. West (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Atlanta, GA and Greenville, SC, over Interstate Hwy. 85, serving no intermediate points, restricted to the transportation of traffic received from or delivered to connecting carriers at Greenville, S.C. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 61403 (Sub-259F), filed January 22, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. To oper-

ate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lacquers and paints*, in bulk, in tank vehicles, from Morganton, NC, to Jacksonville, FL, Evansville, IN, Towanda, PA, Jefferson City and Johnson City, TN, Orangeburg, SC, and Doswell and Norfolk, VA. (Hearing site: Charlotte, NC.)

MC 61825 (Sub-92F), filed January 25, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Gary, IN, Kalamazoo, MI, Plattsburgh, Warwick, and Lyons Falls, NY, and Lockport, IL, to points in NJ, NY, DE, MD, PA, VA, WV, NC, SC, and DC. (Hearing site: Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 67646 (Sub-77F), filed August 15, 1978, previously noticed in the FEDERAL REGISTER issue of November 28, 1978. Applicant: HALL'S MOTOR TRANSIT COMPANY, a Corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular 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 Norfolk and Richmond, VA, (1) over U.S. Hwy 60 or Interstate Hwy 64, (2) from Norfolk over U.S. Hwy 460 to Petersburg, VA, then over U.S. Hwy 1 or Interstate U.S. Hwy 95 to Richmond, and return over the same routes, serving Richmond for the purpose of joinder only, and serving the intermediate or off-route points of Chesapeake, Franklin, Hampton, New Port News, Suffolk, Virginia Beach, Williamsburg, and Yorktown, VA. NOTE: The purpose of this application is to eliminate the gateway of Hagerstown, MD, used by applicant currently by tacking regular and irregular route authority, in order to handle traffic moving betwen the Norfolk, VA, area, on the one hand, and, on the other, generally Washington, DC, Baltimore, MD, and points north. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—This republication deletes the restriction that was inadvertently imposed in this application.

MC 73688 (Sub-84F), filed February 2, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Robert E. Tate, P.O. Box 517, Evergreen AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and (b) *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities; and (2) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), and (b) filters from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted to the transportation of traffic destined to the named destinations. (Hearing site: Washington, DC.)

MC 78687 (Sub-55F), filed January 2, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in containers, between the facilities of Allied Chemical Corporation, at Solvay and Syracuse, NY, on the one hand, and, on the other those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved in this proceeding.

MC 87103 (Sub-30F), filed January 17, 1979. Applicant: MILLER TRANSFER AND RIGGING CO., a corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (Same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *coal cutting machines, parts for coal cutting machines, furnaces, furnace parts, structural and fabricated steel, valves, valve parts, and gear and pinion wheels*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between Arden, North East, and Washington, 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, restricted to the transporation of traffic originating at or destined to the facilities of Millcraft Industries at Arden, North East and Washington, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 94265 (Sub-285F), filed November 6, 1978, previously published in the FEDERAL REGISTER issue of December 28, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, GA 30342. 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 DE, IL, IN, IA, MD, MN, MO, NC, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, KS, or Washington, DC.)

NOTE.—This republication adds WI as a destination State.

MC 95305 (Sub-28F), filed December 28, 1978. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 168, King George, VA 22485. Representative: L. C. Major, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *common carrier*, by a motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, and* (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of building materials, between the facilities of Georgia-Pacific Corporation, at or near Quarkertown, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, NC, VA, and DC. (Hearing site: Washington, DC.)

MC 100666 (Sub-423F), filed January 12, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *composition board*, from the facilities of Champion International Corporation, at or near Catawba, SC, to points in AZ, AR, CA, CO, IA, ID, IL, KS, LA, MN, MO, MS, MT, NE, NV, NM, ND, OK, OR, TN, TX, UT, WA, and WY. (Hearing site: Dallas, TX.)

MC 105007 (Sub-43F), filed January 5, 1979. Applicant: MATSON TRUCK LINE, INC., 1407 St. John Ave., P.O. Box 328, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Cerificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, MN, to points in IL (except Chicago) and KY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 107403 (Sub-1162F), filed January 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *silica sand*, in bulk, in tank or hopper type vehicles, (a) from points in NJ, to Greenland, NH, and (b) from Lipe, TN, to Versailles, KY, (2) *feldspar*, in bulk, in tank or hopper type vehicles, from Spruce Pine, NC, to Versailles, KY, (3) *limestone*, in bulk, in tank or hopper type vehicles, from Gibsonburg and Findlay, OH, to Versailles, KY, and (4) *limestone, and limestone products*, in bulk, in tank vehicles, from Carey, OH, to points in FL, ME, NE, NH, ND, OK, SD, TX, and VT. (Hearing site: Washington, DC.)

MC 107403 (Sub-1163F), filed January 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *sodium silicate*, in bulk, in tank vehicles, from the facilities of E. I. DuPont de Nemours & Company, at Pineville, LA, to points in AL, AR, GA, MS, MO, TN, and TX. (Hearing site: Washington, DC.)

MC 107496 (Sub-1178F), filed January 4, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 108119 (Sub-123F), filed February 12, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Fencing and fencing materials*, (except wire and wire products), and (2) *wire and wire products*, from the facilities of Bekaert Steel Wire Corporation, at or near Van Buren, AR, to points in the United States (except AK, AR, HI, LA, NM, OK, and TX). (Hearing site: Oklahoma City, OK.)

MC 108119 (Sub-124F), filed February 12, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *self-propelled vehicles* (except automobiles, buses, and trucks), (2) *road construction and road maintenance equipment*, (3) *mixers*, and (4) *attachments, parts, and accessories* for the commodities in (1), (2), and (3) above, between Milwaukee, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 108523 (Sub-11F), filed January 18, 1979. Applicant: POLMAN TRANSFER, INC., Rte. 3, Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *packaging material* from points in IL, to the facilities of Tuffy's Division of Star-Kist Foods, Inc., at Perham, MN, under continuing contract(s) with Tuffy's, Division of Star-Kist Foods, Inc., of Perham, MN. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 108743 (Sub-44F), filed January 22, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Binghamton, NY and Harriman, NY, over NY Hwy 17, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Boston, MA.)

MC 110563 (Sub-258F), filed January 15, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shortening, cooking and salad oils, and oleomargarine*, in vehicles equipped with mechanical refrigeration, from the facilities of PVO International, Inc., at St. Louis, MO, to points in AL, FL, GA, NC, and TN. (Hearing site: St. Louis, MO.)

MC 110563 (Sub-259F), filed January 17, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Green Bay, WI.)

MC 110563 (Sub-260F), filed January 22, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Great Atlantic & Pacific Tea Co., Inc., at or near Plymouth, WI, to points in CT (except East Hartford), ME, MD (except Baltimore), MA (except Springfield, Westwood, and Woburn), NJ (except Edison, Florence, and Secacucus), NY (except Garden

City), PA (except Altoona and Yeadon), and VA (except Richmond), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Washington, DC, or New York, NY.)

MC 111231 (Sub-258F), filed January 18, 1979. Applicant: JONES TRUCK LINES INC., 610 East Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and pallets* (except commodities in bulk, in tank vehicles), from points in Pope, Conway, Yell, and Johnson Counties, AR, to points in IL, IN, IA, KS, MO, MI, WI, OK, TX, MN, OH, TN, MS, and LA. (Hearing site: Russellville or Little Rock, AR.)

MC 111401 (Sub-542F), filed January 19, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals*, in bulk, in tank vehicles, from Amarillo, TX, to points in AR, AZ, CO, IL, IA, LA, MO, NE, NM, OK, TN, TX, and WI, (2) *soybean oil, in bulk*, in tank vehicles, from Wichita, KS, to the facilities of the Tulsa/Port Authority-Catoosa, OK, at or near Tulsa, OK; and (3) *petroleum, petroleum products, and lubricating oil*, in bulk, in tank vehicles, from Princeton, LA, to points in CA. (Hearing site: Dallas or Houston, TX.)

MC 112063 (Sub-19F), filed December 27, 1978. Applicant: P.I. & I. MOTOR EXPRESS, INC., Broadway Avenue Extension, Masury, OH, P.O. Box 685, Sharon, PA 16146. Representative: Milan Tatalovich, 11 West Liberty Street, Girard, OH 44420. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron or steel railway car parts*, from Chicago, IL, to Altoona, Berwick, Butler, Erie, Greenville, Holidaysburg, Irving, Johnstown, Meadville, Milton, Reading, and Renovo, PA. (Hearing site: Cleveland, OH, or Pittsburgh, PA.)

MC 112304 (Sub-162F), filed December 20, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *fireplace air heaters and ventilators, and parts and accessories for* fireplace air heaters and ventilators (a) from Fullerton, CA, to those points in the United States in and west of MT, WY, CO, NM, and El Paso County, TX (except AK and HI), (b) from Union City, TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except El Paso County, TX), and (c) from Baltimore, MD, to those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *sheet steel* from the facilities of Pleassey Steel Company, in Los Angeles County, CA, to Union City, TN, and Baltimore, MD. (Hearing site: Washington, DC, or Los Angeles, CA.)

MC 112617 (Sub-419F), filed January 5, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *inedible tallow*, in bulk, in tank vehicles, from Henderderson and Russellville, KY and Hurricane, WV, to points in AR, GA, IL, KY, LA, MD, MO, MA, MS, NJ, OH, PA, TN, and VA. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112713 (Sub-241F), filed January 19, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. Deland (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Acme Tube, Inc. at Mansfield, LA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 112713 (Sub-242F), filed January 22, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. Deland (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Holley Carburetor Division of Colt Industries, Inc., at Sallisaw, OK, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 113434 (Sub-121F), filed December 26, 1978. Applicant: GRA-BELL TRUCK LINE, INC., A-5253 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating *vinegar*, in bulk, in tank vehicles, from the facilities of Heinz U.S.A., at Hooland, MI, to the facilities of Heinz U.S.A., at Winchester, VA. (Hearing site: Pittsburgh, PA, or Detroit, MI.)

MC 113751 (Sub-28F), filed January 19, 1979. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen vegetables*, from the facilities of The Larsen Company, at Green Bay, WI, to points in IL, IN, KY, MI, and OH. (Hearing site: Green Bay or Madison, WI.)

MC 114273 (Sub-525F), filed January 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, MI, MD, MA, ME, MN, MO, MS, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SD, TN, TX, VA, WV, SC, VT, and DC, restricted to the transportation of traffic originating at the named origin facilities. Condition: The certificate to be issued in the proceeding shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114569 (Sub-288F), filed February 5, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AZ,

CO, FL, GA, IL, IN, IA, KS, KY, MD, MN, MO, NE, NJ, NM, NY, OH, OK, PA, TN, TX, VA, and WI, and (2) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), and filters, from points in GA, KY, NY, OH, and PA, to the origin facilities in (1) above, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the above named facilities of Quaker State Refining Corporation. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 115311 (Sub-329F), filed January 18, 1979. Applicant: J & M TRANSPORTATION CO., INC, P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, carpet tacking strip, fabricated and shaped metal articles, building materials, polyurethane, plastic articles, and fiberglass articles* (except commodities in bulk), (2) *materials, equipment, and supplies* used in the manufacture, distribution, production, and installation of the commodities named in (1) above (except commodities in bulk), and (3) commodities which, because of size or weight, require the use of special equipment), between the facilities of Kinkead Industries, Inc., at or near (a) Atlanta, GA, (b) Garden Grove, CA, (c) Johnson Creek, WI, (d) McCook and Kewanee, IL, (e) Oconomowoc, WI, and (f) Union City, TN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Chicago, IL.)

MC 115311 (Sub-330F), filed January 19, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Union Camp Corporation, at or near Tifton and Savannah, GA, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: New York, NY.)

MC 115654 (Sub-123F), filed December 27, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from Lawton, MI to points in AL, AR, IL, IN, KY, LA, MS, MO, OH, and TN. (Hearing site: Nashville, TN, or New York, NY.)

NOTE.—The certificate to be issued in this proceeding 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.

MC 115826 (Sub-373F), filed January 15, 1979. Applicant: W. J. DIGBY, INC., A Nevada Corporation, 6016 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared foods, frozen foods, and restaurant equipment and supplies*, from points in CA, to points in CO and NM. (Hearing site: Denver, CO.)

MC 116254 (Sub-228F), filed December 26, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum plate, aluminum sheet* and *aluminum foil*, from Terre Haute, IN, to points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Nashville, TN, or Washington, DC.)

MC 116254 (Sub-229F), filed December 29, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid weed killing chemicals*, from LeMoyne, AL, to Omaha, NE, and (2) *aluminate sulphate*, in bulk, from Counce, TN, to points in AR. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 116254 (Sub-230F), filed December 28, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Atlanta and Cartersville, GA, to points in AL, IN, IL, LA, MS, MO, KY, NJ, NY, TN, TX, OH, PA, VA, and NC; and (2) *steel tubing*, from Tallapoosa, GA, to the destination States in (1) above. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 116254 (Sub-231F), filed December 26, 1978. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium silicate*, in bulk, from the facilities of E. I. du Pont de Nemours & Company, at or near East Chicago and Fortville, IN, and Cleveland, OH, to the facilities of E. I. du Pont de Nemours & Company, at or near New Johnsville, TN. (Hearing site: Wilmington, DE or Washington, DC.)

MC 116273 (Sub-220F), filed January 23, 1979. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery (same as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *transformer oil*, in bulk, in tank vehicles, from Chicago, IL, to points in ND and MT, and those points in SD east of US Hwy 83. (Hearing site: Chicago, IL.)

MC 116602 (Sub-7F), filed October 30, 1978. Applicant: JAMES F. HERLIHY TRUCKING CO., INC., 20 Emma St., Binghamton, NY 13905. Representative: Russell S. Bernhard, 1625 K St. NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Binghamton, NY, and Broome County Airport, Broome County, NY, on the one hand, and, on the other Stewart Field Airport, Orange County, NY, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Binghamton, NY, or Washington, DC.)

NOTE—Tacking is authorized at Binghamton, NY with carrier's authority in MC 116602 (Sub-5), issued September 19, 1972, to provide a through service transporting general commodities with the exceptions noted above, between Stewart Field Airport, Orange County, NY, on the one hand, and, on the other, points in NY.

MC 116763 (Sub-466F), filed January 19, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heating and air conditioning equipment, and parts and accessories* for heating and air conditioning equipment (except commodities the transportation of which because of size or weight require the use of special equipment, and commodities in bulk, in tank vehicles), from LaVergne and Nashville, TN, to points in AL, FL, GA, KY, MS, NC, SC, and VA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 116763 (Sub-467F), filed January 22, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), between the facilities of Kraft, Inc., at points in Clayton, Cobb, DeKalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, FL, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Tampa, FL.)

MC 117119 (Sub-717F), filed February 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* (except commodities in bulk), from Lake City, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Portland, OR.)

MC 117119 (Sub-718F), filed February 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from The City of Industry and Baldwin Park, CA, to points in ID, OR, and WA. (Hearing site: New York, NY.)

MC 117119 (Sub-719F), filed February 8, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Morton Frozen Foods, at Crozet, VA, to New York, NY, and points in CT, DE, MA, NJ, NC, PA, and RI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 117883 (Sub-237F), filed January 15, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), from the facilities of Life Savers, Inc., at or near Canajoharie, NY, to Holland, MI, Kansas City, KS, and Port Chester, NY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 118535 (Sub-131F), filed January 25, 1979. Applicant: TIONA TRUCK LINE, INC., 111 S Prospect, Butler, MO 64730. Representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 N.W. 58th St., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lead and lead alloys*, (except commodities which because of size or weight require the use of special equipment), from Frisco, TX, to points in AR, CO, IL, IA, IN, KS, LA, MO, NE, OK, and TN. (Hearing site: Kansas City, MO.)

MC 119399 (Sub-95F), filed February 1, 1979. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages*, from Lenexa, KS, to points in AR, MO, NE, OK, and TX. (Hearing site: Kansas City, MO, or Oklahoma City, OK.)

MC 119493 (Sub-258F), filed January 15, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Larsen Company at points in WI, to those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Green Bay, WI.)

MC 119493 (Sub-259F), filed January 22, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *utility boxes, tool boxes, chests, medical cabinets, tools, benches, and shelving*, and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Waterloo Industries, Inc., at (a) Waterloo, IA, (b) Sedalia, MO, and (c) Pocahontas, AR, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 119767 (Sub-348F), filed January 5, 1979. Applicant: BEAVER TRANSPORT CO., a corportation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), and (2) *materials and supplies* used in the conduct of such businesses, (except commodities in bulk), from the facilities of Fostoria Distribution Services Company, at or near Fostoria, OH, to points in KY and MI. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 119767 (Sub-349F), filed January 5, 1979. Applicant: BEAVER TRANSPORT CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal oils, vegetable oils, animal oil products, vegetable oil products, food seasoning compounds, and food curing compounds*, (except commodities in bulk, in tank vehicles), from Chicago, IL, Louisville, KY, and points in Will County, IL, to points in CT, DE, IL, IN, IA, KY, MD, MI, MN, MO, NJ,

NY, OH, PA, TN, and WI. (Hearing site: Chicago, IL, or Cleveland, OH.)

MC 119789 (Sub-549F), filed February 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical capacitors* and *parts* for electrical capacitors, from Pickens, SC, to points in AL, KY, MS, and TN. (Hearing site: Atlanta, GA.)

MC 119789 (Sub-550F), filed February 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Murfreesboro, TN, to points in CA. (Hearing site: Buffalo, NY.)

MC 119789 (Sub-551F), filed February 12, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by department, discount, and variety stores (except foodstuffs and commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Cooperative Warehouse, Inc., at Dallas, TX. (Hearing site: Dallas, TX.)

MC 119789 (Sub-554F), filed February 14, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Hereford, TX, to points in CT, KY, ME, MI, NH, RI, VT, and DC. (Hearing site: Phoenix, AZ.)

MC 119789 (Sub-555F), filed February 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *unfrozen foodstuffs (except commodities in bulk), from the facilities of RJR Foods, Inc., at or near Cambridge, MD, to Kansas City, KS, Garland and Houston, TX, and Kenner, LA. (Hearing site: Winston-Salem, NC.)*

MC 123819 (Sub-78F), filed February 1, 1979. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt* (except in bulk), from points in Fort Bend and Harris Counties, TX, to points in AR, LA, MS, and TN. (Hearing site: Houston, TX.)

MC 124078 (Sub-929F), filed January 10, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *dry fertilizers*, and (2) *pesticides*, in containers, in mixed loads with the commodities in (1) above, from the facilities of Swift Agricultural Chemicals Corporation, at or near Shreveport, LA, to points in TX. (Hearing site: Chicago, IL.)

MC 124211 (Sub-354F), filed January 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc oxide* and *zinc dust*, from Palmerton, PA, to those points in the United States in and west of MI, IN, IL, MO, AR, and LA (except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 124211 (Sub-355F), filed January 19, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are manufactured or dealt in by manufacturers or converters of paper and paper products, from the facilities of The Mead Corporation, at or near Chillicothe and Schooleys, OH, to those points in the United States in and west of ND, SD, IA, MO, AR, and MS (except AK and HI); and (2) *paper* and *paper articles* (except commodities in bulk), from the facilities of The Mead Corporation, at or near Kingsport and Gray, TN, to the destination points in (1) above. The service in both (1) and (2) above is restricted above except for operation in foreign commerce to the transportation of traffic originating at the above-named origins and destined to the above-indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 124579 (Sub-28F), filed February 12, 1979. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, OH 44839. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sodium bicarbonate*, in bulk, and (2) *materials and supplies* used in the manufacture of sodium bicarbonate, in bulk, between Old Fort, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

MC 124579(Sub-29F), filed February 13, 1979. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, OH 44839. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal fats and animal oils*, in bulk, in tank vehicles, from Ft. Branch, IN, Chesaning, MI, and Archbold, Defiance, Greenfield, Napoleon, Tiffin, and Troy, OH, to points in CT, DE, MD, MI, NJ, NY, OH, PA, RI, and DC. (Hearing site: Columbus, OH.)

MC 124947 (Sub-125F), filed January 4, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 54104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, couplings, pilings, well casings, and well screens*, from the facilities of Stanron Supply, Inc., at or near Lubbock, TX, to points in the United States (except AK and HI); (2) *pipe, pilings, well screens, and well casings*, from Fontana and Long Beach, CA, Valley, NE, Pueblo, CO, Houston, TX, and parts of entry located on the International boundary line between the United States and Canada, in MT and ND, to points in the United States (except AK and HI); and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except com-

modities in bulk, in tank vehicles), from the destinations in (1) above to the origin facilities in (1) above. (Hearing site: Dallas, TX, or Salt Lake City, UT.)

MC 124947 (Sub-127F, filed January 5, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile and tile products*, and (2) *materials and supplies*, used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Structural Stoneware, Inc., at or near Minerva, OH, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 125146 (Sub-8F), filed January 8, 1979. Applicant: BOB WHITAKER & SON, INC., P.O. Box 65, Roswell, NM 88201. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, NM 87102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat packinghouses*, between the facilities of Farmland Foods, Inc., at or near Garden City, KS, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Farmland Foods, Inc., of Garden City, KS. (Hearing site: Albuquerque, NM.)

MC 125433 (Sub-196F), filed January 15, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tote pans, refrigeration tunnels, and air vents*, and (2) *parts and accessories* for the commodities named in (1) above, from the facilities of Aero Tech Mfg., Inc., at or near North Salt Lake, UT, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 125433 (Sub-197F), filed January 17, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railroad crossing modules*, from the facilities of Oneida Manufacturing, at or near Malad, ID, to points in the United States (except AK and HI). (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 125433 (Sub-198F), filed January 19, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings*, from the facilities of Kirby Building Systems, at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Salt Lake City, UT.)

MC 125433 (Sub-200F), filed January 22, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe* and *fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of Certainteed Corporation, at or near Hillsboro, TX, to points in the United States, (except AK and HI). (Hearing site: Dallas, TX, or Salt Lake City, UT.)

MC 125533 (Sub-32F), filed January 14, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe* and *fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, from the facilities of Certainteed Corporation, at Ambler, PA, to those points in the United States in and east of WI, IL, KY, TN, and AL. (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved.

MC 127303 (Sub-52F), filed January 25, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulation* and *materials and supplies* used in the manufacture and distribution of insulation, (except commodities in bulk), between South Bend and Fort Wayne, IN, Allentown, PA, and Columbus, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128095 (Sub-25F), filed February 6, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. 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, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of Furniture Shippers Association, at or near Hickory an High Point, NC, to Memphis, TN. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 128095 (Sub-26F), filed February 12, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of household appliances (except commodities in bulk), from the facilities of The General Electric Company, at Louisville, KY, to points in MS. (Hearing site: Louisville, KY, or Washington, D.C.)

MC 128205 (Sub-58F), filed February 12, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 N. La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry edible sugar*, in bulk, in tank vehicles, from (a) the facilities of American Crystal Sugar Company, at or near Chaska, Crookston, and Moorhead, MN, and (b) Renville, MN, and Wahpeton, ND, to Chicago and Kankakee, IL, Lafayette, IN, and Battle Creek, MI. (Hearing site: Chicago, IL.)

MC 128205 (Sub-59F), filed February 12, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 N. La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal feed, animal feed ingredients, and animal health care products*, in bulk, (a) from the facilities of Supersweet Feeds at or near Nappanee, IN, to points in IL, MI, and OH, and (b) from the facilities of Supersweet Feeds at or near Dan-

ville, IL, to points in IN. (Hearing site: Chicago, IL.)

MC 129701 (Sub-8F), filed January 19, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, In 47542. Representative: Orville G. Lynch, P.O. Box 364, Westfield, IN 46074. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *loudspeakers and loudspeaker cabinets*, (2) *materials and supplies* used in the manufacture and distribution of loudspeakers and loudspeaker cabinets (except commodities in bulk), between the facilities of Tiffin Enterprises, Inc., at or near Tiffin, OH, on the one hand, and, on the other, Los Angeles, CA, Miami, FL, Atlanta, GA, Chicago, IL, Dallas and Houston, TX, Albany, NY, New Brunswick, NJ, Portland, OR, and Seattle, WA. (Hearing site: Indianapolis, IN.)

NOTE—Dual operations may be involved.

MC 129701 (Sub-9F), filed January 19, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, IN 47542. Representative: Orville G. Lynch, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fireplace logs*, and (2) *materials and supplies* used in the manufacture and distribution of fireplace logs (except commodities in bulk), between the facilities of Tiffin Enterprise, Inc., at or near Tiffin, OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN.)

NOTE—Dual operations may be involved.

MC 133324 (Sub-4F), filed December 28, 1978. Applicant: CAR CARRIERS, INC., a Delaware corporation, 13101 S. Torrence Ave., Chicago, IL 60633. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new automobiles*, in initial movements, in truckaway service, from Wixom, MI, to Milwaukee, WI. (Hearing site: Chicago, IL.)

MC 133684 (Sub-28F), filed December 26, 1978. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway East, Tacoma, WA 98422. Representative: Michael D. Duppenhaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine* (except in bulk in tank vehicles), from Seattle, WA, to points in CA, AZ, NV, and UT. (Hearing site: Seattle, WA.)

MC 133883 (Sub-8F), filed January 22, 1979. Applicant: GERALD N. EVENSON, INC., 835 First Street SW., P.O. Drawer I, Pelican Rapids, MN 56572. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boxed frozen meat*, (1) from points in CA, IL, TX, and WI, to points in IA, MN, MT, ND, and SD, and (2) from Portland, OR, to Chicago, IL, under continuing contract(s) with Kloster Dakota Franchising, Inc., of Grand Forks, ND. (Hearing site: Fargo, ND.)

NOTE.—Dual operations may be involved.

MC 134467 (Sub-36F), filed January 4, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Little Rock, AR.)

MC 134467 (Sub-37F), filed January 4, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of the Nestle Company, at or near Burlington, WI, to Memphis, TN. (Hearing site: Atlanta, GA, or New York, NY.)

MC 134501 (Sub-35F), filed January 16, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, 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, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from points in WA, to points in CA, AZ, WY, NE, IA, and DC; and (2) *fixtures*, from points in WA, to points in the United States (except AK and HI). (Hearing site: Seattle, WA, or Dallas, TX.)

MC 134813 (Sub-7F), filed January 15, 1979. Applicant: WESTERN CARTAGE, INC., 2921 Dawson Road, Tulsa, OK 74110. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire and wire products*, between the facilities of Bekaert Steel Wire Corporation, at Van Buren, AR, on the one hand, and, on the other, points in TX, LA, OK, KS, MO, IL, KY, TN, MS, AL, AR, and IN, under continuing contract(s) with Bekaert Steel Wire Corporation of Van Buren, AR. (Hearing site: Van Buren, AR, or Tulsa, OK.)

NOTE.—Dual operations may be involved.

MC 135874 (Sub-149F), filed December 27, 1978. Applicant: LTL PERISHABLES, INC., a Nebraska corporation, 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and (2) *materials* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except TN), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN.)

MC 136818 (Sub-51F), filed January 23, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laminated wood beams*, from Magna, UT, to points in AZ, CA, CO, NM, NV, and TX. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-52F), filed January 23, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *articles distributed by meat-packing houses*, as described in section 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 Farmland Foods, Inc., at or near (a) Carroll, Denison, Iowa Falls, Cherokee, Des

Moines, Fort Dodge, and Sioux City, IA, and (b) Crete, Lincoln, and Omaha, NE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Omaha, NE, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-53F), filed February 1, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime*, from Dolomite, UT, to points in AZ, CO, NM, and TX. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-54F), filed February 5, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood, Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), (1) from Kansas City, MO, to points in AR, AZ, LA, NM, OK, and TX, and (2) from Bonner Springs, KS, to points in AR, AZ, LA, MO, NM, OK, and TX. (Hearing site: Kansas City, MO, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 136818 (Sub-55F), filed February 7, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from points in Los Angeles County, CA, to points in CO. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

NOTE.—Dual operations are involved.

MC 138313 (Sub-48F), filed January 15, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and soil conditioners*, (1) from ports of entry on the international boundary line between the United States and Canada at points in WA, ID, and MT, to points in MT, ID, WA, and OR, and (2) from points in Caribou and Kootenai Counties, ID, and Benton and Franklin Counties, WA, to points in MT. (Hearing site: Billings, MT, or Salt Lake City, UT.)

MC 138313 (Sub-50F), filed January 22, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite*, in bags, from the facilities of American Colloid Company, at or near (a) Belle Fourche, SD, and (b) Upton, WY, to points in Kings County, WA. (Hearing site: Salt Lake City, UT.)

MC 138313 (Sub-51F), filed January 23, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, millwork, and wood products*, from points in MT, to points in ID, WA, OR, and CA. (Hearing site: Billings, MT.)

MC 138469 (Sub-107F), filed February 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, Il 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, and (2) *such equipment and supplies* as are used by food business houses, from the facilities of Unarco Commercial Products, Division of Unarco Industries, Inc., at Oklahoma City, OK, to points in the United States (except AK, HI, and OK), restricted to the transportation of traffic originating at the named origin facilities, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, from the destinations indicated in (1) above, to the facilities named in (1) above, restricted to the transportation of traffic destined to the named facilities. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 138469 (Sub-109F), filed February 14, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, Il 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, veterinary preparations*, and *materials, equipment and supplies* used in the manufacture, sale and distribution of drugs and veterinary preparations (except commodities in bulk), in vehicle equipped with mechanical refrigeration, from the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near Somerville, NJ, to the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near (a) Indianapolis, IN, and (b) Dallas, TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination facilities. (Hearing site: New York, NY, or Washington, DC.)

MC 138469 (Sub-110F), filed February 14, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bicycles, tricycles*, and (2) *materials equipment and supplies* used in the manufacture and distribution of bicycles and tricycles, between the facilities of Huffy Corporation, at Ponca City, OK, on the one hand, and, on the other, points in the United States (except AK, HI, and OK), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Columbus, OH, or Oklahoma City, OK.)

MC 138469 (Sub-111F), filed February 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kitchen cabinets*, and *materials, equipment, and supplies* used in the manufacture of kitchen cabinets, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Triangle Pacific Corp., at Lodi, CA. (Hearing site: Dallas, TX.)

MC 138861 (Sub-12F), filed January 19, 1979. Applicant: C-LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel bolts*, from the facilities of Robbins Manfacturing Co., at or near Fall River, MA, to points in CT, NJ, NY, and PA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of steel bolts (except commodities in bulk), from points in CT, NJ, and PA, to the facilities of Robbins Manufacturing Co., Inc., at or

near Fall River, MA. (Hearing site: Washington, DC, or Boston, MA.)

NOTE.—Dual operations are involved.

MC 138875 (Sub-140F), filed February 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 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, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture and distribution of construction and mining equipment (except commodities in bulk), from points in IL, IN, MI, NJ, NY, OH, PA, VA, and WI, to the facilities of Bucyrus-Erie Company, at Pocatello, ID, restricted to the transportation of traffic originating at the indicated origins and destined to the named destination facilities. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 138875 (Sub-141F), filed February 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 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, in interstate or foreign commerce, over irregular routes, transporting *plastic and plastic articles* (except commodities in bulk), from the facilities of Mobil Chemical Co., at or near Temple, TX, to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139391 (Sub-7F), filed January 22, 1979. Applicant: G & H TRANSPORTATION CO., INC., a corporation, P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, between the facilities of R. R. Donnelley & Sons Company, at or near (a) Old Saybrook, CT, (b) Chicago, Dwight, and Mattoon, IL, (c) Crawfordsville and Warsaw, IN, (d) Glasgow, KY, (e) Willard, OH, (f) Lancaster, PA, and (g) Gallatin, TN, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, NM, OK, OR, TX, UT, and WA, under continuing contract(s) with R. R. Donnelley & Sons Company, of Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 139847 (Sub-4F), filed January 5, 1979. Applicant: W-H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials and supplies*, from points in the United States (except AK and HI), to points in WI and the Upper Peninsula of MI, under continuing contract(s) with Schuette Building Centers, Inc., of Wausau, WI. (Hearing site: Wausau or Madison, WI.)

MC 139923 (Sub-58F), filed January 19, 1979. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer D, Stroud, OK 74079. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* (except in bulk), from Nashville, TN, to points in AR, CA, FL, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OR, SD, WA, and WI. (Hearing site: Nashville, TN.)

NOTE.—Dual operations are involved.

MC 140273 (Sub-13F), filed January 15, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, NM 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from St. Paul, MN, to points in WI, IA, ND, SD, IL, and the Upper Peninsula of MI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140768 (Sub-33F), filed February 2, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., a Delaware corporation, P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alumina tri-hydrate* (except in bulk), from South Plainfield, NJ, to Willow Grove, PA, Fitchburg and Leominster, MA, Newburgh, Utica, and Hicksville, NY, Bridgeport, CT, Bow and Contoocook, NH, Martinsburg, WV, and Wilmington, DE. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved.

MC 141124 (Sub-34F), filed December 29, 1978. Applicant: EVANGELIST COMMERCIAL CORPORATION, a Delaware corporation, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products, between Groveton, NH, and Old Town, ME, on the one hand, and, on the other, points in OH, MI, IN, PA, NY, AL, FL, GA, TN, NC, KY, NJ, VA, and MO. (Hearing site: Washington, DC, or Columbus, OH.)

MC 141804 (Sub-161F), filed December 26, 1978. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive parts*, (2) *recreational vehicle parts*, and (3) *accessories* used in the manufacture and distribution of the commodities in (1) and (2) above, from points in Los Angeles and San Bernardino Counties, CA, to points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142036 (Sub-2F), filed January 2, 1979. Applicant: J. A. MODULAR HOMES, INC., 3400 Mt. View Drive, Anchorage, AK 99501. Representative: Robert L. Hartig, 717 K St., Suite 201, Anchorage, AK 99501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers* designed to be drawn by passenger automobiles, in truckaway service, (2) *boats*, and (3) *prefabricated buildings*, complete or in sections, mounted on wheeled undercarriages, between points in AK. (Hearing site: Anchorage, or Fairbanks, AK.)

MC 143059 (Sub-56F), filed February 5, 1979. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement roofing tile, and materials, equipment and supplies* used in the installation of cement roofing tile, from the facilities of Staco Roof Tile Co., at Phoenix, AZ, to points in AZ, CA, CO, NJ, and NM, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143183 (Sub-8F), filed January 18, 1979. Applicant: L. M. ROACH, d.b.a. D & L TRUCKING COMPANY, P.O. Box 1741, 145 Sampson Road, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fer-*

tilizer, from Wilmington and Statesville, NC, to points in TN and WV. (Hearing site: Wilmington or Raleigh, NC.)

MC 143267 (Sub-45F), filed January 4, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles, zinc articles, and lead articles* (except commodities in bulk), (2) *construction materials, equipment, and supplies* (except commodities in bulk), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between the facilities of Penn-Dixie Steel Corporation, at (a) Denver, CO, (b) Blue Island and Joliet, IL, (c) Fort Wayne and Kokomo, IN, (d) Centerville, IA, (e) Grand Rapids and Lansing, MI, (G) Jackson, MS, (h) Albuquerque, NM, and (i) Columbus and Toledo, OH, and the facilities of Steven Spring, Inc., at (a) Cicero and Elkhart, IN, and (b) Newton, KS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143775 (Sub-56F), filed January 5, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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), from points in TX, MO, and TN, to Patchogue, Binghamton, Utica, Albany, Buffalo, Rochester, and Syracuse, and New York, NY, Scranton, Harrisburg, Allentown, and Philadelphia, PA, New Haven, CT, Worcester, MA, Burlington, VT, Baltimore, MD, Washington, DC, and Norfolk and Richmond, VA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) [formerly Section 402(a)(5) of the Interstate Commerce Act]. (Hearing site: St. Louis, MO, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-58F), filed January 18, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Chef Pierre, Inc., at or near Traverse City, MI, to points in AZ, CA, CO, CT, DE, ID, MA, MD, ME, MT, ND, NH, NJ, NM, NY, NV, OR, PA, RI, UT, VA, VT, WA, WV, and DC. (Hearing site: Traverse City, MI, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-66F), filed February 7, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (1) from the facilities of Potlatch Corporation, at or near (a) Ft. Wayne, IN, and (b) Sikeston, MO, to Salt Lake City, UT, Fresno, Emeryville, Lemon Grave, Oakland, San Diego, Los Angeles, Modesto, Ontario, Pomona, Sacramento, San Bernardino, San Francisco, San Jose, Santa Ana, Santa Clara, South Gate, and Watsonville, CA, and (2) between Ft. Wayne, IN, on the one hand, and, on the other, Sikeston, MO. (Hearing site: St. Louis, MI, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-67F), filed February 9, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials, building equipment, and building supplies*, from the facilities of Leigh Products, Division/Leigh Products, Inc., at or near Coopersville and Saranac, MI, to points in the United States (except AK, HI, MI, IL, IN, KY, and OH). (Hearing site: Grand Rapids or Lansing, MI.)

NOTE.—Dual operations are involved.

MC 144027 (Sub-7F), filed December 28, 1978. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden curtain rods, metal curtain rods, iron hooks, and steel hooks*, from the facilities of Scotscraft, Inc., at or near Scottsville, KY, to the facilities of Kirsch Co., at or near Tampa and Miami, FL. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 144363 (Sub-6F), filed January 19, 1979. Applicant: HIRSCHBACH MOTOR LINES, a corporation, 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail department stores (except commodities in bulk, and foodstuffs), between the facilities of Ardan Wholesale, Inc., located in CA, NV, and TX, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, KY, MN, MS, NC, NV, SC, and TN, continuing under contract(s) with Ardan Wholesale, Inc., of Des Moines, IA. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 144621 (Sub-4F), filed January 23, 1979. Applicant: CENTURY MOTOR LINES, INC., a Delaware corporation, P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by variety and discount stores (except foodstuffs and commodities in bulk), from the facilities of (a) Chicago Shippers Association and (b) United States Packing and Shipping, Inc., at or near Jersey City, NJ, to Sparks, NV and points in CA, OR, and WA. Condition: The person or persons who it appears may be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Jersey City, NJ, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 144761 (Sub-3F), filed January 18, 1979. Applicant: R. B. (PARKER) GOODLOE, d.b.a. GOODLOE TRUCKING CO., 7919 Louisville Ave., Lubbock, TX 79423. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *vegetable oil*, in bulk, in tank vehicles, from Clinton, OK, and Lubbock, Sweetwater, Quanah, Plainview, Sherman, and Lamesa, TX, to Houston, TX, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: Lubbock or Dallas, TX.)

MC 144958 (Sub-1F), filed January 16, 1979. Applicant: TRANSPORT COMMODITIES, INC., P.O. Box 450, Pharr, TX 78577. Representative:

Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *canned foods*, from Brownsville, Hidalgo, and Laredo, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 145276 (Sub-3F), filed January 15, 1979. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Ave., S.W., P.O. Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Suite 329, 4601 Excelsior Blvd., Minneapolis, MN 55416. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Minneapolis, MN, to Sioux Falls, SD, restricted to the transportation of traffice originating at the facilities of Schweigert Meat Company, at or near Minneapolis, MN. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations are involved.

MC 145398 (Sub-2F), filed February 5, 1979. Applicant: GIPSON TRANSPORTATION, INC., Rte. 2, Box 382, Casa Grande, AZ 85222. Representative: Phil B. Hammond, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *cottonseed meal*, from Casa Grande, Gilbert, and Phoenix, AZ, to San Diego, Wilmington, and Los Angeles, CA, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: Phoenix, AZ.)

MC 145441 (Sub-11F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulators, electric wiring, and pottery*, and (2) *parts* for the commodities named in (1) above, from Sandersville, GA, to points in AZ, AR, CA, CO, DE, ID, IL, IN, KS, LA, MD, MS, MO, NV, NJ, MN, OH, OK, OR, PA, TX, UT, WA, and WV. (Hearing site: Little Rock, AR, or Atlanta, GA.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-12F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and cough drops*, from the facilities of Luden's Inc., at Reading, PA, to points in AZ, AR, CA, KS, LA, NV, NM, OK, OR, TX, and WA (Hearing site: Little Rock, AR, or New York, NY.)

NOTE.—Dual operations are involved

MC 145441 (Sub-13F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned tuna*, and *canned animal feed*, from Terminal Island, CA, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Little Rock, AR, or Los Angeles, CA.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-14F), filed January 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *prepared animal food* (except commodities in bulk), from the facilities of General Foods Corporation, at or near Lafayette and Evansville, IN, to Kansas City, MO, Arlington, TX, Denver, CO, South Anaheim and San Leandro, CA, and Portland, OR, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Little Rock, AR, or New York NY.)

NOTE.—Dual operations are involved.

MC 145441 (Sub-17F), filed January 23, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from St. Martinville, LA, to Chicago, IL. (Hearing site: Little Rock, AR, or New Orleans, LA.)

NOTE.—Dual operations are involved.

MC 145489 (Sub-2F), filed February 6, 1979. Applicant: ROSE-WAY INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Reynolds Metals Company, at or near McCook, IL, to points in AZ, CA, OR, and WA, under continuing contract(s) with Reynolds Metals Company, of Richmond, VA. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 145489 (Sub-3F), filed February 12, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid Ave., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum ingots*, and (2) *aluminum scrap*, in packages, (a) from Fontana, CA, to points in AL, AR, CO, IA, IL, IN, KY, MI, MS, MO, OH, OK, TN, TX, and WI, (b) from Russellville, AL, to points in CA, OK, OR, TX, and WA, and (c) from East Chicago, Hammond, and Gary, IN, and Madison and Alton, IL, to those points in the United States in and west of MT, WY, CO, and NM (except AK and HI), under continuing contract(s) with U.S. Reduction Co., of East Chicago, IN. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 145597 (Sub-2F), filed January 4, 1979. Applicant: JAMES H. EDWARDS, SR., JAMES H. EDWARDS, JR., a partnership, d.b.a. E & E TRUCKING CO., 202 Randy Circle, Warner Robins, GA 31093. Representative: James H. Edwards, Jr., (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textile scrap*, between points in AL, FL, GA, and MS, under continuing contract(s) with O'Neill Brothers, Incorporated, of East Point, GA. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 145797 (Sub-3F), filed January 4, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Driver, Chesterfield, MO 63017. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores, from North Bergen, NJ, to St. Louis, MO. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 145875 (Sub-1F), filed February 6, 1979. Applicant: SWAIN AND SONS TRANSPORTS, INC., 208 Poplar Avenue, Memphis, TN 38103. Representative: William R. Swain, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery

house, between the facilities of Southern Warehouses, Inc., at Memphis, TN, on the one hand, and, on the other, points in TN, AL, MO, IL, KY, IN, GA, TX, MS, LA, OK, AR, and FL. (Hearing site: Memphis, TN.)

MC 145998 (Sub-2F), filed February 4, 1979. Applicant: JERROLD J. KAUFFMAN, d.b.a. J. KAUFFMAN INDUSTRIES, 205 2nd Street, P.O. Box 832, Kalona, IA 52247. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pet food ingredients* (except commodities in bulk in tank vehicles), from the facilities of Turlock Pet Foods, Inc., at or near Kalona, IA, to Points in Buchanan County, MO, Saline County, NE, Frnaklin and Mahoning Counties, OH, Lehigh and Northampton Counties, PA, and Jefferson County, WI. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 146033 (Sub-1F), filed January 22, 1979. Applicant: LARRY H. WINEBARGER, d.b.a. WINEBARGER TRUCK LINES, P.O. Box 244, Lenoir, NC 28465. Representative: Jon F. Hollengreen, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, DC 20004. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from Lenoir, NC, to points in CA, ID, NV, OR, UT, and WA, and (2) *new furniture parts*, and *materials, equipment, and supplies* used in the manufacture and distribution of new furniture, from points in CA, ID, NV, OR, UT, and WA, TO Lenoir, NC, under continuing contract(s) with Singer Furniture Division of Lenoir, NC. (Hearing site: Lenoir or Charlotte, NC.)

MC 146111F, filed January 16, 1979. Applicant: INDUSTRIAL TRANSPORT, INC., 2301 East 65th Street, Cleveland, OH 44104. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Parkersburg, WV, or Washington, DC.)

NOTE—Dual operations are involved.

MC 146123F, filed January 15, 1979. Applicant: KROFLITE MOTOR EXPRESS, INC., 1018 West 37th Street, Chicago, IL 60609. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Bedford Park and Milan, IL, and Davenport, IA. (Hearing site: Chicago, IL.)

MC 146188 (Sub-2F), filed February 5, 1979. Applicant: J-8 TRUCK LINES, INC., 4727 W. Rosecrans Avenue, Hawthorne, CA 90250. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the plantsite of Inryco, Inc., at los Angeles, CA, to points in AZ, NV, and OR; and (2) *building materials* (except cement and commodities in bulk), from points in AZ, NV, and OR, to the facilities of Matspor, Inc., d.b.a. California Material Co., at Hawthorne, CA. (Hearing site: Los Angeles, CA.)

MC 146218F, filed January 15, 1979. Applicant: REMO G. RICCI, d.b.a. RICCI BROTHERS TRUCKING, 600 Stage Gulch Road, Petaluma, CA 94952. Representative: Raymond A. Greene, Jr., 100 Pine street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *processed animal and poultry feed*, in bulk between Petaluma, CA, on the one hand, and, on the other, points in Douglas, Lyon, Churchill, Storey, Humboldt, Pershing, and Washoe Counties, NV. (Hearing site: San Francisco, CA.

NOTE—Dual operations are involved.

MC 146233F, filed January 24, 1979. Applicant: BOBBY REEVES CO., INC., Box 360, Route No. 3, Adairsville, GA 30103. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by auto supply stores, from Topeka, KS, and Radford, VA to points in the United States (except AK and HI), under continuing contract(s) with Brad Ragan, Inc., of Spruce Pine, NC. (Hearing site: Atlanta, GA or Charlotte, NC.)

MC 146339F, filed February 5, 1979. Applicant: John D. Clark, 318 Grant Ave., Ext., Butler, PA 16001. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction and mining equipment* and *parts* for construction and mining equipment, between the facilities of Highway Equipment Co., in Butler County, PA, on the one hand, and, on the other, points in OH and WV, under continuing contract(s) with Highway Equipment Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 146349 F, filed February 5, 1979. Applicant: D. D. & B. TRUCKING, INC., R.R. No. 1, Shoals, IN 47581. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *railroad cross-ties and lumber*, from the facilities of Midwest Treating, Inc., in Pike County, IN, to points in the United States (except AK and HI), and (2) *creosote*, in bulk, in tank vehicles, from Ironton, OH, and Detroit, MI, to the facilities of Midwest Treating, Inc,. in Pike County, IN, under continunig contract(s) in (1) and (2) above, with Midwest a subsidiary of L. B. Foster, Inc., Treating, Inc.,/of Northbrook, IL; and (3) *iron and steel articles*, between points in IL, IN, KY, MI, MO, OH, and PA, on the one hand, and, on the other, Bedford Park, IL, Plymouth, MI, St. Louis, MO, and Lorain, OH, under continuing contract(s) with L.B. Foster, Inc., Northbrook, IL. (Hearing site: Chicago, IL, or Washington, DC.)

PASSENGER AUTHORITY

MC 1515 (Sub-260F), filed February 6, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Lincoln and Grand Island, NE: from Lincoln over Interstate Hwy 80 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Grand Island, and return over the same route, serving no intermediate points. (Hearing site: Lincoln, NE.)

MC 143475 (Sub-4F), filed January 25, 1979. Applicant: POTOMAC VALLEY TRANSIT AUTHORITY, d.b.a. POTOMAC COMMUTER, P.O. Box 278, 46 South Main Street, Petersburg, WV 26847. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, (1) between Petersburg, WV, and the facilities of Virginia Electric and Power Company, in Bath County, VA: from Petersburg over U.S. Hwy 220 to Vanderpool, VA, then over VA Hwy 84 to junction Bath County Route 600, then over Bath County Route 600 to the Virginia Electric and Power Company tunnel site, and return over the same route, serving the intermediate points of Vanderpool, VA, and Franklin, WV, and (2) between Keyser, WV, and the facilities of Westvaco, at Westernport, MD: from Keyser over U.S. Hwy 220 to junction WV Hwy 46, then over WV Hwy 46 to Piedmont, WV, then over MD Hwy 36 to junction MD Hwy 135, then over MD Hwy 135 to the facilities of Westvaco at Westernport, and return over the same route, serving the intermediate point of Piedmont, WV. (Hearing site: Petersburg, WV.)

BROKER AUTHORITY

MC 13054F, filed December 27, 1978. Applicant: BRISTOL TOURS, INC., 117 Brookdale Circle, Bristol, VA 24201. Representative: Rev. John A. Thrasher, P.O. Box 552, Bristol, TN 37620. To engage in operation, in interstate or foreign commerce, as a *broker* at Bristol, VA, in arranging for the transportation by motor vehicle, of passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending at Bristol, Abingdon, Wytheville, and Roanoke, VA, and points in Washington County, VA, and Sullivan, Carter, and Washington Counties, TN, and extending to points in the United States, (including AK, but excluding HI). (Hearing site: Bristol or Richmond, VA.)

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 M.C.C. 291 (1952).

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[70350-01-M]

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PERMANENT AUTHORITY DECISIONS

Decision-Notice

MARCH 16, 1979.

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 on or before April 30, 1979. 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 transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted 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 transportation policy of 49 U.S.C. § 10101 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 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before April 30, 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 construted 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 No. 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Secretary.

MC 8535 (Sub-68F), filed January 8, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery and machine parts*, from the facilities of Black-Clawson Co. at Fulton, NY, to points in the United States (except NY, PA, NJ, DE, MD, VA, WV, OH, KY, AK, HI, and DC) (Hearing site: Syracuse, NY, or Washington, DC.)

MC 8535 (Sub-69F), filed February 14, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (except in dump vehicles), from the facilities of Green River Steel, a Division of Jessop Steel Co., at or near Steelton, KY, to points in IL and IN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 8535 (Sub-70F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Anaconda Co., at or near Terre Haute, IN, to points in CT, DE, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Louisville, KY or Indianapolis, IN.)

MC 8535 (Sub-71F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery and machine parts*, and *iron and steel articles*, from the facilities of Xtek, Inc., at Cincinnati and Sharonville, OH, to points in AL, IL, IN, and TN. (Hearing site: Cincinnati or Columbus, OH.)

MC 8535 (Sub-72F), filed February 22, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refractory products* (except in dump vehicles), (1) from the facilities of Harbison-Walker Refractories, Division of Dresser Industries, Inc., at or near Hammond, IN, to points in DE, IL, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC, and (2) from the facilities of Harbison-Walker, Division of Dresser Industries, Inc., at or near Portsmouth and Windham, OH, Templeton, PA, and Baltimore, Jennings, and Leslie, MD, to points in IL, IN, MI, and TN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 8535 (Sub-73F), filed February 26, 1979. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (except in dump vehicles), (1) from the facilities of Bethlehem Steel Corp., at Bethlehem, Johnstown, Lebanon, Steelton, and Williamsport, PA, Baltimore and Sparrows Point, MD, and Lackawanna, NY, to points in IL, IN, and MI, and (2) from the facilities of Bethlehem Steel Corp., at Burns Harbor, IN, to points in KY, MI, NY, OH, PA, TN, and WV. (Hearing site: Washington, DC.)

MC 8973 (Sub-54F), filed January 25, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07057. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in containers, between points in the United States, restricted to the transportation of traffic originating at or destined to the facilities of U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corp. (Hearing site: New York, NY, or Washington, DC.)

MC 14252 (Sub- 46F), filed February 12, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Friendly and Ravenswood, WV, over WV Hwy 2 serving all intermediate points and all offroute points in Pleasants and Wood Counties, WV. (Hearing Site: Columbus, OH.)

MC 20992 (Sub-53F), filed February 5, 1979. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the production and distribution of loaders and agricultural equipment, (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to the facilities of Gehl Company, at or near West Bend, WI, and Madison, SD. (Hearing Site: Milwaukee, WI, or Chicago, IL.)

MC 25798 (Sub-359F), filed February 14, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., a North Carolina Corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from Austin, Brownstown, Converse, and Franklin, IN, to points in AL, AR, FL, GA, LA, NS, NC, OK, SC, and TX. (Hearing site: Tampa, FL.)

MC 25798 (Sub-360F), filed February 23, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid yeast*, in bulk, in tank vehicles, from the facilities of Anheuser-Busch, Inc., at East Brunswick, NJ, to the facilities of Anheuser-Busch, Inc., at Jacksonville, FL. (Hearing site: Jacksonville, FL.)

MC 25798 (Sub-361F), filed February 26, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint paper*, from points in Laurens County, GA, to points in AL, AR, FL, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV; and (2) *waste newspapers, cores, and materials, equipment, and supplies* used in the manufacture and distribution of newsprint paper, (except commodities in bulk), in the reverse direction. (Hearing site: Tampa, FL.)

MC 25798 (Sub-363F), filed February 26, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products, tin foil, plastic and plastic articles, and paper and paper articles*, from Bellwood, Richmond, and Grottoes, VA, to points in CA, FL, IN, MI, MN, MO, OH, and WI, restricted against the transportation of plastic film from Grottoes, VA, to Kansas City, MO; (2) *aluminum and*

aluminum products, tin foil, plastic and plastic articles, and paper and paper articles, from Richmond, Bellwood, and Grottoes, VA, to points in CO, KS, LA, NE, OK, TX, and AR, restricted against the transportation of plastic film from Grottoes, VA; and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and storage of the commodities in (1) and (2) above (except commodities in bulk, in tank vehicles, and those commodities which because of size or weight require the use of special equipment), from points in AR, CA, CO, FL, IN, KS, LA, MI, MN, MO, NE, OH, OK, TX, and WI to Richmond, Bellwood and Grottoes, VA, restricted in (1) and (2) above to the transportation of traffic originating at the facilities of Reynolds Metals Co., at the named origins, and further restricted in (3) above to the transportation of traffic destined to the facilities of Reynolds Metals Co., at the indicated destinations. (Hearing site: Tampa, FL.)

MC 30378 (Sub-63F), filed February 7, 1979. Applicant: ASSOCIATED TRANSPORTS, INC., 9050 Pershall Road, Hazelwood, MO 63042. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobiles, trucks, and chassis,* in initial movements, in truckaway service, from the facilities of The Ford Motor Company, in Clay County, MO, to points in TX. (Hearing site: Detroit, MI.)

MC 48958 (Sub-170F), filed February 14, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 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, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating materials,* and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of insulating materials, from the facilities of Pabco, Division of Louisiana Pacific Corp., at or near Fruita, CO, to points in AR, AZ, CA, IL, IN, IA, KS, MO, NE, NV, NM, OH, OK, and TX. (Hearing site: Denver, CO.)

MC 48958 (Sub-172F), filed February 26, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 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, in interstate or foreign commerce, over irregular routes, transporting (1) *plumbers' goods, bathroom fixtures, and lavatory fixtures,* (2) *bathroom vanities,* (3) *accessories* for (1) and (2) above, and (4) *materials, equipment and supplies* for the manufacture and distribution of the commodities in (1), (2), and (3) above (except commodities in bulk), between Phoenix, AZ, Redlands, CA, Hondo and Corsicana, TX, Crawfordsville and Rensselaer, IN, Milwaukee, WI, and Ottumwa, IA, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, IL, IN, KS, MO, NE, NM, NV, OH, OK, TX, UT, and WY. (Hearing site: Washington, DC.)

MC 52709 (Sub-356F), filed February 12, 1979. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Robert P. Tyler (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials,* (except in bulk), from the facilities of Space Vinyl Division Aluma-King Corp., at West Salem, OH, to points in AZ, AR, CA, CO, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Akron, OH, or Denver, CO.)

MC 70832 (Sub-28F), filed February 12, 1979. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, 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 Harrisburg, PA, and Dayton, OH. (Hearing site: Harrisburg, PA.)

MC 73165 (Sub-466F), filed February 13, 1979. Applicant: EAGLE MOTOR LINES, INC., 830-33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from Kansas City, MO, to points in AR, LA, MS, TN, AL, GA, FL, SC, and NC. (Hearing site: Kansas City, MO, or Birmingham, AL.)

MC 78118 (Sub-41F), filed February 15, 1979. Applicant: W. H. JOHNS, INC., a Delaware corporation, 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products,* from the facilities of Container Corporation of America, in Hanover Township (Lehigh County), PA, to those points in NJ south of U.S. Hwy 40; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from points in NJ to the facilities of Container Corporation of America, in Hanover Township (Lehigh County), PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 80443 (Sub-16F), filed January 23, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air filtration systems, internal combustion; air silencers; air compressors; dust collectors;* and *mufflers,* (2) *parts, accessories, and attachments,* for the commodities named in (1) above, and (3) *fabricated steel articles,* from the (a) facilities of Hutchinson Manufacturing and Sales, Inc., at or near Hutchinson, MN, and (b) from the facilties of Canby Manufacturing, Inc., at or near Canby, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 82063 (Sub-99F), filed January 25, 1979. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hydrobromic acid,* in bulk, in rubber-lined tank vehicles, from Eldorado, AR, to Selkirk, NY, Channelview, TX, McIntosh, AL, Livonia, MI, and Joliet, IL. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 87103 (Sub-31F), filed January 19, 1979. Applicant: MILLER TRANSFER & RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *equipment, materials, and supplies* used in the manufacture and distribution of glass and plastic containers, and *glass and plastic container accessories,* between the facilities of Brockway Glass Co., Inc., at or near Brockway, DuBois and Washington, PA, Freehold, NJ, Boylston, AL, Zanesville, OH, Rosemont, MN, Ada and Muskogee, OK, Oakland and Pomona, CA, Parkersburg, Lynchburg, and Danville, WV, Hartford and Windsor, CT, Nashua, NH, and Sloatsburg, NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transporting of traffic originating at

or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—Dual operations may be involved.

MC 90870 (Sub-17F), filed December 18, 1978. Applicant: RIECHMANN ENTERPRISES, INC., a Missouri corporation, Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing, pipe, and steel*, between the facilities of Livingston Pipe and Tube, Inc., at or near Staunton, IL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, LA, MS, MO, MI, OK, OH, PA, TN, TX, WI, and WV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 95540 (Sub-1052F), filed November 1, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: E. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, GA, and Cuba, AL, from Atlanta over US Hwy 78 to Birmingham, AL, then over US Hwy 11 to Cuba, and return over the same route, (2) between Atlanta, GA, and Tuskegee, AL, over US Hwy 29, (3) between Tuskegee, AL, and Montgomery, AL, over US Hwy 80, (4) between Montgomery, AL, and Grand Bay, AL, from Montgomery over US Hwy 31 to junction US Hwy 90, then over US Hwy 90 to Grand Bay, and return over the same route, (5) between Columbus, GA, and Tuskegee, AL, over US Hwy 80, (6) between Montgomery, AL, and Cuba, AL, over US Hwy 80, (7) between Bainbridge, GA, and Ardmore, AL, from Bainbridge over US Hwy 84 to Dothan, AL, then over US Hwy 231 to Montgomery, AL, then over US Hwy 31 to junction AL Hwy 251, then over AL Hwy 251 to junction AL Hwy 53, then over AL Hwy 53 to Ardmore, and return over the same route, (8) between Dothan, AL, and Isney, AL, over US Hwy 84, (9) between Montgomery, AL, and Stafford, AL, over US Hwy 82, (10) between Birmingham, AL, and junction US Hwy 27 and GA Hwy 2, from Birmingham over US Hwy 11 to junction US Hwy 27, then over US Hwy 27 to junction GA Hwy 2, and return over the same route, (11) between junction US Hwy 27 and GA Hwy 2 and Rossville, GA, over US Hwy 27, (12) between Birmingham, AL, and Bexar, AL, over US Hwy 78, (13) between Atlanta, GA, and Hamilton, AL, over US Hwy 278, (14) between Rossville, GA, and Cherokee, AL, from Rossville over US Hwy 27 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction US Hwy 72, then over US Hwy 72 to Cherokee, and return over the same route, (15) between Anniston, AL, and junction US Hwy 72 and Alternate US Hwy 72, from Anniston over US Hwy 431 to Huntsville, AL, then over Alternate US Hwy 72 to junction US Hwy 72, and return over the same route, (16) between Columbus, GA, and Birmingham, AL, over US Hwy 280, (17) between Columbus, GA, and Mobile, AL, from Columbus over US Hwy 431 to Dothan, AL, then over US Hwy 231 to junction US Hwy 90, then over US Hwy 90 to Mobile, and return over the same route, (18) between Bainbridge, GA, and Pensacola, FL, from Bainbridge over US Hwy 27 to Tallahassee, FL, then over US 319 to Carrabelle, FL, then over US Hwy 98 to Pensacola, and return over the same route, (19) between Pensacola, FL, and Flomaton, AL, over US Hwy 29, and (20) between junction US Hwy 27 and GA Hwy 2 and Atlanta, GA, from junction US Hwy 27 and GA Hwy 2 over GA Hwy 2 to junction US Hwy 41, then over US Hwy 41 to Atlanta, and return over the same route, serving, in (1) through (20), inclusive, all intermediate points, all off-route points in AL, those off-route points in FL on and west of US Hwy 319, and those off-route points in GA on, north, and west of US Hwy 411, restricted, in (1), (2), (5), (7), (10), (11), (13), (14), (16), (17), (18), and (20), to the transportation of traffic moving from, to, or through a point in AL, and further restricted, in (3), (4), (6), (8), (9), (11), (12), (15), and (20) to the transportation of traffic having a prior or subsequent movement in interstate commerce. (Hearing site: Atlanta, GA.)

MC 97397 (Sub-14F), filed December 27, 1979. Applicant: BARKLEY TRUCK LINES, INC., 604 Fourth Street, P.O. Box 970, Watertown, SD 57201. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), and (2) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, (except foodstuffs, hides and commodities in bulk), from Watertown, SD, to points in Traverse, Grant, Stevens, Big Stone, Swift, Lac qui Parle, Chippewa, Yellow Medicine, Lincoln, Lyon, Pipestone, Murray, Rock, and Nobles Counties, MN, those in Lyon, Osceola, Sioux, O'Brien, Plymouth, Cherokee, and Woodbury Counties, IA, and those in SD in and east of Campbell, Walworth, Potter, Sully, Stanley, Jones, Mellette, and Todd Counties. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 100449 (Sub-107F), filed February 1, 1979. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Monmouth, IL, to points in IA, MN, MO, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 100666 (Sub-424F), filed January 15, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc oxide, zinc dust, and slab zinc*, from the facilities of St. Joe Zinc Company, at Josephtown, PA, to points in AL, AR, GA, IA, IL, KY, LA, MO, MS, NE, OK, TN, TX, and WI, 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. (Hearing site: Dallas, TX.)

MC 100666 (Sub-425F), filed January 15, 1979. Applicant: MELTON TRUCK LINES, INC., an Arkansas corporation, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground clay, floor sweeping compounds, and absorbents* (except commodities in bulk), from the facilities of Oil-Dri Corporation of America, at or near Ripley, MS, to points in AR, IA, IL, IN, KS, KY, LA, MN, MO, NE, OH,

OK, TN, TX, and WI. (Hearing site: Jackson, MS.)

MC 106398 (Sub-861F), filed February 15, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Vulcraft, a Division of Nucor Corporation, at Grapeland, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 106398 (Sub-862F), filed February 22, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from the facilities of Darlington Veneer Co., Inc., at Darlington, SC, to points in the United States (except AK and HI). (Hearing site: Columbia, SC.)

MC 106398 (Sub-863F), filed February 23, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from the facilities of Brunswick Pulp and Paper Company, at Pearson, GA, and McCormick, SC, to points in the United States (except AK and HI). (Hearing site: Savannah, GA.)

MC 107496 (Sub-1145F), filed December 12, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *propellants*, in bulk, from E. Chicago, IN, to Atlanta, GA, (2) *fertilizer solutions*, in bulk, from Columbus, NE, to points in IA, KS, and SD, and (3) *aluminum sulfate*, in bulk, from Denver, CO, to points in TX. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107515 (Sub-1207F), filed February 6, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in section 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 La Grange, KY, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1208F), filed February 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture, distribution, and installation of floor coverings (except commodities in bulk), from Salem, NJ, to points in AR, OK, and TX. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1209F), filed February 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Nashville, TN, to points in the United States (except AK and HI). (Hearing site: Nashville, TN, or Atlanta, GA.)

NOTE.—Dual operations may be involved.

MC 107515 (Sub-1210F), filed February 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chain saws*, (2) *snow-throwers*, and (3) *garden, lawn, turf, and golf course care equipment*, from the facilities of the Toro Company, at or near Windom, MN, and Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be involved.

MC 108207 (Sub-492F), filed January 10, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), *and filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AZ, CA, CO, IL, IN, IA, KS, MI, MN, MO, NE, MN, OK, TX, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Pittsburgh, PA, or Dallas, TX.)

MC 109448 (Sub-22F), filed February 8, 1979. Applicant: PARKER TRANSFER CO., a corporation, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating and air-conditioning plants*, (2) *equipment and parts* for the commodities in (1) above, and (3) *materials and supplies* used in the installation of the commodities in (1) and (2) above, between Elyria, OH, on the one hand, and, on the other, points in NC and SC. (Hearing site: Columbus, OH.)

MC 109448 (Sub-23F), filed February 23, 1979. Applicant: PARKER TRANSFER CO., a corporation, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foregin commerce, over irregular routes, transporting *iron and steel articles* (1) from the facilities of United States Steel Corporation, at Lorain and Cleveland, OH, to points in MI, those in IN on and north of U.S. Hwy 40, and those in IL on and north of Interstate Hwy 74, and (2) from the facilities of the United States Steel Corporation, at Gary, IN, to points in OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 109538 (Sub-28F), filed January 26, 1979. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem Street, Eau Claire, WI 54701. Representative: Carl L. Steiner, 39 S. La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, transporting *general commodities* (except those of unusual value, class A explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Logansport, IN, as an off-route point in connection

with carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL.)

NOTE.—To the extent the certificate granted in this proceeding authorizes the transportation of class B explosives, it will expire 5 years from the date of issuance.

MC 109649 (Sub-27F), filed February 21, 1979. Applicant: L. P. TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, in tank vehicles, from Olean, NY, to points in NJ, OH, and PA. (Hearing site: New York, NY.)

MC 110525 (Sub-1288F), filed February 7, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except petrochemicals), in bulk, in tank vehicles, from DeRidder, LA, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

MC 110525 (Sub-1289F), filed February 9, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry caustic soda*, in bulk, in tank vehicles, from Natrium, WV, to points in IN, KY, MD, MI, NY, NC, OH, PA, SC, TN, and VA. (Hearing site: Pittsburgh, PA.)

MC 110667 (Sub-2F), filed December 27, 1978. Applicant: G. B. "BOOTS" SMITH, INC., P.O. Box 1987, Laurel, MS 39440. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, (a) between points in Lea, Eddy, Roosevelt, and Chaves Counties, NM, and in TX, LA, OK, MS, GA, AL, and FL, on the one hand, and, on the other, points in KY, IL, and TN, and (b) between points in KY, IL, and TN. (Hearing site: Jackson, MS.)

MC 111302 (Sub-142F), filed February 8, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products and blends* of corn products, in bulk, in tank vehicles, from Auburndale and Clewiston, FL, to points in AL, GA, and FL. (Hearing site: Memphis, TN.)

MC 111401 (Sub-543F), filed January 22, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *para-dimethoxybenzene*, in bulk, in tank vehicles, from Marinette, WI, to LaPorte, TX. (Hearing site: Dallas or Houston, TX.)

MC 112713 (Sub-240F), filed January 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Dover, OH, and Charlotte, NC, over Interstate Hwy 77, serving Charleston and the junction of Interstate Hwy 77 and Interstate Hwy 81 for the purpose of joinder only, and (2) between Roanoke, VA, and Knoxville, TN, over Interstate Hwy 81, serving the junction of Interstate Hwy 77 and Interstate Hwy 81 for the purpose of joinder only. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 114273 (Sub-522F), filed January 8, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, and *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, (except commodities in bulk), (1) between Chicago, IL, Indianapolis, IN, Versailles and Lexington, KY, Taunton, MA, Ossining, NY, and Nashville, TN, and (2) between the points named in (1) above, on the one hand, and, on the other, points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI, and DC, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities used by Rand McNally & Company. CONDITION: The certificate to be issued shall be limited to 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washingtn, DC.)

MC 114552 (Sub-202F), filed February 6, 1979. Applicant: SENN TRUCKING CO., a corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Sunbury, PA, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, MD, VA, WV, NC, SC, GA, FL, AL, MS, LA, TX, AR, TN, KY, OH, IN, IL, and MI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of construction materials (except in bulk), from the destination points in (1) above to the facilities of The Celotex Corporation, at or near Sunbury, PA. (Hearing site: Tampa, FL, or Washington, DC.)

MC 114569 (Sub-289F), filed February 28, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen foodstuffs and commodities in bulk), from the facilities of RJR Foods, Inc., at or near Cambridge, MD, to Kansas City, KS, Kenner, LA, and Garland and Houston, TX. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114632 (Sub-203F), filed February 8, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *green hides and green salted hides*, from the facilities of John Morrell & Co., at Sioux Falls, SD, and Estherville, IA, to Kansas City, MO. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 114632 (Sub-204F), filed February 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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), (1) from the facilities of Oscar Mayer & Co., Inc., at Perry and Des Moines, IA, to Madison and Jefferson, WI, and points in Cook, Will, Dupage, Kane, Winnebago, Dekalb, and Lake Counties, IL, and (2) from the facilities of Oscar Mayer & Co., Inc., at Madison, WI, to points in ND. (Hearing site: Chicago, IL, or Madison, WI.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-205F), filed February 12, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of the Green Giant Company, at Glencoe, MN, to points in SD, ND, IA, KS, MO, and NE. (Hearing site: Minneapolis, MN, or Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 115092 (Sub-79F), filed February 5, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *scrap paper and waste paper*, from points in CA, to Toledo, OR. (Hearing site: Portland, OR.)

MC 115162 (Sub-450F), filed January 24, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kiln dust*, in bulk, from Mobile, AL, to points in FL, GA, LA, and MS. (Hearing site: Mobile, AL, or Denver, CO.)

MC 115162 (Sub-459F), filed February 5, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and materials, supplies, and equipment* used in the manufacture and distribution of paper and paper products, (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by the Scott Paper Company. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 115311 (Sub-335F), filed January 22, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand* and *gravel*, from points in Marion County, GA, Benton County, TN, and Tuscaloosa County, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 116544 (Sub-165F), filed December 27, 1978. Applicant: ALTRUK FREIGHT SYSTEMS, INC., P.O. Box 10061, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Harry Ross, Jr., 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in FL, to points in AZ, AR, CA, CO, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, SD, TX, UT, WI, and WY. (Hearing site: Tampa or Orlando, FL.)

MC 116763 (Sub-465F), filed January 18, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors, door sections, and accessories and materials* used in the installation and distribution of doors and door sections, (except commodities in bulk, in tank vehicles), from the facilities of Clopay Corporation, Overhead Door Division, at or near Hialeah and Orlando, FL, to points in OH, OK, and VT, and (2) *accessories, equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Miami, FL.)

MC 116763 (Sub-468F), filed January 26, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furnaces, heating and air conditioning units*, and *equipment, parts, and accessories* for furnaces, heating and air conditioning units, (except commodities the transportation of which because of size and weight require the use of special equipment, and commodities in bulk, in tank vehicles), from the facilities of Johnson Corporation, at or near Columbus and Bellevue, OH, to points in FL, GA, NC, and SC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 118142 (Sub-209F), filed February 5, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture of bakery goods, (except commodities in bulk), from the facilities of Pillsbury Company, at or near Springfield, IL, to points in CO. (Hearing site: Minneapolis, MN, or Kansas City, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 119493 (Sub-275F), filed January 15, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic film and plastic articles* (except commodities in bulk), from Little Rock, AR, to points in AL, CO, FL, GA, IL, IN, LA, MS, MO, NM, NC, OK, RI, SC, TN, and TX, and (b) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk) in the reverse direction, and (2) *containers*, from Memphis, TN, to points in IA,

and IL. (Hearing site: Little Rock, AR, or Springfield, MO.)

MC 119741 (Sub-119F), filed November 9, 1978, previously noticed in the FEDERAL REGISTER of January 30, 1979. Applicant: GREEN FIELD TRANSPORT CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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), between the facilities of Dold Foods, Inc., at Wichita, KS, on the one hand, and, on the other, points in IL, IA, MN, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Wichita, KS.)

NOTE.—This republication modifies the restriction.

MC 119767 (Sub-350F), filed January 10, 1979. Applicant: BEAVER TRANSPORT, CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, drug stores, and discount stores (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the conduct of such businesses (except commodities in bulk), between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Chicago, IL.)

MC 121060 (Sub-84F), filed December 22, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington, Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials* (except in bulk), from the facilities of The Flintkote Company, at or near Chicago Heights, IL, to points in AL, GA, MS, NC, SC, KY, LA, TN, AR, and FL; and (2)(a) *materials, equipment, and supplies used in the manufacture or distribution of construction materials* (except commodities in bulk), and (b) *construction materials* (except in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

MC 123502 (Sub-51F), filed February 23, 1979. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *potash muriate, potash sulphate*, and *potassium nitrate*, in bulk, in dump vehicles, from Baltimore, MD, to points in DE, NJ, NY, OH, PA, VA, and WV. (Hearing site: Washington, DC.)

MC 123872 (Sub-98F), filed February 5, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furniture parts, and articles* used in the manufacture of new furniture, (except commodities in bulk, in tank vehicles), from points in AZ, CA, CO, ID, IL, IA, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, to points in NC. (Hearing site: Charlotte, NC, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124078 (Sub-943F), filed February 15, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *liquid corn syrup* and *dry corn starch*, between Hammond, IN, and points in KY, MD, NY, NC, OH, PA, SC, TN, VA, and WV. (Hearing site: Chicago, IL.)

MC 124078 (Sub-944F), filed February 21, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer ingredients*, in bulk, in tank vehicles, from Walnut Ridge, AR, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, TN, and TX. (Hearing site: Birmingham, AL.)

MC 124078 (Sub-945F), filed February 22, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *muriatic acid*, in bulk, in tank vehicles, from Brunswick, GA, to points in NC. (Hearing site: Atlanta, GA.)

MC 124328 (Sub-127F), filed February 14, 1979. Applicant: BRINK'S INC., a Delaware corporation, Thorndal Circle, P.O. Box 1225, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin*, between Denver, CO, Philadelphia, PA, Stateline, Las Vegas, Reno, and Lake Tahoe, NV, and Phoenix, AZ, under contract with General Services Administration, of Washington, DC. (Hearing site: Washington, DC.)

MC 124679 (Sub-99F), filed February 5, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, from the facilities of Universal Foods Corporation, at South San Francisco and Hayward, CA, to points in ID, OR, WA, and UT, (2) *foodstuffs* (except yeast, bread making compounds and bread ingredients), from the facilities of Universal Foods Corporation, at Oakland, CA, to points in ID, OR, WA, and UT, and (3) *foodstuffs*, from the facilities of Universal Foods Corporation, at South San Francisco, Hayward, and Oakland, CA, to Reno, NV. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 124692 (Sub-268F), filed February 9, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic and rubber liquid containment systems*, from Denver, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 124692 (Sub-269F), filed February 15, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and wood products*, from points in MO, AR, LA,

OK, and TX, to those points in the United States in and west of MI, IN, KY, TN, and MS (except AK and HI). (Hearing site: Dallas, TX.)

MC 124692 (Sub-270F), filed February 21, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fencing and fencing materials*, from Denver, CO, to points in KS, NE, NM, OK, AZ, WY, MT, SD, ID, ND, and UT. (Hearing site: Denver, CO.)

MC 124947 (Sub-128F), filed January 10, 1979. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic and styrofoam articles*, between the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) Alexandria, VA, (c) City of Industry, CA, (d) Des Plaines, IL, (e) Fort Worth, TX, (f) Higginsville, MO, (g) Milford, NH, (h) Monroeville and Mt. Sterling, OH, (i) Renton, WA, (j) Shreveport, LA, (k) Stone Mountain, GA, and (l) Tinton Falls, NJ; and (2) *styrofoam beads*, (A) from Fort Worth, TX, to the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) City of Industry, CA, (c) Higginsville, MO, and (d) Shreveport, LA, and (B) from Kobuta, PA, to the facilities of Thompson Industries Company, at or near (a) Phoenix, AZ, (b) Alexandria, VA, (c) City of Industry, CA, (d) Des Plaines, IL, (e) Fort Worth, TX, (f) Higginsville, MO, (g) Milford, NH, (h) Monroeville and Mt. Sterling, OH, (i) Renton, WA, (j) Shreveport, LA, (k) Stone Mountain, GA, and (l) Tinton Falls, NJ. (Hearing site: Phoenix, AZ, or Salt Lake City, UT.)

MC 124988 (Sub-11F), filed February 14, 1979. Applicant: TRUCK SERVICE COMPANY, an Oklahoma corporation, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of tile and bathroom fixtures, (except commodities in bulk, and those which because of size of weight require the use of special equipment), (1) Roseville, CA, on the one hand, and, on the other, those points in the United States in and west of MN, WI, IL, MO, AR, and LA (except AK and HI), (2) between Cloverport and Lewisport, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, WY, CO, and NM (except CT, DE, ME, MD, MA, NH, NJ, NY, PA, and DC), and (3) between Olean, NY, Lansdale and Quakertown, PA, and Jackson, TN, on the one hand, and, on the other, points in the United States (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, VT, VA, WV, and DC), under continuing contracts with American Olean Tile Company, of Lansdale, PA. (Hearing site: Philadelphia, PA.)

MC 125433 (Sub-199F), filed January 22, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and plastic pipe fittings and accessories*, (except commodities in bulk), from the facilities of Nipak, Inc., at or near (1) Abbeville, SC, (2) Corsicana, TX, and (3) Fresno, CA, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or San Francisco, CA.)

MC 125433 (Sub-201F), filed January 24, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sewerage treatment plants and sewerage lift stations*, and (2) *parts and accessories* for the commodities named in (1) above, from Richwood, KY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 125708 (Sub-159F), filed February 7, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe and cable*, and *attachments* for pipe and cable, and (2) *sheet and strip steel*, from the facilities utilized by Triangle PWC, Inc., at Glendale, WV, to points in AL, AR, IA, IN, IL, KS, LA, MN, MI, MS, MO, OH, OK, PA, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Pittsburgh, PA.)

MC 126196 (Sub-16F), filed November 16, 1978. Applicant: BLACHOWSKE TRUCK LINE, INC., R.R. 1, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed and feed ingredients*, (2) *grain products and grain byproducts*, (3) *soybean products and soybean byproducts*, and (4) *seed products and seed byproducts*, (except commodities in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Red Wing, MN, to points in CO, IA, IL, KS, MO, NE, ND, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 126305 (Sub-106F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Sunbury, PA, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 126305 (Sub-107F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Lockland, OH, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 126305 (Sub-109F), filed December 18, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Birming-

ham, AL, to points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 127042 (Sub-247F), filed February 6, 1979. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Glenwood, IA, to points in CA. (Hearing site: Omaha, NE.)

MC 127579 (Sub-16F), filed February 13, 1979. Applicant: HAULMARK TRANSFER, INC., a Delaware corporation, 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles*, from the facilities of Union Camp Corp., at or near Richmond, VA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC. (Hearing site: Washington, DC.)

NOTE.—Dual opertions may be involved in this proceeding.

MC 127602 (Sub-20F), filed February 5, 1979. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 5555 East 58th Street, Commerce City, CO 80022. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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*, 61MCC 209 and 766, (except commodities in bulk, in tank vehicles), (1) from Denver, CO, to points in AZ, CA, and NV, (2) from Fort Morgan, CO, to points in CA, and (3) from Sterling, CO, to points in CA, NV, and UT. (Hearing site: Denver, CO.)

MC 128205 (Sub-60F), filed February 16, 1979. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite clay and potash*, in bulk, from Colony, WY, and points in Lea and Eddy Counties, NM, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128205 (Sub-61F), filed February 21, 1979. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *starch*, in bulk, from the facilities of Clinton Corn Processing Co., at or near Clinton, IA, to points in IL, IN, OH, WI, and MI. (Hearing site: Chicago, IL.)

MC 128205 (Sub-62F), filed February 26, 1979. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in bulk, from Akron, OH, to points in IN, IL, and MI. (Hearing site: Chicago, IL.)

MC 129455 (Sub-38F), filed February 6, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs, toilet preparations, and pet products*, (except commodities in bulk), from Cranbury, Lakewood, and Paramus, NJ, to points in WI, MN, NE, IA, MO, KS, OK, AR, NM, NV, WA, MS, LA, AL, GA (except Atlanta GA), FL (except Jacksonville, FL) NC, SC, and KY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States (except AK and HI), to Cranbury, NJ, under contract in (1) and (2) above, with Carter-Wallace, Inc., of Cranbury, NJ. (Hearing site: New York, NY.)

NOTE.—Dual operations may be involved.

MC 134501(Sub-38F), filed January 23, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, 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, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from Forest City, NC, to points in the United States (except points in Shelby County, TN, and those in AK, HI, WA, OR, ID, MT, CA, NV, UT, WY, CO, AZ, NM, KS, OK, TX, AR, and NC); and (2) *fixtures*, from Forest City, NC, to points in the United States (except AK and HI). (Hearing site: Washington, DC, or Atlanta, GA.)

MC 134501 (Sub-40F), filed January 22, 1979. Applicant: INCORPORATED CARRIERS, LTD., a corporation, P.O. Box 3128, Irving, TX 75061. Representative: T.M. Brown P.O. Box 1540, Edmond, OK. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Tupelo, MS, to points in Cocke, Hamblin, and Knox Counties, TN, and those in AL, AR, FL, GA, MD, SC, VA, WV, and DC. (Hearing site: Jackson, MS, or Dallas, TX.)

MC 134755 (Sub-171F), filed February 8, 1979. 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 to a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *earthenware and stoneware*, from Cambridge, OH, to Chicago, IL, and points in WI and NY. (Hearing site: Kansas City, Mo.)

NOTE.—Dual operations are involved.

MC 134755 (Sub-172F), filed February 15, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles, plastic articles, and rubber and plastic products*, from the facilities of ENTEK Corporation of America, at or near Irving, TX, to points in the United States (except AK and HI), and (2) *material and equipment* used in the manufacture and distribution of rubber and plastic articles (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

NOTE.—Dual operation are involved.

MC 134755 (Sub-173F), filed February 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Kitchens of Sara Lee, at or near Deerfield and Chicago, IL, to points in KS, OK, TX,

AR, LA, MS, and AL. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved.

MC 134978 (Sub-18F), filed February 13, 1979. Applicant: C. P. BELUE, d.b.a. BELUE'S TRUCKING, Route 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prestressed and precast concrete products*, from points in Spartanburg and Greenville Counties, SC, to points in GA, NC, and TN. (Hearing site: Charlotte, NC.)

MC 135070 (Sub-25F), filed December 22, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Pet Inc., Frozen Foods Division, at or near (1) Frankfort, Benton Harbor, and Hart, MI, and (2) South Bend, IN, to points in AZ, AR, CA, CO, KS, LA, MO, NE, NM, OK, and TX. (Hearing site: St. Louis, MO, or Amarillo, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 135078 (Sub-41F), filed February 9, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in KS and NE; and (2) *empty containers for recycling*, and *materials and supplies* used in breweries, from points in KS and NE, to points in Jefferson County, CO. (Hearing site: Denver, CO, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 135874 (Sub-146F), filed December 26, 1978. Applicant: LTL PERISHABLES, INC., a NEBRASKA Corporation, 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of The Pillsbury Company and Fox Deluxe Pizza Company, at or near Joplin and Carthage, MO, to points in ND, SD, NE, CO, KS, MN, IA, MI, WI, IL, IN, KY, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 135874 (Sub-147F), filed December 26, 1978. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Boston, MA, New York, NY, Philadelphia, PA, and Wilmington, DE, to points in AR, IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic destined to the indicated destination points. (Hearing site: Pittsburgh, PA, or New York, NY.)

MC 136008 (Sub-102F), filed February 12, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, Ardmore, OK 73401. Representative: John Tipsword, 8005 S. I-35, Suite 102, Oklahoma City, OK 73149. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *quicklime, hydrated lime, and ground limestone*, from Sallisaw and Marble City, OK, to points in Cass and Bowie Counties, TX, Marion County, IN, Adams, Issaquena and Warren Counties, MS, and those in AR, KS, and LA. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 138469 (Sub-112F), filed February 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages* (except in bulk), from points in CA to the facilities of Lone Star Company, in TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Dallas or Ft. Worth, TX.)

MC 138469 (Sub-113F), filed February 22, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile glass*, from the facilities of Libbey Owens Ford Company, at or near Ottawa, IL, to points in AL, AZ, CA, CO, GA, KS, MO, NE, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 138469 (Sub-114F), filed February 23, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*, (except in bulk, in tank vehicles), from Chicago, IL, New Orleans, LA, New Ulm, MN, Newark, NH, Monroe, WI, and points in CA, and TX, to the facilities of Hirst Imports, Inc., at Oklahoma City, OK, restricted to the transportation of traffic originating at the named origins and destined to the named destination. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 138805 (Sub-5F), filed February 6, 1979. Applicant: S & L SERVICES, INC., R.D. 1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, (except in bulk), from the facilities of American Home Foods, at Milton, PA, to points in CT, NJ, and NY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 138882 (Sub-221F), filed February 13, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), between the facilities of Scott Paper Company, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Mobile, AL.)

MC 138882 (Sub-222F), filed February 16, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *wrapping paper*, from the facilities of Damsky Paper Company, at Birming-

ham, AL, to points in IN, OH, NJ, and WI; and (2) *scrap and waste paper* for recycling, from points in IN, OH, NJ, and WI, to the facilities of Damsky Paper Company, at Birmingham, AL. (Hearing site: Birmingham or Montgomery, AL.)

MC 138882 (Sub-223F), filed February 23, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood and lumber*, from Union Camp Corporation, at or near Chapman, AL, to points in NC and SC. (Hearing site: Birmingham, AL, or Newark, NJ.)

MC 139458 (Sub-6F), filed February 6, 1979. Applicant: RICHNER, INC., Colorado Highway 160 South, P.O. Box 1488, Durango, CO 81301. Representative: J. Albert Sebald, 1700 Western Federal Building, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, mineral feed mixtures, and animal health aid products*, from Denver, CO, to points in San Juan County, NM. (Hearing site: Denver, CO.).

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (1978) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 139482 (Sub-94F), filed February 5, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, from the facilities of Associated Milk Producers, Inc., at or near Paynesville, MN, to points in the United states (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, from points in the United States (except AK and HI), to the facilities of Associated Milk Producers, Inc., at points in IA, MN, and WI. (Hearing site: St. Paul, MN.)

MC 139482 (Sub-95F), filed February 23, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, and food curing, preserving, and seasoning compounds*, (1) from Owensboro and Henderson, KY, to points in AL, AR, GA, IL, IA, KS, LA, MN, MO, MS, NE, NC, ND, OK, SC, SD, TN, TX, WV, and WI, (2) between Owensboro and Henderson, KY and points in CA and NY, and (3) from Merced and North Hollywood, CA, to points in WA, OR, NV, ID, MT, WY, UT, CO, AZ, NM, TX, and NY. (Hearing site: New York, NY.)

MC 139587 (Sub-14F), filed December 26, 1978. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from facilities of The Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin and Carthage, MO, to points in AZ, AR, CA, CO, IL, IN, IA, KS, KY, LA, MI, MN, NE, NM, OK, OR, TN, TX, UT, WA, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 139962 (Sub-3F), filed February 1, 1979. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic bags and plastic film*, from West Hazleton, PA, to points in the United States (except AK and HI), under contract with St. Regis Paper Company, of New York, NY. (Hearing site: New York, NY).

NOTE.—Dual operations are at issue in this proceeding.

MC 139973 (Sub-58F), filed January 22, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), (1) from Hazleton and York, PA, to Frankfort, IN, and points in CA, OR, and WA, and (2) from Frankfort, IN, to points in TX, CA, OR, and WA. (Hearing site: Hartford, CT.)

NOTE.—Dual operations may be involved.

MC 139973 (Sub-59F), filed January 19, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products vehicle body sealer and sound deadener compounds, and filters* (except commodities in bulk, in tank vehicles), from points in Warren County, MS, to points in CO, IA, IL, IN, KS, MN, MO, NE, OH, OK, and WI, and (2) the *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), restricted to the transportation of traffic originating at or destined to the facilities of Quaker State Refining Corporation at points in Warren County, MS. (Hearing site: Pittsburgh, PA.)

NOTE.—Dual operations may be involved.

MC 140665 (Sub-43F), filed February 15, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urvana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive parts and accessories, rubber and rubber products, tires and tire treads, and vehicle wheels*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Portage, Summit, and Stark Counties, OH, on the one hand, and, on the other, points in CA and TX. (Hearing site: Washington, DC, or Columbus, OH.)

MC 140665 (Sub-44F), filed February 15, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting (1) *rust preventing compounds, caulking compounds, petroleum oil and grease, paint, roofing cement, roof coatings*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from Fort Worth, TX, to points in AZ, CA, CO, UT, NV, NM, ID, WY, MT, OR, and WA. (Hearing site: Washington, DC, or Columbus, OH.)

MC 140665 (Sub-45F), filed February 15, 1979. 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, in interstate or foreign com-

merce, over irregular routes, transporting (1) *cleaning compounds, rust preventing compounds, chemicals, electroplating additives, paint products, petroleum products, and nickel,* and (2) *materials and supplies* used in the marketing and distribution of the commodities in (1) above (except commodities in bulk), from Cleveland, OH, to points in AZ, CA, CO, ID, NM, UT, WY, MT, IA, TX, and WA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 140665 (Sub-46F), filed February 23, 1979. 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, in interstate or foreign commerce, 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 the facilities of Trojan Shippers Association, in Miami County, OH, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Columbus, OH, or Washington, DC.)

MC 140829 (Sub-185F), filed February 5, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs,* from the facilities of Heinze, U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AR, NM, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140829 (Sub-187F), filed February 26, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum ingots and zinc alloy ingots,* from the facilities of Aluminum Smelting & Refining Co., and Certified Alloys Company, at or near Maple Heights, OH, to points in IL, IA, KS, MN, MO, NE, OK, TX, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 140829 (Sub-188F), filed February 28, 1979. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Hides,* from Sioux City, IA, to points in CA, IL, KY, ME, MA, MI, MN, NH, NJ, NY, PA, TN, TX, and WI; and (2) *Materials, equipment and supplies* used in the process of tanning, from points in AZ, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, ME, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, OK, PA, SD, TN, TX, VT, VA, WV, and WI, to Sioux City, IA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140986 (Sub-9F), filed January 15, 1979. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulating products,* from Denville, NJ, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture and sale of insulating products (except commodities in bulk), in the reverse direction, under contract with Lamtec Corporation, of Denville, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 141652 (Sub-31F), filed February 12, 1979. Applicant: ZIP TRUCKING, INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except commodities in bulk), from Mobile, AL to points in NM, CO, WY, MT, ID, UT, AZ, NV, CA, OR, and WA. (Hearing site: Mobile, AL, or New Orleans, LA.)

MC 141758 (Sub-3F), filed February 22, 1979. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *protective packaging and containers,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (a) from Minneapolis, MN, to Omaha, NE, and Kokomo, IN, and (b) from Hanging Rock, OH, Omaha, NE, and Baltimore, MD, to Minneapolis, MN, under contract with Lydall Atlantic, Inc., of Manchester, CT. (Hearing site: Hartford, CT, or Washington, DC.)

MC 142062 (Sub-21F), filed February 8, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., Post Office Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or distributed by a manufacturer of animal feed, (except commodities in bulk), from the facilities of Sunshine Mills, Inc., at Red Bay, AL, and Tupelo, MS, to points in IL, IN, KY, and OH, under contract with Sunshine Mills, Inc., of Red Bay, AL. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 142205 (Sub-8F), filed February 9, 1979. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, VA 22075. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *expanded polystyrene foam, expandable polystyrene resin,* and (2) *equipment and supplies* used in the manufacture and packaging of expanded polystyrene foam (except commodities in bulk), between points in the United States in and east of MN, IA, NE, KS, OK, and TX, under contract with Preferred Plastics, Inc., of Sterling, VA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 142508 (Sub-53F), filed February 23, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Schrafft Candy Company, in Middlesex and Suffolk Counties, MA, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Boston, MA, or Washington, DC.)

MC 142508 (Sub-54F), filed February 2, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionary* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from the facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at or near Chicago, IL, to points in MD, NJ, NY, PA, and TX, and (2) from the facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at or near Linden, NJ, to points in CT and MA, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142672 (Sub-50F), filed February 12, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from Alma, Ft. Smith, and Van Buren, AR, Westville, OK, and points in Benton and Washington Counties, AR, to points in CT, DE, IL, IN, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Ft. Smith or Fayetteville, AR.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142672 (Sub-51F), filed February 6, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Wilson Foods Corporation, at or near Albert Lea, MN, and Cedar Rapids, IA, to points in AL, GA, LA, and MS, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 143059 (Sub-57F), filed February 15, 1979. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal buildings*, complete, knocked down, or in sections, and *parts and accessories* for metal buildings, from the facilities of Kirby Building Systems, Inc., at Spanish Fork, UT, Portland, TN, and Houston, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143267 (Sub-49F), filed January 8, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143436 (Sub-21F), filed November 17, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by grocery houses, retail chain department stores, and drug stores, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the facilities of City Haul and Storage, Inc., at or near Indianapolis, IN, to points in IN, restricted to the transportation of traffic destined to the named destinations. (Hearing site: Indianapolis, IN.)

MC 144239 (Sub-6F), filed February 9, 1979. Applicant: J. L. T. CORPORATION, Route 22, White House Station, NJ 08889. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese* in vehicles equipped with mechanical refrigeration, from Lena, WI, to points in the United States (except AK, CT, HI, ME, MD, MA, NJ, NY, PA, RI, VA, and DC), under continuing contract with Frigo Cheese Corporation, of Lena, WI. (Hearing site: Chicago, IL.)

MC 144239 (Sub-7F), filed February 12, 1979. Applicant: J. L. T. CORPORATION, Route 22, White House Station, NJ 08889. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese* in vehicles equipped with mechanical refrigeration, from Superior, NE and Bloomer, WI, to points in IL, IN, NJ, NY, OH, PA, and VT, under continuing contract with Valley Lea Dairies, Inc., of South Bend, IN. (Hearing site: Chicago, IL.)

MC 144303 (Sub-3F), filed January 16, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical equipment and parts*, and (2) *materials and supplies* used in the manufacture and distribution of electrical equipment and parts, (except commodities in bulk, those requiring special equipment, and aerospace craft and aerospace craft parts), between the facilities of General Electric Company, at or near East Flat Rock and Fletcher, NC, on the one hand, and, on the other, points in the United States (except AK and HI, and those points on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the MN-IA State line, then along the MN-IA State line to its junction with the MN-SD State line, then north along the MN-SD State line to the International Boundary line between the United States and Canada), under contract with General Electric Company of Schenectady, NY. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 144412 (Sub-1F), filed February 26, 1979. Applicant: PHOTO EXPRESS, INC., 2300 Higgins Road, Elk Grove Village, IL. 60007. Representative: Stuart T. Edelstein, 134 North LaSalle Street, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corrosive liquid, poisonous liquid, poisonous solid, flammable solid, flammabale liquid, oxidizing material, irritating agent, flammable gas, chemicals, unexposed photo paper, unexposed photo film, photo printing plates, unexposed photo dry plates, glass, photo printing plates, advertising matter, matrix paper, copying, du-*

plicating, and reproducing machines, camera, camera outfits, and magnetic tapes blank, (except commodities in bulk), (1) from Chicago, IL, to points in MA, IN, KY, OH, MS, KS, NE, IA, SD, ND, MN, and WI, and (2) from points in MA, IN, KY, OH, MS, KS, NE, IA, SD, ND, MN, and WI, to Chicago, IL, under contract with Agfa-Gevaert, Inc., of Teterboro, NJ. (Hearing site: Chicago, IL.)

MC 144622 (Sub-33F), filed February 15, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Omaha and Madison, NE, and Worthington, MN, to points in AZ and CA. (Hearing Site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144622 (Sub-34F), filed February 15, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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 Omaha and Madison, NE, and Worthington, MN, to points in CT, DE, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing Site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144688 (Sub-12F), filed February 26, 1979. 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, in interstate or foreign commerce, over irregular routes, transporting *household appliances*, and *materials, equipment, and supplies* used in the manufacture and distribution of household appliances, (except commodities in bulk), from the facilities of General Electric Company, at or near Atlanta, GA, to points in FL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Louisville, KY, or Omaha, NE.)

MC 144876 (Sub-1F), filed January 8, 1979. Applicant: J & R TRUCKING, INC., 300 Second Ave., N.W., Montgomery, MN 56069. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55043. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter*, from Minneapolis, MN, to points in the United States (except AK, HI, and MN), and (2) *materials, equipment, and supplies* used in the manufacture of printed matter, (except commodities in bulk, in tank vehicles), in the reverse direction, under contract with Franchise Mailing Systems, of Montgomery, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 144889 (Sub-1F), filed December 18, 1978, previously published in the FEDERAL REGISTER issue of February 8, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Ave., Hammond, IN 46320. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Union Rolls Corporation, at Valparaiso, IN, the facilities of Midwest Steel Division of National Steel Corp., at Portage, IN, and the facilities of LaSalle Steel Company, at Griffith and Hammond, IN, to those points in IL on and north of U.S. Hwy 36, and (2) *building materials and sound deadening materials*, from the facilities of Globe Industries, Inc., at Lowell and Whiting, IN, to those points in IL on and north of U.S. Hwy 36. (Hearing site: Indianapolis, IN, or Chicago, IL.)

NOTE.—This republication clarifies the authority in part (1) above.

MC 145062 (Sub-2F), filed February 13, 1979. Applicant: DARL DAILY & SONS, INC., Route 3, Kewanna, IN 46939. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, trucks, and parts and accessories* for roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, and trucks, from the facilities of Galbreath, Inc., at or near Winamac, IN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, and trucks, from points in the United States (except AK and HI), to the facilities of Galbreath, Inc., at or near Winamac, IN, under contract with Galbreath, Inc., of Winamac, IN. (Hearing site: Chicago, IL.)

MC 145072 (Sub-6F), filed January 24, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, processed, distributed, and dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), between Memphis, TN and points in LA. (Hearing site: Memphis, TN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145073 (Sub-2F), filed January 25, 1979. Applicant: DANCO TRANSPORT CORP., 260 Northland Boulevard, Suite 216, Cincinnati, OH 45246. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sand and aggregates*, in bulk, in dump vehicles, from points in Hamilton County, OH, to points in Breathitt, Clark, Estill, Fayette, Floyd, Gerrard, Harlan, Jackson, JesSamime, Johnson, Knott, Knox, Laurel, Lee, Letcher, Madison, Magoffin, Montgomery, Owsley, Perry, Powell, Rockcastle, Whitley, Wolfe, and Clay Counties, KY, under contract with Hilltop Basic Resources, Inc., of Cincinnati, OH, and (2) *coal*, in bulk, in dump vehicles, from points in Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Powell, Rockcastle, Rowan, Whitley, and Wolfe Counties, KY, to points in OH and IN, under contract with Danis Coal Corporation of Cincinnati, OH. (Hearing site: Cincinnati or Columbus, OH.)

MC 145102 (Sub-12F), filed February 9, 1979. Applicant: FREYMILLER TRUCKING, INC., Post Office Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese*

and cheese products, from points in MO, IL, IA, and WI, to points in the United States (except AK and HI). (Hearing Site: Madison, WI, or Los Angeles, CA.)

MC 145102 (Sub-13F), filed February 13, 1979. Applicant: FREYMILLER TRUCKING, INC., Post Office Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rough brass castings,* from Fresno, CA, to Dubuque, IA. (Hearing Site: Madison, WI, or Chicago, IL.)

MC 145243 (Sub-3F), filed January 17, 1979. Applicant: REDBIRD DEVELOPMENT, INC., 1018 Whitlock Road, Rochester, NY 14609. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal,* from Rochester and Syracuse, NY, to Danbury, CT, Hagerstown, MD, those points in NJ on and north of NJ Rt. 33, those in OH on and east of U.S. Hwy 23, those in PA on and west of U.S. Hwy 15, and points in NY, under contracts with (a) Roth Steel Corp., of Syracuse, NY, (b) American Bag & Metal Co., Inc. of Syracuse, NY, (c) Lyell Metal Co., Inc. of Rochester, NY, (d) Gold Iron & Metal, Inc., of Rochester, NY, and (e) Klein Metal Co., Inc. of Rochester, NY. (Hearing site: Rochester or Syracuse, NY.)

MC 145948 (Sub-2F), filed February 21, 1979. Applicant: ROY W. and JOANNE GRAHAM, d.b.a. ROY GRAHAM TRUCKING, P.O. Box 936, Lovelock, NV 89419. Representative: Mike Soumbeniotis, 402 North Division Street, P.O. Box 646, Carson City, NV 89701. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pallet shook* and *random length dimensional lumber for pallet construction,* (1) from points in Stanislaus, San Joaquin, Shasta, Modoc, Mendocino, and Sacramento Counties, CA, and Josephine, Jackson, Marion, Klamath, Lane, and Douglas Counties, OR, to Lovelock, NV, and (2) from Lovelock, NV, to Sacramento, CA, under contract with Ro-Mark Pallet, Inc., of Lovelock, NV. (Hearing site: Carson City or Reno, NV.)

MC 146121F, filed January 8, 1979. Applicant: BAY CARTAGE CO., A CORPORATION, P.O. BOX 4363, MUSKEGON, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products,* and (2) *materials* used in the manufacture and distribution of paper and paper products, between the facilities of S. D. Warren Paper Company, a division of Scott Paper Company, at Muskegon, MI, on the one hand, and, on the other, points in PA, NY, NJ, ME, MA, CT, RI, VT, and NH, under contract with S. D. Warren Paper Company, of Muskegon, MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 146322F, filed February 6, 1979. Applicant: METRO LIQUID CARRIERS LTD., 4545 Lavoie Blvd., St-Vincent-de-Paul, Laval, Quebec, Canada H7C 1A1. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid asphalt,* in tank vehicles, from points on the International Boundary line between the United States and Canada, at points in NY and VT, to points in VT and NY. (Hearing Site: Washington, DC, or Albany, NY.)

MC 146338F, filed February 6, 1979. Applicant: DAVID McWILLIAMS and HOWARD WELDON, d.b.a. McWILLIAMS AND WELDON TRUCKING CO., Route 1, Gallatin, MO 64640. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *furnaces, stoves, pipe, brushes, motors, and dampers,* and (b) *parts and accessories* for the commodities in (1)(a) above, from the facilities of Longwood Furnace Corp., at or near Gallatin, MO, to points in CT, IA, MA, ME, MI, MN, NH, OH, PA, and WI; and (2)(a) *dampers, castings, stove pipe, chimneys, air filters, and controls,* and (b) *supplies* used in the manufacture of furnaces and stoves, and (c) *accessories* for furnances and stoves, from points in CT, IL, MA, and OH, to the facilities of Longwood Furnace Corp., at or near Gallatin, MO. (Hearing site: Kansas City, MO.)

PASSENGER AUTHORITY

MC 172 (Sub-9F), filed February 12, 1979. Applicant: ROBERT E. WADE, 1312 Helderberg Avenue, Schenectady, NY 12306. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K street, NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in one-way charter operations, and one-way special operations, (1) from points in Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, and Schoharie Counties, NY, to points in the United states (including AK, excluding HI), restricted to passengers having a subsequent movement by air, water, or rail carrier to point of origin, including supplemental motor carrier service to actual point of origin, and (2) from points in the United States (including AK, excluding HI), to points in Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, and Schoharie Counties, NY, restricted to passengers having a prior movement by air, water, or rail carrier from the named New York counties. (Hearing site: Albany, NY.)

MC 146342F, filed February 12, 1979. Applicant: LANGS BUS LINES LIMITED, 66 Zimmerman Avenue South, Strathroy, ON, Canada N7G 2G7. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the International Boundary line between the United States and Canada, and extending to points in the United States (including AK, excluding HI). (Hearing site: Buffalo, NY.)

BROKER AUTHORITY

MC 130540F, filed December 6, 1978. Applicant: MONTAINEER TOURS, 1704 18th St., Huntington, WV 25701. Representative: Janet S. Heck (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker,* at Huntington, WV, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in special and charter operations, in round-trip sightseeing and pleasure tours by motor common carrier, beginning and ending at points in Cabell, Lincoln, Logan, Mason, McDowell, Mingo, Putnam, Raleigh, Wayne, and Wyoming Counties, WV, Boyd, Carter, Elliott, Floyd, Johnson, Greenup, Lawrence, Lewis, Magoffin, Martin, Mason, Morgan, Pike, and Rowan Counties, KY, and Gallia and Lawrence Counties, OH, and extending to points in the United States (including AK and HI). (Hearing site: Huntington or Charleston, WV.)

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 M.C.C. 291 (1952).

WATER CARRIER AUTHORITY

W 1152 (Sub-5F), filed January 18, 1979. Applicant: UNITED TRANSPORTATION, INC., 1046 First Avenue, Bethel, AK 99559. Representative: Andrew E. Hoge, 3201 "C" Street, Suite 706, Anchorage, AK 99503. To operate as a *common carrier*, by water, by self-propelled vehicles, in interstate or foreign commerce, transporting *general commodities* between Tuluksak, AK, and points north of Tuluksak, AK, including Medfra and Nikolai, AK, on the Kuskokwim River and its tributaries, in seasonal operations from May 15 to October 15. CONDITION: Carrier must submit additional information on energy conservation and energy efficiency as provided in 49 CFR § 1106.5(c) (1-3) and (5-6). See *The Energy Policy and Conservation Act of 1975*, 357 I.C.C. 599, 604 (1978). This additional information must (1) be direct, (2) include a general statement of conclusions, (3) provide a brief description of the basis for any conclusions reached, including the methodology employed, (4) include pertinent statistics where appropriate, and (5) where conclusions cannot be reached explain the reasons for failing to reach conclusions. (Hearing site: Aniak or Bethel, AK.)

[FR Doc. 79-9505 Filed 3-28-79; 8:45 am]

[7035-01-M]

[Notice No. 53]

ASSIGNMENT OF HEARINGS

MARCH 26, 1979.

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.

AB-7 (Sub-65), Stanley E. G. Hilliman, Trustee of the Property Of Chicago, Milwaukee St Paul and Pacific Railroad Company, Debtor Abandonment Near Walworth and Avalon, in Rock and Walworth Counties, now assigned for on April 18, 1979 (3 days), at Council Chamber, Muncipal Building, 4th floor, 18 North Jackson Street, Janesville, WI., is canceled and reassigned at the Walworth Big Foot High School, Walworth, WI.

MC 121683 (Sub-3F), Jackson Express, Inc., now assigned for continued hearing on April 4, 1979 (2 days) at the Ramada Inn, U.S. 45 By-Pass at I-40, Jackson, TN.

MC 66746 (Sub-21F), Shippers Express, Inc., now assigned for continued hearing on April 18, 1979 (2 days), at the Executive Inn, 1471 E. Brooks Road, Memphis, Tennessee.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-9574 Filed 3-28-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2]

MAINE MOTOR RATE BUREAU—AGREEMENT

Section 5a Application 92

MARCH 5, 1979.

The Commission is in receipt of an application in the above proceeding for approval of amendments to the approved agreement.

Filed November 7, 1978 by: Donald E. Martin, Executive Vice President, Maine Motor Rate Bureau, 94 Auburn Street, Portland, Maine 04103; Roland Rice, Suite 501 Perpetual Bldg., 1111 E Street, N.W., Washington, D.C. 20004.

The amendments involve: Changes to comply with Ex Parte 297, 349 ICC 811 and 351 ICC 437.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before April 18, 1979. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-9573 Filed 3-28-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-207; Mar. 27, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., April 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Presentation to be made by the Commuter Airline Association of America regarding views of the commuters on essential air service.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-604-79 Filed 3-27-79; 9:35 am]

[6570-06-M]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-674-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, March 27, 1979.

CHANGES IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting.

Report on Legal Units in Field Offices.

The following matter is deleted from the agenda for the open portion of the meeting.

Freedom of Information Act Appeal No. 78-3-FOIA-176.

The requesting party has withdrawn this appeal.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

In favor of changes: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued March 26, 1979.

[S-609-79 Filed 3-27-79; 2:44 pm]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 30, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting to follow the open meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition for reconsideration of Commission's decision denying renewal to the trustees of the University of Pennsylvania for station WXPN(FM), Philadelphia, Pa., et al.

General—1—WARC 1979 proposals.

General—2—Subpena of FCC records by A.T. & T. in connection with *Litton Systems, Inc.* v. *A.T. & T., et al.*, 76 Civ. 2512 (S.D.N.Y.)

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 26, 1979.

[S-608-79 Filed 3-27-79; 3:30 pm]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 30, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition for Reconsideration of Commission Order for a new standard broadcast station at Lares, Puerto Rico, (Docket No. 20969).

Hearing—2—Request for Commission review of a Review Board Order denying petitioner's late-filed request for an extension of time in which to file exceptions (Docket No. 21379).

Hearing—3—Petition for reconsideration of the designation order in the Omaha, Nebraska/Council Bluffs, Iowa, consolidated AM/FM broadcast proceeding (BC Docket Nos. 78-337 through 78-345).

General—1—Sales cutoff date for 27 MHz walkie-talkies.

General—2—Waiver of use limitation for auditory training device.

Private Radio—1—Exemption of public coast stations from the watch requirement on 156.8 MHz.

Common Carrier—1—Refund Proposal submitted by American Television Relay, Inc.

Common Carrier—2—Application of French Telegraph Cable Company seeking authority to establish facilities for the provision of its authorized international services from the gateways of San Francisco and Washington, D.C. in addition to its New York gateways.

Cable Television—1—Petitions for Reconsideration filed by Clearview Cable TV and Media Statistics, Inc.

Cable Television—2—Petition for waiver filed by Cablecom-General, Inc., Gulfport, Miss.

Cable Television—3—Applications for Review filed by: Post-Newsweek Stations (WFSB-TV), Hartford, Conn., Midwest Television, Inc. (WCIA), Champaign, Ill., and Hubbard Broadcasting, Inc. (WTOG), St. Petersburg, Fla.

Cable Television—4—Application for Review filed by Cable Systems Inc., Boroughs of Oaklyn, Audubon Park, Audubon, Haddon Heights and Collingswood, N.J.

Assignment and Transfer—1—Application for the voluntary transfer of control of Nevada Independent Broadcasting Corp., KVVU-TV, Henderson, Nev., from William H. Hernstadt, et al. to Carson Broadcasting Corp.; and request for the issuance

of a tax certificate in connection with the application, (BTC-780929KP).

Aural—1—Application for a construction permit for a new class A FM station filed by Stearns County Broadcasting Co., Albany, Minn., BPH-10,396.

Aural—2—Application of Millard V. Oakley for a new AM broadcast station in Dayton, Tenn., and an informal objection thereto.

Aural—3—Seven applications for the facilities of KROQ, Burbank, Calif., and KROQ-FM, Pasadena, Calif., et al.

Broadcast—1—Request for partial waiver of prime time access rule filed by UHF station WUHQ-TV, Battle Creek, Mich. (in Grand Rapids-Kalamazoo Creek market).

Complaints and Compliance—1—Application for review filed by Mr. Friedrich P. Berg, Corresponding Secretary, the Ridgewood Group, of the Broadcast Bureau's ruling denying his complaint filed against WNBC-TV, New York, N.Y.

Complaints and Compliance—2—Application for review of a letter by the Broadcast Bureau stating that a proposed 2½ hour auction program would be considered as commercial time.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 26, 1979.

[S-607-79 Filed 3-27-79; 2:30 pm]

[6720-01-M]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 59, page 18136, March 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., March 29, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has seen withdrawn from the agenda for the open meeting: Application for conversion from Federal to State charter and Subsequent merger into a Mutual Savings Bank: Arlington Federal Savings and Loan Association, Baltimore, Md., into Central Savings Bank, Baltimore, Md.

The following item has been added to the agenda for the open meeting: Application by Beneficial Corp. to acquire First Texas Financial Corp.

No. 221, March 26, 1979.

[S-605-79 Filed 3-27-79; 10:11 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m. April 4, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 10028-9: Modification of a cargo revenue pooling agreement in the Brazil/U.S. Atlantic trade to include revenues dervied from transshipments.

2. Neutral Body Policing of Independent Liner Operators in the United States Foreign Commerce: Advance Notice of Proposed Rulemaking.1

3. Appeal from staff denial of special permission application of Mediterranean North Pacific Coast Freight Conference.

4. Docket No. 78-51: Agreement No. 10349-A cargo Revenue Pooling and Sailing Agreemnent, Argentina/U.S. Atlantic Trade—Requests for depositions of persons located in foreign countries.

Portions closed to the public:

1. Agreement No. 9929-3: Petition for reconsideration of Commission order on remand.

2. Docket No. 76-11: In Re Agreement Nos. 150 DR-7 and 3103 DR-7—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

S-603-79 Filed 3-27-79; 9:35 am]

[7600-01-M]

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 17637, March 22, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: At 1 p.m., March 29, 1979.

CHANGES IN THE MEETING: Rescheduled for 2 p.m. on same date as above (March 29, 1979).

Dated: March 26, 1979.

[S-602-79 Filed 3-27-79; 9:35 am]

[6770-01-M]

8

FOREIGN CLAIMS SETTLEMENT COMMISSION.

F.C.S.C. Meeting Notice No. 3-79

NOTICE OF MEETINGS

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, April 4, 1979, at 10:30 a.m.; Wednesday, April 11, 1979, at 10:30 a.m.; Wednesday, April 18, 1979, at 10:30 a.m.; Wednesday, April 25, 1979, at 10:30 a.m., Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on March 23, 1979.

FRANCIS T. MASTERSON,
Executive Director.

[S-611-79 Filed 3-27-79; 3:50 pm]

[7035-01-M]

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 3, 1979.

PLACE: Hearing Room C, Interstate Commerce Commission Building, 12th and Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Regular Conference.

MATTER TO BE CONSIDERED: New procedures in intrastate rate cases.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, Telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-610-79 Filed 3-27-79; 3:51 pm]

[4910-58-M]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 10 a.m., Thursday, April 5, 1979 [NM-79-13].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first four items on the agenda will be open to the public; the fifth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Pacific Southwest Airways, Inc., Boeing 727-214, N533PS, and Gibbs Flight Center, Inc., Cessna 172, N7711G, San Diego, Calif., September 25, 1978.
2. *Marine Accident Report*—Capsizing and sinking of the self-elevating mobile offshore drilling unit OCEAN EXPRESS near Port O'Connor, Texas, April 15, 1976.
3. *Aircraft Accident Report*—Antilles Air Boats, Inc., Grumman G21A, N7777V, St. Thomas, V.I., September 2, 1978.
4. *Recommendation* to Kansas Turnpike Authority re accident in Lawrence, Kans., November 2, 1978.
5. *Opinion and Order*—Petition off Gutshall, Dkt. SM-1894; disposition of peitioner's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-606-79 Filed 3-27-79; 2:58 pm]

federal register

THURSDAY, MARCH 29, 1979

PART II



DEPARTMENT OF THE TREASURY

■

EFFECTS OF OIL IMPORTS ON NATIONAL SECURITY

Publication of Report of Investigation

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

EFFECTS OF OIL IMPORTS ON NATIONAL SECURITY

Publication of Report of Investigation To Determine the Effects on the National Security of Oil Imports

Notice is hereby given pursuant to section 232(d) of the Trade Expansion Act of 1862, as amended, 19 U.S.C. 1962, and 31 CFR 9.9, of the publication of a report by the Secretary of the Treasury to the President of an investigation under section 232(b) of the same Act. The Secretary of the Treasury initiated this investigation on March 15, 1978, to determine the effects on the national security of imports of crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar (referred to collectively as "oil"). The report to the President, dated March 14, 1979, states that oil imports are entering the United States in such quantities and under such circumstances as to threaten to impair the national security. Accordingly, the report recommends that action be taken to reduce domestic oil consumption and increase domestic production of oil and other sources of energy, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these goals. The report notes that specific recommendations on achieving these conservation and production objectives are being evaluated in an interagency group charged with presenting the President with policy options for his consideration.

The Secretary's report to the President is based on the investigation conducted by the General Counsel of the Treasury Department. The General Counsel's report of that investigation examines the nation's growing dependence on imported oil, particularly since 1975, when Secretary of the Treasury Simon reported to President Ford that oil imports threatened to impair the national security, and concludes that the threat to the national security is greater now than before.

During the course of his investigation, the General Counsel solicited (see 44 FR 7264 (1979)) and considered comments from the public as well as from a number of agencies. The agencies' comments are appended to the General Counsel's report. The Secretary's report to the President and the General Counsel's report are published herein and copies thereof are available through the Office of Public Affairs, Department of the Treasury, by contacting the individual listed at the conclusion of this notice. Comments received from other agencies and the public in the course of this investigation are available for public reading and copying at the Library of the Treasury Department, Room 5030, Main Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C.

The principal authors of these reports were Leonard E. Santos, Dell V. Perry, William E. Steger, Cathryn A. Goddard, Ernest F. Chase, and Barry S. Newman of the Office of the Secretary of the Treasury. Contact Alvin M. Hattal, (202) 566-8381.

Dated: March 21, 1979.

ROBERT H. MUNDHEIM,
General Counsel.

MEMORANDUM FOR THE PRESIDENT FROM THE SECRETARY OF THE TREASURY

SUBJECT: REPORT OF SECTION 232 INVESTIGATION ON OIL IMPORTS

MARCH 14, 1979.

I have completed the investigation I initiated last year pursuant to Section 232 of the Trade Expansion Act of 1962 to determine whether oil* imports are entering the United States in such quantities or under such circumstances as to threaten to impair the national security. I am transmitting herewith a detailed report of our investigation.

On January 14, 1975, acting pursuant to the same Section 232 authority, Treasury Secretary Simon found that the nation's dependence on imported oil was so great as to threaten to impair the national security and recommended to President Ford that action be taken to remove the threat. That conclusion is, unfortunately, even more valid today.

The nation's dependence on imported oil has increased dramatically since the 1975 finding. At the time of Secretary Simon's finding, 37 percent of United States demand for oil was supplied from foreign sources. In 1978, oil imports accounted for 45 percent of oil consumed in the United States. During that same period, the nation become more depandent on oil to meet overall energy demand, and oil imports increasingly originated in a small number of distant foreign countries. The increasing dependence on foreign sources of oil is a consequence of both rising levels of consumption and declining domestic production.

This growing reliance on oil imports has important consequences for the nation's defense and economic welfare. Because so much of the oil used in the United States originates thousands of miles away, supplies are vulnerable to interruption from a variety of causes. Recent developments in Iran have dramatized the consequences of this excessive dependence of foreign sources of petroleum. Furthermore, the rising level of oil imports adversely affects our balance of trade and our efforts to strengthen the dollar; in 1978, outflows of dollars for our oil imports amounted to $42 billion, $15 billion more than in 1975 and offsetting much of the rise in our exports of industrial and farm products.

The continuing threat to the national security which our investigation has identified requires that we take vigorous action at this time to reduce consumption and increase domestic production of oil and other sources of energy. To the extent feasible without impairing other national objectives, we must encourage additional domestic production of oil and other sources of energy, and the efficient use of our energy supplies, by providing appropriate incentives and eliminating programs and regulations which inhibit the achievement of these important goals.

Specific recommendations on achieving these conservation and production objectives are being evaluated by an interagency group in which Treasury is participating. The committee's work will be finished shortly and specific policy options will be formulated for your consideration.

W. MICHAEL BLUMENTHAL.

REPORT OF INVESTIGATION UNDER SECTION 232 OF THE TRADE EXPANSION ACT, 19 U.S.C. 1862, AS AMENDED

I. INTRODUCTION

1. Background.

Section 232(b) of the Trade Expansion Act of 1962 authorizes the President to take action to adjust imports of crude oil, crude oil derivatives and products and related similar products derived from natural gas and coal tar (hereinafter referred to collectively as "oil") if the Secretary of the Treasury finds that such commodities are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

Previous findings that oil imports threaten to impair the national security were made in 1959 and 1975.[1] Those findings have served as the basis for programs to control oil imports, first by means of quotas and later through use of license fees.[2] The use of license fees was upheld by the United States Supreme Court in an opinion which emphasized the breadth of the remedies permitted under Section 232(b).[3] On its face, Section 232(b) authorizes any remedy reasonably related to the adjustment in the importation of a particular article.

*The term "oil", as used in this report, means crude oil, crude oil derivatives and products, and related products derived from natural gas and coal tar.

This investigation was initiated by the Secretary of the Treasury on March 15, 1978 (see Appendix A—Order Initiating Investigation) to examine developments since 1975 and to determine:

1. Whether increased reliance (since 1975) on oil imports from a small number of distant foreign suppliers continues to threaten to impair the national security;

2. Whether the monetary repercussions accompanying continued large payments outflows for oil imports threaten to impair the national security.

At the time he initiated the investigation, the Secretary of the Treasury stated that the investigation was to be undertaken for contingency purposes only and that it should be conducted on a confidential basis. Initially, in the Secretary's judgment, national security interests required that public comments not be invited. Accordingly, the Secretary requested the General Counsel to proceed immediately with the investigation. Information and advice were solicited from the following agencies in the course of the investigation: Central Intelligence Agency, Department of Defense, Department of Energy, National Security Council, Federal Reserve Board, Department of State, Council of Economic Advisers, Department of Commerce, Department of Labor, Department of the Interior, and Department of Transportation. On February 2, 1979, the Secretary invited comments from the public, having reviewed his earlier determination and concluded that it was then appropriate to issue the invitation. None of the agency submissions or public comments challenged the proposition that oil imports threaten to impair the national security. The overwhelming conclusion of these submissions and comments is that such a threat continues to exist.

2. Conclusion.

The conclusion of this report is that oil continues to be imported in such quantities and under such circumstances as to threaten to impair the national security. This threat arises both from increased reliance on a small number of foreign oil suppliers and the monetary repercussions accompanying continued large payments outflows for imported oil. Unlike temporary crises in the nation's ability to satisfy its oil import needs, the national security threat arising from growing reliance on imported oil has its gravest implications in the long-term.

II. INCREASED RELIANCE ON OIL IMPORTS FROM A RELATIVELY SMALL NUMBER OF FOREIGN SUPPLIERS THREATENS TO IMPAIR THE NATIONAL SECURITY

1. A threat to the national security has previously been established.

The 1959 finding. In 1959, the President's Special Committee to Investigate Crude Oil Imports determined that oil imports constituted a threat to the national security.[4] The Committee concluded that, in order to have enough oil to meet the nation's security needs, "there must be a limitation on imports that will insure a proper balance between imports and domestic production . . . [Absent that balance,] in an emergency the nation would be confronted with all of the liabilities inherent in a static, as contrasted with a dynamic, mobilization base, including the delays, waste and inefficiency that accompany efforts to stengthen any part of the mobilization base on a 'crash' basis." [5]

The 1975 finding. In 1975 the Secretary of the Treasury found that oil imports threatened to impair the national security. That investigation considered all factors relevant to a finding under Section 232(b), including the relationship of the nation's economic welfare to its national security. The Treasury report concluded that oil imports should be reduced in order to "wean ourselves away from a dependence upon imported oil, conserve our use of petroleum, promote the use of alternative sources of energy, and at least in part, stanch the outflow of payments resulting from our purchases of this commodity." [6]

Congressional declarations. In August 1977, Congress, in enacting Title I of the Department of Energy Organization Act, declared that the "energy shortage and our increasing dependence on foreign energy supplies present a serious threat to the national security of the United States." [7] This declaration echoed an earlier Congressional finding in section 2 of the Emergency Petroleum Allocation Act of 1973 that oil shortages will create severe economic dislocations and hardships which constitute a national energy crisis threatening the public health, safety and welfare.[8] More recently, section 102 of the National Energy Conservation Policy Act of 1978 emphasized the need to stem the nation's increasing reliance on imported oil and the vulnerability which accompanies such reliance.[9]

2. The nation has increased its dependency on a small number of distant foreign oil suppliers.

Since 1975, United States oil imports have increased as a share of oil consumed and of all energy consumed in the United States. In addition, because oil imports increasingly originate from a small number of foreign and mostly distant sources, they have become more vulnerable to interruption.

Level of oil imports. Oil imports have risen steadily over the past 20 years.[10]

1959	1.8 mmbpd (million barrels per day).
1975	6.5 mmbpd.
1978	8.7 mmbpd (including the Strategic Petroleum Reserve)

Over the same period, oil imports have increased both as a share of domestic demand for oil.[11]

1959	18%
1975	39%
1978	45%

and as a share of demand for energy of all types.[12]

1959	9%
1975	19%
1978	23%

A growing share of our oil imports come from OPEC nations: [13]

1959	70%
1975	78%
1978	83%

Oil imports averaged 8.7 mmbpd during 1978—down 6 percent from 1977.[14] However, this decline resulted from a rundown of domestic inventories and a one-time buildup of Alaskan production which more than offset the 1.6 percent rise in domestic oil demand and the 4 percent decline from 1977 in the crude oil production of the lower 48 States.[15] Alaskan oil, which began to flow in June 1977, approached the capacity pipeline flow of 1.2 mmbpd in the second quarter of 1978.[16]

Sources of oil imports. In the early 1960's, Venezuela was the largest external supplier of oil to the United States, providing about 46 percent of total oil imports.[17] Later Canada (non-OPEC) became a large supplier, accounting for about 22 percent of imports by 1970.[18] However, imports from Venezuela have declined sharply as a percentage of total imports, and Canada has adopted procedures which could virtually phase out all light crude oil exports to the United States by 1981.[19] As imports from these traditional Western Hemisphere suppliers have receded in significance, there has been a corresponding rise of the nation's reliance on Eastern Hemisphere sources, particularly those in the Middle East. The proportion of oil imports originating in Middle Eastern countries was: [20]

1959	21%
1975	27%
1978	34%

For the next decade, the United States will probably continue to rely heavily on Middle Eastern supply sources. Although recent developments in Iran have diminished expectations for continuing the previous levels of production in that country, in all likelihood, U.S. dependence on other Middle Eastern producers will increase further.[21]

As oil production in the United Kingdom and Norwegian sectors of

the North Sea develops, some demand for Middle Eastern oil will shift to North Sea oil. However, the changeover is likely to have its greatest effect on the European markets, with substantial U.S. reliance on Middle Eastern oil remaining relatively undiminished. The expanding production in Mexico, for which the United States forms a natural market,[22] offers another alternative to imported Middle Eastern oil. Nevertheless, through 1985, U.S. dependence on Middle Eastern producers is not expected to be reduced significantly because of the development lead time required.

Value of oil imports. Not only has the volume of U.S. oil imports expanded, but the landed price of foreign petroleum has jumped sharply as well. For example, the average unit value (f.a.s.) of U.S. petroleum imports has risen as follows: [23]

1959	$2.26 pb (per barrel).
1975	$11.45 pb.
1978	$13.28 pb.

As a consequence, the nation's annual oil import bill has grown dramatically over the past 20 years: [24]

1959	$1.5 billion.
1975	$27.0 billion.
1978	$42.3 billion.

The cost of oil imports may be expected to increase further in 1979 as a result of the OPEC price increase of 14.5 percent—fourth quarter to fourth quarter—agreed upon at the meeting of OPEC ministers in December. Recent interruptions in Iranian production have put upward pressure on market prices and have prompted many oil producers to seek to obtain price increases beyond those scheduled in the December OPEC price decision.

3. The risk of detrimental interruption has not lessened.

Risk of interruption. As noted above, the U.S. is heavily dependent for its imported oil on a small number of distant countries. These countries are a diverse group of nations with different resources and goals. While, in the main, the U.S. shares common interests with them, there are also some areas of political disagreement. In 1973, some of these countries demonstrated their willingness to use oil as a political weapon. For the first time in history, this country's access to major petroleum supplies was cut off by an embargo, as a result of dissatisfaction with our foreign policy. This action was prompted by a major military conflict in the Middle East. Although hostilities have generally subsided, the underlying political dispute has not yet been resolved. Despite the intervening years and strengthened relations with Middle Eastern nations, the United States cannot discount the possibility of another political disagreement with the nations on which it depends for its oil supplies.

In addition, recent developments in Iran have highlighted the potential for internal domestic upheavals to disrupt oil supplies. As a result of the events beginning with a strike in October 1978, Iranian exports until very recently have been limited to small amounts of heavy residual oil not usable within Iran. Although Iranian oil exports have been renewed, the Iranian government has stated its intention to limit oil exports to 3 mmbpd, well below the 5 mmbpd level that prevailed before the interruptions. Even though Iranian oil accounted for only 5 percent of U.S. oil consumption prior to December 1978, Secretary Schlesinger recently indicated that the continued interruption of even this relatively less important U.S. supply source could require the U.S. to consider mandatory conservation measures. This assertion serves to emphasize, as the Central Intelligence Agency has noted, the vulnerability of the U.S. economy to supply disruption. See Appendix B—Compilation of Agency Submissions.

Furthermore, other types of supply interruption are possible. For example, six of the Middle Eastern nations which are major suppliers of oil to the U.S. ship their oil through the narrow Strait of Hormuz at the southern end of the Arabian Gulf.[25] This geographical situation alone renders this oil supply route vulnerable. Moreover, the producing nations themselves face a risk of terrorist action with attendant harm to oil production and shipment facilities. Indeed, the Central Intelligence Agency has stated:

> There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.
>
> Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

See Appendix B—Compilation of Agency Submissions.

According to the Defense Department:

> The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqayq fires in May and June 1977, caused by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

See Appendix B—Compilation of Agency Submissions.

In short, the overall potential for an embargo or other interruption has not decreased since the embargo of 1973, nor since the 1975 finding by the Secretary of the Treasury that such a risk threatened to impair the national security. On the contrary, developments in Iran demonstrate that U.S. oil imports can be seriously affected by internal disruptions in a country even if it is not a primary supplier of the U.S. oil imports. Disruption in any source of supply serves to concentrate U.S. reliance on the other supply sources and, at a minimum, leads to unscheduled price increases, thereby increasing the nation's vulnerability.

Strategic petroleum reserve only recently initiated. Congress has ordered the establishment of a Strategic Petroleum Reserve (SPR) [26] to reduce the impact of a potential interruption. However, the reserve currently contains only about 77 million barrels, or 7.7 percent of the one billion barrel goal proposed by the Department of Energy for 1985.[27]

International Energy Agency Sharing Plan gives limited protection. To minimize the effect on member countries of oil shortages created by an embargo or other circumstances, the United States and the 19 other International Energy Agency (IEA) member countries have agreed to an International Energy Program under which allocation of oil and mandatory demand and restraint measures can be triggered when the group as a whole sustains a 7 percent reduction in oil import supplies or when any one country (or group of countries) sustains a 7 percent reduction in its oil supplies.[28] Each country is required to have demand restraint mechanisms in place that are capable of reducing its oil consumption by 7 percent—about three and one half mmbpd for the IEA countries as a group based on IEA estimates of probable 1980 consumption. The supply sharing mechanism is coupled to the activation of the demand restraint program. In addition, countries have the obligation to build stocks equivalent to 60 days of imports.

The interruption of Iranian oil exports has not led to activation of the IEA oil-sharing agreement. Nevertheless, IEA member countries are greatly concerned regarding the current situation in the oil market, which has brought severe pressure on prices. Accordingly, the IEA Governing Board,

meeting on March 1-2, 1979, agreed that IEA countries would promptly reduce their demand for oil on the world market by about 2 mmbpd. This amount corresponds to about 5 percent of IEA consumption. The share of the U.S. in this reduction would be just under one mmbpd.

The degree of protection afforded by the combined SPR and IEA sharing plans depends on a number of variables, including the amount of oil stored at the time of any interruption, as well as the magnitude and length of the interruption. The current level of protection afforded by the existing SPR and contingency conservation plans is limited. Because of the relatively small inventory in the SPR at the present time, conservation contingency plans take on added significance as a means of meeting our March 2 commitment to the IEA or, more generally, our potential commitment under the provisions of the IEA. Besides measures to reduce oil consumption by encouraging the use of natural gas, which is temporarily in surplus, and by shifting to non-oil generated electric power, the Administration has submitted to Congress for approval three contingency conservation plans. These three conservation plans, which were submitted on March 1, are estimated to save as much as 614,000 bpd. It is anticipated that these demand restraint plans will play a significant part in achieving the consumption reduction agreed upon on March 2 or in meeting our obligations in case of activation of the international sharing plans.

Impact of the National Energy Act on oil imports. It is estimated the National Energy Act will save between 2.4 and 3.0 mmbpd of oil imports by 1985. Sizeable savings will occur from the displacement of imported oil by additional supplies of domestically produced natural gas. This potential displacement is estimated to be in excess of one mmbpd. Increased gas supplies are anticipated to result primarily from provisions in the National Energy Act which raise the prices of natural gas and permit tapping supplies, formerly available only to the intrastate market, for the interstate market.

At the beginning of 1979 there were variously estimated to be between 1 and 1.4 trillion cubic feet of additional natural gas supplies immediately available as a result of the National Energy Act.[29] If these supplies were promptly put to use, they could displace over 500,000 bpd of imported oil for the next two or three years. However, there is uncertainty as to how much oil consuming equipment can be physically converted to use the additional gas and whether or not such conversion will be practical for the short term.

In summary, while the provisions of the National Energy Act are estimated to reduce oil imports by about 2.5 mmbpd by 1985, for the immediate future, reductions in oil use will be modest and will not significantly lessen U.S. vulnerability to disruptions in foreign supply.

Limited possibilities for the development of alternative energy sources. Despite national programs to encourage use of alternative energy sources, immediate savings from conversion to other fuels are limited by the time required to change existing energy-using capital stock, *i.e.*, industrial equipment, buildings, and transportation vehicles. For example, the conversion of industrial plants and electric utilities from oil and gas use to coal is slow, costly and constrained by environmental considerations. Thus, despite the recent emphasis on shifting the source of energy in major oilburning installations, the use of oil in utility plants increased from 396 mmb in 1971 to 624 mmb in 1977.[30]

In the last decade, nuclear generating capability has grown, but nuclear power's share of domestic energy production remains small. The power generated from nuclear plants increased from 38.1 billion kilowatt hours in 1971 to 250.9 billion kilowatt hours in 1977.[31] Even so, nuclear sources provide only about 4 percent of total energy production.[32] As the United States' nuclear capability increases, demand for oil and gas by utilities may decline, but at a slow rate. In addition, the lead time currently required for placing a nuclear power plant in operation is 10-12 years.[33] Overall, the provisions of the National Energy Plan anticipated that nuclear power would reach an oil equivalent of 3.8 mmbpd by 1985, up from 1.0 mmbpd oil equivalent in 1976.[34] However, more recent projections of nuclear power generation provided by the Energy Information Administration to Congress are somewhat lower.[35]

To date, renewable sources of energy, such as solar, wind, and geothermal, have not made significant contributions as substitutes for oil and gas. The 1977 National Energy Plan forecasts that these domestic energy supplies will increase from 1.5 mmbpd of oil equivalent in 1976 to 1.7 mmbpd oil equivalent in 1985.[36] This increase of only 200,000 bpd of oil equivalent indicates that any significant energy contribution from such new sources will not take place until after 1985.

Expanded domestic production hampered under current conditions. Domestic production of crude oil has declined, from a peak of 9.6 mmbpd in 1970 to 8.7 mmbpd in 1978, despite the addition of production from the Alaskan North Slope.[37] Production from Alaska began in 1977 and by 1978 reached the current design capacity of the Alaskan pipeline of 1.2 mmbpd. Absent further incentives for the sale of Alaskan crude, production is estimated to remain at this level offering no further offset to the decline in production in the lower 48 states.

Of particular concern is the rapid decline of lower tier "old" oil production under the current pricing structure. The production of old oil is important because it constituted over 50 percent of domestic production at the beginning of 1977.[38]

Production of old oil was projected to decline from 3.5 mmbpd in 1978 to 1.95 mmbpd by1985, an annual decline rate of 8 percent over the seven year period.[39] However, Treasury studies have placed the actual annual decline rate for old oil at over 16 percent for the 12 month period beginning in December 1977. Decline rates are greatly influenced by the economics of production which may account for the abnormally high rates experienced in recent months.

Proven domestic reserves of crude oil have declined steadily from 39 billion barrels in 1970 (at the time of the Alaskan North Slope discovery) to an estimated 29.5 billion barrels at the end of 1977.[40] Moreover, subsequent to the discovery of oil at Prudhoe Bay, the new reserves added each year have not equaled annual production. The outlook for discovering significant quantities of new domestic petroleum reserves is uncertain from a geological standpoint.[41] Undiscovered oil resources in the U.S. are estimated to range from 46 to 143 billion barrels with a median amount of roughly three times the current proven reserves.[42] New reserves can only be proven by drillings. In addition, there is a significant potential for enhanced recovery from known deposits of oil.

Domestic production from existing wells has been hampered by price regulations that discourage some categories of marginal production. There are indications that at $15 per barrel (1976 $), enhanced production may amount to as much as 1.5 mmbpd by 1990.[43] In addition, the entitlements program, designed to equalize the price of imported and domestic crude oil to domestic refiners, has in fact encouraged oil consumption by indirectly subsidizing purchasers of foreign oil.[44]

Under the current pricing structure, there appears little prospect for substantially increasing oil production or even stemming the natural decline of old oil. On the other side of the supply-demand system, conservation measures taken to date have not been sufficient to slow the rise in demand adquately. Thus, the nation's current prospects of reducing its vulnerability

to interruptions in oil imports are not promising.

4. The impression of vulnerability created by the nation's seeming inability to control its increasing dependence on oil imports directly affects the nation's defense and foreign policy.

The United States' increasing reliance on foreign oil is perceived by its industrialized allies, the developing world, the Soviet bloc and the oil exporting countries themselves both as a sign of weakness and of a lack of internationally cooperative behavior. This perception works to the nation's disadvantage in terms of its national defense and its foreign policy.

National Defense. The Department of Defense has described the national defense impact of the nation's dependence on imported oil:

> The threatened impairment of the national security must be assessed not only in terms of the domestic capability to support national defense needs * * * but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import * * * [dependency] on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

See Appendix B—Compilation of Agency Submissions.

The State Department concurred that dependence impairs the national defense:

> Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

See Appendix B—Compilation of Agency Submissions.

Foreign policy. The dependence of the nation on imported oil also adversely affects its ability to achieve its foreign policy objectives and fulfill its international obligations. Other countries may doubt this country's resolve to fulfill political commitments or respond to challenges when the contingencies to which it may have to respond could affect the availability of oil. Respect for the United States' ability to take charge of its energy problem is critical to maintaining a position of world leadership. The State Department reported:

> It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political . . . Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

See Appendix B—Compilation of Agency Submissions.

5. Conclusion. The nation's current and projected dependence on foreign oil is appreciably greater than when past findings determined that dependence on foreign oil threatened the national security. The risk of interruption has not significantly lessened, and measures to reduce substantially the impact of interruption are not yet in place. The threat to the national security is thus greater now than at any time in the past.

III. THE MONETARY REPERCUSSIONS OF EXCESSIVE DEPENDENCE ON IMPORTED OIL THREATEN TO IMPAIR THE NATIONAL SECURITY [45]

1. The efforts of the U.S. to strengthen the dollar at home and abroad are being hampered by the excessive dependence on imported oil.

Efforts to strengthen the dollar. Although the United States is pursuing a broad array of policies to establish the fundamental economic conditions for a strong dollar, these efforts are being hampered by excessive dependence on imported oil. A program of monetary and fiscal restraint, supplemented by voluntary wage-price programs, is being implemented to bring inflation down and achieve a more sustainable economic expansion. This will contribute to a substantial reduction in the U.S. trade and current account deficits, which is a prerequisite for the maintenance of a strong and stable dollar. A new export promotion program is expected to help increase exports further. However, curbing this country's reliance on imported oil is essential to any major and lasting improvement. As pointed out in a previous section, the actual cost of annual oil imports increased nearly thirtyfold from 1959 to 1978, from $1.5 billion to about $42 billion. In 1978, oil imports represented roughly 25 percent of the total imports of the United States and amounted to about one and a quarter times the total merchandise trade deficit.

In 1979, oil import costs are expected to rise substantially. The December 1978 OPEC price hike alone will add about $4 billion to the cost of U.S. oil imports during 1979 and even more in 1980. The disruption in world supply patterns due to political developments in Iran has already led to some further price rises and created the risk of substantial increases.

The continuing excessive dependence on imported oil is making it more difficult to achieve U.S. economic objectives. The rising price of imported oil increases inflationary pressures by directly raising costs and by heightening inflationary expectations. Uncertainties about supplies and costs hamper confidence and inhibit investment required for non-inflationary growth. The growth of oil imports puts greater adjustment burdens on other elements of the U.S. balance of payments since it greatly increases the need for expansion of exports or decreases in other imports. With reduced dependence on oil imports, the U.S. economy could maintain appropriate levels of growth and grow faster with a lower inflation rate and a stronger dollar.

Exchange market perceptions. Because of its impact on the U.S. trade and current account deficits, excessive and growing U.S. dependence on oil imports increases the danger of reduced confidence in the dollar and makes the dollar more vulnerable to downward pressures in the foreign exchange market.

If downward pressures on the dollar were to become so severe as to damage world confidence in the dollar, the national security of the United States would be impaired. The dollar serves as the principal international currency for the world economy. The dominant share of world trade is denominated in dollars. About three-fourths of all medium- and long-term borrowing in international capital markets is in dollars. The IMF indicates that nearly 80 percent of official foreign currency reserves held by foreign central banks is in dollars. Thus, loss of confidence in the dollar, if widespread, would be likely to precipitate sudden and large-scale international capital flows in ways which would be disruptive to the banking system and world financial markets. The danger of resort to restrictive measures which would jeopardize the open trade and payments system would be greatly increased.

As the Federal Reserve Board has indicated:

> Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby be heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

See Appendix B—Compilation of Agency Submissions.

Chairman Miller of the Federal Reserve Board has noted the relationship between the exchange value of the dollar and the health of the U.S. economy:

> At current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil

prices. These in turn foster conditions that could lead to lower domestic economic activity and higher unemployment.

See Appendix B—Compliation of Agency Submissions.

Moreover, the world associates a strong currency with a strong country. The United States' relations with other nations and its ability to exercise leadership in political and military affairs are closely linked to confidence in the dollar.

According to the Department of State:

> Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy . . .

See Appendix B—Compilation of Agency Submissions.

2. Conclusion.

A perception of continued inability of the nation to resolve its oil import problem could have significant consequences for the value of its currency and could thus seriously harm the nation's economic welfare. Such a perception, therefore, threatens to impair the national security.

IV. FINDINGS

This investigation has established that

- U.S. dependence on foreign oil has increased since 1975 and there has been no change in the risks of interruption, resulting in a greater threat to the national security than before;
- The monetary repercussions accompanying the growing dependency on imported oil constitute a threat to the national security, even apart from the possibility supply interruptions.

ROBERT H. MUNDHEIM,
General Counsel,
Department of Treasury.

MARCH 14, 1979.

FOOTNOTES

[1] The 1959 finding was announced in Presidential Proclamation 3279, on March 10, 1959, 24 Fed. Reg. 1781 (1959). The 1975 Treasury finding appeared as U.S. Dep't of Treasury, Report on Investigation of Effect of Petroleum Products on the National Security pursuant to Section 232 of the Trade Expansion Act, as amended, 40 Fed. Reg. 4457 (1975).

[2] *See* Presidential Proclamation 3279, 24 Fed. Reg. 1781 (1959) as amended (quotas), modified by Presidential Proclamation 4210, 38 Fed. Reg. 9645 (1973) (license fees). The supplemental license fees imposed by President Ford following the 1975 finding were subsequently revoked.

[3] *FEA* v. *Algonquin SNG Inc.*, 426 U.S. 548 (1976).

[4] President's Special Committee to Investigate Crude Oil Imports, Report to the President, March 6, 1959.

[5] Presidents' Special Committee to Investigate Crude Oil Imports, Report to the President, July 29, 1957.

[6] U.S. Dep't of Treasury, Report, *supra* note 1.

[7] Department of Energy Organization Act, Pub. L. No. 95-91, Sec. 101, 91 Stat. 567 (to be codified at 42 U.S.C. sec. 7112 (1977)).

[8] Emergency Petroleum Allocation Act of 1973, sec. 2, 15 U.S.C. sec. 751 (1973).

[9] National Energy Conservation Policy Act of 1978, Pub. L. No. 95-619, sec. 102, 92 Stat. 3206. (to be codified at 42 U.S.C. 820 (1978)).

[10] 3 [1977] Energy Information Adm. Ann. Rep. to Cong. 23 [hereinafter cited as EIA Annual Report]. Imports for 1975 and 1978 are on balance of payments basis, derived from Bureau of Census statistics and covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam; data obtained from Balance of Payments Division, Bureau of Economic Analysis, Department of Commerce.

[11] Data from Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

[12] For 1959, *see* EIA Annual Report, *supra* note at 5, 23. For 1978, *see* Monthly Energy Review, Feb. 1979, at 4, 30, adjusted to a balance of payments basis.

[13] Data by source are from Department of Energy and differ slightly from balance of payments data. For 1978 data, *see* Letter from Deputy Secretary of Energy John O'Leary to Secretary of Treasury W. Michael Blumenthal (March 9, 1979). For 1975 data. *see* Monthly Energy Review, May 1978, at 12, 14. For 1959 data, *see* Independent Petroleum Association of America, United States Petroleum Statistics 1978 (preliminary). The 1959 data are for countries which are not OPEC members Estimated indirect imports for all year have been included.

[14] Monthly Energy Review, Feb. 1979, at 30, adjusted to a balance of payments basis.

[15] Production data based on first 9 months of 1977 and 1978. *See* U.S. Dep't of Energy, Energy Data Reports, Petroleum Statement, Monthly, Sept. 1978, at 7.

[16] American Petroleum Institute, Estimated U.S. Supply/Demand Situation, June 1978, at 2.

[17] U.S. Dep't of the Interior, Energy Perspectives II, June 1976, at 191.

[18] *Id.* at 194.

[19] Canadian National Energy Board, Report, "In the Matter of Exportation of Oil," October 1974, 4-7.

[20] Data are Department of the Treasury estimates, based on information supplied by Department of Energy and the Central Intellignecy Agency. Includes both drect and indirect imports.

[21] An indication of productive capacity can generally be estimated from the proven reserves. It should be noted that the Middle East contains approximately 385 billion barrels of proven crude oil reserves. This is almost 60% of the entire world's reserves. Within the Middle East, Saudi Arabia, Kuwait and Iran have 281 billion barrels. These three countries dwarf the rest of the world in their current reserves. By contrast, the reserves of Indonesia are only 14 billion barrels; Nigeria, 19 billion barrels; and Venezuela, 14 billion barrels. *See* "Estimated Proved and Provable Petroleum reserves," in Central Intellignece Agency, International Energy statistical Review, Feb. 7, 1979 at 4.

[22] Mexican exports to the U.S. constituted 0.3 percent of U.S. oil imports in 1973, about 2 percent in 1977, and are expected to continue to raise in the future. *See* Monthly Energy Review, May 1978, at 12, 14.

[23] Unit value for 1959 is for crude oil only; those for 1975 and 1978 cover crude and products. Data are based on Bureau of Census import statistics, and were obtained from Balance of Payments Divsion, Bureau of Economic Analysis, Department of Commerce.

[24] Balance of Payments basis. Represents Bureau of Census statistics covering imports from foreign countries into U.S. Customs territory plus the Virgin Islands and Guam.

[25] Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and United Arab Emirates.

[26] Energy Policy and Conservation Act, secs. 151-166, 42 U.S.C. secs. 6231-46 (1976).

[27] The Department of Energy's Stategic Petroleum Reserve Plan, amendment no. 2 to increase the size to one billion barrels became effective June 13, 1978.

[28] Agreement on an International Energy Program, Brussels, September 27, 1974, ch. IV.

[29] *See*, e.g., Section 232 Investigation Comment of American Gas Association dated February 21, 1979 (on file at U.S. Dep't of Treasury).

[30] Monthly Energy Review, May 1978, at 38.

[31] *See* EIA Annualy Report, *supra* note 10, at 5.

[32] Monthly Energy Review, Feb. 1979 at 6.

[33] The Administration supported a nuclear siting and licensing bill in Congress which would reduce lead time to 6—7 years. H.R. 11704, 124 Cong. Rec. H. 2,298 (daily ed. March 21, 1978). The Administration anticipates introducing a similar bill in the near future.

[34] Executive Office of the President, National Energy Plan, April 29, 1977, at 95 [hereinafter cited as the NEP].

[35] According to the NEP, nuclear power will equal 24.5 percent of total electricity generated in 1985. NEP, *supra* note 32, at 95. The EIA forecasts 19 percent nuclear power for slightly less electricity generated in 1985. 2 EIA Annual Report, *supra* note 10, at 215.

[36] NEP, *supra* note 35, at 96.

[37] For 1970 data, *see* 3 EIA Annual Report, *supra* note 10, at 23; includes lease condensate. For 1978 data, *see* Monthly Energy Review, Feb. 1979, at 28.

[38] Monthly Energy Review, Feb. 1979, at 76.

[39] 2 EIA Annual Report, *supra* note 10, at 139 (table 6.9).

[40] American Petroleum Institute, Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada as of Dec. 31, 1977 24 (1978).

[41] 2 EIA Annual Report, *supra* note 10, at 149 (figure 6.3).

[42] 2 EIA Annual Report, *supra* note 10, at 149 (table 6.14).

[43] National Petroleum Council, Enhanced Oil Recovery, Dec. 1976, at 6 (figure 2).

[44] Entitlements essentially average the cost of crude oil to refiners. Higher priced imported oil is averaged in with lower priced, price-controlled domestic oil. The cost to refiners of a composite barrel is approximately $2/bbl. less than the cost of imported oil.

[45] The data in this section were developed by the Office of International Monetary Affairs, Department of Treasury.

APPENDIX A—ORDER INITIATING INVESTIGATION

Memorandum for Robert Mundheim, General Counsel

SUBJECT: REQUEST FOR SECTION 232 INVESTIGATION

MARCH 15, 1978.

Pursuant to my authority under Section 232 of the Trade Expansion Act, 19 U.S.C. section 1862, I request that you immediately initiate an investigation to determine whether imports of petroleum and petroleum products threaten to impair the national security.

Since the investigation is being initiated only for contingency purposes at this time, it should be conducted on a confidential basis by selected persons within the Treasury Department. Other Departments and agencies should be consulted as appropriate in the future.

In my judgment, national security interests require that an opportunity for public comment should not be afforded in this case. Accordingly, I exercise my discretion under section 232, reflected in Treasury Regulations 31 CFR sections 9.7 and 9.8, to proceed without public notice, hearings, or opportunity for comment. Therefore, I request that you dispense with these procedures and proceed immediately with the investigation.

W. MICHAEL BLUMENTHAL.

APPENDIX B—COMPILATION OF AGENCY SUBMISSIONS

INDEX

1. February 12, 1979 submission of Board of Governors of the Federal Reserve System.
2. February 23, 1979 submission of the Central Intelligence Agency.
3. February 26, 1979 submission of the Department of Defense.
4. March 9, 1979 submission of the Department of Energy (including Appendices A through G).
5. February 9, 1979 and April 3, 1978 submission of the Department of State.
6. October 26, 1978 submission of the Department of Transportation.
7. February 12, 1979 revision of September 11, 1978 submission of the Council of Economic Advisers.
8. February 12, 1979 submission of the Department of the Interior.
9. April 24, 1978 submission of the Department of Labor.
10. September 14, 1978 submission of the Department of Commerce.

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BOARD OF GOVERNORS, OF THE FEDERAL RESERVE SYSTEM

Washington, D.C.
February 12, 1979.

The Honorable W. MICHAEL BLUMENTHAL, *Secretary of the Treasury, Department of the Treasury, Washington, D.C.*

DEAR SECRETARY BLUMENTHAL: In response to your request, the following comments are being submitted on behalf of the Federal Reserve Board to assist in an investigation by the Secretary of the Treasury under Section 232(b) of the Trade Expansion Act of 1962 with respect to U.S. imports of petroleum and petroleum products.

In particular, you have asked for an analysis of the impact of petroleum imports on (1) the domestic economy, including growth, employment and inflation, (2) the U.S. balance of payments and the value of the dollar in foreign exchange markets, and (3) the stability of the domestic and international financial system generally.

General Discussion

(1) Prior experience indicates the adverse effects on the U.S. economy of excessive reliance on foreign sources for the oil upon which our economy critically depends. In a matter of months, the 1973-74 oil embargo disrupted the world economy with serious direct and indirect repercussions on U.S. economic activity, production and employment. The current disruption of Iranian production and exports of oil has once again illustrated our vulnerability. The continuing risk of supply interruption is a serious threat to the U.S. economy and thus to U.S. national security. The U.S. program for stockpiling oil, while providing some short-term protection, would not eliminate this risk.

(2) International petroleum prices, which are set in terms of U.S. dollars, are now at a level more than six times that prevailing in mid-1973. Further price increases have already occurred in 1979 and additional substantial price increases are scheduled for later in the year. These increases could well be larger if oil supplies from Iran remain sharply curtailed.

(3) Increases in the price of imported petroleum—an essential commodity in the U.S. economy—have contributed directly and indirectly to inflationary pressures in the United States. High or accelerating rates of inflation can lead to a slackening in economic activity through adverse effects on real personal income, expectations and markets. These effects can pose a threat to economic stability.

(4) Even at current prices, oil imports have been a substantial factor contributing to the emergence of a very large U.S. trade deficit. The U.S. oil import bill is now running at an annual rate of over $40 billion, up from $8½ billion in 1973; oil imports now constitute one-quarter of the dollar value of U.S. imports. The trade balance, meanwhile, has moved from an approximate balance in 1973 to a deficit of almost $35 billion in 1978. Although the trade deficit was reduced in the last three quarters of 1978, and a significant further improvement is in prospect for 1979, the trade deficit will remain large.

(5) Large U.S. trade deficits have contributed to an environment in which the dollar depreciated in 1978 by over 10 per cent against major foreign currencies in often disorderly trading conditions. This decline in the foreign exchange value of the dollar has increased uncertainty in world financial markets and inhibited the development of conditions conducive to world economic growth. If severly unsettled exchange market conditions were to reemerge, the risk is increased of potential capital outflows that would exert additional downward pressure on the dollar, with it associated inflationary implications. The depreciation of the dollar from mid-1977 through most of 1978 added about 1 per cent to U.S. price inflation last year, and the lagged effects of the depreciation will add further to our inflation problem in 1979 and 1980. Moreover, the depreciation of the dollar was apparently a consideration influencing OPEC to schedule substantial price increases for 1979. The November 1 actions have helped to correct the excessive decline in the dollar's international value and to restore a measure of stability to exchange markets. Fundamental corrective steps must continue to be pursued to deal effectively with those conditions that have depressed the dollar. Reduction in U.S. dependence on imported oil represents one such fundamental corrective step.

(6) The U.S. dollar plays a major world role as a reserve asset and as a medium for investments and other transactions. Concern about the U.S. deficit and the international value of the dollar could lead holders of dollars to undertake reductions in their dollar assets. Exchange market uncertainties would thereby by heightened and instability increased. It is, therefore, necessary to demonstrate our resolve to contain our oil imports and to help avoid the economic disruption that could follow from such portfolio shifts.

(7) Large U.S. current-account deficits not only contribute to downward pressure on the dollar but also create economic uncertainties and expectations of future declines in the value of

the dollar. The present situation has fostered protectionist pressures both here and aboard. The rest of the world is looking to the United States to limit its demand for petroleum. If we fail to do so, U.S. credibility and leadership will be weakened with adverse implications for our foreign policy.

Conclusion

An adequate and secure supply of petroleum and petroleum products is critical to the functioning of the U.S. economy now and in the foreseeable future. The United States is currently heavily dependent upon imports in order to fulfill that critical need, and such dependence threatens to impair our national security because:

(a) Even at current quantity and price levels, imported petroleum is a major factor in the large U.S. trade and current account deficits. This has contributed to the substantial depreciation of the dollar in relation to other major currencies. Such depreciation adds to domestic inflation, fosters higher U.S. interest rates, creates instability in the international financial markets, and threatens further increases in international oil prices. These in turn, foster conditions that could lead to lower domestic economic activity and higher unemployment.

(b) Requirements for higher quantities of oil or imposition of higher oil prices will aggravate these adverse conditions.

(c) An embargo of the type experienced in 1973–74, or a similar interruption in the supply of imported oil, would adversely affect the U.S. economy.

(d) The November 1 actions to correct the excessive depreciation of the dollar have had beneficial effects, but continuing corrective steps are necessary to ensure the dollar's stability.

All this indicates the need to reduce the U.S. dependence on imported petroleum and petroleum products. Please let me know if you desire further data or analysis.

Sincerely,

G. WILLIAM MILLER,
Chairman.

2

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C.,
February 23, 1979.

The Honorable ROBERT H. MUNDHEIM,
General Counsel,
Department of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: In response to your letter of 6 February 1979, relating to the investigation of US imports of petroleum and petroleum products under Section 232 of the Trade Expansion Act, we are forwarding an update of the analysis we provided you on 16 May 1978 addressing the impact of oil imports on national security.

We stand by our previous conclusion that the economy of the United States is critically dependent on oil imports. Imports of crude oil and petroleum products accounted for 42 percent of US oil consumption during the first half of 1978. Total imports for the year are estimated at 8.2 million b/d, 44 percent of consumption. This dependence is expected to increase further in the years ahead as Alaskan oil production levels off and output in the lower 48 states continues its downward trend.

As you requested we have also included a brief unclassified assessment of the current Iranian situation for your use. Although Iran provided only 5 percent of US oil consumption during the first half of last year, the recent disruption in Iranian oil supplies clearly points up the vulnerability of the US economy to supply disruption. We have also enclosed an update of the table provided earlier indicating the major countries exporting oil to the United States. The data in the table includes both direct and indirect US oil imports.

Yours,

FRANK C. CARLUCCI
Director.

Enclosure:
As stated.

Section 232 Investigation on Petroleum Inports

In 1978 the United States imported 8.2 million b/d—44 percent of total oil consumption. During first-half 1978, the latest six-month period for which country data are available, more than 40 percent of US direct and indirect oil imports originated in Arab countries. In 1970 the US was dependent on oil imports for only 22 percent of oil consumption and only 11 percent of the oil imports originated in Arab countries.

As demonstrated by recent events in Iran, oil supply interruptions can emerge from political upheavals among the governments of major oil producers in the Persian Gulf. The probability that another oil exporter may suddenly undergo an unsettling change in the next several years is hard to assess. But, should a political discontinuity occur, one possible consequence would be a reduction, for an indeterminate period of time, in oil output. The underlying motivations of the new leadership in such a contingency could range from the desire to conserve resources, to the desire to pressure importers to act on some issue of interest to the oil exporter.

Accidents and Terrorist or Guerrilla Action

There is a high probability that acts of nature, human error, or deliberately targeted terrorist attack will interrupt the flow of oil in one or more of the oil exporting nations during the next several years.

Interruptions of oil supply owing to guerrilla operations, acts of terrorism, or acts of nature are not likely, by themselves, to be of a magnitude and duration which would result in severe economic disruption of Free World economies, though they could exert strong upward pressure on prices in a tight world oil market. Extensive terrorist action against key oil storage and transportation facilities in the Persian Gulf could, in particular, significantly affect the market by substantially reducing oil supplies for the time required to put those facilities back into operation, which could be several months.

Regional War

Recent history provides many examples of practical cooperation among the states of the Persian Gulf, but there are a number of regional territorial and political disputes involving Middle Eastern oil exporting nations that could escalate to armed conflict, including insurrections, guerrilla wars, and more conventional international wars. The concentration and physical vulnerability of production and transportation facilities in the area are so high that some damage to facilities is likely to occur, resulting in a decline in oil production in the area of hostilities. In the principal Middle Eastern oil producing nations a reduction of production by one-fourth would have a significant impact on the dependent Free World within three months or so.

Communist Countries

At present, the USSR and China do not have the US vulnerability to oil supply interruption. Both countries are net exporters of petroleum. In 1977, the USSR exported more than 3 million b/d, almost half to non-Communist countries. China exported about 200,000 b/d in 1977.

The Iranian Situation

The interruption of Iranian oil production and exports has demonstrated the vulnerability of oil consumers to disruptions in the oil exporting nations. Iran has produced less than 1 million b/d since late December 1978, instead of the 5-6 million b/d that would have been expected under normal circumstances. The shortfall has been only partially offset by other producers. Saudi Arabia is averaging about 1 million b/d more than would have been expected, and other OPEC

producers are producing about 1 million b/d above the level anticipated.

Spot market prices have climbed sharply during the prolonged cutoff in Iranian oil supply, prompting several OPEC members to increase their selling prices over and above the increase in 1979 oil prices already scheduled. Many OPEC countries are selling increasing quantities of crude at spot prices; Saudi Arabia is selling part of its production at fourth quarter 1979 prices.

Unless substantial Iranian oil production and exports are restored or Free World oil consumption is restrained, severe market pressures could arise as early as second quarter 1979, and the situation could become critical by the winter of 1979/80. Companies will probably hold on to their stocks—many; including those with relatively little dependence on Iran, have already cut back their deliveries substantially—forcing an adjustment in consumption. This process would include higher prices as well as informal rationing by the companies. Government conservation measures would probably also be required.

We expect a tight oil situation to continue for the next several years. The new Iranian leadership, apparently intending to pursue a more moderate development strategy than the Shah's regime, probably will produce less oil than in the past. It will also support OPEC oil price hikes, adding to the bargaining strength of the OPEC hawks. Rising prices, of course, will restrain oil consumption, but at the cost of reduced economic growth.

Direct and Indirect US Oil Imports by Source

(Thousand b/d)

	1975	% Total	1977	% Total	Jan-Jun 1978[1]	% Total
Algeria	290	4.8	565	6.5	684	8.7
Iraq	10	0.2	105	1.2	NA	NA
Kuwait	30	0.5	60	0.7	NA	NA
Libya	330	5.5	845	9.7	707	8.9
Qatar	90	1.5	100	1.1	NA	NA
Saudi Arabia	850	14.1	1,545	17.7	1,220	15.4
United Arab Emirates	170	2.8	430	4.9	478	6.0
Arab Members of OPEC	1,770	29.4	3,650	41.8	3,257	41.2
Ecuador	70	1.2	65	0.7	NA	NA
Gabon	--	--	55	0.6	NA	NA
Indonesia	450	7.5	615	7.0	575	7.3
Iran	500	8.3	815	9.3	920	11.6
Nigeria	820	13.6	1,255	14.4	903	11.4
Venezuela	1,040	17.2	895	10.2	872	11.0
OPEC	3,810	63.2	7,350	84.1	6,639	83.9
Canada	800	13.3	460	5.3	463	5.8
Mexico	--	--	180	2.1	244	3.1
Others	580	9.6	750	8.6	NA	NA
TOTAL	6,030	100.0	8,740	100.0	7,912[2]	100.0

1. Estimated. Imports for strategic petroleum reserve included in total but not in data for individual countries.
2. The decline in imports is due primarily to increased availability of Alaskan oil during first half 1978. Imports for the entire year are estimated at 8.2 million b/d, but data are unavailable by source.

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ASSISTANT SECRETARY OF DEFENSE,

Washington, D.C. 20301,
February 26, 1979.

Hon. ROBERT H. MUNDHEIM,
General Counsel, Department of Treasury, Washington, D.C.

DEAR MR. MUNDHEIM: This is in response to your February 6, 1979, letter which requested Department of Defense comments on the impact of oil imports on the national security of the United States. You requested our comments in connection with an investigation you are conducting pursuant to Section 232(b) of the Trade Expansion Act of 1962. This letter confirms the conclusions stated in our classified report to you on this subject on September 12, 1978.

The Department of Defense concludes that imports of petroleum in current quantities make us vulnerable to energy supply disruptions. Such disruptions could threaten the national security of the United States. We base this conclusion on analysis of two aspects of the national security: the potential domestic effects of disruption of normal levels of petroleum imports, and the way in which foreign governments, when making decisions on foreign affairs and defense matters, perceive the United States' dependence on oil imports. These analyses are summarized below.

I. *Potential Domestic Effect on Defense Capability Due to Disruption of Normal Levels of Petroleum Imports*

We evaluated two separate factors: first, the risk that there will be a disruption; and second, the domestic effects that will ensue if there is a disruption.

A. *Risk of disruption*

The Department of Defense has analyzed the risk of disruption. We are following closely the impact of the various situations in the Middle East on the nation's petroleum supply. The concentration of oil production facilities in the area presents the major physical risk. This creates a risk of interdiction, or even the risk of natural or accidental disturbances. The extensive damage in the Abqayq fires in May and June 1977, caused by accident, highlights the fragility of these facilities. Destruction of key facilities could cause major interruptions of oil deliveries to the U.S. and to our NATO and Japanese allies which would adversely affect U.S. and Western World political, economic and military security.

Many ideological disputes in the Middle East have the potential to escalate to armed conflict in a single country, on a regional scale, within the Middle East, or could draw in powers outside the Middle East. Also, various terrorist groups operate in the Middle East with the capability to mount an attack on oil production or transportation facilities. We estimate that resumption of production and distribution of oil following such an attack could require six months to a year. The time required could be even longer depending on the availability of specialized personnel and repair equipment and the extent of the destruction.

B. *Defense-related results of disruption*

A disruption which threatens the supply of fuel to the military has profound implications. Secretary of Defense Harold Brown has summarized the problem succinctly.

"The present deficiency of assured energy resources is the single surest threat that the future poses to our security and to that of our allies. . . . Such a cut-off could grow from conflict between others—as in the Middle East in a crisis which did not involve our own forces; or it could be directed primarily at the United States—as in a war in which our adversary interdicted or destroyed our sources of foreign supply. Under either condition, until we lessen the import habit we are terribly vulnerable."

Disruption of petroleum imports has a direct impact on the economic and political security of the United States. The impact could include the lack of adequate fuel to operate industries, increased inflation and, ultimately, rising unemployment. Impacts such as these affect the military security, because they weaken one of this country's greatest assets, its industrial vitality. The Department of Defense relies on the industrial base to provide the weapons and equipment it needs to project its military power when and where needed to protect the national interests of the United States. As a result, adverse economic conditions in the United States weaken the industrial base. Reduction of oil supplies could cause some contractors, upon whom the Department of Defense relies, to curtail operations altogether. Other contractors could be forced to limit their operations (e.g., close some plants) in a way that would make them less flexible and responsive to Department of Defense requirements.

Preoccupation with domestic economic problems could result from a petroleum import disruption. This preoccupation could cause us as a nation to emphasize a solution to the domestic economic dislocation at hand at the expense of longer term international interests.

II. *Potential Effect on Perceptions of Other Countries*

The threatened impairment of the national security must be assessed not only in terms of the domestic capability to support national defense needs as we discussed above, but also in terms of international perceptions. Other countries make decisions on foreign relations and defense matters based upon their perception of our strengths. The impact of petroleum import restrictions on the United States could alter these perceptions significantly causing them to misjudge U.S. intentions. Such decisions would affect directly the security of the United States.

A. *Allied and uncommitted nations*

The substantial dependence of the United States on imported oil may strain security arrangements with allies and may make productive relations with uncommitted nations about defense matters more difficult. Included here is the perception on the part of a foreign government that the United States may be unable to meet its international defense commitments.

B. *Hostile nations*

The national security also is affected by how hostile nations perceive our resolve and ability to respond effectively to challenges. Decisions of hostile nations which could entail intervention in the affairs of or aggressive acts toward other nations will depend as often on our economic health and the will of our people as on our military capabilities. Other nations' perceptions of these factors, as well as the objective facts, are critical to the national security.

The concerns of the Department of Defense, as expressed above, are reinforced by recent developments. The reality of the current problem in Iran underscores the potential dangers that our reliance on petroleum imports has.

If I can be of further help, please let me know.

Sincerely,

ROBERT B. PIRIE, JR.,
Principal Deputy Assistant Secretary of Defense (MRAEL).

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MARCH 9, 1979.

Hon. W. MICHAEL BLUMENTHAL, *Secretary of the Treasury, Fifteenth Street & Pennsylvania Avenue NW., Washington, D.C.*

DEAR MR. SECRETARY: This letter is in response to your request of April 4, 1978, for information which would assist you in determining, pursuant to Section 232(b) of the Trade Expansion Act of 1962, as amended, whether petroleum and petroleum products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. The specific information which you requested is contained in the appendices accompanying this letter.

In addition, I have included an appendix which compares the data chiefly relied upon during the 1975 investigation of petroleum imports [1] with current data. That comparison reveals that the United States has become even more dependent on foreign sources of oil which are subject to the threat of interruption than in 1975 when the conclusion was reached that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security." [2]

In the intervening period the United States has not fully achieved a capability to avoid the serious consequences to the national security which would result from a significant interruption in imports of petroleum. The Department of Energy adopted an Interim Response Plan for Petroleum Contingencies in June 1978 which addresses the use and interrelationship of the three primary classes of options the DOE currently has for mitigating the effects of a petroleum import interruption. Those options are:

(1) *Drawdown of the Strategic Petroleum Reserve*—In June 1978 the Congress approved DOE-proposed changes [3] to the SPR Plan which authorized expansion of the Reserve to one billion barrels from the previous target of 500 million barrels. DOE expects that the initial target of 248 million barrels in SPR storage will be met by the end of 1980. In view of the Iranian situation, however, it is uncertain whether the current objective of acquiring 10 million barrels a month for the SPR can be maintained. As of February 11, 1979 approximately 77 million barrels had been delivered to the SPR (See Appendix C). Other than the limited quantity which has been placed in SPR storage, emergency supply availability is limited to current inventories, domestic and international stocks, and exports from countries which decline to participate in a possible future embargo. Those stocks are currently being drawn down due to the cessation of Iranian exports which further limits our flexibility to withstand any additional interruption in our supply.

(2) *Regulatory Demand Reduction and Supply Management*—Current regulatory measures for emergencies have been revised and are in the final development process. These include crude and product allocation and pricing regulations, and rationing and contingency plans (See Appendix B).

(3) *International Energy Program*—In the event of an international supply disruption, the International Energy Program (IEP) is designed to coordinate a collective response of most of the major oil importing countries, including the United States. This could ease to some degree the effects of an embargo directed against a single member. In the event of a general embargo the IEP would tend to equalize the disruption in its members' imported supplies and minimize competition for the available supplies. Proposed regulations to allow the Secretary of Energy to require U.S. oil companies to allocate petroleum internationally in order to carry out U.S. obligations under Chapters III and IV of the IEP Agreement were published in February of 1978 and a public hearing was held in June of 1978. Final regulations are in the process of being reviewed internally and will be published shortly.

Recent events in the Middle East have underscored our vulnerability and mandate that the President retain authority to adjust imports in a manner consistent with current conditions. Therefore, the conclusion that petroleum and petroleum products were being imported "in such quantities and under such circumstances as to threaten to impair the national security", reached by the 1975 national security investigation conducted by the Department of the Treasury, clearly remains an accurate and valid one.

Sincerely,

JOHN F. O'LEARY,
Deputy Secretary.

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[1] Report of Investigation of Effect of Petroleum Imports and Petroleum Products on the National Security Pursuant to Section 232 of the Trade Expansion Act, as amended, Department of the Treasury; January 13, 1975 (Report).

[2] *Id*, at 1.

[3] Strategic Petroleum Reserve Plan—Expansion of the Strategic Petroleum Reserve—Amendment No. 2; Energy Action DOE No. 1; March 1978.

APPENDIX A

Statistics Relating to National Energy Supply and Demand

Attachment

Demand and Consumption

1978	Total Energy Consumption		77,672	Quads
1978	Total Domestic Demand		18,707	m b/d
	Refined Products			Quads

Supply

1978	Domestic Crude Oil Production		8,671	m b/d
1978	North Slope Crude Oil Production		1.15-1.2	m b/d Estimate
1978	Imports - Crude oil		6,064	m b/d
	Refined Products		1,988	m b/d
1978	Imports (Direct and Indirect)	Indirect	Direct	
	from 1) OPEC Nations	1,235.1	5,575.5	m b/d
	2) OAPEC Nations	469.6	2,884.6	m b/d
		Jan-May	Jan-Nov	
1978	Average Estimated Landed Price Saudi Arabian crude		$ 14.88 Jan-Nov	/bbl
1978	Electricity produced by Nuclear Power		3,012	Quads
1978	Petroleum consumed to Produce Electricity		577,677 Jan-Nov	Jan-Oct thousands of barrels
	U.S. Crude Oil Reserves - end 1977		29.486	billion bbls
	New Reserves Added during 1977			
	NGL		300	million bbls
	Crude Oil		1,400	million bbls

Strategic Petroleum Reserves (please verify accuracy)

Inventory in place end 1978	correct	68.5	million bbls
		333,000	
Estimated goal for fill rate for 1979			b/d
Estimate date for goals of			
500 million bbls in place	correct	1983	
750 million bbls in place	correct	1986	
1 billion bbls in place			

Although DOE has authority to establish a 1 billion bbls reserve by 1985, specific implementation plans have not been formulated nor have funding decisions been made as of this date.

Executive Summary (Continued)

Domestic Energy Production by Primary Energy Type

		Coal[1]	Crude Oil[2]	NGPL[3]	Natural Gas (dry)	Hydro-electric Power[4]	Nuclear Electric Power	Geothermal Power and Other[5]	Total
		Quadrillion (10^{15}) Btu							
1972	TOTAL	14.590	20.041	2.578	22.208	2.864	0.577	0.039	62.805
1973	TOTAL	14.381	19.493	2.558	22.187	2.861	0.890	0.050	62.421
1974	TOTAL	14.487	18.575	2.479	21.211	3.177	1.215	0.059	61.203
1975	TOTAL	15.201	17.729	2.382	19.641	3.155	1.839	0.075	60.022
1976	January	1.230	1.480	0.197	1.709	0.274	0 172	0.008	5.069
	February	1.256	1.385	0.191	1.609	0.258	0 153	0.007	4.858
	March	1.424	1.460	0.201	1.674	0.280	0 149	0.008	5 194
	April	1.382	1.406	0 194	1.585	0.254	0 117	0.007	4 946
	May	1.355	1.469	0 197	1.634	0.269	0 127	0.007	5.057
	June	1.397	1.417	0 193	1 601	0.269	0 168	0.007	5 052
	July	1.038	1.457	0 198	1.636	0.274	0 189	0.007	4.799
	August	1.256	1.465	0 198	1.597	0.251	0 196	0.007	4.971
	September	1 417	1.418	0 193	1.528	0.214	0 184	0.007	4 961
	October	1.376	1.450	0 199	1.600	0.222	0 185	0.007	5.038
	November	1.373	1.406	0 195	1.596	0.209	0 172	0.006	4.957
	December	1.364	1.450	0 197	1.711	0.213	0.225	0.007	5 167
	TOTAL	15.870	17.262	2.350	19.480	2.986	2.037	0.084	60.069
1977	January	1.030	1.401	0 189	1.700	0.218	0.236	0.008	4.782
	February	1.134	1.310	0 175	1.636	0 161	0.209	0.007	4.632
	March	1.537	1.442	0.206	1.710	0.209	0.220	0.008	5.333
	April	1.393	1.406	0 196	1.606	0 197	0.212	0.007	5.017
	May	1.439	1.440	0 198	1.653	0 198	0.220	0.007	5 154
	June	1.453	1.399	0.191	1.610	0 182	0.229	0.007	5.072
	July	1 142	1.446	0 196	1.636	0 178	0.233	0 007	4.837
	August	1.334	1.482	0 194	1.607	0 177	0.243	0.007	5.043
	September	1.599	1.464	0 187	1.561	0 174	0.209	0.007	5.202
	October	1.558	1.530	0 199	1.591	0 182	0.203	0.008	5.270
	November	1.589	1.481	0 192	1.569	0.216	0.207	0.008	5.262
	December	0.719	1.514	0 199	1.687	0.240	0.253	0.007	4.621
	TOTAL	15.926	17.315	2.323	19.565	2.331	2.674	0.068	60.223
1978	January	0.540	1.501	0.190	1.707	0.264	0.276	0.008	4.485
	February	0.547	1.360	0.172	1.588	0.236	0.233	0.007	4 142
	March	R0 901	1.583	0 194	R1.679	0.260	0.239	0.006	R4 862
	April	R1.376	1.515	0 191	1.604	R0.266	0 187	R0 005	R5 145
	May	R1.588	R1.582	0 187	1.597	R0.302	0.218	0.004	R5 478
	June	R1 518	1.535	0 187	1.561	R0.265	0.236	0.005	R5.308
	July	R1.242	1.573	0 190	1.633	R0.257	0.267	0.005	R5 167
	August	R1.489	R1.580	0 190	1.590	R0.233	0.273	0.007	R5.361
	September	R1.338	†1.493	††0 186	R1.508	R0.223	R0.237	0.007	†R4.991
	October	R1 616	†1.553	††0 191	††1.552	R0.206	0.245	0.006	†5.368
	November	1.600	†1 493	††0 185	††1.562	0.211	0.265	0.006	†5.322
	December	1.379	†1.590	†††0.191	††1.674	†††0.225	†††0.336	†††0.006	††5.401
	TOTAL	15.136	18.357	2.253	19.254	2.949	3.012	0.071	61.031

[1] Includes bituminous coal, lignite and anthracite coal.
[2] Includes lease condensate.
[3] Natural gas plant liquids.
[4] Includes industrial and utility production of hydropower.
[5] Other includes wood, refuse, and other vegetal fuels used for electricity generation.
†Preliminary data.
††Estimated data.
R=Revised data.
Note: Totals may not equal sum of components due to independent rounding.
Source: EIA calculations based on data reported elsewhere in this publication.

Executive Summary (Continued)

Domestic Energy Summary

		Domestic Energy Production[1]	Domestic Energy Consumption[2]	Energy Imports[3]	Energy Exports[4]
		Quadrillion (10^{15}) Btu			
1972	TOTAL	62.805	71.843	11.503	2.134
1973	TOTAL	62.421	74.620	14.726	2.071
1974	TOTAL	61.203	72.736	14.395	2.245
1975	TOTAL	60.022	70.678	14.079	2.387
1976	January	5.069	7.189	1.317	0.136
	February	4.858	6.268	1.235	0.132
	March	5.194	6.262	1.310	0.151
	April	4.946	5.737	1.258	0.207
	May	5.057	5.665	1.242	0.197
	June	5.052	5.697	1.404	0.226
	July	4.799	5.891	1.516	0.187
	August	4.971	5.836	1.434	0.168
	September	4.961	5.613	1.481	0.201
	October	5.038	6.124	1.472	0.204
	November	4.957	6.607	1.513	0.218
	December	5.167	7.524	1.632	0.183
	TOTAL	60.069	74.413	16.815	2.210
1977	January	4.782	7.710	1.715	0.103
	February	4.632	6.530	1.737	0.130
	March	5.333	6.422	1.793	0.139
	April	5.017	5.852	1.623	0.200
	May	5.154	5.858	1.658	0.215
	June	5.072	5.949	1.651	0.214
	July	4.837	6.054	1.732	0.199
	August	5.043	6.151	1.654	0.169
	September	5.202	5.947	1.603	0.197
	October	5.270	6.144	1.587	0.182
	November	5.262	6.369	1.523	0.175
	December	4.621	7.314	1.610	0.164
	TOTAL	60.223	76.299	19.884	2.068
1978	January	4.485	R7.590	1.565	0.079
	February	4.142	R6.912	1.391	0.058
	March	R4.862	R6.797	1.618	0.066
	April	R5.145	R5.989	1.420	0.135
	May	R5.478	R6.138	1.425	0.185
	June	R5.308	R5.977	1.475	0.225
	July	R5.167	R6.160	1.554	0.165
	August	R5.361	R6.296	†R1.552	R0.179
	September	†R4.991	R5.916	†1.631	†R0.174
	October	†5.368	R6.192	†1.561	†R0.216
	November	†5.322	6.491	†1.577	†0.242
	December	††5.401	††7.213	††1.733	††0.221
	TOTAL	61.031	77.672	18.500	1.945

[1]See Explanatory Note 1.
[2]See Explanatory Note 2.
[3]See Explanatory Note 3.
[4]See Explanatory Note 4.
†Preliminary data.
††Estimated data.
R=Revised data.
Source: Energy Information Administration (EIA) calculations based on data appearing elsewhere in this publication.

Crude Oil

		Crude Input to Refineries	Domestic Production[1]	Crude Oil Imports[1,2]	Strategic Petroleum Reserve (SPR) Imports	Exports	Crude Oil Stocks[1,3]	Strategic Petroleum Reserve (SPR) Stocks
		Thousands of barrels per day					Thousands of barrels	
1972	AVERAGE	11,696	9,441	2,216		1	‡246,395	
1973	AVERAGE	12,431	9,208	3,244		2	‡242,478	
1974	AVERAGE	12,133	8,774	3,477		3	‡265,020	
1975	AVERAGE	12,442	8,375	4,105		6	‡271,354	
1976	January	12,560	8,232	4,594		0	289,296	
	February	12,834	8,231	4,208		0	277,414	
	March	12,877	8,232	4,738		1	283,112	
	April	12,727	8,077	4,790		0	286,628	
	May	12,920	8,125	4,669		0	283,982	
	June	13,799	8,094	5,628		0	281,715	
	July	13,901	8,127	5,792		0	282,599	
	August	13,888	8,111	5,556		12	277,272	
	September	13,716	8,150	5,875		0	284,357	
	October	13,319	8,063	5,689		18	297,683	
	November	14,101	8,080	5,946		30	298,836	
	December	14,333	8,061	5,925		34	285,471	
	AVERAGE	13,416	8,132	5,287		8		
1977	January	14,140	7,790	5,288		13	294,037	
	February	14,740	8,067	5,652		59	291,387	
	March	14,270	8,022	5,633		32	299,464	
	April	14,185	8,079	5,785		17	318,588	
	May	14,605	8,009	6,821		89	328,559	
	June	14,867	8,039	6,997		10	333,635	
	July	14,884	8,040	7,021		53	335,193	
	August	14,645	8,244	6,416		37	338,300	
	September	14,930	8,416	6,429		91	334,180	
	October	14,658	8,508	6,270	93	38	340,517	2,646
	November	14,636	8,513	6,230	73	45	345,098	5,084
	December	14,749	8,423	6,049	79	69	339,813	7,826
	AVERAGE	14,606	8,179	6,548	21	50		
1978	January	14,139	8,347	5,974	114	98	340,082	11,106
	February	13,959	8,373	5,551	109	8	335,794	14,276
	March	14,141	8,807	5,981	132	60	345,333	18,437
	April	13,872	8,708	5,331	108	92	343,201	21,826
	May	14,982	8,801	5,452	133	124	329,020	25,629
	June	14,685	8,822	6,227	146	195	333,247	30,140
	July	14,903	8,747	6,036	154	138	332,691	35,248
	August	R15,178	R8,788	R6,118	184	175	R316,730	40,968
	September	15,124	8,578	6,659	225	NA	311,703	47,090
	October	15,069	8,636	6,249	195	NA	315,958	53,113
	November	R15,356	R8,578	R6,342	188	NA	R314,223	59,312
	December	15,234	8,841	6,805	NA	NA	312,925	
	AVERAGE	14,726	8,671	6,064	154	112		

[1]See Definitions.
[2]Excludes SPR imports.
[3]Excludes SPR stocks.
‡Total as of December 31.
R=Revised data.
NA=Not available.
Sources: 1972 through 1976: Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual;" January 1977 through April 1977: Bureau of Mines, *Mineral Industry Surveys*, "Petroleum Statement, Monthly." May 1977 through August 1978: Energy Information Administration (EIA) *Energy Data Reports*, "Petroleum Statement, Monthly." September 1978 through November 1978: EIA "Monthly Petroleum Statistics Report." December 1978 data are EIA estimates based on data from the American Petroleum Institute (API) "Weekly Statistical Bulletin."

Total Refined Petroleum Products

		Domestic Demand	Imports[1]	Exports
		Thousands of barrels per day		
1972	AVERAGE	16,367	2,525	222
1973	AVERAGE	17,308	3,012	229
1974	AVERAGE	16,653	2,635	218
1975	AVERAGE	16,322	1,951	204
1976	AVERAGE	17,461	2,026	215
1977	January	20,481	2,594	179
	February	20,427	3,278	175
	March	18,056	2,610	175
	April	17,570	1,886	207
	May	16,960	1,753	199
	June	18,048	1,872	215
	July	17,549	2,021	201
	August	18,009	2,175	193
	September	17,733	2,136	203
	October	17,831	1,862	170
	November	18,440	1,814	190
	December	20,046	2,183	206
	AVERAGE	18,418	2,176	193
1978	January	19,691	2,065	158
	February	20,874	2,337	200
	March	19,627	2,323	209
	April	17,714	2,100	245
	May	18,133	1,762	189
	June	18,271	1,624	204
	July	17,631	1,948	192
	August	R18,611	R1,850	229
	September	17,867	2,024	NA
	October	18,297	1,719	NA
	November	R18,867	R2,009	NA
	December	19,039	2,118	NA
	AVERAGE	18,707	1,988	203

Total Petroleum Imports (Crude Oil and Refined Products)

	Total Imports (Excluding SPR)	SPR Imports	Total Imports (Including SPR)
	Thousands of barrels per day		
1972 AVERAGE	4,741		
1973 AVERAGE	6,256		
1974 AVERAGE	6,112		
1975 AVERAGE	6,056		
1976 AVERAGE	7,313		
1977 January	8,882		
February	9,930		
March	9,243		
April	8,671		
May	8,574		
June	8,869		
July	9,042		
August	8,591		
September	8,565		
October	8,132	93	8,225
November	8,044	73	8,117
December	8,232	79	8,311
AVERAGE	8,724	21	8,744
1978 January	8,040	114	8,154
February	7,887	109	7,996
March	8,304	132	8,436
April	7,431	108	7,539
May	7,215	133	7,348
June	7,851	146	7,997
July	7,984	154	8,138
August	R7,968	184	R8,152
September	8,683	225	8,908
October	7,968	195	8,163
November	R8,351	188	8,539
December	8,923	NA	NA
AVERAGE	8,051	154	8,124

[1]See Definitions
R=Revised data
NA=Not available
Sources: 1972 through 1976: Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual." January 1977 through April 1977: Bureau of Mines, *Mineral Industry Surveys*, "Petroleum Statement, Monthly." May 1977 through August 1978: Energy Information Administration (EIA) *Energy Data Reports*, "Petroleum Statement, Monthly." September 1978 through November 1978: EIA "Monthly Petroleum Statistics Report." December 1978 data are EIA estimates based on data from the American Petroleum Institute (API) "Weekly Statistical Bulletin."

Domestic Petroleum Imports from OPEC Countries

	Algeria	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	United Arab Emirates	Venezuela	Other OPEC[1]	Total OPEC	Arab Members of OPEC
	Thousands of barrels per day										
1973	134.2	212.7	222.7	164.3	458.9	487.3	70.6	1,124.7	106.5	2,981.9	914.4
1974	190.2	300.1	468.8	4.4	697.6	460.6	70.5	979.3	88.3	3,259.8	748.5
1975	281.5	388.4	280.4	232.0	781.5	715.0	116.7	697.6	116.1	3,589.2	1,381.3
1976	428.3	537.4	298.5	453.3	1,025.2	1,229.8	255.2	699.2	134.0	5,060.9	2,421.0
1977											
January	493.0	619.2	396.8	627.0	1,285.8	1,328.0	319.5	841.8	324.2	6,236.0	3,000.0
February	666.1	570.3	412.4	638.0	1,265.1	1,441.8	316.7	920.6	241.0	6,472.0	3,141.1
March	459.8	567.0	735.0	701.2	1,300.0	1,371.6	369.5	664.3	184.3	6,352.7	3,022.1
April	660.7	523.9	517.2	782.9	1,242.4	1,437.4	323.5	663.3	250.5	6,401.8	3,363.2
May	392.8	512.7	539.3	784.1	1,072.3	1,724.1	237.1	534.4	435.9	6,232.7	3,451.3
June	436.6	671.6	553.0	827.1	1,190.8	1,432.7	438.6	668.7	343.5	6,562.6	3,374.1
July	573.9	519.0	857.3	763.4	1,194.7	1,369.8	286.1	652.8	350.8	6,567.8	3,232.1
August	632.2	552.8	500.1	640.0	960.5	1,449.4	308.6	744.4	276.9	6,064.9	3,169.8
September	550.8	391.0	448.9	679.2	1,064.8	1,487.4	348.4	744.8	201.0	5,936.3	3,215.1
October	626.2	461.0	413.0	690.5	1,104.2	1,303.3	246.9	586.7	272.0	5,703.9	2,998.1
November	590.6	514.6	422.7	840.1	943.0	1,119.2	420.1	515.1	285.0	5,650.4	3,162.5
December	553.0	492.7	549.0	604.4	987.2	1,064.8	390.5	724.2	289.1	5,654.9	2,835.4
TOTAL	552.0	532.8	530.2	714.7	1,135.1	1,377.0	333.4	6870	288.3	6,150.5	3,162.7
1978											
January	682.3	452.7	681.5	559.9	822.9	1,198.2	348.7	628.4	227.9	5,612.5	2,925.1
February	635.9	393.5	526.2	575.8	758.4	982.4	485.8	750.5	242.3	5,350.8	2,792.3
March	709.5	579.4	547.3	589.9	944.8	1,125.6	296.2	893.6	240.6	5,926.9	2,834.0
April	597.6	504.7	408.6	601.8	584.3	986.6	435.0	641.9	220.2	4,980.7	2,732.1
May	667.1	508.5	730.4	498.7	750.2	786.3	404.5	527.6	84.5	4,997.8	2,396.8
June	756.6	637.1	508.5	630.3	851.7	1,111.3	342.7	481.1	235.4	5,554.7	3,004.8
July	662.5	617.8	532.5	622.2	945.0	1,028.8	289.4	531.9	286.9	5,517.0	2,784.6
August	R464.2	R527.5	R574.2	R781.6	R933.5	R1,102.5	404.2	R505.8	R212.4	R5,506.9	R2,872.2
September	609.9	566.3	574.2	756.4	1,023.6	1,231.1	374.8	651.2	256.8	6,050.3	3,163.5
October	695.7	533.7	608.2	689.4	927.6	1,142.0	397.2	506.6	112.8	5,613.2	2,966.4
November	559.4	488.2	455.5	739.0	1,145.3	1,363.7	415.1	624.2	222.0	6,013.4	3,218.3
TOTAL (Year to date)	640.2	530.0	560.0	640.5	883.0	1,096.3	380.2	611.9	212.4	5,557.5	2,884.6

[1]Includes Ecuador, Gabon, Iraq, Kuwait, and Qatar.
R=Revised data
Sources: Direct Imports—Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement, Monthly" and "PAD District Supply/Demand, Monthly" through April 1977; EIA *Energy Data Reports*, "PAD Districts Supply/Demand, Monthly" for May 1977 through August 1978; EIA "Monthly Petroleum Statistics Report" for September 1978 through November 1978.

Domestic Petroleum Imports from Non-OPEC Sources

	Bahamas	Canada	Mexico	Netherlands Antilles	Puerto Rico	Trinidad and Tobago	Virgin Islands	Other	Total
	Thousands of barrels per day								
1973	170.8	1,312.9	15.2	573.6	99.3	250.6	329.2	523.5	3,274.2
1974	159.3	1,067.6	8.4	509.6	90.4	241.2	391.7	384.2	2,852.4
1975	152.0	846.2	71.4	323.6	89.7	240.9	406.5	308.1	2,435.4
1976	116.5	889.3	87.1	274.6	88.1	272.6	422.3	373.5	2,234.0
1977									
January	170.0	505.9	97.9	304.1	82.5	316.2	619.6	549.8	2,646.0
February	289.5	605.1	168.1	406.6	86.3	406.3	548.8	947.8	3,458.5
March	200.4	561.7	171.5	257.3	97.4	286.5	505.5	810.4	2,890.7
April	130.7	506.1	155.2	110.1	85.3	210.5	409.0	662.4	2,269.3
May	138.5	437.8	173.6	153.7	105.8	308.1	376.2	647.6	2,341.3
June	137.7	493.0	180.7	196.2	89.4	271.1	322.0	616.0	2,306.1
July	169.8	482.9	158.7	239.0	129.7	275.8	477.7	540.1	2,473.7
August	168.8	501.5	213.6	224.5	88.4	281.2	461.6	586.9	2,526.5
September	140.2	528.5	167.6	201.1	156.7	250.9	433.9	750.1	2,629.0
October	122.3	487.0	246.6	197.4	114.1	288.4	451.9	612.9	2,520.6
November	184.4	504.6	230.7	93.3	98.7	237.2	462.8	654.7	2,466.4
December	159.8	580.1	186.5	191.9	97.8	305.5	555.6	579.2	2,656.4
TOTAL	166.9	515.5	179.3	213.7	106.3	286.0	466.2	660.7	2,583.6
1978									
January	167.5	479.7	236.4	215.2	98.0	295.0	466.0	583.3	2,541.1
February	217.6	507.5	221.9	225.2	99.6	295.8	490.6	587.2	2,645.4
March	211.5	436.9	230.9	238.1	63.6	274.2	492.8	560.8	2,508.8
April	140.9	392.4	231.4	256.3	95.0	302.1	371.9	766.7	2,558.7
May	194.3	396.0	257.6	230.6	73.6	189.0	304.0	704.6	2,349.7
June	144.6	472.6	287.1	213.3	117.6	199.3	324.5	683.7	2,442.7
July	166.0	531.0	319.5	201.6	93.8	281.7	402.2	625.4	2,621.2
August	187.7	R422.9	R372.9	R291.0	82.3	R247.6	431.0	R610.4	R2,645.8
September	116.8	441.8	460.6	214.1	95.2	262.0	431.6	835.6	2,857.7
October	105.9	392.6	392.1	169.0	88.5	203.8	476.3	721.6	2,549.8
November	153.8	489.8	381.1	223.4	64.7	211.1	485.7	516.0	2,525.6
TOTAL (Year to date)	164.0	450.7	308.7	225.4	89.2	250.7	424.8	654.3	2,566.8

R=Revised data.
Source: Bureau of Mines *Mineral Industry Surveys*, "Petroleum Statement, Monthly" and "PAD Districts Supply/Demand, Monthly," through April 1977, EIA *Energy Data Reports* "PAD Districts Supply/Demand Monthly" for May 1977 through August 1978, and EIA "Monthly Petroleum Statistics Report" for September 1978 through November 1978.

Residual Fuel Oil

		Domestic Demand	Production	Imports	Exports	Stocks
		Thousands of barrels per day				Thousands of barrels
1972	AVERAGE	2,529	799	1,742	33	‡55,216
1973	AVERAGE	2,822	971	1,853	23	‡53,480
1974	AVERAGE	2,639	1,070	1,587	14	‡59,694
1975	AVERAGE	2,462	1,235	1,223	15	‡74,126
1976	AVERAGE	2,801	1,377	1,413	12	‡72,344
1977	January	3,741	1,889	1,596	2	64,749
	February	3,662	1,951	1,943	8	71,414
	March	3,150	1,715	1,417	3	71,186
	April	2,855	1,687	1,125	3	70,165
	May	2,719	1,671	1,145	5	73,376
	June	2,954	1,714	1,181	2	71,924
	July	2,805	1,729	1,271	18	77,770
	August	3,046	1,634	1,441	9	78,762
	September	2,926	1,750	1,458	3	87,522
	October	2,707	1,749	1,218	2	95,896
	November	2,819	1,695	1,094	7	95,155
	December	3,364	r 1,839	1,348	12	89,673
	AVERAGE	3,059	1,751	1,350	6	
1978	January	3,496	1,872	1,358	13	81,434
	February	3,964	1,801	1,565	10	64,852
	March	3,536	1,758	1,700	22	62,187
	April	2,992	1,554	1,565	7	66,229
	May	2,667	1,646	1,221	16	72,359
	June	2,618	1,582	1,012	4	71,916
	July	2,780	1,593	1,296	10	75,346
	August	R2,939	R1,636	1,264	25	R73,748
	September	2,721	1,669	1,311	NA	81,167
	October	2,653	1,596	1,115	NA	83,210
	November	R2,815	R1,676	R1,345	NA	R88,672
	December	3,161	1,849	1,380	NA	86,274
	AVERAGE	3,023	1,686	1,343	13	

‡Total as of December 31.
R=Revised data.
NA=Not available.
Note: Bureau of Mines' stock coverage was expanded at the end of 1974 to include an additional 100 bulk terminal operators; the new coverage begins here with 1975.
Sources: 1972 through 1976: Bureau of Mines (BOM) *Mineral Industry Surveys*, "Petroleum Statement, Annual;" January 1977 through April 1977: Bureau of Mines, *Mineral Industry Surveys*, "Petroleum Statement, Monthly." May 1977 through August 1978: Energy Information Administration (EIA) *Energy Data Reports*, "Petroleum Statement, Monthly;" September 1978 through November 1978: EIA "Monthly Petroleum Statistics Report." December 1978 data are EIA estimates based on data from the American Petroleum Institute(API) "Weekly Statistical Bulletin."

Executive Summary (Continued)

Domestic Energy Consumption by Primary Energy Type

		Coal[1]	Natural Gas (dry)	Petroleum	Hydro-electric Power[2]	Nuclear Electric Power	Geothermal Power and Other[3]	Total	Yearly Cumulative Total
		Quadrillion (10^{15}) Btu							
1972	TOTAL	12.461	22.699	32.966	2.929	0.577	0.011	71.643	
1973	TOTAL	13.315	22.512	34.852	3.010	0.890	0.042	74.620	
1974	TOTAL	12.895	21.732	33.468	3.309	1.215	0.117	72.736	
1975	TOTAL	12.842	19.948	32.742	3.219	1.839	0.089	70.678	
1976	January	1.216	2.337	3 177	0.282	0 172	0.006	7.189	7 189
	February	1.076	1.977	2 791	0.266	0 153	0.006	6.268	13 457
	March	1 117	1.755	2.948	0.287	0 149	0.006	6.262	19 719
	April	1.067	1.538	2.749	0.262	0 117	0.004	5.737	25 456
	May	1.073	1 463	2 722	0.276	0 127	0.004	5.665	31 121
	June	1 112	1.362	2.774	0.276	0 168	0.005	5.697	36 818
	July	1.185	1.399	2 829	0.281	0 189	0.007	5 891	42 710
	August	1 194	1.343	2 835	0.258	0 196	0 009	5.836	48 545
	September	1.095	1.328	2 776	0.221	0 184	0.008	5.613	54 158
	October	1.132	1.653	2.912	0.229	0 185	0.013	6 124	60 282
	November	1 191	1.912	3 107	0 216	0 172	0 008	6 607	66 889
	December	1.290	2.277	3.503	0.221	0.225	0.010	7.524	74 413
	TOTAL	13.749	20.345	35.123	3.075	2.037	0.084	74.413	
1977	January	1.287	2 458	3 489	0.233	0.236	0.006	7.710	7.710
	February	1 141	1.854	3 143	0 176	0.209	0.007	6.530	14 240
	March	1 144	1 751	3 076	0 224	0.220	0.006	6.422	20 662
	April	1.057	1.469	2.897	0.212	0.212	0.005	5.852	26.514
	May	1 120	1 408	2 890	0.213	0.220	0.008	5.858	32.372
	June	1 178	1.361	2.976	0 197	0.229	0.007	5.949	38 321
	July	1.277	1.353	2 990	0 193	0.233	0.009	6.054	44.374
	August	1.248	1.393	3 068	0 192	0.243	0.008	6 151	50.525
	September	1 153	1 457	2 924	0 189	0.209	0.015	5.947	56 472
	October	1 144	1.550	3 038	0 197	0.203	0 012	6 144	62 616
	November	1 157	1 725	3 040	0 231	0 207	0.008	6 369	68 985
	December	1.226	2 152	3.415	0.255	0.253	0.013	7.314	76.299
	TOTAL	14 133	19.931	36.947	2.511	2.674	0.103	76.299	
1978	January	R1.237	2.435	3.355	0.279	0.275	0 009	R7 590	R7 590
	February	1.049	2 160	3.212	0.251	0.233	0.008	R6 912	R14 502
	March	R0 999	1.929	3.344	0.275	0 239	0 011	R6 797	R21 299
	April	R1 038	1.545	2.921	R0 281	0 187	0 017	R5 989	R27 288
	May	R1 111	1.381	3 089	R0 317	0.218	0.021	R6 138	R33 426
	June	R1 186	1.248	3 012	R0 280	0.236	0 014	R5 977	R39 403
	July	R1 262	1.335	3 004	R0 272	0.267	0.020	R6 160	R45 564
	August	R1.303	1.280	R3 171	R0.248	0.273	0.020	R6 296	R51 860
	September	1.229	R1 248	2.946	R0 238	0.237	0.019	R5 916	R57 776
	October	1.173	1 419	3 117	R0 221	0 245	R0.017	R6 192	R63 968
	November	1 186	1 685	3 111	0 226	0 265	0.019	6 491	70 459
	December	††1.271	2 113	3.244	††0.241	††0.326	††0 017	††7.213	††77.672
	TOTAL	14.044	19.779	37.526	3.131	3.002	0.191	77.672	

[1] Includes bituminous coal, lignite, and anthracite coal.
[2] Includes industrial and utility production, and net imports of electricity.
[3] Other includes electricity produced from wood and waste, and net imports of coke.
††Estimated data.
R=Revised data.
Note: Totals may not equal sum of components due to independent rounding.
Source: EIA calculations based on data reported elsewhere in this publication.

Executive Summary (Continued)

Domestic Energy Consumption by Economic Sector[1]

		Residential Commercial	Industrial	Transportation	Total
		Quadrillion (10^{15}) Btu			
1973	TOTAL	26.579	29.171	18.870	74.620
1974	TOTAL	25.939	28.543	18.255	72.736
1975	TOTAL	26.202	26.117	18.359	70,678
1976	January	3 124	2.436	1.630	7 189
	February	2.691	2 114	1.463	6.268
	March	2 433	2.203	1.626	6.262
	April	2.087	2.070	1.580	5 737
	May	1.919	2 193	1.553	5.665
	June	1.866	2.232	1.599	5.697
	July	1.975	2.279	1.637	5.891
	August	1.983	2 260	1.592	5.836
	September	1.844	2.211	1.558	5.613
	October	1.958	2.566	1.600	6 124
	November	2.377	2.588	1.642	6.607
	December	3.012	2.718	1.794	7.524
	TOTAL	27.270	27.871	19.272	74.413
1977	January	3 433	2 554	1.722	7.710
	February	2.980	1.970	1.580	6.530
	March	2.507	2.262	1.652	6 422
	April	2 105	2 122	1.625	5.852
	May	1.932	2.318	1.608	5.858
	June	1.977	2.323	1.649	5.949
	July	2 123	2.261	1.670	6.054
	August	2 121	2.341	1.689	6 151
	September	1.974	2.359	1.614	5.947
	October	2.019	2.475	1.650	6 144
	November	R2.216	R2 508	1.645	6 369
	December	2.844	2 664	1.807	7.314
	TOTAL	28.231	28 156	19.913	76.299
1978	January	R3 293	R2 596	1.701	R7 590
	February	3 150	R2 150	1.612	R6 912
	March	R2.872	R2 149	1.775	R6 797
	April	2.253	R2 120	1.617	R5 989
	May	2 122	R2 279	1.737	R6 138
	June	R2 038	R2 235	1.704	R5 977
	July	2 171	R2.306	1.684	R6 160
	August	R2 184	R2 343	1.769	R6 296
	September	R2 031	R2 252	1.632	R5 916
	October	R2 053	R2 441	1.699	R6 192
	November	2 298	2 480	1.712	6.491
	December	††2.887	††2 552	††1.774	††7.213
	TOTAL	29.351	27.903	20.418	77.672

[1] See Explanatory Note 6 for definitions of the Residential/Commercial, Industrial, and Transportation sectors. The methodology used for sector calculations is provided in the footnotes on page 22.
††Estimated data.
R=Revised data.
Note: Totals may not equal sum of components due to independent rounding.
Source: See footnotes on page 22.

Energy Consumption (Continued)

Energy Consumption by the Residential and Commercial Economic Sector[1]

		Coal	Natural Gas (dry)	Petroleum[2]	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10^{15}) Btu						
1973	TOTAL	0.295	7.577	7.077	3.445	8.184	26.579	
1974	TOTAL	0.297	7.427	6.484	3.424	8.307	25.939	
1975	TOTAL	0.253	7.688	6.138	3.536	8.588	26.202	
1976	January	0.031	1.254	0.659	0.340	0.839	3.124	3.124
	February	0.019	1.090	0.580	0.315	0.686	2.691	5.814
	March	0.018	0.856	0.571	0.286	0.702	2.433	8.248
	April	0.020	0.671	0.500	0.271	0.625	2.087	10.335
	May	0.016	0.488	0.505	0.265	0.645	1.919	12.254
	June	0.015	0.333	0.488	0.285	0.746	1.866	14.120
	July	0.011	0.281	0.486	0.333	0.864	1.975	16.095
	August	0.015	0.259	0.505	0.347	0.857	1.983	18.078
	September	0.016	0.272	0.518	0.331	0.707	1.844	19.922
	October	0.020	0.395	0.569	0.286	0.688	1.958	21.881
	November	0.025	0.723	0.622	0.288	0.719	2.377	24.258
	December	0.036	1.083	0.730	0.330	0.834	3.012	27.270
	TOTAL	0.243	7.706	6.734	3.676	8.911	27.270	
1977	January	0.035	1.376	0.713	0.367	0.942	3.433	3.433
	February	0.024	1.216	0.674	0.347	0.719	2.980	6.413
	March	0.019	0.845	0.607	0.306	0.730	2.507	8.920
	April	0.020	0.623	0.536	0.278	0.646	2.105	11.025
	May	0.016	0.405	0.528	0.273	0.709	1.932	12.957
	June	0.015	0.315	0.543	0.308	0.796	1.977	14.934
	July	0.014	0.277	0.503	0.366	0.962	2.123	17.057
	August	0.014	0.256	0.551	0.372	0.929	2.121	19.178
	September	0.015	0.266	0.550	0.351	0.792	1.974	21.152
	October	0.018	0.379	0.611	0.306	0.705	2.019	23.171
	November	0.025	R0.590	0.610	0.284	0.707	R2.216	R25.387
	December	0.030	0.952	0.684	0.326	0.851	2.844	R28.231
	TOTAL	0.246	7.500	7.114	3.883	9.487	28.231	
1978	January	R0.028	1.257	0.674	0.369	0.964	R3.293	R3.293
	February	0.029	1.283	0.647	0.361	0.829	3.150	R6.442
	March	0.023	1.059	0.637	0.337	0.816	R2.872	R9.315
	April	0.020	0.697	0.560	0.287	0.689	2.253	R11.567
	May	0.018	0.493	0.582	0.279	0.750	2.122	R13.689
	June	R0.017	0.320	0.544	0.319	0.838	R2.038	R15.727
	July	0.015	0.269	0.537	0.371	R0.978	2.171	R17.898
	August	R0.016	0.245	R0.562	0.381	R0.981	R2.184	R20.082
	September	R0.018	0.254	R0.547	0.372	R0.840	R2.031	R22.113
	October	R0.022	0.360	0.612	R0.318	R0.741	R2.053	R24.166
	November	0.024	0.614	0.599	0.308	0.754	2.298	26.464
	December	0.029	0.998	0.614	0.349	0.897	2.887	29.351
	TOTAL	0.260	7.849	7.114	4.052	10.075	29.351	

(See footnotes on page 26)
Source See footnotes on page 22.

Energy Consumption (Continued)

Energy Consumption by the Transportation Economic Sector[1]

		Coal	Natural Gas[4] (dry)	Petroleum	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10^{15}) Btu						
1973	TOTAL	0.003	0.732	17.940	0.058	0.138	18.870	
1974	TOTAL	0.002	0.656	17.392	0.060	0.145	18.256	
1975	TOTAL	0.001	0.601	17.544	0.062	0.151	18.359	
1976	January	negl.	0.077	1.533	0.006	0.015	1.630	1.630
	February	negl.	0.064	1.382	0.006	0.012	1.463	3.093
	March	negl.	0.055	1.552	0.005	0.013	1.626	4.718
	April	negl.	0.047	1.516	0.005	0.012	1.580	6.298
	May	negl.	0.043	1.493	0.005	0.012	1.553	7.851
	June	negl.	0.038	1.545	0.005	0.012	1.599	9.450
	July	negl.	0.038	1.581	0.005	0.013	1.637	11.087
	August	negl.	0.036	1.538	0.005	0.013	1.592	12.679
	September	negl.	0.037	1.504	0.005	0.011	1.558	14.237
	October	negl.	0.050	1.531	0.006	0.013	1.600	15.836
	November	negl.	0.061	1.561	0.006	0.014	1.642	17.478
	December	negl.	0.074	1.699	0.006	0.015	1.794	19.272
	TOTAL	negl.	0.619	18434	0.064	0.155	19.272	
1977	January	negl.	0.081	1.620	0.006	0.016	1.722	1.722
	February	negl.	0.059	1.503	0.006	0.012	1.580	3.303
	March	negl.	0.054	1.580	0.005	0.012	1.652	4.955
	April	negl.	0.045	1.564	0.005	0.012	1.625	6.581
	May	negl.	0.041	1.549	0.005	0.013	1.608	8.189
	June	negl.	0.037	1.594	0.005	0.012	1.649	9.838
	July	negl.	0.036	1.616	0.005	0.013	1.670	11.508
	August	negl.	0.037	1.635	0.005	0.012	1.689	13.197
	September	negl.	0.040	1.557	0.005	0.011	1.614	14.811
	October	negl.	0.045	1.587	0.005	0.012	1.650	16.461
	November	negl.	0.053	1.571	0.006	0.014	1.645	18.105
	December	negl.	0.069	1.716	0.006	0.015	1.807	19.913
	TOTAL	negl.	0.599	18.094	0.064	0.156	19.913	
1978	January	negl.	0.079	1.600	0.006	0.016	1.701	1.701
	February	negl.	0.070	1.524	0.006	0.013	1.612	3.313
	March	negl.	0.061	1.696	0.005	0.013	1.775	5.089
	April	negl.	0.047	1.552	0.005	0.012	1.617	6.705
	May	negl.	0.040	1.679	0.005	0.013	1.737	8.442
	June	negl.	0.033	1.653	0.005	0.013	1.704	10.147
	July	negl.	0.035	1.631	0.005	0.013	1.684	11.830
	August	negl.	0.033	1.717	0.005	0.013	1.769	R13.600
	September	negl.	R0.034	1.581	0.005	0.012	1.632	R15.232
	October	negl.	0.041	1.639	0.006	0.013	1.699	R16.931
	November	negl.	0.052	1.640	0.006	0.014	1.712	18.643
	December	negl.	0.068	1.685	0.006	0.015	1.774	20.418
	TOTAL	negl.	0.594	19.596	0.065	0.162	20.418	

[1] See Explanatory Note 6 for definitions of the Residential and Commercial, Industrial, and Transportation Sectors. The methodology used for sector calculations is provided in footnotes on page 22. Printed totals may differ slightly from the sum of their row/column components due to independent rounding.
[2] The percentage share used in calculating Residential and Commercial consumption of petroleum was 52.5 percent for 1973 and 50.7 percent for 1974, 1975, 1976, 1977, and 1978.
[3] The percentage share used in calculating Industrial consumption of petroleum was 47.5 percent for 1973 and 49.3 percent for 1974, 1975, 1976, 1977, and 1978.
[4] The percentage share used in calculating Transportation consumption of natural gas was 3.9 percent for 1973 and 3.6 percent for 1974, 1975, 1976, 1977, and 1978. This percentage share is applied to total natural gas minus electric utility consumption.
R=Revised data
Source. See footnotes on page 22.

Energy Consumption by the Industrial Economic Sector[1]

		Coal	Natural Gas (dry)	Petroleum[2]	Hydro-electric	Electricity Distributed	Electrical Energy Loss Distributed	Total Energy Use	Yearly Cumulative Total Energy Use
		Quadrillion (10^{15}) Btu							
1973	TOTAL	4.377	10.457	6.403	0.035	2.341	5.569	29.171	
1974	TOTAL	4.069	10.132	6.305	0.033	2.337	5.667	28.543	
1975	TOTAL	3.799	8.418	5.968	0.032	2.304	5.596	26.117	
1976	January	0.316	0.796	0.641	0.003	0.196	0.483	2.436	2.436
	February	0.299	0.619	0.564	0.003	0.198	0.431	2.114	4.550
	March	0.317	0.617	0.555	0.003	0.206	0.504	2.203	6.753
	April	0.316	0.587	0.486	0.003	0.205	0.473	2.070	8.823
	May	0.323	0.658	0.492	0.003	0.209	0.508	2.193	11.016
	June	0.308	0.673	0.474	0.003	0.214	0.560	2.232	13.248
	July	0.306	0.733	0.473	0.003	0.213	0.552	2.279	15.527
	August	0.300	0.709	0.491	0.002	0.218	0.539	2.260	17.788
	September	0.299	0.717	0.504	0.002	0.220	0.470	2.211	19.999
	October	0.314	0.952	0.553	0.003	0.218	0.526	2.566	22.565
	November	0.323	0.905	0.605	0.003	0.215	0.537	2.588	25.153
	December	0.353	0.900	0.710	0.003	0.214	0.540	2.718	27.871
	TOTAL	3.775	8.867	6.548	0.033	2.525	6.124	27.871	
1977	January	0.319	0.790	0.693	0.003	0.210	0.539	2.554	2.554
	February	0.305	0.373	0.655	0.003	0.206	0.428	1.970	4.524
	March	0.325	0.613	0.591	0.003	0.216	0.515	2.262	6.786
	April	0.306	0.572	0.523	0.003	0.216	0.501	2.122	8.908
	May	0.303	0.695	0.514	0.003	0.223	0.579	2.318	11.226
	June	0.295	0.689	0.528	0.003	0.225	0.582	2.323	13.548
	July	0.286	0.683	0.489	0.003	0.220	0.579	2.261	15.810
	August	0.274	0.738	0.536	0.003	0.226	0.564	2.341	18.150
	September	0.267	0.817	0.535	0.003	0.226	0.511	2.359	20.509
	October	0.298	0.831	0.594	0.003	0.227	0.522	2.475	22.985
	November	0.297	R0.840	0.594	0.003	0.222	0.553	R2.508	R25.492
	December	0.303	0.905	0.666	0.003	0.218	0.569	2.664	R28.156
	TOTAL	3.577	8.547	6.917	0.036	2.636	6.443	28.156	
1978	January	0.283	0.863	0.655	0.003	0.219	0.572	R2.596	R2.596
	February	0.244	0.590	0.630	0.003	0.208	0.477	R2.150	R4.746
	March	R0.240	0.569	0.619	0.003	0.210	0.508	R2.149	R6.896
	April	R0.272	0.570	0.544	0.003	0.215	0.516	R2.120	R9.016
	May	R0.290	0.579	0.566	0.003	0.228	0.613	R2.279	R11.295
	June	R0.285	0.563	0.529	0.003	0.236	0.619	R2.235	R13.529
	July	R0.289	0.657	0.522	0.003	0.230	0.606	R2.306	R15.835
	August	R0.286	0.650	R0.546	0.002	0.240	R0.619	R2.343	R18.178
	September	R0.286	R0.652	R0.532	0.003	0.239	0.540	R2.252	R20.430
	October	R0.296	R0.746	0.595	0.003	0.240	R0.560	R2.441	R22.871
	November	0.305	0.782	0.582	0.003	0.234	0.573	2.480	25.351
	December	0.309	0.827	0.597	0.003	0.228	0.588	2.552	27.903
	TOTAL	3.384	8.048	6.918	0.035	2.728	6.790	27.903	

(See footnotes on page 26)
Source: See footnotes on page 26.

Oil and Gas Exploration and Development

		Rotary Rigs in Operation		Exploratory and Development Wells Drilled[1]				Total Footage of Wells Drilled[1]
		Monthly Average		Oil	Gas	Dry	Total	Thousands of feet
1972	AVERAGE	1,107	TOTAL	11,308	4,828	11,067	27,291	134,802
1973	AVERAGE	1,194	TOTAL	9,902	6,385	10,305	26,582	136,391
1974	AVERAGE	1,475	TOTAL	12,784	7,240	11,674	31,698	150,551
1975	AVERAGE	1,880	TOTAL	16,408	7,580	13,247	37,235	174,434
1976	January	1,710		1,465	772	1,055	3,292	14,517
	February	1,594		1,341	652	1,159	3,152	14,888
	March	1,540		1,726	821	1,301	3,848	18,126
	April	1,480		1,237	672	994	2,903	13,765
	May	1,496		1,501	658	1,104	3,263	14,196
	June	1,546		1,500	709	1,123	3,332	14,780
	July	1,597		1,312	730	916	2,958	13,716
	August	1,691		1,265	711	1,140	3,116	14,697
	September	1,744		1,474	909	1,199	3,582	16,777
	October	1,794		1,396	750	1,123	3,269	14,542
	November	1,840		1,291	698	1,222	3,211	14,642
	December	1,860		1,512	926	1,414	3,852	17,093
	AVERAGE	1,656	TOTAL	17,059	9,085	13,621	39,765	181,780
1977	January	1,850		1,391	732	1,096	3,219	14,517
	February	1,856		1,321	705	999	3,025	14,443
	March	1,887		1,817	958	1,297	4,072	19,400
	April	1,907		1,405	818	1,059	3,282	15,523
	May	1,982		1,382	877	1,150	3,409	16,702
	June	2,008		1,720	952	1,270	3,942	18,767
	July	2,023		1,304	724	1,022	3,050	14,529
	August	2,066		1,400	961	1,179	3,540	16,838
	September	2,084		1,924	1,105	1,288	4,317	19,333
	October	2,101		1,562	1,024	1,254	3,840	18,000
	November	2,113		1,785	1,091	1,447	4,323	19,537
	December	2,141		1,875	1,387	1,569	4,831	21,365
	AVERAGE	2,001	TOTAL	18,912	11,378	14,692	44,982	210,848
1978	January	2,128		1,184	783	1,233	3,200	15,394
	February	2,135		1,486	851	1,239	3,576	16,933
	March	2,158		1,499	1,247	1,420	4,166	20,392
	April	2,198		1,369	971	1,112	3,452	17,559
	May	2,249		1,209	1,004	1,166	3,379	17,189
	June	2,286		1,812	1,071	1,489	4,372	21,115
	July	2,307		1,503	985	1,191	3,679	17,258
	August	2,325		1,516	1,085	1,290	3,891	18,440
	September	2,332		1,619	1,227	1,511	4,357	21,234
	October	2,346		1,395	1,102	1,441	3,938	19,109
	November	2,356		1,294	1,027	1,308	3,629	17,805
	December	2,286		1,861	1,588	1,828	5,277	24,108
	AVERAGE	2,259	TOTAL	17,748	12,848	16,224	46,818	226,416

[1]Excludes service wells and stratigraphic and core tests.
NA=Not available.
Note: Totals reflect subsequent data revisions and therefore may not agree with cumulative monthly data.
Sources: Rotary Rigs: Hughes Tool Company "Rotary Rigs Running—By State;" Wells: American Petroleum Institute "Monthly Drilling Report" and "Quarterly Review of Drilling Statistics for the United States."

Crude Oil (Continued)

Estimated Landed Cost of Imports From Selected Countries[1]

		Algeria	Canada	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	U.A. Emirates	Venezuela
		Dollars per barrel								
1975	**AVERAGE**	**12.72**	**12.72**	**13.79**	**12.21**	**12.35**	**12.62**	**12.30**	**12.87**	**11.85**
1976	January	13.56	12.95	13.89	13.01	13.52	13.61	13 18	13.50	11.60
	February	13.57	13.24	13.94	12.87	13.45	13.52	13.21	13.36	12.09
	March	13.83	13.30	13.94	12.77	13.36	13.62	13 18	13.37	11.71
	April	13.73	13.61	13.78	12.91	13.38	13.60	13 11	13.18	11.95
	May	13 47	13.62	13.84	12.82	13 59	13.62	13.05	13.39	11.61
	June	13.75	14 19	13.84	13.00	13.38	13.78	13 14	13.09	11.55
	July	13.77	13 79	13.80	12.76	13.53	13.81	13.02	13.45	11.44
	August	13.91	13 78	13 78	13.09	13.51	13.87	13.03	13.23	11.77
	September	14.03	13 70	13.80	12.78	13.72	13.82	12.87	13.44	11.98
	October	13.81	13 71	13.84	12 73	13.83	13.99	12.87	13.22	11.84
	November	13.84	13 59	13 77	12.58	13.73	13.95	13.01	13 18	12.01
	December	14.14	13.52	13.75	12.69	13.79	14.11	13.02	13.29	12.19
	AVERAGE	**13.81**	**13.57**	**13.82**	**12.82**	**13.58**	**13.80**	**13.04**	**13.30**	**11.80**
1977	January	14 80	13 92	14 42	13 16	14.64	14.97	13.22	13.56	13.29
	February	15 18	13 74	14 57	13 56	15 12	15 12	13.32	13 46	13.76
	March	15 08	14 34	14 64	13 94	14 88	15 13	13.50	13.80	13 41
	April	15.21	14 02	14 70	13 95	15 12	15.37	13 41	13 78	13 19
	May	15.20	14 94	14 59	13 94	14 91	15 40	13 49	13.85	13 10
	June	15 34	14 49	14 63	13 81	14 92	15.37	13.39	13 72	13.06
	July	15 29	13 91	14 75	13.84	14 88	15.39	13.64	14.20	13.02
	August	15 24	14 24	14 65	13 99	14 70	15.25	13 72	14.36	12.82
	September	15.29	14 14	14 62	3 77	14.99	15.34	14 01	14 41	13.08
	October	15 41	14 00	14 67	3 83	14.81	15.31	13.85	14.56	13 16
	November	15 05	14 52	14 73	13 88	14 73	15.23	13.94	14 19	13 11
	December	15.25	14.27	14.58	13.95	14.81	15.21	13.99	14.48	12.99
	AVERAGE	**15.20**	**14.21**	**14.63**	**13.80**	**14.87**	**15.25**	**13.61**	**14.04**	**13.13**
1978	January	15 01	14.37	14 60	13 91	14 63	14 88	13.93	14 40	13 00
	February	14 91	14.31	14 53	13 75	14.85	14.90	13.96	14.07	12.93
	March	14 74	13 56	14 56	14 06	14 62	14.89	14.07	14 44	13.22
	April	14.91	13 50	14.61	13 90	14 43	14.63	13.85	14 42	12.89
	May	14 70	14.39	14.50	13 94	14.56	14 72	13.86	14.20	12 49
	June	14.80	15.07	14 58	13 92	14 45	14.61	13.86	14 48	12.72
	July	14 83	14.64	14.73	13.93	14.65	14.64	13.81	14.29	12 41
	August	14.83	14 78	14 66	13 76	14.64	14.59	13.84	14 49	12 70
	September	14 74	13.92	14 73	13 83	14.62	14.78	14.03	14.36	12.94
	October	14 90	14.73	14 68	13.89	14 81	15.03	13.89	14 61	12 78
	November	15.30	14.72	14.85	13.89	15.04	15.06	14.02	14.38	13.08

[1]See Explanatory Note 16
Source FEA Form F701-M-O "Transfer Pricing Report." Data provided by the Economic Regulatory Administration

Crude Oil (Continued)

Estimated FOB Cost of Imports from Selected Countries[1]

		Algeria	Canada	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	U.A. Emirates	Venezuela
		Dollars per barrel								
1976	January	12.96	NA	12.77	11.61	12.34	12.85	11.67	11.91	11.15
	February	12.89	NA	12.77	11.48	12.34	12.85	11.64	11.93	11.61
	March	12.93	NA	12.78	11.45	12.34	12.94	11.71	11.91	11.26
	April	12.98	NA	12.74	11.58	12.39	12.95	11.72	11.94	11.38
	May	13.01	NA	12.76	11.58	12.45	12.97	11.61	11.85	11.10
	June	13.02	NA	12.74	11.62	12.40	12.97	11.64	11.92	11.03
	July	13.06	NA	12.79	11.64	12.64	13.11	11.58	11.89	10.87
	August	13.06	NA	12.75	11.61	12.52	13.08	11.58	11.92	11 19
	September	13 12	NA	12.73	11.66	12.66	13.06	11.55	11.97	11.53
	October	13.09	NA	12.79	11.63	12.70	13.25	11.65	11.92	11.41
	November	13 12	NA	12.71	11.62	12.74	13.25	11.62	11.96	11.58
	December	13.21	NA	12.82	11.78	12.83	13.36	11.65	12.16	11.77
1977	January	14.03	NA	13.41	12.03	13.64	14.11	11.92	12.53	12.91
	February	14.31	NA	13.43	12.36	13.89	14.24	12.04	12.33	13.30
	March	14.29	NA	13.58	12.79	13.87	14.32	12.24	12.51	12.98
	April	14.34	NA	13.55	12.79	13.98	14.51	12.23	12.53	12.62
	May	14.31	NA	13.57	12.78	13.93	14.56	12.23	12.56	12.60
	June	14.35	NA	13.55	12.68	13.94	14.55	12.21	12.44	12.53
	July	14.43	NA	13.61	12.78	13.99	14.52	12.40	12.70	12.48
	August	14.48	NA	13.63	12.80	13.95	14.54	12.56	13.15	12.37
	September	14.43	NA	13.64	12.73	13.99	14.56	12.72	13.20	12.55
	October	14.43	NA	13.65	12.79	13.93	14.48	12.70	13.22	12.72
	November	14.37	NA	13.65	12.75	13.88	14.53	12.73	13.33	12.71
	December	14.44	NA	13.61	12.71	13.85	14.45	12.77	13.27	12.56
1978	January	14.29	NA	13.67	12.62	13.77	14 18	12.70	13.23	12.73
	February	14.21	NA	13.62	12.68	13.91	14 18	12.78	13 18	12.61
	March	14 19	NA	13.62	12.68	13.75	14 13	12.80	13.20	12.86
	April	14.09	NA	13.61	12.68	13.62	13.91	12.74	13.23	12.54
	May	13.99	NA	13.51	12.65	13.59	13.90	12.71	13.05	12 13
	June	14.06	NA	13.63	12.58	13.59	13.90	12.67	13.28	12.32
	July	14.06	NA	13.63	12.70	13.67	13.89	12.65	13.26	12.66
	August	14.05	NA	13.63	12.63	13.66	13.86	12.66	13.27	12.23
	September	14.05	NA	13.69	12.63	13 66	13.97	12.76	13.27	12.38
	October	14 08	NA	13.63	12.64	13.73	14.08	12.59	13.24	12.32
	November	14 13	NA	13.79	12.62	13.97	14.12	12.63	13.29	12.46

[1]The FOB cost excludes all costs related to insurance and transportation. See Explanatory Note 15.
NA= Not available
Source FEA Form F701-M-0 "Transfer Pricing Report." Data provided by the Economic Regulatory Administration.

Petroleum Consumption

Petroleum Consumption for Major Free World Industrialized Countries

		Total IEA[1]	Japan	West Germany	France[2]	United Kingdom	Canada	Italy[2]
		Thousands of barrels per day						
1973	**AVERAGE**	**33,800**	**5,000**	**2,693**	**2,219**	**1,974**	**1,597**	**1,525**
1974	**AVERAGE**	**32,390**	**4,872**	**2,408**	**2,094**	**1,867**	**1,630**	**1,521**
1975	**AVERAGE**	**31,235**	**4,568**	**2,319**	**1,925**	**1,833**	**1,595**	**1,468**
1976	January	35,100	4,941	2,464	2,436	1,679	1,785	1,775
	February	34,400	5,246	2,497	2,486	1,932	1,754	1,743
	March	34,300	5,165	2,747	2,381	1,879	1,747	1,641
	April	31,500	4,526	2,339	2,100	1,716	1,508	1,423
	May	29,900	4,218	2,320	1,796	1,417	1,512	1,253
	June	31,300	4,429	2,393	1,583	1,416	1,551	1,236
	July	31,100	4,416	2,624	1,629	1,346	1,514	1,355
	August	31,100	4,461	2,515	1,668	1,276	1,575	1,372
	September	32,200	4,517	2,521	1,974	1,477	1,512	1,604
	October	32,300	4,523	2,391	1,904	1,544	1,554	1,464
	November	35,900	5,160	2,700	2,236	1,750	1,820	1,393
	December	39,100	5,846	2,571	2,712	1,869	2,000	1,779
	AVERAGE	**33,180**	**4,786**	**2,507**	**2,075**	**1,607**	**1,653**	**1,503**
1977	January	37,700	5,433	2,393	2,519	1,830	1,788	1,696
	February	38,600	6,025	2,446	2,386	1,844	1,912	1,823
	March	35,000	5,539	2,523	2,109	1,818	1,660	1,573
	April	32,800	4,714	2,431	2,043	1,671	1,523	1,326
	May	31,300	4,314	2,364	1,846	1,546	1,520	1,268
	June	32,900	4,484	2,475	1,715	1,453	1,600	1,340
	July	31,800	4,716	2,38[illegible]	1,349	1,300	1,500	1,251
	August	32,700	4,709	2,46[illegible]	1,390	1,349	1,690	1,140
	September	33,400	4,742	2,5[illegible]7	1,783	1,555	1,535	1,502
	October	33,300	4,664	2,324	1,882	1,545	1,628	1,405
	November	34,300	5,093	2,649	2,181	1,895	1,720	1,605
	December	37,900	5,800	2,719	2,512	1,873	1,959	1,817
	AVERAGE	**34,300**	**5,015**	**2,478**	**1,973**	**1,638**	**1,668**	**1,476**
1978	January	36,600	5,245	2,461	2,646	1,823	1,798	1,776
	February	39,900	5,966	3,013	2,601	1,899	1,977	1,915
	March	R36,900	5,621	2,610	2,237	1,840	1,716	1,601
	April	33,400	4,832	2,577	2,045	1,791	1,564	R1,331
	May	32,700	R4,427	2,340	2,134	1,618	1,532	R1,301
	June	R33,300	R4,625	2,611	1,689	1,499	R1,632	R1,358
	July	R32,400	R4,704	2,692	1,365	R1,447	R1,554	R1,329
	August	R34,000	R4,857	2,338	1,326	R1,447	1,682	R1,172
	September	33,400	4,828	2,561	R1,664	1,577	1,605	1,539
	October	NA	4,856	2,632	1,999	NA	NA	1,548
	November	NA	5,465	2,791	2,420	NA	NA	1,791
	AVERAGE (Year to date)	**34,700**	**5,032**	**2,598**	**2,007**	**1,658**	**1,671**	**1,511**

[1]The 19 signatory nations of the International Energy Agency (IEA) are Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States.
[2]Not a member of IEA.
[3]Principal products only.
NA = Not available.
R = Revised data.
Note: Total IEA data represent domestic demand in the United States and sales of petroleum products for all other members. Sales exclude refinery fuel, refinery losses, and ocean bunkers. Experience has shown that this total IEA quantity is between 93 and 95 percent of total IEA consumption.
Source: Central Intelligence Agency, National Foreign Assessment Center, *International Energy Statistical Review*, 7 February 1979.

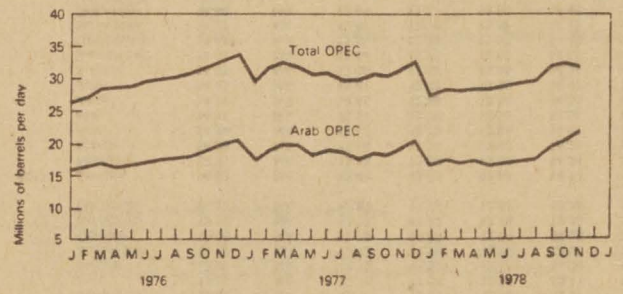
Crude Oil Production

Crude Oil Production for Major Petroleum Exporting Countries

Country	1972 Year	1973 Year	1974 Year	1975 Year	1976 Year	1977 Year	November 1978 Production Capacity		
							Production	Maximum Sustainable	Unused
	Thousands of barrels per day								
Algeria	1,040	1,070	960	960	990	1,040	1,230	1,300	70
Iraq	1,465	2,020	1,970	2,260	2,415	2,330	3,100	3,100	0
Kuwait[1]	3,283	3,020	2,545	2,085	2,145	1,970	2,650	2,900	250
Libya	2,229	2,175	1,520	1,480	1,935	2,080	2,100	2,300	200
Qatar	482	570	520	440	495	430	480	600	120
Saudi Arabia[1]	6,016	7,595	8,480	7,075	8,575	9,200	10,250	10,700	450
United Arab Emirates	1,202	1,535	1,680	1,665	1,935	2,010	1,830	2,350	520
Subtotal: Arab OPEC	**15,727**	**17,985**	**17,675**	**15,985**	**18,490**	**19,060**	**21,640**	**23,250**	**1,610**
Ecuador	78	210	175	160	185	180	200	225	25
Gabon	125	150	200	225	225	230	220	225	5
Indonesia	1,080	1,340	1,375	1,305	1,505	1,690	1,590	1,700	110
Iran	5,023	5,860	6,020	5,350	5,885	5,660	3,490	6,600	3,110
Nigeria	1,815	2,055	2,255	1,785	2,070	2,100	2,280	2,300	20
Venezuela	3,219	3,365	2,975	2,345	2,295	2,240	2,250	2,400	150
Subtotal: Non-Arab OPEC	**11,340**	**12,980**	**13,000**	**11,170**	**12,165**	**12,240**	**10,030**	**13,450**	**3,420**
TOTAL OPEC	**27,067**	**30,965**	**30,675**	**27,135**	**30,655**	**31,160**	**31,670**	**36,700**	**5,030**
Canada	1,540	1,800	1,695	1,460	1,300	1,320	1,520	1,800	280
Mexico	440	465	580	720	850	980	1,330	1,500	170
TOTAL OPEC, Canada, Mexico	**29,047**	**33,230**	**32,950**	**29,315**	**32,805**	**33,460**	**34,520**	**40,000**	**5,480**
TOTAL WORLD	**50,550**	**55,755**	**55,875**	**52,990**	**57,340**	**59,520**	**62,908**		

[1]Includes about one-half of the former Kuwait-Saudi Arab a Neutral Zone. Production in November 1978 amounted to approximately 600,000 barrels per day.
Sources: Central Intelligence Agency, National Foreign Assessment Center, *International Energy Statistical Review*, 7 February 1979, National Energy Board of Canada, and U.S. Department of Energy.

OPEC Countries Crude Oil Production



APPENDIX B—STATUS OF REGULATORY SUPPLY MANAGEMENT AND DEMAND RESTRAINT PLANS

REGULATORY SUPPLY MANAGEMENT AND DEMAND RESTRAINT PLANS

Standby Crude Oil Allocation and Price Regulations, and Refinery Yield Program

Proposed standby regulations were published in the FEDERAL REGISTER on February 10, 1978, and covered the following regulatory programs:

Standby Crude Oil Allocation Program.

Emergency Standby Mandatory Allocation Crude Oil Pricing Program.

Refinery Yield Control Program.

Public hearings were held in June 1978, and a further hearing was held on September 26, 1978, regarding a provision for the allocation of crude oil to product importers.

The final standby regulations were published on January 16, 1979, and further comments were requested by March 15.

Standby Product Allocation and Pricing Regulations

Standby product allocation and pricing regulations were promulgated and published in a Notice of Proposed Rulemaking in the FEDERAL REGISTER in July 1978. Public hearings began in Washington, D.C. on September 12, 1978. Following the review of comments offered, final regulations were published in the FEDERAL REGISTER on January 18, 1979. Further comments were requested by March 15.

Gasoline Rationing

Background.—Federal planning for gasoline rationing was first undertaken in the fall of 1973 as one of several possible responses to declining domestic petroleum production and to the growing dependence of the United States on foreign sources of supply. These efforts were accelerated during the 1973-74 embargo and implementation activities were initiated. After the embargo, the Federal Energy Administration decided, in 1975, to complete the rationing planning process begun during the embargo, and a draft plan was prepared.

In December 1975, Congress passed and the President signed the Energy Policy and Conservation Act (EPCA) which required, among other things, the development of a gasoline rationing contingency plan. During early 1976, the FEA prepared a draft rationing plan to meet the EPCA requirement. Proposed regulations were published in the FEDERAL REGISTER and hearings were held in several cities. In January 1977, the rationing plan was prepared for submission to Congress. After the current Administration assumed office, however, it was decided to delay the Congressional review process until there was a reevaluation of the plan's provisions.

Current Status.—The reevaluation of the previous rationing plan has led to important changes to make it more quickly implementable and more effective. A revised plan was published in proposed form in the FEDERAL REGISTER of June 28, 1978, and public hearings were held during July and August, resulting in over 1,000 oral and written comments. The President transmitted the plan to Congress on March 1, 1979.

Conservation Contingency Plans

Background.—The Energy Policy and Conservation Act of 1975 required the Administration to develop conservation contingency plans for petroleum emergencies. Six such plans were developed during the previous Administration, covering the areas of:

Heating, cooling and hot water restrictions;

Commuter parking management and carpooling incentives;

Weekend gasoline and diesel fuel retail distribution restrictions;

Boiler combustion efficiency requirements;

Restrictions on illuminated advertising;

Restrictions on certain gas lighting.

These plans were prepared for submission to Congress in 1976 but were withheld by the current Administration for further evaluation and study.

Current Status.—On March 1, 1979, the President submitted the following plans to the Congress:

Plan No. 1—*Emergency Weekend Gasoline Sales Restrictions.* This program would allow DOE to prohibit owners or operators of retail stations from dispensing gasoline and diesel fuel during designated weekend hours, except to specified commercial and emergency vehicles.

Plan No. 2—*Emergency Building Temperature Restrictions.* Under this plan, DOE could impose energy reducing heating, cooling and hot water temperature restrictions on the owners and operators of commercial and public buildings.

Plan No. 3—*Emergency Advertising Lighting.* This plan would allow DOE to prohibit the use of illuminated advertising signs except for those necessary during business hours to identify a business and the goods or services it offers and to direct customers to it.

We are also analyzing and evaluating a number of new contingency conservation plans. We expect to complete the development of a selected group of these additional plans during FY 1979.

APPENDIX C—PRESENT AND PROJECTED QUANTITIES OF PETROLEUM STORED IN THE STRATEGIC PETROLEUM RESERVE

The Department of Energy is in the process of implementing plans for the storage of an initial 250 million barrels of petroleum in the Strategic Petroleum Reserve (SPR). As of February 11, 1979, 77,000,000 barrels had been delivered to the SPR and it is expected that a goal of 248 million barrels will be met by the end of 1980. However, in view of the Iranian situation it is uncertain whether the current rate of fill, which is 10 million barrels a month, can be maintained. DOE plans currently call for a total of 348 million barrels to be purchased and stored by the end of 1981, 418 million by the end of 1982, and 524 million by the end of 1983. The Department also has submitted to the Congress, in Energy Action DOE No. 1, May 1978, a second amendment to the SPR Plan, this amendment became effective in June, 1978, and provides for expansion of the SPR program to one billion barrels of petroleum, to be in storage by 1985; however, specific implementation plans have not been formulated nor have funding decisions been made as of this date.

APPENDIX D—PRODUCTION PROJECTIONS FOR NEW AND EMERGING TECHNOLOGIES.*

Production of energy from new and emerging energy technologies currently comprises a negligible portion of domestic energy needs. In the near future, however, energy production from solar, wind, and geothermal sources is expected to provide a small but increasingly significant contribution to domestic energy self-sufficiency, as the following table illustrates:

*These projections have been developed by the Energy Information Administration of DOE. Because the assumptions upon which the projections are based constantly change and are subject to differing interpretations, the data expressed herein solely represent the conclusions of the Energy Information Administration.

PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES

[Trillions of Btu Per Year]

	1985		1990	
	Lowest of limit	Highest of limit	Lowest of limit	Highest of limit
Synthetic Fuels:				
Shale Oil	106	106	106	425
Syncrude & liquid boiler fuels from coal	68	68	68	275
High Btu coal gas	91	91	365	365
Medium Btu coal gas	0	0	340	340
Methanol (from coal)	0	0	0	33
Solid Waste Conversion [2]	0	120	0	400
Subtotal	(265)	(385)	(879)	(1,838)
Geothermal Central Electric [1, 2]	73	73	194	194
Dispersed	6	10	10	30
Subtotal	(79)	(83)	(204)	(224)
Central Electric Technologies:				
Wind Systems [1]	1	1	7	7
Photovoltaic & Solar Thermal	2	2	14	14
Ocean Thermal	1	1	6	6
Biomass or electricity [1]	9	12	18	30
Low-Med Btu-Combined [1] Cycle	0	0	0	250
Subtotals [3]	(13)	(16)	(45)	(307)
Dispersed Technologies Solar & Wood Heat & Cooling of bldgs	27	32	66	104
Photovoltaic	0	0	1	2
Wind	1	2	5	20
Subtotals [4]	(28)	(34)	(72)	(126)

PRODUCTION LIMITS FOR NEW AND EMERGING TECHNOLOGIES—Continued

[Trillions of Btu Per Year]

	1985		1990	
	Lowest of limit	Highest of limit	Lowest of limit	Highest of limit
Industrial & Arig:				
Solar Process Heat	20	50	60	250
Biomass (over 1978 levels)	100	200	200	500
Subtotals	(120)	(250)	(260)	(750)
Transportation Liquids from biomass (gasohol)	2	5	15	40
Total	507	773	1,475	3,285
Adjusted Total [5]	(707)	(1,013)	(2,025)	(4,413)
Oil Equivalent (MMB/D) [6]	330	477	953	2,077

[1] The amounts shown are technically possible and on a case by case bases economically possible, but in an integrative analysis the technologies here noted frequently do not enter the forecast in the amounts shown.

[2] The solid waste conversion figures are highly uncertain and are currently being reviewed.

[3] The amounts shown for centralized electricity is the heat value of the electricity produced. An estimate of the heat value of the possible fuel saved to generate the same amount of electricity can be obtained by multiplying the figures shown by 3.

[4] It is estimated that one-half the energy saved by these dispersed technologies is electricity. The heat value of the fuel saved in electricity generation can be estimated by taking one-half of the figure shown and multiplying it by 3.

[5] The adjusted total is an estimate of heat value of gas and oil saved by using the new technologies at the limit shown. The adjustment for heat losses in electricity generation is included in these figures.

[6] The oil equivalent figure is shown for the adjusted totals. It was computed assuming 5.82 × 1,000,000 Btu per barrel of crude oil.

APPENDIX E—IMPACT OF THE CURTAILMENT OF IRANIAN EXPORTS, "THE OUTLOOK FOR THE IMPLEMENTATION OF THE INTERNATIONAL ENERGY AGREEMENT'S EMERGENCY OIL SUPPLY PROGRAM," AND THE OUTLOOK FOR ADDITIONAL OIL IMPORTS FROM MEXICO

Shortages Created by the Iranian Situation. The political situation in Iran has resulted in a net reduction in world oil production of approximately 2 million barrels per day compared with the level of late 1978. On the basis of the percentage of reliance upon imports alone, the United States' share of the shortfall would be approximately 500,000 barrels per day. If the International Energy Agreement were triggered, the shortfall could be apportioned ultimately on the basis of total petroleum demand. In that event, the U.S. share of the shortfall could increase to approximately 800,000 barrels per day.

The Iranian situation underscores the danger to national security of excessive consumption of oil and consequent undue dependence upon imported petroleum.

The Outlook for Implementing IEA Sharing Plans. The IEA Governing Board will meet on March 1-2, 1979, to review the impact of the Iranian situation and to discuss appropriate policy responses designed to reduce consumption, increase production, encourage fuel switching, and ensure equitable allocation of available production.

It does not now appear that the emergency oil supply program will be fully implemented. Aggregate oil supplies available to IEA countries have not fallen seven percent below consumption in the base period, which would trigger the emergency sharing mechanism. A limited sharing program could be triggered if oil supplies to any single member country fall 7 percent below its base period consumption. Three or four countries are possible candidates for such selective triggering. If an individual country did trigger the emergency sharing mechanism, it would be required first to reduce its oil consumption by 7 percent.

A voluntary commercial redirection of oil supplies is already underway which should help distribute available supplies to accommodate the more severely affected countries.

The Outlook for Additional Oil Imports from Mexico. Mexican oil production is currently approximately 1.5 million barrels daily of which some 500,000 b/d are being exported. The United States receives about 80-90 percent of Mexican oil exports. Mexico's production efforts are substantial but it is unlikely that oil production can be increased significantly in the near term beyond the levels already targeted. Mexico's end of 1980 production goal is 2.2 million b/d, with exports of about 1.1 million b/d. Beyond 1980, oil production levels will be determined by the Mexican Government; President Lopez Portillo has recently suggested the pace of future development will be somewhat slower than previously expected.

APPENDIX F—THE IMPACT OF THE NEA ON THE REDUCTION OF U.S. OIL IMPORTS

The National Energy Act is principally a longer term program that does not have large potential for reducing oil imports in 1979-80. The principal near term impact will be through the Natural Gas Policy Act, which has created a national market for natural gas and made available to the interstate market substantial volumes of gas that is surplus to the demands of the intrastate markets. If the full potential were realized, the import reduction could be a few hundred thousand barrels per day. In the short term, however, there are institutional and other constraints that will prevent realization of the maximum potential. The acts relating to Conservation, Utility Rate Reform, Coal Conversion, and Energy Tax Credits will have a relatively small impact in 1979 and 1980.

For the longer term, it is projected that the National Energy Act will reduce the demand for imports in 1985 by 2.5 to 3 million barrels per day. Nevertheless, 1985 imports of petroleum are expected to be between 9.0 and 10.0 million barrels per day. Thus, while the NEA is a significant step in the right direction, it will not alone solve the energy and economic problem of heavy dependence upon imports.

APPENDIX G—COMPARISON OF CURRENT DATA WITH THE DATA UTILIZED IN THE 1975 REPORT OF INVESTIGATION OF EFFECT OF PETROLEUM IMPORTS AND PETROLEUM PRODUCTS ON THE NATIONAL SECURITY

1. PERCENT OF DOMESTIC ENERGY CONSUMPTION BY PRIMARY ENERGY TYPE

	1975 Report	*Current Data*[1]
A. Petroleum	46%	48%
B. Natural Gas	31%	25%
C. Coal	18%	18%
D. Hydroelectric	4%	4%
E. Nuclear	1%	4%

2. CRUDE OIL PRODUCTION

	1975 Report	*Current Data*
A. World	55	[2]62.9
B. OPEC	30	[3]31.6
C. Communist Countries	11	([11]----)
D. U.S.	8.8	[4]8.7

3. DOMESTIC PETROLEUM PRODUCT DEMAND

1975 Report	*Current Data*
16.3	[5]18.7

4. CRUDE AND PRODUCT IMPORTS

1975 Report	*Current Data*
5.8	[6]8.1

5. IMPORTS AS A PERCENT OF DOMESTIC PETROLEUM DEMAND

1975 Report	*Current Data*
35.6%	[7]43.4%

6. DIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC

1975 Report	*Current Data*
3.5	[8]5.5

7. INDIRECT CRUDE AND PRODUCT IMPORTS FROM OPEC

1975 Report	*Current Data*
.85	[9]1.2

8. PERCENTAGE OF TOTAL PETROLEUM IMPORTS ORIGINATING IN OPEC

	1975 Report	*Current Data*
A. Direct	60%	67.9%
B. Indirect	15%	14.8%
C. Total	75%	82.7%

9. PERCENTAGE OF DOMESTIC PETROLEUM DEMAND ORIGINATING IN OPEC

1975 Report	*Current Data*
25%	35.8%

10. IMPORTS FROM MAJOR WESTERN HEMISPHERE PRODUCER/SUPPLIERS

	1975 Report	*Current Data*[10]
A. Canada	1.0	.45
B. Venezuela (OPEC)	1.1	.62
C. Mexico	([12])	.31
D. Total as a percent of imports	36%	17%

(All numbers are in Millions of Barrels Per Day unless otherwise noted)

The source for the following data is the Monthly Energy Review; February 1978, published by the Department of Energy:

[1] Numbers equal less than 100% due to rounding—Average for 1978.

[2] November 1978.

[3] *Ibid.*

[4] Average for 1978.

[5] *Ibid.*

[6] *Ibid.*

[7] Average for 1978; DOE not account for refinery loss of processing imported crude.
[8] Average for first eleven months of 1978.
[9] Average for first five months of 1978.
[10] Average for first eleven months of 1978.
[11] No comparable date immediately available.
[12] Not reported.

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WASHINGTON, D.C., FEBRUARY 9, 1979.

DEAR MR. MUNDHEIM: I am replying to your letter of February 6, requesting the review, and if needed, revision of my April 3, 1978 letter to you regarding the impact of oil imports on the national security of the United States.

I have reviewed the earlier exchange, and conclude that the comments contained in my April 3 letter are still current, and are responsive to the specific questions posed in your letter of March 27, 1978.

You further requested the Department's views on the impact of the recent cessation of Iranian oil exports on the national security, pursuant to Section 232(b) of the Trade Expansion Act of 1962. The Iranian situation has underscored the serious implications of our dependence upon foreign suppliers for nearly one-half of all petroleum and petroleum products consumed in the United States. It further reinforces our judgment, as stated in my letter of April 3, that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

Sincerely,

RICHARD N. COOPER,
Under Secretary of State For Economic Affairs.

DEPARTMENT OF STATE

WASHINGTON, D.C., *April 3, 1978.*

Mr. ROBERT H. MUNDHEIM, *The General Counsel of the Treasury, Washington, D.C.*

DEAR MR. MUNDHEIM: I am responding to your March 27 letter to Secretary Vance requesting the views of the State Department as to whether oil or oil products are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States.

Notwithstanding the economic disruption suffered by the United States as a direct consequence of the 1973-74 oil embargo and owing to the massive price increases which came in its wake, our dependence on imported oil has been increasing. Last year, the United States depended upon imports of petroleum and petroleum products to meet almost 50 percent of domestic demand. Forty-seven percent of our crude oil imports came from the Arab nations which imposed the embargo, and another 40 percent came from non-Arab members of the market-dominating Organization of Petroleum Exporting Countries (OPEC).

Thus, the United States remains vulnerable to interruptions in the supply of imported oil and to substantial price increases which could severely disrupt our economy. Furthermore, it is our view, and that of major OPEC producers and our allies, that a continuation of the current trend in United States imports eventually could be a major factor in creating a seller's market for internationally traded oil, increasing the possibility of large oil price increases. Such increases would not only affect the United States economy directly, but seriously damage the prospects for the growth and stability of the world economy.

It is true that there are other countries which are even more heavily dependent on imported oil as a source of energy than is the United States. However, their role in the maintenance of world peace and global security is less than that of the United States, and they have less potential than do we to increase their energy production. They also, like the United States, feel a great sense of unease at their dependence on imported petroleum, and their sense of vulnerability is heightened when they see the degree to which the United States, the leader in the NATO Alliance, relies so heavily on outside sources of crude oil.

The following are our comments on the five specific points you asked us to address:

1. Our treaty obligations, particularly those that relate to mutual security, require the United States to be able to conduct an effective defense of its own interest and to make an effective contribution to the defense of its allies. Heavy dependence on imported oil can create doubts about our ability to sustain prolonged conflicts and assist our allies in an optimum way.

2. It is our view that the current oil import situation impairs our ability to achieve our foreign policy objectives, both economic and political, in ways that are spelled out in this letter. Moreover, the way in which we deal with this situation is widely regarded by other countries as a test of United States leadership and determination to play a constructive role in international relations.

3. The International Energy Agency's oil sharing program, particularly when the full amount of the oil stocks it contemplates is in place, can significantly lessen the impact of potential supply disruptions on us and our allies. Nevertheless, even when the United States strategic Petroleum Reserve is full, it can only delay the impact of a prolonged, severe shortage of oil and is not designed to offer protection against the effects of abrupt price increases. In recognition of this, the members of the International Energy Agency have adopted a separate objective of reducing the group's projected dependence on imported oil to no more than 26 million barrels a day by 1985. Currently, owing in large part to projections of oil imports by the United States on the basis of current policies, achievement of that objective is endangered.

4. Both the Soviet Union and China are net oil exporters. The United States, dependent on far-flung lines of supply and foreign sources for a large percentage of its needs, is at an obvious strategic disadvantage.

5. Our high level of oil import dependence has contributed substantially to a current account deficit that has reduced international confidence in the dollar. This in turn has created unwonted difficulties in achieving the maximum degree of international cooperation to further our objective of promoting a stable, balanced recovery of the world economy from the present severe recession.

In sum, it is our overall judgment that oil and oil products are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States; effective action is required to remedy this situation.

Sincerely,

RICHARD N. COOPER,
Acting Secretary.

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POTENTIAL ECONOMIC IMPACTS OF A PARTIAL OIL EMBARGO

U.S. DEPARTMENT OF TRANSPORTATION

OCTOBER 26, 1978.

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APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS

SECTION I—INTRODUCTION

An embargo is assumed that cuts off 3 million barrels of imported oil per day for a six-month period, accounting for approximately 15.7 percent of current consumption.

The economic impacts are examined under two scenarios:

1. Petroleum consumption is reduced 15.7 percent in all sectors of the economy.

2. All the reduction of 3 million barrels per day is concentrated in personal auto use.

Neither of these scenarios represents an optimum allocation of petroleum products; they reflect a pessimistic forecast of the economic impact of two extreme allocation policies. The impacts could probably be reduced by an improved allocation policy; drawdown of stocks of petroleum products and substitute fuels; increases in domestic production of fuels; and further conservation. However, it should be remembered that it is difficult to change institutional patterns of energy consumption, production and distribution in the short term, especially without warning and careful advance planning. Therefore, the results presented here may be realistic for a disruptive period following a sudden embargo.

Background information on trends in the consumption of petroleum products and other fuels, domestic production of oil, and oil imports is presented in Table 1. It may be noted that total energy consumption has been growing somewhat slower than real GNP; however, based on data for the first five months of 1978, total energy consumption may grow at about the same rate as GNP in 1978. The consumption of petroleum products has been growing as fast or faster than the GNP for several years (reflecting a sharp decrease in the production of natural gas while coal production has kept pace with GNP growth) but has slowed in 1978. Oil imports have been increasing dramatically until 1978 as a result of a sharp decline in domestic production of oil. However, imports of oil have declined in 1978 largely reflecting the increase in domestic supply from Alaska. In fact, for the first six months of 1978 crude oil imports declined 14 percent, compared to the same six months a year earlier.

TABLE 1. CONSUMPTION OF PETROLEUM PRODUCTS BY SECTOR AND SELECTED ENERGY INDEXES

CATEGORY	1973	1974	1975	1976	1977	Estimated 1978	Estimated 1979	Estimated 78:4-79:1
Thousands of Barrels Per Day								
Industrial[a]	3145	3098	2958	3192	3393	3444	3638	3541
Residential and Commercial	3500	3207	3018	3301	3502	3553	3751	3652
Transportation[b]	9131	8881	8957	9430	9746	9907	10162	10035
Electric Utilities	1532	1467	1389	1520	1709	1803	1847	1825
Total	17308	16653	16322	17443	18350	18707	19398	19053
Oil Imports (crude and products)	6256	6112	6056	7313	8744	7938[c]	—	—
Indexes: 1973 = 100								
Real GNP (Constant 1972 dols.)	100.0	98.6	97.4	103.2	108.3	112.7	117.7	—
Energy Consumption								
Total Energy	100.0	97.5	94.7	99.8	101.8	106.1	—	—
Petroleum Products	100.0	96.2	94.3	100.8	106.0	108.1	112.1	—
Coal	100.0	97.5	96.6	103.5	106.3	—	—	—
Natural Gas	100.0	96.5	88.6	90.4	87.1	—	—	—
Energy Supply								
Crude Oil, Domestic Production	100.0	95.3	91.0	88.3	88.8	95.2	—	—
Oil Imports (crude and products)	100.0	97.7	96.8	116.9	139.8	126.9[d]	—	—

[a] Includes agriculture, mining, construction, and manufacturing.

[b] Includes military operations.

[c] Average for January through June 1978.

[d] Based on January through June 1978.

Source: Monthly Energy Review, August 1978, Energy Information Administration, U.S. Department of Energy, Survey of Current Business, various issues, Bureau of Economic Analysis, U.S. Department of Commerce.

SECTION II—IMPACTS ON GNP

A reduction of 15.7 percent in the consumption of petroleum products in all sectors (the first scenario) would tend to reduce GNP in the short term by a like percentage if no conservation was possible, no fuel substitution was possible, no sustained drawdown of petroleum stocks was possible, and the mix of products and services demanded in the economy remained the same. This follows since petroleum products are an essential input, directly or indirectly, to all industries in the economy, and a balanced level of production among intermediate and final products would settle down to the reduced level. The full effects would occur with a one- to two-month lag as fuel in transit and working stocks were depleted.

Freight transportation would be affected by essentially the same percentage as all other sectors of the economy in this worst case assumption. The demand for discretionary travel, however, would probably decline more than the 15.7 percent drop postulated, due to a reduction in incomes and an increase in uncertainty with respect to future incomes. Discretionary travel,[1] largely by auto, is estimated to account for about 12 percent of total petroleum consumption. If this travel is cut voluntarily by 33 percent (due to income declines), which seems reasonable, then petroleum products would be freed up for use elsewhere in the economy, resulting in a reduction of only 13.4 percent in the remainder of the economy.

Some conservation would be possible in industry, transportation (in addition to discretionary travel), and commercial use without reducing output or economic activity. Households might be persuaded to reduce consumption for space heating and other uses. It is estimated that these sectors could absorb on the average a 5 percent decrease in consumption, without decreasing output. Therefore, an 8.4 percent reduction in output is estimated to occur in all sectors, except those associated with discretionary auto driving, increasing to this level over a one to two month period.

A best estimate is an 8.4 percent reduction in the GNP over a six-month period for the scenario under which a 15.7 percent drop in oil consumption is assumed without any formal allocation system or drawing down of petroleum industry stocks of oil and other fuels. Again, it should be pointed out that this is a pessimistic forecast, and the results could possibly be mitigated through some of the steps discussed in the next section.

The second scenario under which all of the reduction would be concentrated in personal auto would mean a 52 percent reduction in auto usage, but only about a 1.2 percent reduction in GNP over the six-month period. Even if all discretionary driving is eliminated, a 20 percent reduction in commutation and business use would be needed to accommodate the 3 million barrel per day reduction in petroleum demand. The effect on the tourist and recreational industry would be major. Hotels and motels would probably lose over 25 percent of their business. Auto service stations and repair shops would probably suffer revenue losses of up to 50 percent. The impact on auto sales could be severe in the short term, but the losses would probably be largely recouped later. The effect on GNP is estimated at about a 1.2 percent annual rate over the six-month period (see Section V). This GNP loss would affect some establishments more severely than others. Lodging and eating establishments located in tourist areas would suffer extensive losses while establishments in business areas would realize only minor losses.

SECTION III—POSSIBLE MITIGATION OF IMPACTS

The impacts under the first scenario could probably be reduced by one or more of several actions that might be feasible:

1. drawdown of stocks of petroleum products;
2. drawdown of stocks of other fuels to substitute for petroleum use;
3. higher conservation in the residential and commercial sector for space heating and cooling; and
4. higher reduction in consumption in energy intensive industries.

Drawdown of petroleum industry and user stocks (crude and products) might be feasible up to 200 million barrels. This would be from safety and cyclical stocks estimated at 600 million barrels normally.[1] However, a large drawdown of these stocks would inevitably lead to imbalances in specific locations. Over recent years, including the 1973-74 embargo period, the maximum drawdown in these stocks over a few-months period has been around 200 million barrels. To achieve this much drawdown by design would probably entail very close scheduling in the transportation and distribution system. A drawdown of this amount would significantly mitigate the necessary reduction in petroleum consumption across-the-board. Under the 15.7 percent across-the-board reduction in consumption scenario, the GNP impact might be reduced to about 2 percent (from the 8.4 percent best estimate without a drawdown of petroleum stocks, see Section II).

Scenario 2 concentrates the reduction in petroleum use in automobile travel for both discretionary and business uses. Under this scenario the GNP would be reduced by about 1 percent from the impacts on auto related industries (see Section V). If conservation in other sectors of the economy and industry stock drawdown were encouraged, the GNP impacts could be reduced and the cutbacks in discretionary driving could be brought down to 46 percent from 100 percent and the cutbacks in business travel would be limited to the 5 percent savings from conservation. Table 2 presents a summary of the effects of various mitigation efforts on each Scenario.

[1] See Appendix A.

TABLE 2.—*Mitigation of Impacts on Gross National Product 1978:4-1979:1*

[Barrels per day in thousands]

	Scenario 1 across-the-board reduction		Scenario 2 personal auto reduction only	
	Barrels per day	Percent[1]	Barrels per day	Percent[2]
Total petroleum cutback	3,000	15.7	3,000	
Mitigation of GNP reduction				
Demand reduction from discretionary travel	762		2,308	
Demand reduction required from other sectors	2,238	13.4	692	
Demand reduction from business travel			692	1.18
Demand reduction from conservation	837		837	
Shortfall	1,401	8.4	0	
Drawdown from industry stocks	1,111		1,111	
Shortfall	290	1.7	0	
Excess supply available from conservation and stock drawdown	0		[3]1,948	

[1] Reduction in total GNP after each mitigation effort.
[2] Reduction in total GNP.
[3] In Scenario 2 the petroleum available from industry stock drawdown and conservation could be used to eliminate the reduction in business travel and cut the reduction in discretionary travel to 1052 TBD (46 percent of discretionary travel demand) and thus the GNP impact could be reduced to about 0.5 percent.

[1] Discretionary travel accounts for about 40 percent of all auto vehicle miles. It includes all social and recreational driving and about a third of family business driving. These estimates are reported in the National Personal Transportation Study, *Household Travel in the United States*, Report No. 7, December 1972.

Drawdown of natural gas and coal stocks might also be feasible and, to the extent that these fuels could be substituted for oil, would reduce the impacts further.

It should be kept in mind that a drawdown of either stocks of petroleum or other fuels would have the effect of spreading the impact over a longer time frame than the six-month period and at a lower rate of impact. These stocks would need to be replenished after the embargo and the extent to which stock replenishment would affect the economy would be determined by the rate at which supplies would be available after the embargo. In a case where the supply rate required for stock replenishment could be obtained in addition to the supply rate for normal petroleum demand, the impacts would not carry over into the post-embargo period.

In the future the Strategic Petroleum Reserve (SPR) could provide some additional relief. When the reserve is filled, it is designed to satisfy all petroleum requirements above the domestic production for a 125 day period. The current fill is about 35 million barrels. Estimates for the fill by December 1980 range from a base case of 325 million barrels to a maximum achievable under an accelerated program of 465 million barrels. The long range goal is 1 billion barrels. As the current supply would account for less than two weeks of the shortfall assumed in this study, the SPR is not considered in the analysis.

Higher cut-backs in residential and commercial consumption for space heating and other uses would probably be possible only with stringent rationing and controls over consumption since a significant reduction has already been postulated (13.4 percent under the assumptions of the first scenario).

Higher cut-backs in energy intensive industries probably do not hold much promise since these are generally basic industries upon which the rest of the economy is dependent. Some higher cut-back might be possible, by depleting the inventories of the products of these industries, for a limited time and still maintain balanced production in the remainder of the economy.

SECTION IV—IMPACTS ON TRANSPORTATION MODES

A cutoff of a specified amount of present crude oil and/or petroleum product imports would affect transportation modes in two ways, as transporters of the crude oil and petroleum products and as consumers of petroleum products. The estimated consumption of petroleum products by mode is presented in Table 3.

TABLE 3. - ESTIMATED 1978 TRANSPORTATION CONSUMPTION OF PETROLEUM PRODUCTS

	Thousands of Barrels Per Day					
	Petroleum Products	Gasoline	Diesel Fuel	Residual Oil	Jet Fuel	Av. Gas
All Modes	9469.2	7195.0	1197.9	381.4	663.3	31.6
Railroads	283.0		283.0			
Water Modes	543.5	50.0	112.1	381.4		
Domestic Freight	218.3		45.0	173.3		
International Freight	236.1		28.0	208.1		
Commercial Fishing Boats	38.7	3.6	35.1			
Recreation Boats	50.4	46.4	4.0			
Highway Total	7935.5	7145.0	790.5			
Auto (and personal truck)	5770.8	5770.8				
Truck	2091.5	1349.9	741.6			
For Hire						
Local	58.5	47.7	10.8			
Intercity	473.6	66.9	406.7			
Private						
Local Freight	333.9	231.2	4.7			
Intercity Freight	313.9	112.6	201.3			
Non-Freight	912.5	800.2	112.3			
Government	97.1	91.3	5.8			
Buses						
Intercity	18.4	.7	17.7			
Transit	31.4	.3	31.1			
Private	23.4	23.3	.1			
School	18.8	18.7	.1			
Other	4.6	4.6	0.0			
Pipelines	12.3*		12.3*			
Aviation	694.9				663.3	31.6
Commercial Aviation	647.1				644.0	3.1
General Aviation	47.8				19.3	28.5

*1972 data; most energy consumed by pipelines is natural gas or electricity.

Sources: Monthly Energy Review, U.S. Department of Energy, August 1978; Highway Statistics, U.S. Department of Transportation, various issues; Monthly Report of Gasoline Sales, Ethyl Corporation various issues; Yearbook of Railroad Facts, 1977 and preliminary 1978 edition, Association of American Railroads; Aviation Forecasts, 1978-1979 and 1979-1980 preliminary edition, FAA, U.S. Department of Transportation; and Energy Consumption by Transportation Mode, report submitted by Jack Faucett Associates, May 1973 to OST, U.S. Department of Transportation.

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TRANSPORTATION MODES AS TRANSPORTERS OF CRUDE OIL AND PETROLEUM PRODUCTS

Forced curtailments in imports of crude oils and/or petroleum products would reduce the quantities of these products that have to be transported. Some highlights of the kinds of impacts that might be expected on different modes are as follows:

International Water

Virtually all crude oil and petroleum product imports except those from Canada enter the U.S. via water. Thus a 50 percent cutback in imports would cause a comparable percentage reduction in the tonnage output required. Most crude oil is carried on foreign flag vessels. These may be owned by U.S. based multinational corporations. It seems likely that the reductions would not be made proportionately by port of entry but adjusted so that supplies of crude to refineries would be kept in balance and so that the requirements for further transport of the refined products could be minimized. Specifically this would mean that a higher percentage of the imports would be focused on PAD I (Northeast-Atlantic Coast Area) since this region's refineries receive over 90% of their crude from foreign sources.

Domestic Water

The domestic water carriers provide significant service in the transportation of petroleum products and also crude oil. It is expected that the transportation requirements placed on the transportation of crude oil and petroleum products would be reduced somewhat less than the reduction in overall petroleum product demands. For example, transportation requirements for Alaskan oil would not be reduced and could be expanded if more of the oil was shipped over water to Gulf and East Coast ports. Also for petroleum products most production based on domestic oil is located away from consumption areas while for imports the refineries which use this crude are located close to consumption areas.

In 1976 about 60 percent of crude oil and petroleum product ton miles in

domestic water were handled by private carriers. In these cases most of the economic impacts of the loss of business in transporting these products would be part of the total impact on the petroleum companies which own most of the vessels. The remaining 40 percent are provided by for-hire carriers. They are likely to be specialized carriers and therefore could individually be singificantly impacted by curtailed business.

Pipelines

Pipelines may be divided along the line of the products carried, crude oil vs. petroleum products although many companies are engaged in carrying both these goods though in separate lines. The pipelines serve to carry crude oil from coastal import landing areas to inland refinery locations and from areas of excess domestic crude production to other areas for refining. Individual pipelines which carry imported crude might therfore face a reduction in throughput while those which transport domestic oil might not.

Petroleum product flows would also be cut as a result of the decreased imports. Overall pipeline flow decreases might approximate the overall 15.7 percent average decline in petroleum product consumption.

Trucking

Trucks are involved in the final delivery of most motor fuels and distillate fuels for heating. These companies would, therefore suffer a loss in business that might be proportional to the overall percentage reduction in petroleum product consumption if the reduction is made proportionally across the board. The total effect on the industry would be similar under both scenarios, as in each case the demand reduction is 3 million barrels per day. However, scenario 2 concentrates this reduction in auto use (52 percent reduction in scenario 2 vs. 21 percent in scenario 1) and thus, those industry segments that typically deliver motor fuels would suffer greater losses than other segments of the trucking industry. Carrying these products apparently accounted for about 8 percent of trucking intercity ton-miles in 1972.

TRANSPORTATION AS USERS OF PETROLEUM PRODUCTS

As users of petroleum products in a partial embargo situation, transportation modes will be balancing reduced demands for their services vs. reduced fuel availabilities to see whether they will be able to provide the demanded services with the available fuels or whether lack of fuels might constrain their output. The ability to reduce fuel use without affecting output is likely to differ significantly across the modes. for instance those that tend to operate at low load factors (as most of the passenger modes do) should be able through rescheduling to accomodate the desired pasenger travel, though at some inconvenience due to the rescheduling with significantly lower energy consumption. This can cause other disruptions such as employee layoffs.

Among the freight modes the load factors are higher, and the scheduling problems more complicated (especially for trucks) and there could, therefore, be less opportunity for retaining output levels while reducing energy consumption.

The last section of this report which reviews the impacts of the 1973-1974 embargo may also be helpful to give a feel for the type of modal impacts that might be expected.

SECTION V—IMPACT ON AUTO TRAVEL RELATED INDUSTRIES

The impact on GNP and employment would be minimized by concentrating the reduction in oil consumption more heavily in personal auto. However, this would have very serious impacts on a number of auto travel related industries.

In Scenario 1 GNP is reduced by $10.2 billion in auto related industries or approximately 0.49 percent of total GNP measured at annual rates. The largest reduction in terms of total GNP is in auto repair services where GNP is reduced by $2.5 billion (annual rate). The reduction is about 21 percent of the Gross Product Originating (GPO)[1] of this sector. Gasoline service stations and eating and drinking places cut GNP by $1.9 billion and $1.7 billion respectively.

[1] Gross Product Originating (GPO) is the portion of GNP contributed by each sector of the economy. The sum of GPO across all sectors is GNP.

Scenario 2 results in $24.8 billion, or 1.18 percent, cut in GNP at annual rates. The actual dollar reduction would be approximately half the reduction of the annual rate as shown in Table 4. Auto repair services are again the most heavily affected sector cutting total GNP by $6.2 billion. Reduced activity in gasoline service stations reduce GNP by $4.6 billion. The hotel and lodging industry derives about thirty percent of its revenue from pleasure as opposed to business and convention customers. Of these approximately 80 percent arrive by private auto. Only 40 percent of the business and convention customers arrive at their lodging via private auto. This translates into a GNP reduction of $3.5 billion from a 100 percent cutback in discretionary auto use and a 20 percent cutback in other auto use. The food and beverage industries also rely heavily on tourist purchases. In 1970 about 15 percent of food and beverages purchased away from home were purchased more than 50 miles from home. Of all trips of 100 miles or more made in 1976, the private auto was the primary mode for 72.3 percent of them. The cutback in auto use reduces the contribution to GNP from the food and beverage industry by about 7 percent of $4.4 billion.

The impacts on the auto related industries are based on driving cutbacks of 21 percent in Scenario 1 and 52 percent in Scenario 2. Fuel conservation and industry stock drawdown could reduce the GNP impacts somewhat. In Scenario 1, this available fuel would probably be employed in the manufacturing sector and would have only a minor effect on total GNP reductions in the auto related industries. However, in Scenario 2, this fuel would be available to auto users and could cut the GNP impact by more than 50 percent.

TABLE 4.—*Estimated Reduction in Gross Product Originating by Sector Resulting From the Impact on Auto Travel Related Industries of a Partial Oil Embargo*

[Annual Rates]

Sector	1978 GPO by industry Millions $	Reduction in GPO			
		Scenario 1		Scenario 2	
		Millions $	Percent	Millions $	Percent
Motor vehicle dealers	9,338	934	10.0	1,868	20.0
Other auto and accessory dealers	4,988	1,047	21.0	2,593	52.0
Auto repair services	11,914	2,502	21.0	6,195	52.0
Gasoline service stations	8,820	1,852	21.0	4,586	52.0
Motor vehicle manufacturing	8,339	834	10.0	1,668	20.0
Eating and drinking places	63,233	1,666	2.6	4,391	6.9
Hotels and other lodging places	11,333	1,326	11.7	3,467	30.0
Total		10,161	*0.49	24,786	*1.18

* Based on a Gross National Product of $2,095 billion.

Scenario 1: 21 percent reduction in overall auto use; 33 percent reduction in the use of auto for discretionary auto travel; and a 13.4 percent reduction in the use of auto for all other purposes.

Scenario 2: 52 reduction in overall auto use; 100 percent reduction in use of auto for discretionary auto travel; and a 20 percent reduction in the use of auto for all other purposes.

Other impacts not considered could include the effect on construction of vacation homes and real estate values in recreational developments. These impacts, along with the impact on new car sales, could be dramatic initially but probably could be recouped later if there were confidence that the embargo would be lifted. It should also be noted that some establishments will be impacted more than others and the revenues for some resort hotels could be reduced by as much as 80 percent.

SECTION VI—IMPACTS OF THE 1973–74 EMBARGO

The oil embargo, which was imposed October 18, 1973, by the Organization of Petroleum Exporting Countries, remained in effect until March 18, 1974. By the first quarter of 1974, there was an estimated shortfall of 3.1 million barrels per day in petroleum products, or 15.1 percent of total anticipated consumption.

Table 5 presents data measuring the imports of petroleum products just prior to and during the embargo. During the months just prior to the embargo and before the embargo impacted on actual deliveries, imports were running approximately 2.1 million barrels per day above the previous year. As the embargo took effect, imports fell to approximately 1 million barrels below the same month a year earlier.

TABLE 5.—*U.S. petroleum imports*

[thousand barrels per day]

Date	Total imports	Total one year before	Change from previous year
Aug. 24, 1973	5,767	3,649	2,118
Sept. 21, 1973	6,291	4,170	2,121
Oct. 19, 1973	6,720	4,594	2,126
Nov. 16, 1973	6,639	4,531	2,108
Feb. 1, 1974	5,200	6,538	−1,338
Feb. 8,1974	4,446	5,353	−907
Feb. 15, 1974	4,578	5,707	−1,129
Feb. 22, 1974	4,933	5,900	−967
Mar. 1, 1974	5,211	6,354	−1,143
Mar. 22, 1974	5,502	6,627	−1,125

Source: *Oil and Gas Journal.*

Federal policies, aided by market forces, were designed to minimize the impact of the embargo on the Gross National Product. This is illustrated in Table 6 by estimates of the extent of the shortfall in required energy experienced by major segments of the economy.

TABLE 6.—*The distribution of embargo oil shortfall on the sectors of the economy*

Household and commercial	17%
Industrial	5%
Transportation	17%
All sectors	15%

Source: *The Economic Impacts of an Interruption in United States Petroleum Imports: 1975–2000,* Office of Naval Research, Department of the Navy, November 1974.

The Federal Energy Administration estimated that the overall impact of the embargo on the economy resulted in a reduction in projected GNP of 1.2 to 2.5 percent, below its anticipated level.

As noted in Table 6, the embargo had a substantial impact on both commercial and non-commercial transportation. The following are some indications of the extent of this impact.

Automobile

During the embargo the consumption of gasoline in autos decreased by approximately 8 percent, as a result of the higher prices and the inconvenience of queuing to get gasoline when compared to the previous years consumption. Had consumption continued to grow at its previous rate, auto fuel use would have been approximately 14 percent higher than the embargo levels. Based on a survey conducted in the summer of 1974, in Portland, Oregon, an estimate was made of the effect of the embargo on the behavior of families with automobiles. Table 7 identifies the extent to which these families changed their modal use pattern due to the embargo.

TABLE 7.—*Effect of the 1973–74 embargo on the use of autos by urban families in Portland, Oregon*

Type of change	Percent of families
No change	52
Switch to other modes	26
Reduced auto travel	18
Miscellaneous mode changes	4
	100

Source: Boris W. Becker, et al., "Behavior of Car Owners During the Gasoline Shortage," *Traffic Quarterly,* July 1976.

The decline in the use of autos severely impacted on the auto industry. General Motors' sales dropped by 5.6 percent, Ford's fell by 13.8 percent and Chrysler declined by 19 percent during the first ten days of November 1973. In December, there were week-long shutdowns of 16 GM plants, while Chrysler closed 7 of its plants in January, putting more than 38,000 employees out of work.

The decline in the use of autos is also reflected in the reduced sales of motor gasoline. As indicated in Table 8 sales in the first quarter of 1974 were approximately 7.9 percent below the same quarter a year earlier. While sales improved through the rest of the year, they did not exceed the 1973 levels until the third quarter of 1974.

TABLE 8.—*Sales of motor gasoline*

Quarter	1973	1974	Percent change 1973–74
	(Millions of gallons)		
I	22,945	21,129	−7.9
II	24,931	24,403	−2.1

TABLE 8.—*Sales of motor gasoline*—Continued

Quarter	1973	1974	Percent change 1973–74
	(Millions of gallons)		
III	25,709	25,296	−1.6
IV	24,120	24,413	−1.2
Total	97,705	95,241	−2.5

Source: *Yearly Report of Gasoline Sales,* Ethyl Corporation, 1974.

Trucking

Trucking was also severely affected by the embargo. This was illustrated by a strike of owner-operators which began on January 31, 1974, due to several circumstances resulting from the embargo, including the lowering of the speed limit to 55 miles per hour, the sharp rise in the price of fuel, and the general scarcity of fuel which forced many drivers to chase from truck stop to truck stop to obtain fuel. Approximately 100,000 workers were reportedly laid off due to the truckers' strike.

Due to the increase in the cost of fuel between May 1973 and February 1974, and partially in reaction to the independent operators' stoppage, the ICC allowed a 6 percent fuel surcharge for general commodity regulated carriers. This surcharge was strongly contested by many of the industries which rely on trucking for the movement of their manufactured products.

Railroad

The use of passenger service and freight service increased during the embargo. Commodities transported by rail reached a record 845 billion ton-miles in 1973, or nearly 9 percent over the previous record. The increased use of rail obviously resulted in higher operating revenues, though the more than 50 percent increase in fuel prices from the previous year severely impacted on the financial position of the railroads. In February of 1974, the Interstate Commerce Commission permitted interim increases in rates of 4 percent to offset the increased cost of fuel and wages.

The availability of operating fuel was also a problem for railroads. While there was an increase in the use of rail service, this industry was limited to 100 percent of current needs for fuel consumption for the movement of fuel and passengers, and 110 percent of the 1972 level for the movement of other commodities.

Maritime Industry

Even though bunker oil was not subject to fuel allocation controls several shipping lines took action to reduce their consumption of bunker oil. Sea-Land Service took four ships out of

service, Sea-Train laid up two ships, while Matson Navigation Co. curtailed service of one vessel. Trans-American Trail and United States Lines reduced the speeds of some of their vessels to conserve on fuel. Energy conservation was also achieved through rationaliztion, which is the procedure by which sailing are spaced on a given trade to maximize the utilization of ship capacity.

Airlines

Airlines were severely affected by the embargo. Initially, the mandatory allocation program limited the fuel consumption of airlines to their 1972 levels, which was approximately 10 percent below requirements. To meet this situation, airlines competing in the same markets agreed on reduction in capacity. American, TWA, and United agreed to reduce capacity in 20 major markets through the cancellation of 82 flights in 15 markets and down-grading equipment in the remaining areas.

As the embargo continued and worsened, the President called for the further reductions in the consumption of fuel by air service. Table 9 identifies the extent of the reductions requested below 1972 consumption levels.

TABLE 9.—*Requested reduction in fuel consumption below 1972 levels*

Type of Air Service	Percent Reduction
Domestic Trunk	15
Local Service Carriers	10
International Carriers	15
Commercial and Industrial Users	10
Business and Executive Users	20
Personal, Pleasure, and Instructional	30

Source: Unpublished memoranda, Transportation Systems, Center, U.S. Department of Transportation, May 21, 1975.

By December, 400 daily domestic flights were cut from the original 13,800 scheduled.

Layoffs were widespread in the industry by January 7, 1974. Table 10 identifies the extent of the employment cuts.

TABLE 10.—*Layoffs by selected domestic carriers due to the embargo as of January 7, 1974*

Airlines	Number of Employees
Eastern	3,800
TWA	3,300
American	3,100
Pan American	1,000
Continential	732
Frontier	550
United	970
Northwest	129

Source: Unpublished memoranda, Transportation Systems Center, U.S. Department of Transporation, May 21, 1975.

Paul R. Ignatius, president of the Air Transportations Association of America described the plight of the airlines during the embargo. He noted that from Novemeber 1973 until the fuel allocation program took full effect, the airlines had furlough 15,000 employees, cancel 2,200 daily departures and ground 125 aircraft.

Fuel costs for domestic airlines, which rose only 13 percent in the five year period from 1967 to 1972, jumped approximately 20 percent from December 1973 to January 1974 and by March were 47 percent higher than a year earlier.

APPENDIX A—AVAILABILITY OF PETROLEUM STOCKS

Since 1972 the petroleum industry has normally maintained petroleum stocks of between 1,000 and 1,225 million barrels.[1] A report prepared[2] for the Department of Energy's Office of Strategic Petroleum Reserves (SPRO) estimates that for April 1977 stocks averaged 1,120 million barrels and were made up as follows:

Operating Inventory:	
Safety Stock	233 million barrels
Cycle Stock	391 million barrels
Seasonal Inventory:	
Seasonal Stock	90 million barrels
Storage Tank Bottoms	104 million barrels
Unavailable Inventory:	
Equipment Fill	1 million barrels
Pipeline Fill	267 million barrels
In transit (non-pipeline	35 million barrels
Total	1,121 million barrels

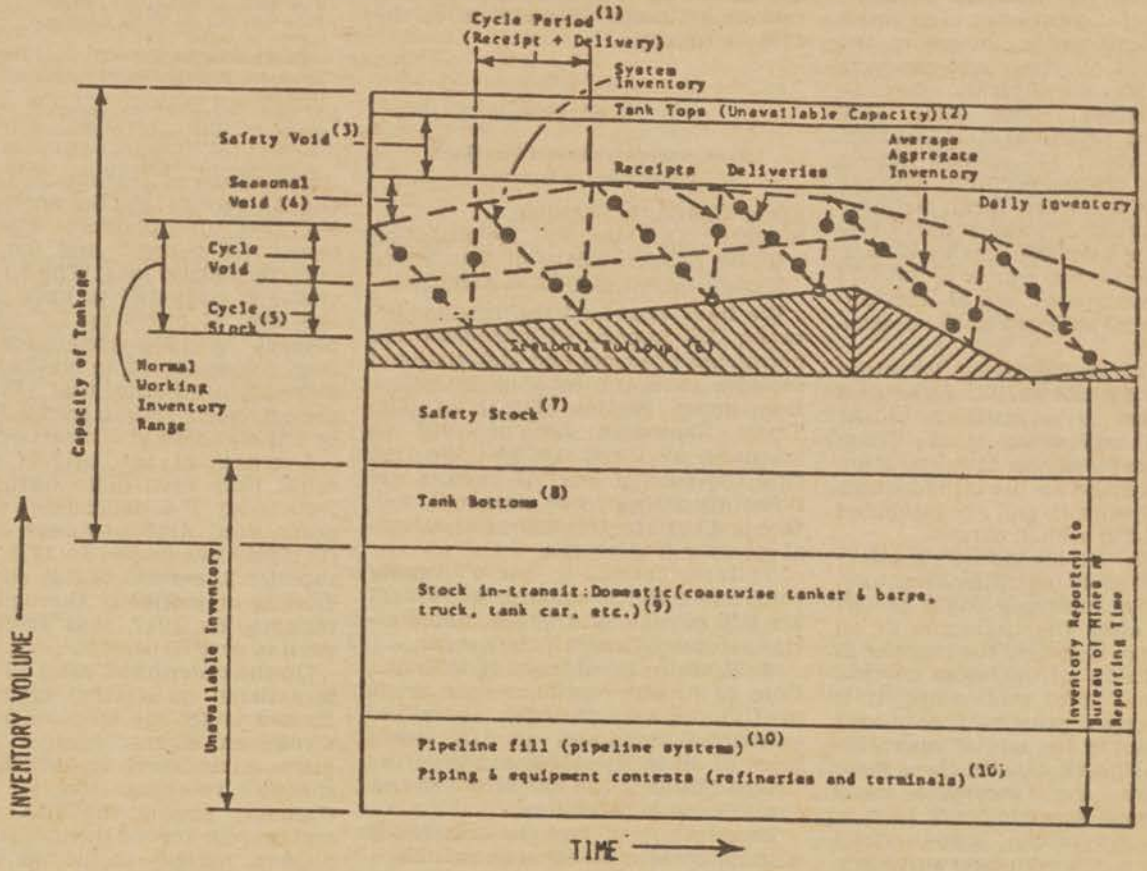
Exhibit 1 schematically illustrates the volume of the petroleum industry and shows how crude and oil products fill that volume over time.

[1] Per Bureau of Mines Mineral Industry Surveys.

[2] Evaluation Research Corporation, *Inventory Management in the Petroleum Industry*, October 1977.

EXHIBIT 1

GENERALIZED PETROLEUM INVENTORY DIAGRAM
FOR SEASONALLY INFLUENCED STOCK



NOTES/DEFINITIONS

1.	Cycle Period	- Receipt and delivery cycle time period - function of transportation mode (e.g., barge, tanker, pipeline).
2.	Tank Tops	- To allow for thermal expansion and safety margin against spillage.
3.	Safety Void	- To allow for early resupply or delays in transfers from tankage.
4.	Seasonal Void	- To provide room to hold seasonal buildup.
5.	Cycle Stock	- Inventory held as a result of the interaction between receipt and delivery patterns.
6.	Seasonal Buildup	- To accumulate the product which exceeds resupply capability during the peak demand period.
7.	Safety Stock	- To allow for delays in receipts, larger than anticipated demand, etc.
8.	Tank Bottoms	- Cannot be withdrawn from tankage under normal operating conditions.
9.	In-transit	- Resupply stock in custody of shippers.
10.	Pipe & Equipment Fill	- To assure continuous processing and/or handling.

As shown above, only part of the stocks are available. Equipment and pipeline fill and tank bottoms are not normally available. Also, over a period of a year the seasonal inventory will change, particularly for products such as heating oil and gasoline. Seasonal stocking of petroleum products changes significantly, however, the total stock of all crude and products changes less significantly due to season changes. From June 1976 through May 1977 total oil stocks fluctuated by about 153 million barrels and as that change occurred between October and February, it can probably be assumed that this was in part a seasonal change over the heating season. (However, since the winter of 1976-77 was abnormally cold, not all this difference can be assigned to the seasonal inventory.)

The petroleum operating inventory was stated by the earlier referenced SPRO report to be made up of the cycle stock and safety stock. These two components of the total stock are assumed to make up the oil industry's operating inventory and are estimated to be about 600 million barrels.

If, in fact, the oil industry's safety stock is part of its operating inventory, the effect of shortages could be felt very soon after the beginning of an embargo were it not for the practice in the oil industry of operators borrowing and lending to each other. It is this cooperative practice that allows safety stocks to be part of operating inventory. Nonetheless, if there were an embargo, spot shortages could probably begin occurring very soon in particular geographic areas, while other areas might even have surpluses. However, as the embargo continued, spot shortages would become more and more common until the safety and cycle inventories were completely depleted.

While spot shortages would probably be felt early, they would probably not become a general problem until the 230 million barrel safety reserve was depleted.

On the issue of stock drawdown the experience of the 1973-74 embargo is interesting. That embargo lasted from October 18, 1973 to March 18, 1974—five months.

A review of Bureau of Mines data from 1972 to 1978 on petroleum stocks suggests that during the year (September 1973 through August 1974) that contained the 1973-74 oil embargo, aggregate petroleum stocks fluctuated less than they did during the same September to August period in 1972-73 and 1976-77. In fact, aggregate petroleum stocks were drawn down nearly three times more from October 1972 to March 1973 (231 million barrels) than they were during the October 1973 to March 1974 embargo (88 million barrels). At the aggregate level stocks were not used abnormally during the 1973-74 embargo and, in fact, were used less than they often have been during "normal" (non-embargo) times. The availability of stocks appears to have played no important role in mitigating the effects of the 1973-74 embargo.

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SEPTEMBER 11, 1978

Memorandum for Robert Mundheim, Department of Treasury

From: Charles L. Schultze

Subject: Oil Import Investigation Under Section 232(b) of The Trade Expansion Act of 1962 as Amended

We have examined the relation between U.S. imports of petroleum and petroleum products and U.S. national security pursuant to your investigation under Section 232(b) of The Trade Expansion Act of 1962 as amended, 19 U.S.C. 1962(b). We find that the current level of imports significantly impairs our economic welfare and thereby threatens our national security in two ways:

(1) Interruptions in our oil supply comparable to the embargo of 1973-74 are still possible and would impose serious economic losses if they occur.

(2) Even in the absence of interruptions of supply, continued high levels of U.S. imports threaten to induce substantial increases in the world price of oil in the 1980s exposing the United States to the risk of severe economic harm in the future.

These dangers can be minimized without causing severe economic dislocation only by measures which promise to reduce the dependence of the United States on foreign sources of oil.

The U.S. economy has become steadily more dependent on oil imports over time. In 1960, imports satisfied 19 percent of total petroleum product consumption. By 1973, that fraction had grown to 36 percent. In 1977, it stood at 47 percent. In the absence of effective actions to hold down the level of oil imports, this fraction could rise further in the years to come.

Such high oil import levels have made, and continue to make, the United States vulnerable to interruptions in supply. This vulnerability was dramatically demonstrated by the 5-month Arab oil embargo of 1973-74. The economic impacts of that embargo and the oil price rise that accompanied it have been intensively studied by researchers both within and outside the government. Estimates of those effects are shown below. We have carefully reviewed these studies and find that the estimates span the probable range of actual effects on the economy.

	Average percent reduction in real GNP, 1974
Perry (in Edward R. Fried and Charles L. Schultze, eds., *Higher Oil Prices and the World Economy* (1975), pp. 96-97:	
Michigan model (percent)	−1.6
Federal Reserve Board model (percent)	−2.0
DRI (DRI November 1975 Review) (percent)	−2.3

The range of percentage GNP loss (1.6-2.3 percent) implies an increase in the 1974 unemployment rate of between 0.5 percent and 0.8 percent (400,000-730,000 jobs). The oil price increase is estimated to have increased the level of prices by 1.3 percent-2.9 percent in 1974—accounting, therefore, for one-third to one-half of the increase in inflation that year. These are extremely serious economic effects by any standard of comparison.

A repeat of the 1973-74 embargo could have even more disruptive effects today. U.S. dependence on oil exports from Arab members of OPEC (OAPEC) has grown. In 1973, OAPEC supplied 22 percent of U.S. oil imports, directly or indirectly through foreign refiners. By 1977, that fraction had risen to over 40 percent.

On the other hand, after 1973, an international oil sharing program was formed under the auspices of the International Energy Agency. The program is designed to distribute any shortfall resulting from an embargo equitably among the IEA members and thereby reduce the incentive of individual nations to bid up world oil prices unnecessarily. Whether the program would actually succeed in this endeavor is not certain.

We have estimated the economic impacts that could be expected if another embargo were to occur in the future. Specifically, we have investigated the effects of a 6-month embargo starting on January 1, 1980. To parallel the 1973-74 experience, we have assumed a 25 percent cutback of OAPEC production and applied the IEA oil-sharing formula—assuming it is fully effective—to determine a net cutback to the United States (2.1 million barrels/day). Because the strategic oil reserve will contain only a small fraction of its eventual size by that time, we have assumed that no part of the oil cutback is offset through distribution of oil held in the reserve.

Since the economic impacts are highly sensitive to a number of macroeconomic variables, we specified an "optimistic" and a "pessimistic" case to generate a plausible range of impacts. *The optimistic case represents the absolute minimum set of impacts that we can reasonably foresee from an*

embargo of this size and duration. It assumes an expansive monetary policy, no change in business or consumer confidence, a relatively large world demand response to changes in the world price of oil (a price elasticity of demand of −0.2), and, at the end of the embargo, a return of world oil prices to pre-embargo levels.

The pessimistic case represents a set of maximum impacts—it assumes a replication of the tight monetary policy which occurred during the 1973–74 embargo, a substantial loss in business and consumer confidence (like the 1973–74 experience), a relatively inelastic demand for world oil (elasticity of −0.1) and a permanent 20 percent increase in the world oil price after the embargo. Each case assumes that a domestic oil allocation program and price controls are in place as in 1973–74 and that a portion of the cutback is offset by reductions in privately-held oil stockpiles and industrial conversions to coal and natural gas.

The impact estimate for each case are given below:

	Optimistic	Pessimistic
Real GNP:		
Percent change in 1980	−0.8	−3.5
Percent change in 1981	−1.5	−7.0
Cumulative dollar loss through 1984 (billions of 1978 dollars)	$80	$410
Labor Market Effects:		
Change in unemployment rate, 1980	0.2	0.9
Change in unemployment rate, 1981	0.6	2.8
Change in unemployed, 1981	200,000	900,000
Change in unemployed, 1981	550,000	2,800,000
Change in employment rate, 1980	−250,000	−1,100,000
Change in employment rate, 1981	−825,000	−4,200,000
Inflation:		
Percent change in consumer price index (CPI), 1980	1.0	
Percent change in CPI, 1981	1.0	

In both cases, the effects grow over time because of the lagged responses in the economy to both the shortfall and and loss in domestic purchasing power induced by the rise in the world oil price during the period of the embargo. Though the estimated range of impacts is wide, even the favorable impacts are nevertheless quite serious. Any event which could alone induce an increase in unemployment of *at least* 750,000 persons in two years poses serious hardships. Moreover, the fabric of our economy could be threatened if the pessimistic case of nearly 3 million in additional unemployment were realized.

The impacts of any future supply interruption would, as in the case of the 1973–74 experience, be felt disproportionately in different regions and industries. The effects would be particularly severe in the northwestern and northeastern parts of the country where over three-fourths of all crude petroleum demand is met from imports.

Because petroleum products are of critical importance in virtually every major industry, the industrial effects would be spread more evenly. So long as consumption in industry can be maintained in an embargo period by reducing available inventories and conservation in other sectors, production and employment impacts can be alleviated. The 1973–74 experience, however, indicates that this period of protection is short. Furthermore, the agricultural, construction, chemicals, and transportation sectors are especially vulnerable because of their far greater than average dependence on petroleum and their inability to substitute other sources of energy for petroleum. Finally, restrictions of activity in the transportation industry, in particular, affect all other industries almost immediately.

The supply of petroleum is crucial to the overall strength of the economy beyond its effects on needed industrial inputs. Roughly one-third of all petroleum is consumed by households, of which nearly three-fourths is used by gasoline. A major conservation effort directed at household gasoline use to enhance industrial supplies of petroleum would directly affect demand for new cars, recreational goods, and tourist services. The 1973–74 oil embargo was largely responsible for the 10 percent decline in auto sales that coincided with the embargo and which precipitated large employment declines in related industries. Similar effects could be expected in the event of another supply interruption of comparable size.

Economic Dangers Other Than Supply Interruptions. Even in the absence of any risks of supply interruptions, continued growth in the level of U.S. oil imports poses severe dangers to our economic health. Combined with expected increases in import demands by other nations, growth in U.S. oil imports could strain available world supplies sometime during the 1980s. The resulting increases in the price of world oil which could result could have substantial economic impacts. At the current level of imports, each $1.00 increase in the real price of world oil increases U.S. oil costs by $4.5 billion (in 1978 dollars) and domestic inflation by 0.2 percent. The increase in the balance of trade deficit, adjusted for a partial offsetting increase in U.S. exports to OPEC, is estimated at $3.2 billion. By way of comparison, the U.S. balance of trade deficit in 1977 was $31 billion.

Even a modest rise in the real price of world oil, therefore, could have a significant economic impact. The outflow of dollars would reduce domestic purchasing power, force a deterioration in the value of the dollar, and thereby increase domestic inflation (above and beyond the direct effect caused by the rise in world oil prices). The presence of these events would severely hinder the ability of fiscal and monetary authorities to achieve both high levels of employment and price stability. In particular, either a significant decline in employment or increase in the inflation rate endured over a long period of time could upset our social fabric and therby threaten our national security.

Based on our understanding of the law and the evidence as we have examined it, we find that the importation of petroleum at current levels threatens the national security of the United States.

8

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR,
Washington, D.C., February 12, 1979.

Mr. ROBERT F. MUNDHEIM,
General Counsel of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: This letter is in response to yours of February 6, 1979. As asked in your letter, we have prepared a revised report on the availability of energy resources from Federal lands. This report is attached. We defer to the views of other agencies on whether the level of imports of petroleum and petroleum products into the United States is such as to threaten national defense or the economy.

Our report indicates that new energy production from Federal lands could not offset an interruption of imported supplies of oil. Oil and coal resources on Federal lands constitute an important source of energy for the future, but the magnitude of these resources is not such that they could fully replace currently imported supplies of oil. Further, our short term ability to increase production of energy resources from Federal lands is limited. Increased diligence recruitment on lessees of Federal oil and coal resources can produce only marginal increases in production. New leasing could be a more significant source of new energy, but the time period between leasing and production is a minimum of 1–2 years for oil and 5 years for coal.

Sincerely yours,

LEO KRULITZ,
Solicitor.

Enclosure.

DEPARTMENT OF TREASURY, SECTION (232(b)) INVESTIGATION

OIL

Production of oil from the public lands[1] has declined in recent years. In 1950, 103.1 million barrels of oil were produced. This figure rose steadily each year, reaching 618.5 million barrels in 1971. Thereafter production began to decline. Geological Survey figures show production of 489.8 million barrels in 1976. Fiscal Year 1978 figures were 477 million barrels. We believe that this figure will continue to decline although the decline should not be so sharp in the near future due to the effects of the Department's program to enforce diligence requirements. Production from public lands as related to total domestic production, while relatively steady, has nevertheless shown a decline from approximately 18.2% in 1972 to 17.5% in 1976 and 16.3% in FY 1978. This decline is attributable in part to the lessening of production on the outer continental shelf (OCS) which was 11.9% of total domestic production in 1972, 10.8% in 1976 and 9.9% in FY 1978.

Currently, the Department is engaged in enforcing more rigorously than in the past the requirement contained in our leases that operators diligently pursue production. We believe that this is, for the short term, increasing production in some areas; however, the increase is not significant enough to reverse the general decline. It is possible that more production could be generated by issuing regulations (in cooperation with the Department of Energy) providing for some greater diligence and even stricter enforcement. But, given the size of Federal oil resources relative to total U.S. resoures, we do not believe that this could result in a substantial increase in over-all domestic production.

Estimates of the demonstrated and inferred oil reserves in the United States are about 62 billion barrels. The range of estimates for undiscoverd recoverable resources is 50-127 billion barrels.* OCS resources constitute a major part of the estimated resources, disproportionate to its current share of U.S. production. We believe that the public lands (onshore and offshore) contain relatively great possibilities for significant new oil production. Nevertheless, even assuming acceleration so that more oil is recovered from the OCS, we believe domestic production will still not match consumption.

There is one major problem with forecasting significant increases in production from any source—timing. The Geological Survey has estimated that the time from lease sale to initial production will range from 4 to 11 years and from sale to peak productions, 7 to 14 years. These figures do not include the time from selection of general areas for lease through a sale, which would be a minimum of 1.5 years barring delays caused by judicial challenges. In some areas the time from lease sale to initial production may be as short as 1-2 years. This, of course, would lessen the time to peak production.

COAL

Consideration of oil resources should include information relative to coal since coal in some cases may be used as a substitute for oil.

In recent years, coal production on Federal lands has been increasing. From 1950-69, production varied between 5 to 10 million tons annually. This number rose to 18.9 million tons in FY 1972, to 43.6 in FY 1975 and 78.8 in FY 1978. The Federal share of total domestic production for recent years has increased from 3.2% in 1972 to 11.0% in FY 1978.[2]

In June, 1976, the Department adopted regulations applying new diligence requirements to Federal coal leases. In August, 1976, Congress enacted P.L. 94-377, which contains a statutory diligence requirement for new Federal coal leases. These diligence requirements have promoted more timely development of coal resources under leasing. The effect of diligence requirements is necessarily limited by physical constraints, however. Development of a coal mine after issuance of a lease is estimated to require from 5 to 7 years for initial production.

Demonstrated total U.S. coal reserves are approximately 438 billion short tons, 40% of which are located on or under Federal lands. It is estimated that, of this total, the coal that is actually recoverable is in the range of 219 to 260 billion tons. Assuming that U.S. consumption will reach 1 billion tons by 1985, the Federal contribution will increase to about 13%.

With additional leases these projections of potential future coal production from Federal lands would increase by 50%. At present, however, the Department is precluded by an injunction in *National Resources Defense Council v. Huges*, No. 75-1749 (D.C.C. Sept. 27, 1977) from issuing new leases until completion of a programmatic environmental impact statement. This statement is scheduled to be completed by April 30, 1979.

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U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 24, 1978.

Honorable ROBERT MUNDHEIM,
General Counsel,
U.S. Department of Treasury,
Washington, D.C. 20220.

DEAR MR. MUNDHEIM: This is in response to your inquiry regarding the investigation of oil imports under Section 232B of the Trade Expansion Act of 1962. Enclosed is an analysis of the 1973-74 oil embargo and its effects on employment. This examines some of the direct effects of the 1973-74 interruption. Also, we have prepared an examination of the likely current effects of an interruption of imported oil supplies on employment.

We will send you shortly a discussion of some of the policy alternatives available at this time.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Enclosures.

EFFECT OF DISRUPTION OF OIL IMPORTS

EFFECT OF 1973/74 OIL EMBARGO UPON EMPLOYMENT

Between November, 1973 and March, 1974 the following changes in employment, as measured by seasonally adjusted establishment payroll data, occurred (more details are available in articles attached):

- The net direct job loss owing to energy shortages during the period was estimated between 150,000 and 225,000 or .2 to .3 percent of all nonagricultural jobs according to a special tabulation of the regular payroll reports. Direct effects are those related to an inability of an establishment to obtain sufficient fuels or electrical energy to provide power for its operation or sufficient petroleum-based products for its own use or sale.
- Some industries expected to experience direct effects (insufficient fuels) of an oil shortage posted the following job losses during the four month period according to the regularly collected payroll reports: gasoline service stations (64,000 jobs); airline transportation (after accounting for the impact of a strike, about 15,000 jobs); laundries and dry cleaning (9,000 jobs); and special trade contractors (9,000 jobs).

On the other hand, some industries likely to experience direct effects of an oil shortage posted job increases: electric, gas, and sanitary services (22,000 jobs); heavy construction contractors (20,000 jobs); and general

[1] Includes public lands, acquired lands, OCS lands, military lands and Indian lands.
* U.S. Geological Survey Circular 725 (1975).

[2] Federal leases accounted for 58.8 million tons, or 8% of domestic production, while Indian leases contributed 20 million tons, or 3%.

building contractors (13,000 jobs). The electric services industry reflected numerous conflicting factors such as the lack of petroleum to run its generators but the increased demand for electricity.

Some industries likely to experience indirect effects of an oil shortage posted the following job losses according to regularly collected payroll reports: motor vehicles and equipment (140,000 jobs); motor vehicle dealers, retail (53,000 jobs); hotels and other lodging places (27,000 jobs); and metal stampings (17,000 jobs). These indirect effects reflect insufficient demand for an industry's products arising from their potential customer's actual or anticipated inability to obtain fuel. Some sectors such as hotels and motels were related to the restricted auto travel during the period.

As measured by seasonally adjusted household data, the following unemployment changes occurred. These changes in unemployment during the four month period reflect not only the impact of the Arab oil embargo but all other factors in the economy whether oil related or other:

- During the 4-months, unemployment increased by 239,000 or .2 percentage points. This increase in unemployment occurred almost exclusively among job losers, 242,000, of whom 157,000 were on layoff and 85,000 were not on layoff. The unemployed persons who were entering for the first time or reentering the labor force increased 36,000; unemployed persons who left their last job declined 66,000.
- During the 4-months, unemployment among nonfarm occupation rose 52,000 for white collar workers; 113,000 for blue collar workers and 13,000 for service workers. Unemployment by farm occupations declined 1,000. The remaining unemployed persons had no previous work experience.

These data illustrate the employment and unemployment changes occurring during late 1973 and early 1974. Do these data reflect only the embargo impact or do they signal the beginning of the 1974-75 economic recession?

- The 1973/74 employment decline occurred in only 47 percent of all private industries. During 1960 and 1970 recessions, employment declines over a 4-month period occurred in about 70 percent of all industries.
- The total employment declines in all the private nonagricultural industries was only .1 percent during 1973-74 compared to an .9 percent decline during the 1960 and 1970 recession.
- The duration of employment declines by industry during 1973-74 period was less than during two earlier recessions. Only 24 percent of all private industries experienced 6-month declines during 1973-74 while 41 percent and 56 percent experienced 6-month declines respectively during the 1960 and 1970 recessions.

These few statistics suggest the 1973-74 problems were related to energy, not the beginning of a business cycle. The problems were limited to fewer industries and of smaller magnitude than might be expected during a business cycle. Further, these changes particularly affected the energy related industries. However, November, 1973 has been designated as the beginning of the 1974-75 recession.

EFFECT OF INTERRUPTION OF OIL SUPPLIES

These data illustrate the employment impact of the 1973-74 oil disruption. However because of numerous changes since 1973, the impacts might be different in 1978. For example, the oil embargo and higher oil prices were a surprise in 1973; the higher oil prices are well known in 1978 and, perhaps, all concerned might be better prepared. As the recent coal strike illustrates, what seems like a large change in the supply of a good can have a small impact on other industries over a relatively short period. Also, a strategic petroleum reserve is being prepared.

Still, the best estimate of the effects of an oil interruption in 1978 remains the 1973 experience. Thus, an interruption in U.S. oil supply of the same magnitude and same duration as the 1973-74 embargo would likely impact upon 400,000-575,000 jobs or 150,000-225,000 direct jobs and 250,000-350,000 indirect jobs. Further, unless there were important differences in how the burden was shared among industrial, households or automotive users the industrial and occupational impact would very likely be similar to that which occurred in 1973-74. If the magnitude and duration of an oil interruption were greater, i.e. doubled, these employment effects could easily double, 300,000-450,000 direct jobs and 500,000-700,000 indirect jobs would be affected.

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U.S. DEPARTMENT OF COMMERCE,

WASHINGTON, D.C.,
September 14, 1978.

Mr. ROBERT H. MUNDHEIM,
General Counsel,
Department of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: This is in reply to your letter of April 3 requesting the Department's comments on the impact of petroleum and petroleum products imports on the national security of the United States. We understand that you are conducting an investigation of this matter under authority of Section 232(b) of the Trade Expansion Act of 1962 as amended, 19 U.S.C. 1862(b).

Increasing Dependency on Foreign Supply

Any assessment of the national security implications of our oil imports has to start from the fact that within the last five years the Nation has become increasingly dependent upon foreign supply. During 1972, the last full year before the Arab embargo, oil imports into the United States amounted to 4.7 million b/d, or 29 percent of domestic consumption. In 1977, oil imports reached 8.7 million b/d, or 47 percent of domestic consumption. A variety of initiatives now underway may reverse this trend, but, under most assumptions, it appears safe to conclude that our foreign dependency will exceed 40 percent over the next few years.

This fact tends to overwhelm all other considerations. It emphasizes the increased vulnerability of the U.S. economy to interruptions of foreign supply, even if the interruptions were not to extend to all foreign sources.

In general, it can be said that in the last five years our economy has been in a race between building increasing adaptability to supply interruptions (a response to the lessons of the 1973/74 embargo) and accepting increased dependency on foreign supply. This implies that the effects of a future interruption will almost certainly differ from those experienced in 1973/74. This also implies, however, that, for whatever reasons, the Nation now stands more exposed to the possibility of interruption than heretofore. In short, the risks of interruption seem to have outrun whatever we might hope for in the way of slightly diminished penalities of interruption.

In response to your specific questions, we submit the following:

(1) *Damage to the Economy from 1973/74 Arab Oil Embargo.* The effects of the 1973/74 embargo were minimized by forceful Federal responses which shifted the impact of reduced supply onto final demands for petroleum products and then limited consumers access to those products, notably gasoline. As a result, during the embargo period, inventories of petroleum products mounted rather than declined, except for a 16 percent dip in residual fuel oil.

On the supply side of the economy, sufficient shortage arose to impact significantly on the petrochemical industry. On the demand side of the economy, the uncertainty associated with limited access to gasoline and other transportation fuels led to a significant drop in automobile sales and services associated with automobile and air travel. This uncertainty was sufficient to have an adverse impact in the con-

sumer durable and housing construction sectors as well.

(2) *Economic Impact of an Oil Supply Interruption Now or in the Near Further.* We assumed for purposes of this review a crude oil impact of about 4 mm b/d occurring in the late 1970's or early 1980's and lasting at least six months beyond a significant drawdown of domestic inventories and stored reserves. We postulated final demand reductions comparable to those which occurred in 1973/74 and passed them through models to check for their consistency with a loss of about 4 mm b/d of imported crude oil. We then modeled the results and found a range of impacts in the order of 1.1 to 1.5 million additional unemployed and a 2 to 3.6 percent decline of 1977 GNP, or $40 to $65 billion (1977 dollars).

(3) *Sectoral Impacts.* We find that a 4 mm b/d reduction in crude oil imports will impact heavily first on the refining industry, most certainly leading to some refinery closings. In turn, this impact will increase the shortage in terms of refined products somewhat above 4 mm b/d, possibly as high as 6 mm b/d (some of which may be offset by an increase of product imports). The next impact will be on the petrochemical industry, probably in the order of a $800 million reduction in shipment, with a decrease in employment of 80,000.

Other sectors will be impacted by decreases in demand as during the 1973/74 embargo, but on a larger scale.

(4) *Overall Judgment.* In our judgment, present levels of oil imports do threaten to impair the national security. Our postulated 4 mm b/d reduction is approximately 50 percent of what our oil imports are expected to be in the early 1980's—4 mm b/d would be equivalent to about 20 percent of domestic consumption. Impacts in the order or $40 to $65 billion decline in GNP, with very adverse impacts on key industries (petroleum refining, petrochemical and automotive), pose such a threat. Of course, given a predicted foreign dependency in the 40-50 percent range, a total cutoff of foreign supply would lead to adverse impacts well beyond those identified above. Still, in our judgment, a 20 percent reduction is more plausible, and, as demonstrated it would suffice to harm the economy.

We appreciate the opportunity to work with you on this investigation. Following the investigation, as you work toward policy and procedural alternatives, we hope we may continue to work closely with you.

Sincerely,

JERRY J. JASINOWSKI,
Assistant Secretary For Policy.

[FR Doc. 79-9047 Filed 3-28-79; 8:45 am]

federal register

THURSDAY, MARCH 29, 1979

PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

■

STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

Financial Assistance Programs

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 461]

[Docket No. ERA-R-79-12]

FINANCIAL ASSISTANCE PROGRAMS FOR STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes to issue a rule for the establishment and administration of two programs to provide financial assistance to State utility regulatory commissions and certain nonregulated electric utilities.

The first program, the PURPA Grant Program, provides financial assistance through grants for carrying out duties and responsibilities under Title I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978 (PURPA). These duties and responsibilities relate to considering and making determinations with regard to Federal standards established by PURPA for electric and gas utilities, reporting to DOE regarding the status of the standards, and implementing Federal Energy Regulatory Commission (FERC) rules applicable to electric utilities regarding cogeneration and small power production.

The second program, the Innovative Rates Program, would provide financial assistance for electric utility regulatory rate reform initiatives relating to innovative rate structures under Title II of the Energy Conservation and Production Act, as amended by PURPA. Funds will be awarded to a limited number of proposers to assist them in carrying out initiatives which are designed to encourage energy conservation, electric utility efficiency and reduced costs and equitable rates to consumers.

To establish these financial assistance programs, DOE proposes to add a new Part 461 to Title 10 of the Code of Federal Regulations, titled "Financial Assistance Programs for State Utility Regulatory Commissions and Eligible Nonregulated Electric Utilities." The proposed Part 461 contains eligibility and application requirements for financial assistance, the manner in which applicants will be selected for awards of financial assistance, and the manner in which financial assistance will be administered. Written comments will be received and public hearings will be held with respect to this proposal.

DATES: Comments by May 29, 1979, 4:30 p.m. Requests to speak by April 23, 1979, 4:30 p.m. Hearing dates: Washington, D.C. hearing: May 9, 1979, 9:30 a.m.; Denver, Colorado hearing: May 16, 1979, 9:30 a.m.

ADDRESSES: All comments to: Department of Energy, Docket Control Center, Docket No. ERA-R-79-12, Department of Energy, Room 2313, 2000 M Street, N.W. Washington, D.C. 20461. Requests to speak: Washington, D.C. hearing—Docket Control Center, Department of Energy, Room 2313, 2000 M Street, N.W. Washington, D.C. 20461, telephone (202) 254-5201; Denver, Colorado hearing—Department of Energy, Attention: Dale Eriksen, 1075 S. Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80202, telephone (303) 234-2420. Hearing Locations: Washington, D.C. hearing—Room 2105, 2000 M Street N.W., Washington, D.C. 20461; Denver, Colorado hearing—Room 300-A Auraria Student Center, 9th Street between Laurence and Larimar, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Tate, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W. (Vanguard 526), Washington, D.C. 20461, (202) 254-9755.

Joshua Smith, Office of the Assistant General Counsel for Conservation and Solar Applications, Department of Energy, Room 3228, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-4100.

Robert C. Gillette, Hearing Procedures, Department of Energy, Room 2214, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.

SUPPLEMENTARY INFORMATION:

I. Background:
A. Summary.
B. Overview of PURPA.
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B. Duties and Responsibilities Eligible for Funding.
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I. Background

A. Summary

On November 9, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* Two sections of PURPA, sections 141 and 142, authorize the Department of Energy (DOE) to provide financial assistance to State utility regulatory commissions and nonregulated electric utilities.

Section 141 of PURPA, "Grants to carry out Titles I and III," provides for the establishment of the PURPA Grant Program by authorizing DOE to provide financial assistance to State utility regulatory commissions and nonregulated electric utilities of greater than specified minimum size to carry out duties and responsibilities under Titles I and III, and section 210, of PURPA. These duties and responsibilities relate to the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding the standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the Federal Energy Regulatory Commission (FERC), and implementation of FERC rules on cogeneration facilities and small power production. The grants are solely to assist in the carrying out of the duties and responsibilities under the relevant parts of PURPA, and are not intended to influence the outcome of deliberations concerning the Federal standards.

Section 142 of PURPA provides for the Innovative Rates Program by extending the authorization for financial assistance under section 204(1)(B), (42 U.S.C. 6804 (1)(B)), of the Energy Conservation and Production Act (ECPA), Pub. L. 94-385, 90 Stat. 1125 *et seq.* (42 U.S.C. 6801 *et seq.*), as it relates to innovative rate structures. Section 204(1)(B) provides for funding of regulatory rate reform initiatives. Any State utility regulatory commission and large nonregulated electric utility, as well as the Tennessee Valley Authority (TVA), is eligible to apply for funding under this program.

B. OVERVIEW OF PURPA

The Act, particularly Titles I and III, will have a direct and substantial impact on the responsibilities of State utility regulatory commissions and large nonregulated electric utilities.

Titles I and III have three common purposes, which supplement otherwise applicable State law. These purposes are conservation of the energy supplied by utilities, equitable rates to consumers, and optimization of the efficient use of electric generating and related facilities. Of particular interest to DOE is the efficient use by utilities of imported energy resources, such as oil.

Titles I and III impose certain requirements on State utility regulatory commissions and large nonregulated utilities. Each utility regulatory commission and each nonregulated utility covered by PURPA's size requirements must:

(a) Complete its consideration and determination process for six electric rate design standards within 3 years, and for five electric and two natural gas regulatory policy standards within 2 years. However, considerations and determinations regarding one or more of the standards made before November 9, 1978, will constitute compliance with the requirements of Titles I and III of PURPA regarding those standards, if the proceedings and actions substantially conform to the requirements of PURPA.

(b) Include public notice and public hearings in its consideration process and allow consumer and Federal participation.

(c) Render a written determination, based both upon its findings and the evidence presented at the hearings, and make it available to the public.

(d) Determine, to the maximum extent practicable, cost of service by customer class on the basis of a method that identifies cost differences by both time of use and major cost category. (Each regulated and nonregulated electric utility covered by PURPA must gather and report such information as FERC determines necessary to determine cost of service. Each covered utility is to file such information with FERC and the State regulatory authority which has ratemaking authority for such utility.)

(e) Hold an evidentiary hearing on "lifeline" rates, as an exception to the cost-of-service standard, for any utility not having such a rate.

(f) Report annually to DOE, in such a manner as DOE may prescribe, on its progress in carrying out its duties and responsibilities under PURPA.

As mentioned, PURPA establishes a series of Federal standards that, if adopted when appropriate, are intended to carry out the purposes of Titles I and III of the Act. There are six rate design standards, established by and set forth in section 111(d) of PURPA, which pertain to electric utilities. These standards generally provide that:

(1) Rates to each class of consumers shall be designed to the maximum extent practicable to reflect the costs of providing service to that class;

(2) Declining block energy charges that are not cost-based shall be eliminated;

(3) Time-of-day rates shall be established, if cost-effective, where costs vary by time of day;

(4) Seasonal rates shall be established where costs vary by season;

(5) Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers; and

(6) Load management techniques shall be offered to consumers where practicable, cost-effective, reliable and useful to the utility for energy or capacity management.

Five additional regulatory policy standards, established by and set forth in section 113(b) of PURPA for electric utilities, provide that:

(1) Master metering shall be prohibited or restricted for new buildings to the extent necessary to carry out the purposes of Title I;

(2) Automatic adjustment clauses shall not be allowed unless they provide efficiency incentives and are reviewed in a timely manner;

(3) All consumers shall receive a clear and concise explanation of applicable rate schedules;

(4) Service shall not be terminated except pursuant to certain enumerated procedures;

(5) Political or promotional advertising shall not be charged to ratepayers.

Only the standards concerning service termination and advertising pertain to natural gas utilities.

II. The PURPA Grant Program

A. ELIGIBILITY

Section 461.12 of the proposed regulations, as required by section 207(a) of ECPA, provides for grants to State utility regulatory commissions which have ratemaking authority over electric or gas utilities covered by PURPA, and to non-regulated electric utilities covered by PURPA, except for Federal agencies. The utilities covered by PURPA are defined in PURPA and the proposed regulations as those above a certain minimum size. Utility regulatory commissions and nonregulated electric utilities from all States, the District of Columbia and Puerto Rico are eligible. Federal agencies excluded by section 207(a) of ECPA, are defined in ECPA and the proposed regulations as executive agencies as defined in section 105 of Title 5 of the United States Code.

B. DUTIES AND RESPONSIBILITIES ELIGIBLE FOR FUNDING

Also as required by section 207(a) of ECPA, § 461.13(a) of the proposed regulations provides that grants will be awarded for activities which carry out the duties and responsibilities under Titles I and III, and section 210, of PURPA. These duties and responsibilities, set forth in the enumerated parts of PURPA, include the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding these standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the FERC, and implementation of FERC rules on cogeneration and small power production. These grants are solely to assist State public utility commissions and large nonregulated electric utilities in meeting these requirements of PURPA, and are not an attempt to influence the outcome of deliberations concerning the Federal standards. The Federal standards are listed in § 461.11 of the proposed regulations.

Though each State utility regulatory commission and covered nonregulated electric utility must carry out the duties and responsibilities required under Titles I and III of PURPA, the need for Federal financial assistance in the form of grants under this program will depend on the individual requirements of each grant applicant. Some State utility regulatory commissions and nonregulated electric utilities may have already carried out certain of the PURPA duties and responsibilities and will not require Federal financial assistance with respect to those duties and responsibilities. Grant applicants must designate those duties and responsibilities for which financial assistance is requested, as well as the specific activities to be undertaken to carry out those duties. A number of such activities are specified in proposed § 461.13(c). This list, however, is not exhaustive. Rather, any activity may be eligible for funding, provided that it is one which carries out the duties and responsibilities of PURPA Titles I and III, and section 210.

C. ALLOWABLE EXPENDITURES

Congress intended that funds awarded under this program may not be used primarily for paying personnel salaries and related costs (House Report No. 95-1750, p. 88). Consequently, § 461.14(b)(1) of the proposed regulations states that not more than 49 percent of the funds awarded to any applicant may be expended for these purposes. Other limitations on expenditures are set forth in § 461.14.

D. GRANT APPLICATIONS

Section 207(c) of ECPA provides that grants cannot be made under the section unless an application is submitted to DOE in such form and manner as required by DOE. Section 461.15 of the proposed regulations implements this requirement and sets forth the time for submission of the application and its contents.

DOE proposes to require the submission of information which describes the duties and responsibilities to be carried out and by which activities. DOE also would require information which would enable it to evaluate the ability of the applicant to carry out the activities in an efficient and timely fashion. In addition, as required by section 207(c) of ECPA, the regulations would require that an applicant assure DOE that funds made available under the program will be in addition to, and not in substitution for, funds made available to the applicant from other governmental sources. Governmental sources include any funds received from any Federal, State or local governmental entity.

E. APPORTIONMENT AND SELECTION

Section 207(d) of ECPA requires that grants made under the program to any State, shall not exceed the total amount available for grants divided by the number of States from which applications are received. Subsection (d) further stipulates that no State may receive more funds than DOE is authorized to provide pursuant to subsections (b) and (c).

In light of these requirements, DOE proposes in § 460.16 to apportion funds equally among States from which applications eligible for funding are received and to allocate funds, within a State, between the State utility regulatory commission and any covered nonregulated electric utilities. DOE also proposes in § 460.17 a set of criteria for evaluating applications and selecting them for award.

The proposed allocation procedure is intended to set aside for a State an amount of funds for its utility regulatory commission and an amount for which eligible nonregulated utilities, as a group, may compete. By allocating funds in this manner, the nonregulated utilities are assured of the availability of some funds if they meet the other requirements for financial assistance. DOE is also proposing that the commissions and the nonregulated utilities as a group receive a minimum allocation of at least 25 percent of the funds apportioned to the State, as well as a provision for reallocation of funds within a State to the extent that the full allocation to the commission or the utilities as a group is not awarded.

The proposed evaluation criteria are intended to determine the extent to which an applicant is likely to carry out its PURPA duties and responsibilities in a logical, competent and efficient manner. Each application may receive up to 100 evaluation points, and the criteria are divided into three categories: program plan (30 points), administrative management (40 points), and financial management (30 points). Applications which receive fewer that 26 evaluation points will not be selected for funding. Applications which receive more than 25 evaluation points will be funded, with the amount of funding dependent upon the quality of the applications, using the selection criteria, and the apportionment, allocation, and reallocation of funds provisions of § 460.16 (b) and (c). Any funds apportioned to a State and not granted to applicants from that State, may not be reallocated for grants to applicants from another State.

F. GENERAL REQUIREMENTS

The general requirements which govern the award and administration of financial assistance under both programs, except where the program regulations otherwise provide, are set forth in § 461.2 of the proposed regulations. This section references the various relevant Federal documents, as well as the DOE Assistance Regulations (10 CFR Part 600) which were issued on March 1, 1979 (44 FR 12920, March 8, 1979).

III. The Innovative Rates Program

A. ELIGIBILITY

This program is a discretionary financial assistance program in which cooperative agreements will be awarded to proposers annually selected by DOE on a competitive basis. State utility regulatory commissions, or large nonregulated electric utilities and the Tennessee Valley Authority (TVA), are eligible to apply for financial assistance under this program.

Under the statutory language which authorizes this program, section 204(1)(B) of the Energy Conservation and Production Act, as amended by PURPA, there is no restriction on eligibility for funding. DOE, however, is proposing to restrict eligibility to State regulatory commissions, large nonregulated electric utilities and TVA. Since the purpose of this program is to plan and carry out regulatory rate reform initiatives relating to innovative rate structures, DOE intends to fund initiatives which will change, or are likely to change, regulatory ratemaking policies or practices. State utility regulatory commission, nonregulated electric utilities and TVA have ratemaking authority and are, therefore, able to develop and implement initiatives to reform rates. Other entities, such as regulated electric utilities, while intimately involved in the regulatory process, do not have ratemaking authority and cannot offer rate changes without obtaining the approval of their regulatory authority. Accordingly, DOE has concluded that the purposes of this program would be most effectively and efficiently accomplished by limiting eligiblity to those entities which most likely and most directly can achieve regulatory rate reform.

B. PURPOSE

The purpose of this program is to reform regulatory policies and practices by the development and implementation of rate reform initiatives, relating to innovative rate structures, designed to carry out the purposes to ECPA. To accomplish this purpose, DOE will award financial assistance under cooperative agreements for the performance of tasks which further the purposes of ECPA. Most State near-term regulatory activities are likely to be devoted to meeting the PURPA requirements for which funding is provided under subpart B. DOE is also making available funding through subpart C for developing and implementing regulatory rate reform initiatives which may relate to the PURPA requirements, but receipt of funds under subpart B is not meant to preclude or replace the receipt of funds under subpart C. This is because subpart C funds initiatives which produce regulatory change, whereas subpart B is primarily concerned with the consideration of various regulatory policies.

C. FUNDING THROUGH COOPERATIVE AGREEMENTS

Cooperative agreement is the appropriate funding instrument for this program since substantial involvement is anticipated between DOE and the recipient during performance of the tasks. Substantial involvement is anticipated for three reasons.

First, the tasks to be performed under this program represent relatively new areas of complex work and, yet, are to be completed within a minimum period of time. In order to ensure necessary progress and completion of the tasks, DOE anticipates frequent review of and communication regarding performance of the tasks. Second, DOE intends that the results of the tasks performed by capable of replication in other State utility regulatory commissions and nonregulated electric utilities. In order to provide that the tasks are focused in this direction, DOE anticipates close monitoring of task performance. Third, the innovative and often complex nature of the tasks requires collaboration between DOE and the recipient to provide as-

sistance to the recipient in those areas in which DOE experience may be helpful.

DOE is equipped to be actively involved in the performance of the various tasks to be undertaken in this program. DOE's substantial involvement is anticipated to include technical assistance in the design and operation of specific tasks, review and approval during the performance of tasks, and redirection as necessary to endure the quality and national applicability of the findings and products resulting from the cooperative agreements.

D. TASKS ELIGIBLE FOR FUNDING

In the Innovative Rates Program, DOE has identified a number of tasks which are expected to be of general applicability to man State utility regulatory commissions and nonregulated electric utilities. Each task identified incorporates the study and adoption, by the proposer, of electric utility ratemaking practices or policy initiatives. The tasks cover the following ten subject areas: (1) rate-related consumer information and the role of regulatory entities in the communication process, (2) regulatory and other alternatives available to assist low income electric utility ratepayers, (3) compensation for intervenors in electric rate proceedings, (4) comprehensive cost-of-service information systems that allow both embedded and marginal cost approaches to pricing electricity, (5) estimation of consumer class load characteristcs, (6) ratemaking incentives that promote efficient use of electric utility resources, (7) allocating the costs incurred by electric utilities in providing conservation services to consumers, (8) use of digital display and other metering systems with innovative rates (9) nondiscriminatory electric rates for consumers who use supplementary solar systems, and (10) other electric regulatory rate reform initiatives, relating to innovative rate structures, which carry out the purposes of the program.

The tasks covered by the Innovative Rates Program share one or more of the following key characteristcs. First, the activities undertaken in performing each task are to result in decisions by the proposer regarding the adoption of a regulatory policy or practice. Second, in developing innovative ratemaking policies and practices, the tasks are to focus on practical, immediate issues faced by regulatory authorities. Consequently, the activities are not to focus heavily on developing theoretical studies and models or initiating large primary data collection efforts. Third, the performance of the activities is to expand the proposer's areas of knowledge and level of expertise. Fourth, completed tasks are to result in basic tools, techniques, and organizational resources essential to innovative rate reform. Fifth, the products resulting from performance of the tasks are to be largely applicable to other regulatory authorities.

DOE may provide financial assistance to individual proposers for the performance of up to three of the tasks described in proposed § 461.32. In order to be considered for financial assistance, a proposer must submit a proposal in accordance with § 461.33. The proposal is to contain a separate task work plan outlining specific activities to be undertaken for each proposed task. DOE anticipates that an applicant will undertake the types of activities specified for each task in § 461.32. However, the activities listed are not intended to be exhaustive.

DOE will evaluate each proposal using the criteria outlined in § 461.34. These evaluation criteria focus on determining the quality and feasibility of the proposed approach to performing the task. Each task work plan will be evaluated separately and may receive a maximum of 100 points. However, any task work plan receiving an evaluation score of less than 45 points will not be considered for a cooperative agreement.

DOE will utilize the evaluation scores for the proposals as means of selecting, on a competitive basis, those tasks to be funded. Given the level of funding available, DOE anticipates making only a few awards for any given task. It is anticipated that awards for each task could range from $100,000 to $250,000. Consequently, a cooperative agreement award for the performance of up to three tasks could be for as much as $500,000. The cooperative agreements will be funded on an annual basis. Tasks for which cooperative agreements are awarded must be completed within 2 years. Award of a cooperative agreement for the second year of the task will depend on evaluation of the recipient's performance, evaluation of new applications and availability of Federal funding.

IV. Specific Comments Requested

DOE is issuing the proposed rule to invite public comment on the manner in which it intends to implement the financial assistance programs under sections 141 and 142 of PURPA. While the public is encouraged to comment on any aspect of the proposed regulations, DOE specifically invites comments on those issues listed below.

A. THE PURPA GRANT PROGRAM

1. Personnel expenditures. The Congress intends that grants under this program not be used primarily for paying personnel salaries and related costs. DOE proposes that not more than 49 percent of the funds awarded to any applicant be expended for these purposes. DOE solicits comments on this proposed limitation, and any suggestions for maximum levels of expenditure for personnel and consultant costs.

2. Apportionment of funds. DOE is proposing a system for apportioning grant funds among States from which eligible applications are received and for allocating funds within a State where nonregulated electric utilities as well as the State utility regulatory commissions are eligible applicants. In addition, DOE may reallocate funds within a State, in some circumstances, in determining the actual amount of funds to be awarded to each applicant. DOE solicits comments on each of these apportionment and allocation procedures.

3. Application evaluation criteria. DOE solicits comments on the criteria which are proposed to be used for evaluating each application, and the importance attributed to them.

B. THE INNOVATIVE RATES PROGRAM

1. Tasks eligible for funding. DOE solicits comments on the design, relevance, practicality and replicability of each of the specified tasks. Specifically, DOE requests comments on whether the task "Procedures for Intervenor Compensation" should be included in the program in light of the purpose of the program to fund regulatory rate reform initiatives relating to innovative rate structure. In addition, DOE solicits comments on whether the scope and design of each task will allow for specific results or accomplishments at the end of the first year of the program, and whether each task can be completed within 2 years of the cooperative agreement award.

2. Identification of alternative tasks. DOE invites suggestions of additional tasks to be considered for specific incorporation into the program. These suggestions should identify tasks that would promote regulatory rate reform, lead to adoption of a regulatory policy within 1 to 2 years within a given jurisdiction, and result in basic tools, techniques and organizational experience that are applicable to other regulatory commissions and nonregulated electric utilities.

3. Task funding levels. DOE solicits comments on the proposed limits on the amount which may be awarded to an applicant in any fiscal year.

4. Evaluation criteria. DOE solicits comments and suggestions regarding the criteria proposed to be used to evaluate the submitted proposals, and their relative importance.

V. Written Comments and Public Hearing Procedures

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views, or arguments with respect to the matters set forth in this proposed rule. Comments should be submitted by 4:30 p.m., May 28, 1979, to the addresses indicated in the "ADDRESSES" section of this proposed rule and should be identified on the outside envelope and on the document with the document control number and the designation: "PURPA Financial Assistance Programs, Docket No. ERA-R-79-12." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. PUBLIC HEARINGS

The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this preamble.

1. *Procedure for Requests to Make Oral Presentation.* —If you have any interest in the matters discussed in this proposed rule, or represent a group of class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m. April 23, 1979. You should also provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., April 30, 1979 for both the Denver, Colorado and the Washington, D.C. hearings. For distribution at the Washington, D.C. hearing, you should submit 100 copies of your hearing testimony by May 8, 1979 to Public Hearing Management, Department of Energy, Room 2214, 2000 M Street NW., Washington, D.C. 20461. One hundred (100) distribution copies of written testimony should be submitted for the Denver hearing at the given location on the day of the hearing.

2. *Conduct of the Hearing.* —We reserve the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard. We encourage groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the groups.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to have a question asked at a hearing, you may submit the question, in writing, to the presiding officer. The ERA, or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 and the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

C. OTHER RELEVANT HEARINGS

In addition to holding hearings on the PURPA Financial Assistance Programs, DOE will be holding public hearings on two other PURPA-related rules on two consecutive days. Public hearings on proposed amendments to the rule for Grants for Offices of Consumer Services will be held in Washington, D.C. on May 8, 1979, 11:00 a.m., and in Denver, Colorado on May 15, 1979, 11:00 a.m. Public hearings on the Proposed Rule on Annual Reports from States and Nonregulated Utilities on Progress in Considering and Implementing Ratemaking Standards under PURPA will be held in Washington, D.C. on May 10, 1979, 9:30 a.m., and in Denver, Colorado on May 17, 1979, 9:30 a.m.

VI. Other Matters

DOE has determined that the publication of this regulation will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Assessment or an Environmental Impact Statement, pursuant to the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq. DOE's involvement is confined to award of funds based on procedures set out in the regulation to assist State utility regulatory commissions and nonregulated electric utilities to carry out certain duties and responsibilities under PURPA. Consideration and determination of standards and initiatives, and compliance with other PURPA requirements applicable to the State utility regulatory commission or nonregulated utility are the responsibility of these entities. Therefore, while the application of certain rate structures or other initiatives that the State commission or nonregulated utilities may establish pusuant to PURPA may result in certain environmental impacts, these activities are not dictated or restricted by any DOE decisions and would occur in any event since the PURPA requirements must be met with or without Federal assistance.

As required by section 7(a)(1) (15 U.S.C. 776) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment.

The Administrator had no comments.

B. REGULATORY REVIEW

DOE has determined that this rulemaking is significant as that term is used in Executive Order 12044 and DOE Order 2030, but is not likely to have a major impact as defined in these two documents. The rule is not considered significant since it would provide funds to carry out national energy legislation. The rule is considered likely to have a major impact, with respect to its incremental effect on the existing regulatory environment, since it would not impose a gross economic annual cost of $100 million or more; is not likely to impose a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups, or to have an adverse impact on competition; is not likely to have a substantial effect on any of the objectives of national energy policy or energy statutes; and has not been considered by the Secretary, Deputy Secretary or Under Secretary as likely to have a major impact for any other

reason. Accordingly, no regulatory analysis will be performed.

C. URBAN IMPACT ANALYSIS

This proposed rule has been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. In accordance with DOE's finding that the proposed regulation is not likely to have a major impact, DOE has determined that no community and urban impact analysis of this proposed rulemaking is necessary pursuant to section 3(a) of Circular A-116.

D. NONDISCRIMINATION

In addition to current Federal nondiscrimination regulations applicable to this rulemaking, DOE has published a proposed rulemaking in the FEDERAL REGISTER entitled "Nondiscrimination in Federally Assisted Programs" (43 CFR 53658 November 16, 1978). All applicable grantees will be responsible for compliance with the provisions of that regulation when it is made effective upon its final publication.

(Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (16 U.S.C. 2601 et seq.); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.)

In consideration of the foregoing, it is proposed to amend Chapter II, Title 10 of Code of Federal Regulations, by establishing Part 461 as set forth below.

Issued in Washington, D.C. on March 21, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Chapter II of Title 10, Code of Federal Regulations is amended by establishing Part 461 as follows:

PART 461—FINANCIAL ASSISTANCE PROGRAMS FOR STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

Subpart A—General

Sec.
461.1 Purpose and scope.
461.2 General requirements.
461.3 Definitions.

Subpart B—PURPA Grant Program

461.10 Purpose and scope.
461.11 PURPA standards.
461.12 Eligibility requirements.
461.13 Duties and responsibilities eligible for funding.
461.14 Allowable expenditures.
461.15 Grant application.
461.16 Apportionment of funds.
461.17 Selection.

Subpart C—Innovative Rates Program

461.30 Purpose and scope.
461.31 Eligibility requirements.
461.32 Tasks eligible for funding.
461.33 Proposal requirements.
461.34 Evaluation criteria.
461.35 Selection process.

AUTHORITY: Energy Conservation and Production Act, Pub. L. 94-385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (16 U.S.C. 2601 et seq.); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.).

Subpart A—General

§ 461.1 Purpose and scope.

(a) This part establishes two programs to provide financial assistance to State utility regulatory commissions and certain nonregulated electric utilities.

(b) The first program, the PURPA Grant Program, provides for financial assistance through grants for carrying out duties and responsibilities under Titles I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et. seq.* These duties and responsibilities relate to the consideration of certain Federal standards for electric and gas utilities and the preparation of determinations regarding the standards, provision of access to information for intervenors, submission of reports to DOE, collection and filing of data required by the Federal Energy Regulatory Commission (FERC), and implementation of FERC rules on cogeneration facilities and small power production.

(c) The second program, the Innovative Rates Program, provides for financial assistance for electric utility regulatory rate reform initiatives relating to innovative rate sturctures under Title II of the Energy Conservation and Production Act, (ECPA) Pub. L. 94-385, 90 Stat. 1125 *et. seq.* (42 U.S.C. 6801 *et. seq.*) as amended by PURPA. Funds will be awarded to a limited number of proposers to encourage the development and implementation or regulatory policies and practices which carry out the purposes of Title II of ECPA.

§ 461.2 General requirements.

Except where this part provides otherwise, the award and administration of financial assistance under this part will be governed by:

(a) Federal Management Circular 74-4, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(b) Office of Management and Budget Circular A-95, entitled "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Office of Management and Budget Circular A-97 entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(d) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(e) Office of Management and Budget Circular A-110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations;"

(f) Treasury Circular 1075, entitled "Regulations Governing Withdrawals of Cash from the Treasury for Advance Under Federal Grants and Other Programs;"

(g) 10 CFR Part 600, entitled "Assistance Regulations;" and

(h) Such procedures applicable to this part as DOE may from time to time prescribe for the award or administration of grants and cooperative agreements.

§ 461.3 Definitions.

As used in this part—

"Class" means, with respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use, respectively.

"Consultant" means a person who contracts to provide services for a State utility regulatory commission or non-regulated electric utility, and includes an attorney, accountant, economist or other expert.

"Cogeneration facility" means a facility which produces electric energy and other forms of useful energy (such as steam or heat) which is, or will be, used for industrial, comercial, or space heating purposes.

"Covered electric utilities" and "covered nonregulated electric utilities" are those electric utilities whose total sales of electric energy for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

"Covered gas utilities" are those gas utilities whose total sales of natural gas for purposes other than resale exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

"DOE" means the Department of Energy.

"ECPA" means the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 *et. seq.* (42 U.S.C. 6810 *et. seq.*), as amended.

"Electric consumer" means any person, State agency or Federal agency, to which electric energy is sold other than for purposes of resale.

"Electric membership cooperative" means a group of persons who have organized a nonprofit joint venture, owned and controlled by the people it serves, for the purpose of supplying electric energy to a specified area.

"Electric utility" means any person, State agency or Federal agency which sells electric energy.

"Evidentiary hearing" means—

(a) In the case of a State agency, a proceeding which (1) is open to the public, (2) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (3) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (4) is subject to judicial review;

(b) In the case of a Federal agency, a proceeding conducted as provided in sections 554, 556 and 557 of Title 5, U.S.C.; and

(c) In the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of paragraph (a).

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the United States Code).

"Federal standards" means the six electric rate design standards, five electric regulatory policy standards, and two natural gas regulatory policy standards established by sections 111, 113 and 303 of PURPA.

"FERC" means the Federal Energy Regulatory Commission.

"Fiscal year" means the 12 month period beginning October 1.

"Gas consumer" means any person, State agency or Federal agency to which natural gas is sold other than for purposes of resale.

"Gas utility" means any person, State agency or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

"Grantee" means the State or other entity named in DOE's Notification of Grant Award as the awardee of the grant.

"Kilowatt-hour (kwh)" means a unit of measuring electricity usage which represents a unit of work or energy equal to that expended by one kilowatt in one hour.

"Lifeline rate" means a rate for essential needs of residential electric consumers which is lower than a cost of service rate as defined in section 111(d)(1) of PURPA.

"Nonregulated electric utility" means any electric utility with respect to which no State regulatory authority has ratemaking authority.

"Nonregulated gas utility" means any gas utility with respect to which no State regulatory authority has ratemaking authority.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, organization or entity.

"PURPA" means the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.*

"Rate" means (a) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation, or practice respecting any such rate, charge, or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve or disapprove rates.

"Recipient" means the State or other entity named in the cooperative agreement as the recipient of financial assistance.

"Sale" means a transfer to a purchaser for consideration, and when used with respect to electric energy includes any exchange of electric energy, and when used with respect to natural gas includes any exchange of naural gas.

"Secretary" means the Secretary of Energy.

"Small power production" means the production of electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof.

"State" means a State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility, or the sale of natural gas by any gas utility, other than by such State agency, and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

"State utility regulatory commission" or "commission" means any State agency which has ratemaking authority with respect to the sale of natural gas or electric energy by any natural gas utility or electric utilty (other than by such State agency).

Subpart B—PURPA Grant Program

§ 461.10 Purpose and scope.

This subpart establishes a program of grants to State utility regulatory commissions and certain nonregulated electric utilities to assist them in carrying out their duties and responsibilities under Titles I and III, and section 210, of PURPA.

§ 461.11 PURPA standards.

PURPA Titles I and III, among other things, require each State regulatory authority with ratemaking authority for a covered State regulated electric or gas utility, as well as each covered nonregulated electric and gas utility, to consider certain Federal standards for each such utility and to prepare determinations about whether it is appropriate to implement each of these standards.

(a) Title I of PURPA established six electric rate design standards. They are:

(1) *Cost of Service*—Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under PURPA section 115(a).

(2) *Declining Block Rates*—The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) *Time-of-Day Rates*—The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under PURPA section 115(b).

(4) *Seasonal Rates*—The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) *Interruptible Rates*—Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the costs of providing interruptible service to the class of which such consumer is a member.

(6) *Load Management Techniques*—Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will be practicable and cost-effective as determined under PURPA section 115(c); be reliable; and provide useful energy or capacity management advantages to the electric utility.

(b) Title I of PURPA establishes five electric regulatory policy standards. They are:

(1) *Master Metering*—To the extent determined appropriate under PURPA section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of Title I of PURPA.

(2) *Automatic Adjustment Clauses*—No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of PURPA section 115(e).

(3) *Information to Consumers*—Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of PURPA section 115(f).

(4) *Procedures for Termination of Electric Service*—No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in PURPA section 115(g).

(5) *Advertising*—No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in PURPA section 115(h).

(c) Title III of PURPA establishes two natural gas regulatory policy standards. They are:

(1) *Procedures for Termination of Natural Gas Services*—No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in PURPA section 304(a).

(2) *Advertising*—No gas utility may recover from any person other than the shareholders (for other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in PURPA section 304(b).

§ 461.12 Eligibility requirements.

(a) Grants under this subpart may be made only to State utility regulatory commissions which have ratemaking authority over covered electric or covered gas utilities, and to covered nonregulated electric utilities, except for Federal agencies.

(b) Each applicant must certify that it meets the eligibility requirements of paragraph (a).

§ 461.13 Duties and responsibilities eligible for funding.

(a) DOE will award financial assistance under this subpart for activities which carry out the duties and responsibilites of applicants under Titles I and III, and section 210, of PURPA.

(b) The duties and responsibilities, set forth in Titles I and III, and section 210, of PURPA, include:

(1) The consideration, after public notice and hearing, of the Federal standards, and the preparation of written determinations about the appropriateness of implementing each standard.

(2) A determination, after an evidentiary hearing, by the State regulatory authority or a nonregulated electric utility as to whether a State regulated electric utility or the nonregulated electric utility not having a lifeline rate should implement such a rate.

(3) Consideration of other concepts which contribute to the achievement of any of the three purposes of Title I of PURPA when raised by the Secretary, any affected electric utility, or any electric consumer of an affected electric utility in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design conducted by a State regulatory authority or by a nonregulated electric utility.

(4) Provision to intervenors or participants of access to information available to parties to a ratemaking proceeding described in section 121(a) of PURPA, if the information is relevant to the issues to which his or her intervention or participation in such proceedings relates.

(5) Submission, not later than November 9, 1979, and annually thereafter for 10 years, of reports to DOE respecting consideration of the Federal standards. The reports must include a summary of the determinations made and actions taken with respect to each standard on a utility-by-utility basis.

(6) The gathering and filing by electric utilities of information determined by FERC to be necessary to determine costs associated with providing electric service.

(7) Implementation, after notice of opportunity for public hearings, of rules prescribed by FERC to encourage cogeneration and small power production.

(c) The activities referred to in paragraph (a) may include, among other things:

(1) Recruiting, hiring, training, and compensating staff to perform analytical, technical, legal, and administrative work;

(2) Soliciting and engaging consultants to perform appropriate assignments;

(3) Identifying and removing any policy, organizational, management, or other barriers to effective accomplishment of the duties and responsibilities;

(4) Conducting hearings;

(5) Establishing the format for and collecting information and data necessary to the effective and efficient consideration and determination of the Federal standards and necessary to the development of rates based on a utility's costs of service;

(6) Collecting cost of service data as required by FERC and submitting these data to FERC;

(7) Developing or refining data handling techniques or procedures, including computer programs and other technical resources;

(8) Developing new, or revising existing, procedural requirements to improve the quality of the regulatory process or to obtain a more complete record upon which to consider and determine immediate and future ratemaking or policy issues;

(9) Developing and implementing methods of effective communicating useful information to electric consumers on issues relevant to rates or rate designs; and

(10) Developing procedures by which to secure, format, and update data for inclusion in the annual reports to DOE.

§ 461.14 Allowable expenditures.

(a) Grant funds provided under this subpart may be used only to carry out duties and responsibilities under Titles I and III, and section 210, of PURPA.

(b) Expenditures of grant funds awarded in any year are subject to the following limitations:

(1) Not more than 49 percent of the grant funds awarded in any year may be used for the combined expenses incurred under the following two categories:

(i) training of personnel; and

(ii) personnel salaries and related costs. Personnel salaries and related costs will be considered to be compensation of every kind to employees for time and effort devoted to carrying out grant activities. Compensation includes, but is not limited to, wages, salaries, and supplementary compensation and benefits.

(2) No grant funds awarded in any year may be used for acquisition of data processing equipment, whether by outright purchase, rental-purchase or other method of acquisition. The costs of data processing services utilized in performing grant activities are allowable.

(3) Other limitations imposed by DOE pursuant to applicable statutes or regulations, in order to ensure ef-

fective performance by the grantee under the grant.

§ 461.15 Grant application.

(a) To be eligible to receive a grant under this subpart, an applicant shall submit an application in conformity with paragraph (b) of this section on a form to be provided by DOE, which shall be received by DOE on or before 5:30 p.m. e.d.t. on the August 15th preceding the fiscal year for which financial assistance is sought, or such other date as DOE may establish by notice published in the FEDERAL REGISTER.

(b) Each application must include—

(1) A brief overview statement of the objectives to be accomplished with the financial assistance received by the grantee, and an explanation of how these objectives relate to the applicant's ongoing work.

(2) A statement of which duties and responsibilities set forth in Titles I and III, and section 210, of PURPA are proposed to be carried out by the applicant with financial assistance received under this subpart.

(3) A detailed description of the activities proposed to be undertaken by the applicant with financial asistance received under this subpart, and of how the activities are related to the duties and responsibilities proposed to be carried out.

(4) A timetable, by calendar quarter, for implementing the activities for the fiscal year for which financial assistance is sought.

(5) A description of the organizational structure of the applicant, including an identification of which organizational units will expend the financial assistance.

(6) A description of the responsibilities, experience and qualifications of key personnel proposed to be used to expend and to administer the financial assistance received under this subpart.

(7) A certification of eligibility as provided in § 461.12(b).

(8) An assurance that funds made available under this program will be in addition to, and not in substitution for, funds made available to the applicant from other governmental sources. Other governmental sources, for this purpose, includes any funds received from any Federal, State or local governmental entity

(9) The amount of funds requested.

§ 461.16 Apportionment of funds.

(a) DOE may, subject to funds appropriated and available, provide financial assistance upon annual application submitted as provided in § 461.15.

(b) DOE shall apportion funds among the States by dividing the total fiscal year funds available for grants under this part equally among the States from which applications eligible for funding are received.

(c) If a State regulatory commission and one or more covered nonregulated electric utilities in that State apply for grants from funds available for a fiscal year, then the total funds apportioned to that State for that fiscal year will be allocated between the State utility regulatory commission, and the covered nonregulated electric utilities, as a group. Subject to compliance with the other terms and provisions of this part, the State regulatory commission shall have an allocation equal to that percentage of the total funds so available determined by dividing (1) the number of electric customers served by the covered electric utilities over which the commission has ratemaking authority by (2) the number of electric customers served by covered regulated and covered nonregulated electric utilities in the State; and the covered nonregulated utilities shall have an allocation equal to the balance of the funds apportioned to the State. Notwithstanding the foregoing, the allocation to the commission or to the covered nonregulated electric utilities, as a group, will not be less than 25 percent of the total funds apportioned to that State. Moreover, the allocation of funds within a State does not entitle a commission or the covered nonregulated electric utilities within the State to receive a grant or grants equal to its allocation. In the event that DOE does not award grants under this part to either the commission or the covered nonregulated electric utilities, as a group, in the amount of their full allocation, then the balance of the allocation shall be available for grant to the commission or the covered nonregulated electric utilities, as the case may be.

§ 461.17 Selection.

(a) No application will be considered unless it meets the requirements of this subpart and applicable law.

(b) Applications which meet the requirements of § 461.17(a) will be evaluated by DOE using the following criteria, which provide for a total of 100 possible points. These criteria are designed to assure that grant funds are expended in a prudent and effective manner.

(1) *Program Plan.* 30 points maximum.

(i) The extent to which the objectives of the project are clearly stated and logically related to the applicant's duties and responsibilities;

(ii) The extent to which the proposed activities are clearly described and logically related to the project objectives;

(iii) The extent to which the applicant's timetable realistically relates the proposed activities to one another and to attaining the project objectives.

(2) *Administrative Management.* 40 points maximum.

(i) The extent to which the applicant has evaluated or proposes to evaluate its current management, organization, and staff capabilities in order to increase its effectiveness;

(ii) The extent to which the applicant establishes clear organizational responsibilities for the proposed activities;

(iii) The extent to which the applicant's staff and other personnel resources are qualified to carry out the proposed activities;

(iv) The extent to which the proposed activities are likely to augment the long-term capabilities of the applicant to effectively carry out its duties and responsibilities;

(v) The extent to which the applicant demonstrates the capability and procedures for prudent and effective use of any contractors or consultants; and

(vi) The extent to which the applicant proposes to use, rather than duplicate the development of, published materials.

(3) *Financial Management.* 30 points maximum.

(i) The extent to which the applicant demonstrates that the proposed activities will be carried out efficiently;

(ii) The extent to which the proportion of contractor and consultant costs is reasonable in relation to total project budget.

(c) Any applicant which scores 25 points or less shall not receive a grant. An applicant which scores 26 points or more shall receive a grant in an amount determined by DOE based upon the evaluation of the applicant's proposal, considering the foregoing criteria, and the funds available to it pursuant to the provisions of § 461.16 (b) and (c).

Subpart C—Innovative Rates Program

§ 461.30 Purpose and scope.

This subpart establishes a program of financial assistance through cooperative agreements with State utility regulatory commissions, nonregulated electric utilities and the Tennessee Valley Authority (TVA), pursuant to section 204(1)(B) of ECPA. The purpose of this program is to provide financial assistance to these entities for planning and carrying out electric utility regulatory rate reform initiatives relating to innovative rate structures that encourage conservation of energy, electric utility efficiency and reduced costs and equitable rates to consumers.

§ 461.31 Eligibility requirements.

(a) Cooperative agreements awarded under this subpart may be awarded

only to State utility regulatory commissions, nonregulated electric utilities and TVA.

(b) A cooperative agreement may be only for an initiative which will be completed within 2 years, and no recipient may receive an award exceeding 15 percent of the funds available for any fiscal year.

§ 461.32 Tasks eligible for funding.

DOE may award cooperative agreements under this subpart for initiatives which carry out the purpose of the program as expressed in § 461.30 and which perform up to three of the following 10 ratemaking tasks.

(a) *Cost-of-service Information System.* Activities undertaken in performance of this task could include:

(1) Identifying the data collection, reporting and filing requirements for a cost-of-service information system to assist the proposer in setting electric utility rates and in implementing both embedded and marginal cost approaches to cost-of-service determinations.

(2) Identifying the need for DOE assistance in investigating and determining the costs of electricity production and transmission within the service area(s) covered by the proposer, as authorized by section 206(b) of the Federal Power Act, as amended;

(3) Identifying, evaluating, and selecting methodological approaches that might be used by the proposer to analyze rate, financial and load management data;

(4) Developing data files, input procedures, software programs, and documentation procedures that will result in an operating information system that can be implemented on generally available computer facilities; and

(5) Adopting guidelines for cost-of-service filing requirements, and developing procedures and organizational resources necessary to insure public access to and release of cost-of-service data and data handling programs.

(b) *Estimating Consumer Class Load Characteristics.* Activities undertaken in performance of this task could include:

(1) Identifying and assessing existing approaches and methods in the public and private sectors that might be used within the proposer's service area(s) for determining electric load characteristics by consumer class;

(2) Developing and testing, without extensive data collection efforts or load research studies, innovative methods of estimating consumer class load characteristics;

(3) Adopting, as a standard, one or more such methods for estimating electric load characteristics, by consumer class, for electric ratemaking purposes;

(4) Developing, as necessary, a model rate provision which allows a residual charge or credit to compensate for inaccurate estimation of load;

(5) Identifying and documenting procedures that can be used to conduct electric load research studies; and

(6) Adopting appropriate guidelines for the design, operation, analysis, documentation and reporting of utility load research studies.

(c) *Metering for Innovative Electric Rates.* Activities undertaken in performance of this task could include:

(1) Assessing electric metering alternatives currently available to the proposer, in terms of function, reliability, life cycle cost, security, accuracy and clarity of any digital display feedback to electric consumers;

(2) Performing cost/benefit analyses, in terms of consumer and/or utility impacts, of different metering technologies under a number of rate and load management/conservation scenarios;

(3) Conducting public hearings to consider offering a combination of digital display metering and innovative rates to electric consumers, with full consideration of the eligibility of such metering for a Federal income tax credit.

(d) *Rate Information for Consumers.* Activities undertaken in performance of this task could include:

(1) Reviewing and analyzing recent utility related communications to electric consumers within the proposer's service area(s) regarding rates and associated load management/conservation techniques to determine the effectiveness of such communications in changing consumers' electricity usage patterns.

(2) Documenting and assessing current practices and resources within the proposer's service area(s) for monitoring and evaluating rate-related communication to electric consumers; and

(3) Developing, testing, and implementing innovative regulatory approaches with respect to rate-related communications in order to improve consumer acceptance and use of rate reforms in effect in the proposer's service area.

(e) *Assistance to Low Income Electric Consumers.* Activities undertaken in performance of this task could include:

(1) Identifying and assessing current regulatory policies and practices, including but not limited to rate design, which are applied to low income electric consumers in the proposer's service area(s);

(2) Identifying and assessing alternative policies and programs which address the impact of rising electric utility rates on these low income electric consumers; and

(3) Developing and adopting a ratemaking policy or other regulatory initiative with respect to low income electric consumers.

(f) *Procedures for Intervenor Compensation.* Activities undertaken in performance of this task could include:

(1) Establishing criteria by which the proposer will determine whether an intervenor would not otherwise be adequately represented in an electric ratemaking proceeding and whether such representation is necessary for a fair determination in the proceeding;

(2) Establishing criteria for determining whether the intervenor has substantially contributed to the proposer's determination regarding any rate reform policy; and

(3) Identifying allowable expenses and payment recordkeeping procedures.

(g) *Solar Rate Initiative.* Activities undertaken in performance of this task could include:

(1) Developing a solar electric rate study to help design a rate structure for residential electric consumers in the proposer's service area(s) who use supplementary solar systems on existing electric appliances and/or heating and cooling systems;

(2) Collecting and analyzing appropriate data including weather, demographic, household and load characteristics to assess possible solar rate structures, including traditional and time-of-use electric rate structures; and

(3) Developing guidelines for establishing rates for electric consumers who use supplementary solar systems on electric appliances and/or heating and cooling systems.

(h) *Allocation of Conservation Service Costs.* Activities undertaken in performance of this task could include:

(1) Identifying and evaluating, for possible adoption by the proposer, current procedures for allocating the costs incurred by electric utilities in providing end-use conservation services to consumers;

(2) Developing the proposer's own alternative procedures, as required, for allocating the costs of end-use conservation services for electric ratemaking purposes;

(3) Assessing the impact of the cost of end-use conservation services on the electric utility's cost-of-service, taking into account the short and long-run effects of demand (kilowatt-hour and/or kilowatt) reduction; and

(4) Incorporating and adopting, through a public hearing, conservation cost allocation procedures as ratemaking guidelines.

(i) *Rate Incentives for Utility Efficiency.* Activities undertaken in performance of this task could include:

(1) Identifying and assessing, for possible adoption by the proposer, current regulatory policies and practices with respect to incentives for efficient electric utility resource utilization, including such aspects of utility operation as fuel use and powerplant availability;

(2) Reviewing and assessing alternative regulatory approaches that might increase the efficiency of electric utility operation, including incentive rates of return and restrictions on automatic adjustment clauses; and

(3) Developing and adopting regulatory guidelines and ratemaking standards to increase the efficiency of electric utility operation.

(j) *Other Tasks.* Other activities may be undertaken to plan and carry out electric utility regulatory rate reform initiatives, relating to innovative rate structures, that carry out the purposes expressed in § 461.30 and that will, or are likely to, result in the adoption by the proposer of a reform in its ratemaking practices or policies.

§ 461.33 Proposal requirements.

(a) To be eligible to receive a cooperative agreement under this subpart, a proposer must submit to DOE a proposal on a form to be provided by DOE in conformity with paragraph (b) of this section. This proposal must be received by DOE on or before 5:00 p.m. e.d.t., on the August 15 preceding the fiscal year for which financial assistance is sought, or such other date as may be established by DOE and published in the FEDERAL REGISTER. A proposer must submit a separate proposal for each fiscal year for which assistance is sought.

(b) Each proposal must include—

(1) A brief overview, including a summary of each of the tasks proposed to be carried out with the financial assistance requested by the proposer.

(2) A separate Task Work Plan for each task to be carried out by the proposer. Each Task Work Plan shall not exceed 25 pages in length and shall include—

(i) A brief statement of the specific objectives of the task and an identification of how the objectives relate to the proposer's ongoing work and needs;

(ii) A detailed Scope of Work describing the activities to be undertaken to complete the task, including—

(A) a discussion of how the activities will accomplish the objectives of the task;

(B) a detailed description of each activity;

(C) a statement of anticipated problems associated with carrying out the activities;

(D) an identification of methodological issues associated with the activities; and

(E) an identification of data requirements, sources, and availability associated with the activities.

(iii) A timetable by calendar month showing the activities to be performed;

(iv) A description of task management and administration, which identifies the responsibilities of key personnel and the organizational units assigned to undertake the task;

(v) A description of the experience of key personnel including an indentification of the percent of time each will devote to the task;

(vi) A cost estimate for each task;

(vii) A budget by cost category for each task, the amount requested of DOE, and the total amount estimated for each task;

(viii) The amount, if any, of cost sharing or funds from other sources, relating to (vi) and (vii).

(3) An assurance that funds received by the proposer under this subpart will be used in addition to, and not in substitution for, funds made available to the proposer from other governmental sources.

(4) A commitment to submit a Management Plan 60 days after receipt of any cooperative agreement under this subpart. The Management Plan will set forth in detail the organizational, budgetary, technical, and scheduling requirements necessary for successful completion of each task covered in the cooperative agreements. The Management Plan must be submitted for DOE review and approval, and the recipient may not proceed with the subsequent task until the Management Plan is approved.

(5) Identification of the person responsible for coordination and management of the cooperative agreement, including the person's name, title, address, and telephone number.

(6) Appendices, including any pertinent legislation and regulatory orders which are cited or referenced in the proposal.

§ 461.34 Evaluation criteria.

The following criteria will be used to evaluate each proposed task.

(a) *Task Objectives.* 10 points maximum.

(1) The extent to which the proposed task describes specific objectives; and

(2) The extent to which the proposed task demonstrates that accomplishments of the task will be applicable and usable by other State utility regulatory commissions and/or nonregulated electric utilities;

(b) *Task Work Plan.* 40 points maximum.

(1) The extent to which the activities and objectives in the Task Work Plan evidence innovative, effective, and practical approaches to utility rate regulation;

(2) The extent to which the activities described in the Task Work Plan are clearly related to, and show promise of attaining, the objectives;

(3) The extent to which activities in the Task Work Plan are integrated into a realistic timetable.

(4) The extent to which the anticipated results, accomplishments and associated products (including studies, procedures, guidelines and policy directives), are identified;

(5) The extent to which the Task Work Plan evidences that the proposer plans to use, rather than duplicate the development of, available published materials;

(6) The extent to which potential problems and alternative courses of action to resolve the problems are identified and addressed;

(c) *Analytical and Methodological Approaches for Task.* 20 points maximum.

(1) The extent to which the evaluation procedures to be used by the proposer in selecting the methodologies and policy alternatives to be employed in the task are clearly described and are workable;

(2) The extent to which the issues associated with data requirements, sources, availability, costs, and validity are clearly and adequately addressed.

(d) *Task Management.* 10 points maximum.

(1) The extent to which the staffing plan:

(i) evidences an evaluation of the proposer's current organization with respect to its capability to carry out the task; and

(ii) establishes clear organizational responsibilities for carrying out the task;

(2) The extent to which the proposer's staff are qualified to perform their functions and will be involved with the work performed by any consultants; and

(3) The extent to which the Task includes provisions for making maximum use of present staff and/or provide for training of staff in order to increase the proposer's effectiveness in carrying out the task.

(e) *Budget for Task.* 20 points maximum.

(1) The extent to which the proposed Task Work Plan contains evidence that the amount of funds requested is realistically related to the activities, expecially in terms of achieving the stated objectives; and

(2) The extent to which costs for consultant services are reasonable, related directly to the activities, and will assist in accomplishing the objectives of the task.

§ 461.35 Selection process.

The following evaluation and selection process will be used to award cooperative agreements to proposers.

(a) DOE shall evaluate each proposal in accordance with the criteria specified in § 461.34, and shall give each a point score according to these criteria.

(b) Any proposal receiving a point score of 45 points or less will not be considered for a cooperative agreement.

(c) DOE shall select proposals for award taking into account—

(1) the proposal's evaluation score;

(2) the proposer's past performance under a previous cooperative agreement, if any, under this program;

(3) the availability of funds.

(d) When determined to be necessary and appropriate by DOE, DOE may negotiate with the proposer on Task Work Plans and budgets, prior to the award of a cooperative agreement.

[FR Doc. 79-9402 Filed 3-28-79; 8:45 am]

federal register

THURSDAY, MARCH 29, 1979
PART IV



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

IMPLEMENTATION OF OMB CIRCULAR NO. A–95

Final Regulations: General Applicability

[4210-01-M]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-79-630]

PART 52—IMPLEMENTATION OF OMB CIRCULAR NO. A-95

Final Regulations: General Applicability

AGENCY: Department of Housing and Urban Development.

ACTION: Withdrawal and Reissue of Rule.

SUMMARY: This rule reissues the final regulations implementing the requirements of OMB Circular No. A-95 as they apply to HUD's programs. These regulations are intended to provide for a more consistent implementation of the A-95 process for Departmental programs by establishing uniform processing procedures and clearly defining the roles and responsibilities of program staff in complying with the overall intent of OMB Circular No. A-95.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Crichton Schacht, Office of Community Planning and Program Coordination, Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7262, Washington, D.C. 20410 (202-755-6201).

SUPPLEMENTARY INFORMATION: On March 20, 1979, 44 FR 17124, there was published in the FEDERAL REGISTER an incorrect copy, inadvertently transmitted by the Department, with respect to Part 52. This document withdraws that publication scheduled to become effective April 19, 1979, and reissues it retaining that same effective date.

On January 13, 1976, the Office of Management and Budget published in the FEDERAL REGISTER (41 FR 2052) a revision to OMB Circular No. A-95. Paragraph 7 of the main body of the Circular requires that certain Federal Departments and Agencies publish regulations which implement the requirements of the Circular as revised (41 FR 2052) and provide a basis for a higher degree of consistency in the application of the A-95 process to Departmental programs. The purpose of this issuance is to set forth the final Departmental implementing instructions in conformance with the Circular. Emphasis has been placed on establishing uniform processing procedures for the applicable programs and clearly defining the roles and responsibilities of program staff in complying with the overall intent of the Circular.

Interim regulations which summarized and clarified procedures and responsibilities for meeting A-95 requirements pertaining to HUD programs were published for effect on September 23, 1976 (41 FR 41874). Based on comments received and numerous changes in program references, the interim regulations have been revised and are hereby set forth as final regulations.

The purpose of these regulations is to further the objectives of: (1) Title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1103); (2) Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1263, 82 Stat. 208); (3) Section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853); (4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); (5) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.); (6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U); and (7) the Housing and Community Development Act of 1974 (42 U.S.C. 5301).

Subpart A defines the administrative responsibilities for carrying out Departmental responsibilities in the evaluation, review and coordination of Departmental programs pursuant to the OMB Circular. A special effort has been made to clarify the processing procedures and identify responsibilities at the Headquarters, Regional and Field Office levels.

Subpart B describes the evaluation and review procedures for all applicable HUD programs from which Federal assistance or insurance is being sought (listed in the appendix) and includes the limitations and procedural variations that apply. Special emphasis has been placed on the coordination and planning functions of the clearinghouse and HUD with respect to reviewing applications for assistance.

Subpart C establishes the procedures to assure that:

(a) All direct Federal development activities which significantly affect area and community development are in compliance with Part II, Attachment A of the Circular. (Reserved)

(b) All HUD programs which require a State plan as a condition of assistance, are in compliance with Part III, Attachment A of the Circular, and

(c) HUD encourages States to exercise their leadership in establishing a system of coordinated planning and development districts in accordance with Part IV, Attachment A of the Circular.

In developing these regulations particular attention has been given to the concerns of program personnel, HUD field personnel, applicants, and the A-95 clearinghouses. In an attempt to achieve better program coordination in the development and implementation of State, areawide and local Comprehensive Plans, emphasis has been placed on the following key areas of the Project Notification and Review System established in Circular No. A-95:

1. Early applicant contact and discussion with clearinghouses prior to submitting applications to HUD.

2. The timing requirements for clearinghouse consultation and review of the applicant's proposals.

3. The attachment of clearinghouse comments and recommendations to the application when submitted to HUD, unless concurrent review is allowed by program regulations.

4. Clarification of the procedures for HUD's notification to clearinghouses of action taken on the application.

5. Consultation with other Federal agencies when interagency conflicts or duplication in funding have been identified.

6. HUD use of clearinghouse comments in making decisions on applications for assistance.

7. HUD responsibilities for administration of the A-95 process at various organizational levels.

DISCUSSION OF MAJOR COMMENTS AND CHANGES

HUD received eighteen responses to the September 23, 1976, publication. All of these comments were seriously considered and as a result many changes have been incorporated in the final regulations. The major comments and changes are discussed below:

1. A comment concerning the definition of "HUD field office" has resulted in its definition being added to § 52.2(d).

2. Some revisions have been made to § 52.3(c) (3) and (4); as well as (d) (1) and (2) in order to reflect the new delegation of responsibilities in the Department's organizational handbook. One comment questioned whether § 52.3(c)(3), which stated that the Regional Office A-95 liaison officer has the duty to train clearinghouses, was appropriate since OMB has delegated such matters to the Federal Regional Councils. Therefore, § 52.3(c)(3) has been clarified, as has § 52.101(a), to indicate that HUD's responsibility to train clearinghouses is limited to HUD's A-95 program procedures.

3. Several comments requested clarification of § 52.3(d)(1), concerning field office consultations with clearinghouses. As a result, changes have been made to clarify that the

HUD Area Office A-95 liaison is responsible for contacting clearinghouses and periodically providing them with feedback regarding the usefulness of the clearinghouses' comments to HUD's decisionmaking. Another comment resulted in the addition of § 52.3(d)(1)(iv), which states that the Area Office A-95 liaison is responsible for periodically providing clearinghouses with information on changes in program funding levels, number of applicants, application time schedules and other changes which might affect clearinghouse workload or procedures.

4. An appendix listing all HUD programs covered by OMB Circular No. A-95 as of the date of this publication has been added to these regulations as the result of one request.

5. One comment requested that § 52.101(e)(1) provide instructions regarding the consideration of adverse clearinghouse comments and comments from environmental and civil rights agencies which are received after the review period has ended. Such instructions have not been added, since HUD's course of action would depend on the reason for late arrival of comments. If the applicant is at fault and did not provide the appropriate clearinghouses with adequate time for review, HUD will not take any action on the application until the clearinghouses are given adequate time to review and comment, and all comments are considered. However, where the applicant has provided the clearinghouses with the required time for review and comment and clearinghouses are late in submitting their comments, we cannot assure that such comments will be considered. Although late comments will be considered insofar as possible, processing and timing pressures may make this infeasible in some instances.

6. We have revised § 52.101(e)(1), as requested, to clarify that any comments by individuals, groups or agencies forwarded to HUD through the clearinghouses are to be considered along with clearinghouse comments.

7. Based on a comment, § 52.101(e)(2) has been revised to state that comments from substate agencies involved in the State coastal zone management program as well as those from the State coastal zone management agency will be considered by HUD in meeting its responsibilities under the Coastal Zone Management Act of 1972.

8. The provision in § 52.101(e)(3)(ii), whereby an application with unresolved negative comments citing inconsistency with plans or statutory noncompliance cannot be approved without concurrence by the Regional Administrator, resulted in both headquarters and field office comments that this provision could cause processing delays and might be particularly difficult where there are statutory limitations on processing time. Consequently, the revised regulations now specify that the program official shall notify the clearinghouse in writing that HUD intends to approve the application with an explanation why this is necessary. The clearinghouse may request reconsideration in writing to the Regional Administrator. The steps in this process are then described.

9. The interim regulations erroneously stated in § 52.101(f)(1) that HUD must provide clearinghouses with notification of action taken on a reviewed application "within seven calendar days". In accordance with OMB Circular No. A-95, Attachment A, Part I, 6(c), this has been corrected in the final regulations to require notification "within seven working days."

10. Several comments with regard to § 52.101(f)(3) stated that HUD should provide an explanation regarding approval of applications receiving negative comments to any organization or group submitting such comments, not just to clearinghouses. In accordance with OMB's interpretation of this requirement, described on page 20 of the OMB Handbook "A-95 What It is—How It Works," these regulations will not require that program officials send explanations of action taken to agencies other than clearinghouses, although they may do so if they feel it is appropriate. However, a statement has been added to the regulations to indicate that upon request by the clearinghouse, HUD will provide the clearinghouse with an explanation, which can then be forwarded to the commenting agency.

11. Several comments suggested clarification or revisions of the description of application amendments requiring clearinghouse review in § 52.101(g). This section has not been changed since the thresholds at which amendments become significant enough to require HUD approval and, therefore, clearinghouse review will vary from program to program. Applicants should consult the program regulations, HUD Regional and field office program staff and the A-95 liaison or the appropriate clearinghouses to determine whether application amendments require A-95 review.

12. One comment requested clarification in the review requirements under OMB Circular No. A-95 and Section 213 of the Housing and Community Development Act of 1974, implemented by 24 CFR Part 891. In order to facilitate coordination of these two review requirements, the final regulations in § 52.102(c) now provide for simultaneous initiation of the 30-day A-95 and 213 review periods. Clearinghouses are also encouraged to develop arrangements with units of general local government to coordinate submission of A-95 and 213 comments. Although these two somewhat duplicative review systems cannot be combined under current legislation, the relationship between them should be simplified and clarified by these new provisions.

13. Conflicting comments were received regarding § 52.102 (b) and (c) which state that applications for HUD housing assistance or insurance may be sent to clearinghouses prior to submission to HUD or may be submitted directly to HUD, in which case HUD must send them to the clearinghouses for review. The regulations encourage applicants to obtain A-95 comments prior to submission of applications to HUD since early contact with clearinghouses can save considerable time and effort by eliminating major problems before the applications are completed. However, OMB Circular No. A-95 does not require that housing applications be submitted to clearinghouses prior to submission to HUD since early application submission could be premature for applicants in some instances and put an additional burden on the clearinghouses. Applicants are encouraged to contact the appropriate HUD field office and clearinghouses regarding their preferred procedure for obtaining A-95 review on housing applications.

14. Based on an observation by HUD staff that clearinghouses should not have to complete reviews on housing applications which, after preliminary screening, are found to be unacceptable to HUD for technical processing, a new § 52.102(d) has been added to allow early termination of clearinghouse reviews.

15. Numerous comments were submitted regarding A-95 review procedures for community development block grants in § 52.103. Because new regulations for 24 CFR Part 570 (43 FR 8476, March 1, 1978) allow preapplications to be submitted simultaneously to HUD and clearinghouses we cannot state, as requested, that HUD will only consider preapplications complete when submitted with A-95 comments or a statement that no comments have been received. However, where preapplications are received without comments HUD may not make a final determination until A-95 comments are received and considered or until the comment period is over and no comments have been received. Many commenters stated that application assurances should be sent to clearinghouses for review. Since assurances are submitted in a standardized format providing little basis for clearinghouse comments, they need not be sent to the clearinghouses for review. Although it is HUD's responsi-

bility to review the applicants' compliance with required assurances, clearinghouses may submit for HUD's consideration comments regarding the applicants' ability or efforts to fulfill the assurances, which are described in program regulations and application forms, available from HUD field offices. Other revisions to this section have been made to reflect the most current regulations for 24 CFR Part 570.

16. Because of comments concerning the purpose of submitting the community development block grant applicants' performance reports to clearinghouses in § 52.103(c) (previously § 52.103(b)), the final regulations have been clarified to indicate that performance reports are to be submitted to clearinghouses for background information purposes only, not for review.

17. Section 52.106 has been expanded to include a reference to the A-95 review provisions in 24 CFR Part 600.73(e)(2) for land use and housing elements developed by recipients of Comprehensive Planning Assistance Program funds.

18. A new section, § 52.109, has been added which incorporates the A-95 requirements for Areawide Housing Opportunity Plans. as the Areawide Housing Opportunity Plan program is now an on-going HUD program, it is now being brought under the normal A-95 requirements.

19. § 52.201, concerning State Plans, has been clarified to emphasize that States and areawide clearinghouses should work together in the development of State and areawide plans as well as in their formal A-95 review to assure intergovernmental coordination and consistency.

20. Due to questions regarding the applicability of the provision in § 52.202(b)(1) requiring a memorandum of agreement to coordinate planning in multi-jurisdictional areas, language has been added to clarify that this provision applies only to multijurisdictional or areawide applicants for planning assistance. The question was raised concerning whether urban counties receiving HUD community block grant funds for planning purposes would be considered multijurisdictional agencies in this context. It was determined that this would be left up to the discretion of the appropriate areawide comprehensive planning agency, which would decide whether a memorandum of agreement was necessary to assure coordination of planning undertaken by the urban county with areawide planning activities.

21. One general comment noted that it would be helpful if excerpts from program regulations describing A-95 procedures were included in the HUD A-95 regulations, rather than simply being referenced. Because specific procedures and regulations for any program may change frequently, inclusion of excerpts from program regulations would be impractical.

IMPACT STATEMENTS

The Department determined that an Environmental Impact Statement was not required with respect to the interim rule. As the revisions to the final regulations are not substantial, this determination still applies. The economic and inflationary impacts of the interim regulations were carefully evaluated in accordance with OMB Circular A-107 and a Finding of Inapplicability was made in accordance with HUD Handbook 1390.1 (38 FR 19182). This Finding still applies and is available for public inspection in the Office of the Rules Docket Clerk at the above address.

In consideration of the foregoing, Title 24 CFR, Subtitle A is amended by revising Part 52 to read as follows:

PART 52—IMPLEMENTATION OF OMB CIRCULAR NO. A-95

Subpart A—General Provisions

Sec.
52.1 Scope and applicability.
52.2 Definitions.
52.3 Responsibilities for administration.

Subpart B—Project Notification and Review Procedures

52.100 General.
52.101 Requirements applicable to all HUD programs.
52.102 Housing programs.
52.103 Community development block grants.
52.104 Freestanding housing assistance plans (Reserved).
52.105 Assistance for new communities.
52.106 Comprehensive planning assistance.
52.107 National flood insurance program.
52.108 Federal disaster assistance program.
52.109 Areawide Housing Opportunity Plans.

Subpart C—Other Circular Requirements

52.200 Direct Federal development (Reserved).
52.201 State plans.
52.202 Multijurisdictional areas.
Appendix A HUD Programs Covered by OMB Circular No. A-95.

AUTHORITY: Sec. 7(d) of Department of Housing and Urban Development Act; (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 52.1 Scope and applicability.

(a) This Subpart of the regulations covers those policies and procedures relating to the roles and responsibilities of HUD, in cooperation with authorized A-95 clearinghouses, in the Departmental programs pursuant to OMB Circular No. A-95.

(b) The policies and procedures contained herein are applicable to establishing uniform regulations for implementing the A-95 process in Departmental programs identified in:

(1) Appendix I of the *Catalog of Federal Domestic Assistance*, or Attachment D of OMB Circular No. A-95, whichever bears the later date.

(2) Direct Federal Development Activities as defined in Part II, Attachment A of OMB Circular No. A-95.

(3) State plans as defined in Part III, Attachment A of OMB Circular No. A-95.

(4) Coordination of Planning in Multijurisdictional Areas as defined in Part IV, Attachment A of OMB Circular No. A-95.

§ 52.2 Definitions.

(a) The definitions and terminology used in these regulations shall be consistent with:

(1) Those contained in Departmental program regulations as published in the FEDERAL REGISTER, and

(2) Those used in Part V, Attachment A of OMB Circular No. A-95, Revised (41 FR 2052).

(b) "Freestanding Housing Assistance Plan." A Freestanding Housing Assistance Plan (HAP) is an approved housing assistance plan under Title II of the Housing and Community Development Act of 1974 which has been submitted by a unit of general local government which is not participating in the Community Development Block Grant program at the time of approval of the HAP.

(c) "OMB Circular No. A-95." All references to "OMB Circular No. A-95" or "the Circular" shall mean the Office of Management and Budget (OMB) Circular No. A-95, Revised (41 FR 2052), dated January 13, 1976 or subsequent amendments.

(d) "HUD Field Offices." All references to HUD field offices shall mean all HUD Area Offices, Service Offices and Valuation Stations with the exception that it shall apply to Regional Offices for any programs not delegated to Area and Service Offices.

§ 52.3 Responsibilities for administration.

(a) The Assistant Secretary for Community Planning and Development shall be assisted by the Director of the Office of Community Planning and Program Coordination in carrying out the following functions:

(1) Provide lead responsibility for coordinating and developing a uniform set of departmental procedures for implementing these regulations;

(2) Serve as the Department's liaison with the Office of Management and Budget and other Federal agencies on A-95 matters;

(3) Serve as liaison with other Headquarters units and Regional Offices

and concur in all Headquarters instructions and regulations which refer to the A-95 process;

(4) Issue policies and procedures within the scope of these regulations in consultation with other Assistant Secretaries, and develop such written supplemental material as may be necessary to implement these regulations;

(5) Develop and conduct training and information programs, monitoring systems and periodic evaluations designed to further HUD program officials' understanding of the A-95 process, to improve HUD's implementation of the process, and to increase the benefits of the A-95 process with regard to HUD's programs.

(b) All other Assistant Secretaries, the General Counsel and program Adminstrators with A-95 compliance responsibilities shall assist the Assistant Secretary for Community Planning and Development in the implementation of these regulations, including the insertion of the A-95 requirements in their program regulations and other program guidance material, the development of special A-95 procedures and guidelines where needed, and the designation of an A-95 official for the purposes of contact and coordination.

(c) Within the Regional Office, the Director, Office of Regional Community Planning and Development has, on behalf of the Regional Administrator, primary responsibility for the function of coordinating, monitoring and overseeing the OMB Circular No. A-95 functions in Field Offices. The Director of the Office of Regional Community Planning and Development shall designate a staff member responsible for A-95 matters. The Regional Administrator may designate the staff liaison to the Federal Regional Commission (FRC) or other staff related to the A-95 function in place of the Director, Office of Regional Community Planning and Development if the Regional Office staff configuration requires such flexibility. The A-95 responsibilities shall be set forth in the designee's job description and time shall be allocated to this function through the Regional Employee Time Reporting System (formerly Departmental Time and Cost Reporting System). The designee shall be the principal advisor on A-95 matters delegated to field offices and have the following duties:

(1) Oversee and monitor A-95 activities on all HUD programs in the Region, including field office compliance with the A-95 review requirements;

(2) Act as the principal point of contact for all field offices relating to A-95 policies and procedures;

(3) Assist the Area Office A-95 liaison officer in the training of field staff and clearinghouses concerning HUD program procedures under OMB Circular No. A-95;

(4) Serve as the HUD representative to the appropriate Federal Regional Council (FRC) in its A-95 activities;

(5) Assist field offices in resolving problems or issues raised through the A-95 process;

(6) With the assistance and input of other HUD Regional units and field offices, periodically evaluate the A-95 process and procedures for the purpose of improving compliance, upgrading the procedures, and recommending changes where needed;

(7) Serve as liaison with the staff of the Assistant Secretary for Community Planning and Development on issues related to intergovernmental coordination and A-95 matters;

(d) Within each Area Office, Service Office and Valuation Station, a designated staff member shall be responsible for A-95 liaison. The A-95 responsibilities shall be set forth in the designee's job description and time shall be allocated to this function through the Regional Employee Time Reporting System (formerly Departmental Time and Cost Reporting System). He shall be the principal advisor to the Office Manager or Supervisor on A-95 matters and have the functions outlined below:

(1) In Area Offices, the Director of the Community Planning and Development Division has overall responsibility for providing leadership in the implementation of OMB Circular A-95, including monitoring and evaluating Field Office performance of this function. Within the CPD Division, the Planning Branch Chief is responsible for:

(i) Ensuring compliance with OMB Circular A-95 and HUD implementation requirements thereunder: and coordinating the planning in multi-jurisdictional areas pursuant to OMB Circular A-95 and implementing the basic A-95 procedures.

(ii) Overseeing and monitoring A-95 activities on all HUD programs through periodic evaluations of the A-95 process.

(iii) Advising and providing assistance to local governments and clearinghouses to strengthen the coordination and intergovernmental relations aspect of the A-95 process and ensuring that the obligatory referrals are being made by clearinghouses to State and local environmental and civil rights agencies, and to the Coastal Zone management agencies.

(iv) Maintaining periodic contact with clearinghouses in the Area Office jurisdiction to (a) discuss any changes in HUD program requirements, funding level or time tables which might impact on clearinghouse procedures or work load, so that clearinghouses have sufficient notice to make necessary adjustments in their processing, (b) explain the types of comments which would be helpful to HUD in reviewing applications, and (c) provide periodic feedback to clearinghouses regarding the usefulness of comments received and the way in which they have been incorporated into HUD's decision-making process;

(2) In Service Offices and Valuation Stations, the Supervisor shall designate a staff member responsible for A-95 liaison functions.

(3) The following functions shall be performed in the Area Offices, Service Offices and Valuation Stations by the appropriate A-95 liaison person.

(i) Develop definitive procedures for carrying out the A-95 responsibilities in the field office to assure efficient processing and review of all documents related to A-95 activities and to assure adherence to all A-95 requirements and time constraints incuding coordination with personnel responsible for planning, environmental and civil rights concerns;

(ii) Advise on the maintenance of appropriate A-95 and community development and other relevant information to be kept in a field office reference library available to all program staff, for A-95 purposes;

(iii) Maintain liaison with the Regional Office for purposes of identifying problems and issues and suggesting how policies and procedures can be modified to improve the A-95 process.

Subpart B—Project Notification and Review Procedures

§ 52.100 General.

(a) *Purpose.* The principal purpose of this subpart is to provide for intergovernmental coordination of Federally assisted and insured programs and projects. Other purposes are set forth in paragraph 1 of Part I, Attachment A of the OMB Circular No. A-95.

(b) *Applicability to HUD programs.* The general requirments of this subpart are set forth in Part I, Attachment A of OMB Circular No. A-95, and are fully applicable to all projects and activities for which Federal assistance or insurance is being sought from HUD under the programs listed in Appendix I of the *Catalog of Federal Domestic Assistance* or Attachment D of OMB Circular No. A-95, whichever bears the later date.

(c) *Coverage and interpretation.* Questions of program coverage, requests for procedural variations from the normal review procedures by HUD officials, and questions of interpretation of the A-95 Circular and these regulations shall be addressed to the Assistant Secretary for Community Planning and Development (CPD). The Assistant Secretary for CPD shall refer those matters required by para-

graph 8 of Part I, Attachment A of OMB Circular No. A-95 (coverage, exemptions and variations to the Project Notification and Review system), to OMB for overall policy determination.

(d) *General description.* Part I, Attachment A of OMB Circular No. A-95, sets forth a general A-95 review and comment process for applications for most types of Federal assistance and describes specific procedures applicable only to Federal housing assistance programs. § 52.101 of these regulations sets forth procedures applicable to all of HUD's programs, both housing and nonhousing, which are covered by Part I, Attachment A of the Circular. A-95 procedures unique to HUD's housing programs are described in § 52.102. Specific procedures for other HUD programs are described under the appropriate program title, beginning with § 52.103.

§ 52.101 Requirements applicable to all HUD programs.

This section sets forth specific A-95 requirements or procedures which apply to all HUD programs listed in Appendix I of the *Catalog of Federal Domestic Assistance* or the Appendix to these regulations, whichever bears the later date. (For variations or procedures unique to individual programs, see the applicable sections of the regulations for those programs and subsequent sections of these regulations.)

(a) *Informing potential applicants.* HUD field office staff responsible for specific programs will provide potential applicants and clearinghouses with information on the requirements of the Circular and these implementing regulations in program information materials, in response to inquiries, in pre-application conferences, in Developers' Packets or by other appropriate means which will assure that applicants and clearinghouses understand HUD program procedures under OMB Circular No. A-95.

(b) *Applicants working closely with clearinghouses.* Whether a particular program requires or permits review of an application by clearinghouses before submission to HUD or whether HUD submits the application to clearinghouses, applicants shall be advised by HUD field office staff that prior contact with a clearinghouse may facilitate clearinghouse reviews and HUD processing of the application.

(c) *Contents and basis of clearinghouse comments.* (1) The subject matter of clearinghouse comments and recommendations is discussed in paragraph 5, Part I, Attachment A of OMB Circular No. A-95. In addition, HUD program officials shall, with concurrence of the Office of Community Planning and Program Coordination, issue A-95 review guidelines specifying the types of clearinghouse comments which would be useful to the responsible HUD officials in making a determination on an application. Although these guidelines will be designed for clearinghouses to use when developing comments, their comments need not be restricted to the subject matter of the guidelines. HUD program staff are required to consider all A-95 comments submitted by or through clearinghouses prior to making a determination on an application.

(2) HUD expects that State and areawide clearinghouses will use all relevant comprehensive and functional plans, such as the housing and land use elements required by the Comprehensive Planning Assistance Program (24 CFR Part 600), State Coastal Zone Management Programs, Housing Opportunity Plans and other State and regional planning considerations as a basis for their review of applications for HUD assistance and for their assessment of the consistency of proposed projects with existing plans. Comments which are based on documented sources resulting from the planning process should be identified by the clearinghouse and will be used by the responsible HUD official in making decisions on applications. Comments should clearly indicate whether the clearinghouse recommends that the application be approved; it recommends approval only with the specific and major substantive changes; or it recommends against approval.

(d) *Acceptance of application.* Except in those instances when program regulations state that HUD is responsible for sending the application to the clearinghouse for review or provide for concurrent submission to HUD and the clearinghouses, no application for HUD assistance shall be accepted for processing without assurance by the applicant that the A-95 process has been followed, or is not applicable, depending on the regulations or instructions for each program. For all program applications for which clearinghouse review is required or permitted prior to submission to HUD, note paragraph 4(f) of Part I, Attachment A of OMB Circular No. A-95, which states that applications submitted to a Federal agency shall be accompanied by (1) all comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or (2) where no comments have been received from a clearinghouse, a statement that the A-95 procedures for the relevant program have been followed and that no comments or recommendations have been received.

(e) *HUD use of clearinghouse comments.* (1) General. Prior to making a decision on an application, HUD staff responsible for review of applications will take into consideration all clearinghouse comments and comments from public or private organizations and agencies, or units of government submitted through clearinghouses to HUD within the designated time period.

(2) Any comments resulting from review by the State clearinghouse or State agency responsible for the State coastal zone management program or a substate agency or local government which has designated responsibilities under the State coastal zone management program regarding a project's relationship to the approved coastal zone management program shall be considered by HUD in meeting its responsibilities under the Coastal Zone Management Act of 1972 (86 Stat. 1280). Comments resulting from the obligatory referrals by clearinghouses to State and local environmental agencies and civil rights agencies shall be considered by HUD in meeting its responsibilities under the relevant environmental and civil rights statutes.

(3) *Adverse comments.* (i) Clearinghouse comments on an application or proposal which (A) recommend against approval, (B) recommend approval only with specific and major substantive changes, (C) identify inconsistency with a State, areawide, or local plans, or (D) identify failure to provide equal opportunity or non-compliance with environmental laws should be fully substantiated and documented when submitted to HUD. Program staff shall carefully examine all such comments received on applications submitted to HUD and shall take appropriate actions to resolve the problems if it is possible that the application could be selected or approved. Appropriate actions might include discussions and conferences with the applicant, the clearinghouse(s) and other relevant Federal, State and local agencies to attempt to resolve the problem. In such cases the program staff shall consult with the staff member designated to provide A-95 liaison, who shall be involved in preparing the official recommendations to the responsible HUD program official. In instances where clearinghouse comments identify equal opportunity or environmental problems, the program staff shall consult legal counsel and appropriate equal opportunity or environmental quality staff at the appropriate field office level and/or Headquarters.

(ii) If after consulting in accordance with (i) above, the HUD program official (a) disagrees with a clearinghouse conclusion that an application is inconsistent with a State, areawide or local plan or, if in agreement, feels the application should nevertheless be ap-

proved, or (B) disagrees with a clearinghouse conclusion that an application fails to provide equal opportunity or violates environmental laws, that official shall, after consultation with the Regional A-95 liaison and review of the pertinent statutory provisions, notify the clearinghouse in writing that HUD intends to approve the application with an explanation why such action is necessary. The clearinghouse may make a request for reconsideration in writing to the Regional Administrator, with a copy to the HUD Field Office. If within ten (10) working days of the date of postmark of the letter of notification to the clearinghouse of HUD intent to approve the application, the HUD Field Office does not receive a copy of the clearinghouse request for reconsideration by the Regional Administrator, the HUD Field Office may approve the application. The Regional Administrator shall complete his decision within five (5) working days of receipt of the clearinghouse request for reconsideration. When a clearinghouse requests reconsideration from the Regional Administrator within the specified time limit, no approval action may be taken on the application by the HUD Field Office until final action is taken by the Regional Administrator and a written response is made to the clearinghouse with a copy to the HUD Field Office. When a clearinghouse recommendation against approval is received on an application for programs administered in Washington, the responsible program official shall, after consulting in accordance with (i) above, and reaching the conclusions in (ii) (A) or (B) above, and after consultation with the Headquarters A-95 liaison and review of the pertinent statutory provisions, notify the clearinghouse in writing that HUD intends to approve the application. The same timing and reconsideration process applied at the Regional Office shall be applied by the Assistant Secretary for Community Planning and Development for Washington Office administered programs.

(iii) When comments have identified conflicts or duplication with projects funded by another Federal agency, the responsible HUD official shall take necessary action to resolve the problem, including consultations with the other agency to determine whether the application should be approved, which agency should be the funding agency and/or if the project can be jointly funded.

(f) *Notification to clearinghouses of HUD actions.* (1) In accordance with paragraph 6(c), Part I, Attachment A of OMB Circular No. A-95, all clearinghouses that have reviewed an application must be notified by HUD within 7 working days of any major action taken on the application by HUD, such as an award, rejection, return for amendment, deferral or withdrawal. Standard Form 424, promulgated by Federal Management Circular 74-7 and published as Attachment E to OMB Circular No. A-95, shall be used for this purpose unless otherwise provided for in HUD issuances.

(2) In accordance with paragraph 6(d), Part I, Attachment A of OMB Circular No. A-95, an explanation shall be provided by HUD to a clearinghouse along with the notification of action taken described above whenever HUD approves an application substantially as submitted although the clearinghouse recommended against approval or recommended approval only with specific and major substantive changes. Standard Form 424 shall be used for this purpose by checking block No. 37, "yes", and inserting the explanation in Section IV of the Form.

(3) Explanations required in § 52.101(f)(2) of these regulations shall be provided only to clearinghouses themselves and not to agencies commenting through such clearinghouses. HUD will respond only to recommendations that are clearly identified as the official comments of the clearinghouse. Where other agencies or groups submit comments recommending disapproval and these comments are merely attached to a transmittal letter from the reviewing clearinghouse without an indication that the clearinghouse concurs, HUD will consider such comments, but will not provide an explanation should the application be approved unless the clearinghouse specifically requests an explanation. Where a clearinghouse has requested a response to negative comments submitted by another agency, the clearinghouse is responsible for transmitting HUD's explanation back to the agency originating the comment.

(g) *Amendments after application approval.* Program regulations should specify the types of changes or amendments to an approved application, project or program which are considered significant enough to require submission to HUD for approval. All such changes or amendments which are not administrative and that in general may alter the direction, nature, scope, location or scale of a project or activity being supported or might involve changes in the beneficiary population or target group being served are subject to the A-95 process and require clearinghouse review. Amendments not required to be submitted to HUD for approval need not be submitted for clearinghouse review. Applicants should be instructed to consult with the clearinghouse to determine if it wishes to review the proposed changes or amendments if there is a question regarding their significance. Clearinghouses shall have 30 calendar days from receipt to review all proposed amendments to approved applications unless the applicant and funding agency decide jointly to extend the review period. HUD may not approve such amendments until clearinghouse comments are received. HUD review, however, may run concurrently with the review by the clearinghouse.

(h) *Compliance with Executive Order 11988 Regarding Floodplain Management.* [Reserved]

§ 52.102 Housing programs.

The purpose of this section is to implement, with regard to HUD housing programs, the requirements of the OMB Circular No. A-95, and to clarify application review procedures consistent with those identified above and included in Part I, Attachment A of the OMB Circular No. A-95 (regarding the Project Notification and Review System).

(a) *Scope.* The programs covered by the Circular which are related to housing development are subject to the review procedures, thresholds, and special exemptions identified in paragraph 7, Part I, Attachment A of the Circular. These special provisions apply to HUD housing programs listed in Appendix I of the *Catalog of Federal Domestic Assistance*, or the Appendix to these regulations, whichever bears the later date.

(b) *Submission to clearinghouses.* All applicants intending to apply for HUD housing assistance are strongly encouraged to follow the procedure identified in paragraph 7(d), Part I, Attachment A of OMB Circular No. A-95, whereby the application is submitted directly to the appropriate clearinghouses for review at least 30 calendar days prior to submission to HUD. All comments would then be attached to the application when submitted to HUD. In such cases the application does not have to be transmitted to the clearinghouses by HUD unless significant changes or amendments are made in the application subsequent to its receipt by the clearinghouse. Where such changes or amendments have been made, HUD shall send the revised application to appropriate clearinghouses for a 30 day review. Regional or field offices should issue written instructions to developers and applicants with respect to this procedure describing submission procedures for clearinghouse review and identifying all appropriate clearinghouses.

(c) *HUD processing.* After direct receipt of an application still requiring clearinghouse review, the Area or Service Office will forward a copy of

the complete application and attachments to the appropriate State and areawide clearinghouses. Where applicable, HUD will also notify, in accordance with 24 CFR Part 891 (Section 213 of the Housing and Community Development Act of 1974), the unit of general local government of the proposed project and send a copy of that notice to the appropriate areawide clearinghouse. Whenever possible, simultaneous submission to the clearinghouse shall be made. Arrangements should be worked out between areawide clearinghouses and units of general local government to coordinate the submission of comments under the A-95 and 213 review systems. During the clearinghouse and/or local government reviews, processing should proceed concurrently in the HUD Office. However, no decisions will be made until the expiration of the 30-day review period and all A-95 comments, if any, received during that time period have been considered.

(d) *Early termination of clearinghouse review.* If HUD determines that an application which is undergoing the 30-day clearinghouse review has deficiencies which prevent further HUD processing of the application, HUD will provide the clearinghouses with notification to that effect, initially by telephone and followed up by a formal notification of action taken (SF 424) in order that the clearinghouse may quickly terminate its review.

(e) *Clearinghouse review.* Clearinghouses have 30 calendar days from their receipt of an application to review and comment on the application submitted to them from HUD. At their discretion, field office Program Directors may allow clearinghouses more than 30 days in which to submit comments to HUD. Clearinghouse reviews and comments may include, but need not be limited to, those items identified in paragraphs 5 and 7(b), Part I, Attachment A of OMB Circular No. A-95 and items specified in any A-95 review guidelines issued for that program by HUD officials. Clearinghouses are encouraged to include a statement about the extent to which the proposed project is consistent with State or areawide plans.

(f) *Application for housing located in new communities.* Applications for Federally-assisted and/or insured housing which has been the subject of A-95 review as part of an approved New Community Development Plan (as defined in NCDC Regulations) are not subject to additional clearinghouse review.

§ 52.103 Community Development Block Grants.

(a) *Complete applications and preapplications.* When submitting an application or preapplication to a clearinghouse, all application materials required to be submitted to HUD, except for Assurances, shall be included for clearinghouse review. Unless program regulations exempt the application from A-95 review requirements or make specific provisions for concurrent review by HUD and clearinghouses, Community Development Block Grant applications will be considered to be complete by HUD only when they are submitted to HUD along with comments from all appropriate State and areawide clearinghouses or, in lieu of comments, with a statement that the clearinghouse has not provided comments.

(b) *Records.* The requirements for records to be maintained by both entitlement and small cities grantees are set forth in Subpart J of the Community Development Block Grant Regulations (24 CFR Part 570).

(c) *Entitlement grants.* The special procedures to be followed in applying for grants as Entitlement Communities are set forth in Subpart D of the Community Development Block Grant Regulations (24 CFR Part 570). General procedures for meeting the requirements of Part I, Attachment A of OMB Circular No. A-95 (Project Notification and Review System), and provisions concerning the certifications of A-95 compliance and the acceptance of an application for HUD review are also set forth in Subpart D of the Community Development Block Grant Regulations (24 CFR Part 570.300). Requirements concerning the submission of an information copy of the grantee performance report to appropriate clearinghouses simultaneously with submission to HUD are contained in 24 CFR Part 570.906. Clearinghouses should not comment on the performance report, since it is submitted as background information in the review of the current application.

(d) *Small Cities grants.* Modified A-95 procedures involving preapplications for the Small Cities Program are set forth in Subpart F of the Community Development Block Grant regulations (24 CFR Part 570.435).

(e) *Urban Development Action Grant Program.* Modified procedures for the Urban Development Action Grant Program pertaining to eligibility determinations are found in Subpart G (24 CFR Part 570.455).

(f) *Secretary's Special Discretionary Fund.* The Community Development Block Grant three percent Secretary's Discretionary Fund includes the following programs:

—New Communities (24 CFR 570.403)

—Areawide Programs (24 CFR 570.404)

—Guam, Virgin Islands, American Samoa & Trust Territories (24 CFR 570.405)

—Innovative Grants (24 CFR 570.406)

—Federally-recognized Disaster (24 CFR 570.407)

—Inequities Funds (24 CFR 570.408)

—Reallocated Funds (24 CFR 570.409)

—Categorical Program Settlement Grants (24 CFR 570.480)

New Communities and areawide programs are subject to the normal A-95 timing requirements whereas the remaining programs following the provisions for the CDBG Entitlement Program (24 CFR Part 570.300).

(1) *Disaster assistance.* Exemption from the normal A-95 process for discretionary grants authorized by Section 107(a)(5) of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307) applies only to Federally recognized disaster areas and only to applications received by HUD within 120 days of the declaration of the disaster. However, applicants are required to submit an information copy of their application to the appropriate clearinghouses at the same time the application is submitted to HUD.

(2) *New communities.* Applications involving proposed activities which have previously been the subject of A-95 review as part of an approved New Community Development Plan (as defined in 24 CFR Part 720.2) are not subject to an additional clearinghouse review. 24 CFR Part 720.43(c)(3) defines significant changes or amendments to applications or Development Plans which are subject to the A-95 review conditions identified in Section 52.101(g) of these regulations.

§ 52.104 Freestanding Housing Assistance Plans (HAPs). [Reserved]

§ 52.105 Assistance for new communities.

There are separate procedures governing the application for assistance to develop New Communities under Title VII of the Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4511, *et seq.*).

(a) *Applicability.* Preapplications and applications for initial guarantee assistance for a Determination of Eligibility are subject to A-95 review pursuant to 24 CFR Part 720.43.

(b) *Significant amendments.* Significant amendments to applications or approved Projects which require A-95 review are defined in 24 CFR Part 720.43(c). In accordance with § 52.101(g) of these regulations, clearinghouses shall have 30 days in which to review and comment on such changes or amendments.

§ 52.106 Comprehensive planning assistance.

All applicants for Comprehensive Planning Assistance are required to comply with the requirements of Part

I, Attachment A of OMB Circular No. A-95 and any additional requirements identified in the Comprehensive Planning Assistance Regulations (24 CFR Part 600). In addition to the A-95 review of regular applications required under 24 CFR Part 600.160, clearinghouses will, under § 600.73(e)(2), have the opportunity to review the land use and housing elements developed by applicants.

§ 52.107 National Flood Insurance Program.

(a) *Applications for eligibility and participation in program.* Communities that submit an application for participation under the emergency provisions of Part 1909 of the National Flood Insurance Program shall follow the A-95 procedures identified in Part 1909 of those regulations. The A-95 procedures identified in Part 1910 shall be followed in establishing eligibility for conversion to the Regular Program.

(b) *Requests for actions affecting floodplain management requirements.* The A-95 procedures also apply when communities request exceptions from the flood plain management requirements pursuant to Part 1910 of the National Flood Insurance Program.

§ 52.108 Federal Disaster Assistance Program.

The assistance authorized by the Disaster Relief Act of 1974 (Pub. L. 93-288) and implemented by 24 CFR Part 2205 is not covered by the requirements of the A-95 Circular except for the State Disaster Preparedness Grant program. Applications for State Disaster Preparedness Grants (Title II of the Disaster Relief Act of 1974 and implemented by 24 CFR Part 2205) are subject to the provisions of Parts I and III, Attachment A of the A-95 Circular (Project Notification and Review System) and HUD Handbook 3300.8. For disaster assistance under Title I of the Housing and Community Development Act of 1974, see § 52.103(d)(3) of these regulations.

§ 52.109 Areawide Housing Opportunity Plans.

Requirements for Areawide Housing Opportunity Plans are set forth in 24 CFR 891, Subpart E (43 FR 2358, January 16, 1978). These regulations set forth slightly modified A-95 requirements since the areawide planning organizations (APOs) eligible to submit "requests for Plan approval" to HUD will, in most instances, be designated A-95 areawide clearinghouses.

(a) Section 891.504(d) of the regulations for this program requires that in order to be approvable, an Areawide Housing Opportunity Plan must be "coordinated with appropriate State and areawide agencies, including A-95 clearinghouses and Housing Finance Development Agencies to ensure general consistency of data on areawide needs between the Plan and any State or other areawide housing and housing-related plans applicable to all or part of the Plan area." At a minimum, this coordination must meet the normal A-95 notification and review requirements, including (1) notification to the appropriate State clearinghouse(s) and any appropriate areawide clearinghouses other than the APO at least 60 days prior to submission of the "request for Plan approval" to HUD and, (2) if the APO is a clearinghouse, making the referrals to civil rights, environmental, coastal zone and other appropriate agencies as required by OMB Circular No. A-95. In accordance with paragraph 4.f., Part I, Attachment A of the Circular, any A-95 comments received as a result of these notifications and referrals must be submitted to HUD along with the request for Plan approval. Under § 891.505(b)(14), the APO may also submit a statement describing other coordination activities undertaken to meet the requirements of § 891.504(d).

Subpart C—Other Circular Requirements

§ 52.200 Direct Federal Development. [Reserved]

§ 52.201 State Plans.

The purpose of this section is to assure that all HUD programs requiring State plans as a precondition for assistance are in compliance with Part III, Attachment A of OMB Circular No. A-95. Currently, these requirements cover State plans developed under the Comprehensive Planning Assistance Program and State Disaster Preparedness Grants. (For a definition of State plans, see paragraph 2(b), Part III, Attachment A of OMB Circular No. A-95.)

(a) The Comprehensive Planning Assistance Program regulations in 24 CFR Part 600 require that States develop housing and land use elements in order to remain eligible for assistance. In accordance with Part III of the Circular, the Governor or his designee will be afforded 45 days prior to submission of the State plans to HUD in which to comment on the relationship of the plans and strategies developed under the Comprehensive Planning Assistance Program to other State plans, strategies and programs and to those of affected areawide and local jurisdictions. The Governor is urged to involve areawide clearinghouses in the early development and review of State plans, particularly where such plans or strategies have specific applicability to or should reflect areawide or local plans, strategies and programs. Any such comments shall be transmitted with the required plans, plan element or strategy. State agencies are also encouraged to work with areawide clearinghouses in the development of areawide plans and strategies to assure their consistency with State plans and policies.

(b) State disaster preparedness grants (Pub. L. 93-288, Sections 201 (c) and (d)) are subject to the provisions of Parts I and III, Attachment A of OMB Circular No. A-95, except as modified in HUD Handbook 3300.8, Requirements and Guidelines for State Disaster Preparedness Grants. This includes a requirement for the submittal of a State plan (work plan) as part of the grant application.

§ 52.202 Coordination of planning in multi-jurisdictional areas.

In the interest of improving the quality and reducing the costs of regional development, the Department will encourage States to establish areawide planning and development districts which, to the maximum degree feasible, serve to coordinate all development planning occurring within each governmental unit; between jurisdictions at the same level of government; and between States, regions and local governments and which have the capacity to participate in a unified fashion in the review and comment procedures under part I, Attachment A of OMB Circular A-95. The Department will encourage each State, acting so as to involve all of its principal agencies having planning and development responsibilities, to assume a leadership role in delineating areawide planning jurisdictions and establishing unified or coordinated areawide organizations as called for in Part IV of OMB Circular A-95.

(a) *Coordinated planning and development districts.* In allocating assistance under the Comprehensive Planning Assistance Program and other programs funding multijurisdictional agencies, HUD will utilize to the fullest extent possible, agencies and geographical areas that have been designated by a State for carrying out planning and coordination on a multijurisdictional basis.

(1) Prior to the recognition or redesignation of any planning and development district or region, the Department will provide the Governor(s) of the State(s) a period of 30 calendar days to review the proposed boundaries thereof and comment on their relationship to the planning and development districts established by the State. The boundaries of areas recognized under any HUD program are to conform to those of State-established planning and development districts unless there is clear justification for not doing so, such as non-recognition

of contiguous potential growth areas In cases where State-established planning and development districts are not used, the Governor or his designee shall be provided an explanation for not doing so.

(2) Where a State has not established planning and development districts or regions, units of general local government and the appropriate Federal Regional Council will be consulted prior to HUD recognition of the area to assure consistency with districts or regions which may have been established by local agreement or under other Federal programs.

(3) In Interstate Areas, HUD will, whenever possible, utilize agencies designated to perform metropolitan areawide comprehensive planning which have the capacity to represent entire metropolitan areas. if, after consultation with the Governors or their designees, the Federal Regional Council and the elected official of the principal general local governments in the area, it appears impossible to agree on a single organization and common boundaries, HUD will require one subregional Intrastate planning agency within such metropolitan area to coordinate any planning assistance activities supported by HUD through the designated A-95 clearinghouse mechanism or, in the absence of such a clearinghouse, a metropolitan coordinating mechanism recognized by HUD.

(4) HUD field offices will notify the Office of Community Planning and Program Coordination at HUD Headquarters and the appropriate Federal Regional Council of any districts proposed to be recognized at least 30 days prior to a final determination. Any conflicts regarding proposed recognition shall be brought before the appropriate Federal Regional Council. The Federal Regional Council will notify OMB of all proposed designations.

(b) *Coordination of planning Activities.* Applications for Comprehensive planning Assistance, Community Development Block Grants and/or other forms of HUD planning assistance shall, to the fullest extent possible, be coordinated with related planning and development activities now being carried out by the A-95 clearinghouse or the areawide comprehensive planning agency where there is no clearinghouse performing the planning function.

(1) If the proposed planning assistance is for a multijurisdictional area or district including some or all of the officially designated area, and the submission is from an applicant other than the designated areawide comprehensive planning agency, a memorandum of agreement shall be entered into between the applicant and the officially designated comprehensive planning agency which describes the means by which their planning activities will be coordinated. (The designated multijurisdictional comprehensive planning agency may determine whether an urban county receiving HUD community development block grant funds for planning purposes will be required to enter into a memorandum of agreement.) Such agreements shall include but need not be limited to the following matters:

(i) Identification of relationships between the planning activities proposed by the applicant and the planning and related activities of the areawide comprehensive planning agency which will require coordination;

(ii) The organizational and procedural arrangements for coordinating such activities such as overlapping board memberships, procedures for joint reviews of projected activities and policies and information exchange;

(iii) Cooperative arrangement for sharing planning resources including funds, personnel, facilities, and services;

(iv) Agreements regarding social, economic, demographic and environmental base data, statistics, and projections constituting the basis on which planning in the area will proceed.

(2) Where the applicant has been unable to develop such an agreement, he will submit to HUD a statement indicating the efforts he has made to secure agreement and the issues that have prevented it. In such case, the responsible HUD official in consultation with the appropriate Federal Regional Council and State clearinghouse will have 30 days in which to resolve these issues before acting on the application.

(c) *Joint funding.* In allocating assistance, HUD will utilize, to the fullest extent possible, opportunities for joint funding with other Federal programs which will enhance the quality, comprehensive scope and coordination of planning in multijurisdictional areas.

Issued at Washington, D.C. March 14, 1979

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

APPENDIX A—HUD PROGRAMS COVERED BY OMB CIRCULAR NO. A-95

This appendix contains a listing of HUD programs which are currently covered by OMB Circular No. A-95. For convenience, these HUD programs are divided into housing and non-housing programs and the housing programs are listed by categories. Each entry contains the program number by which the program is listed in the *Catalog of Federal Domestic Assistance*, the program title, the popular name (usually from the pertinent section of the authorizing legislation) and the authorization.

HOUSING PROGRAMS

Single Family Housing

14.105 Interest Reduction—Homes for Lower Income Families (Section 235(i) of the National Housing Act, as amended in 1968; PL 90-448; 12 U.S.C. 1715(b), 1715(z))

14.117 Mortgage Insurance—Homes (Section 203(b) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.118 Mortgage Insurance—Homes for Certified Veterans (Section 203(b) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.119 Mortgage Insurance—Homes for Disaster Victims (Section 203(h) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.120 Mortgage Insurance—Homes for Low and Moderate Income Families (Section 211(d)(2) of the National Housing Act, as amended in 1954; PL 83-560; 12 U.S.C. 1715(b), 1715(l))

14.121 Mortgage Insurance—Homes in Outlying Areas (Section 203(i) of the National Housing Act; PL 73-479; 12 U.S.C. 1709, 1715(b))

14.122 Mortgage Insurance—Homes in Urban Renewal Areas (Section 220 Homes; Housing Act of 1954; PL 83-560; 12 U.S.C. 1715(b), 1715(k))

14.125 Mortgage Insurance-Land Development and New Communities (Title X of the National Housing Act, as amended in 1965 and thereafter; PL 89-117, 12 U.S.C. 1749(aa))

Multifamily Housing

Subsidized

14.103 Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families (Section 236 of the National Housing Act, as amended in 1968; PL 90-448; 12 U.S.C. 1715)

14.146 Low Income Housing—Assistance Program (Public Housing) U.S. Housing Act of 1937, as amended; PL 75-412; 42 U.S.C. 1401-1435)

14.149 Rent Supplements-Rental Housing for Lower Income Families (Title I of the Housing and Urban Development Act of 1965; PL 89-117; 12 U.S.C. 1701(s))

14.156 Lower Income Housing Assistance Program (Section 8 Housing Assistance Payments Program for Lower Income Families (new and rehab. only); Housing Act of 1937, Section 8, as amended by the

Housing and Community Development Act of 1974; PL 93-383; 88 Stat. 662; 42 U.S.C. 1437(f))

14.157 Housing for the Elderly and Handicapped (Section 202 Housing; Housing Act of 1959, as amended by the Housing and Community Development Act of 1974, Title II, P.L. 86-372, 12 U.S.C. 1701q, 73 Stat. 654, 667)

Unsubsidized

14.127 Mortgage Insurance-Mobile Home Parks (Section 207 Mobile Home Parks; National Housing Act, as amended in 1955; PL 84-345; 12 U.S.C. 1713)

14.134 Mortgage Insurance-Rental Housing (Section 207 of the National Housing Act, as amended in 1938; PL 75-424; 12 U.S.C. 1713)

14.135 Mortgage Insurance-Rental Housing for Moderate Income Families (Section 221(d)(4) of the National Housing Act, as amended in 1959; PL 86-372; 12 U.S.C. 1715(l))

14.137 Mortgage Insurance-Rental Housing for Low and Moderate Income Families, Market Interest Rate (Section 221(d)(3) Market Rate; National Housing Act, as amended in 1954; PL 83-560; 12 U.S.C. 1715(l))

14.138 Mortgage Insurance-Rental Housing for the Elderly (Section 231 of the National Housing Act, as amended in 1959; PL 86-372; 73 U.S.C. 654; 12 U.S.C. 1715(V))

14.139 Mortgage Insurance-Rental Housing in Urban Renewal Areas (Section 220 Multifamily; National Housing Act as amended in 1954; PL 560; 12 U.S.C. 1745(k))

14.141 Nonprofit Housing Sponsor Loans-Planning Projects for Low and Moderate Income Families (Section 106(b), Nonprofit Sponsor Loan Fund; Housing and Urban Development Act of 1968; PL 90-448)

14.154 Mortgage Insurance-Experimental Rental Housing (Section 233 (Multifamily) Experimental Housing; Section 233 of the National Housing Act, as amended in 1961 and thereafter; PL 87-70; 12 U.S.C. 1715(x))

Condominiums and Cooperatives

14.112 Mortgage Insurance-Construction or Rehabilitation of Condominium Projects (Section 234(d); National Housing Act, as amended by the Housing Act of 1964, Section 234(d), PL 88-560; 1968, Section 234(c), PL 90-448, 82 Stat. 476, 507; 1969, Section 234(c), PL 91-152, 83 Stat. 379, 384; 12 U.S.C. 1715(y))

14.115 Mortgage Insurance-Development of Sales-type Cooperative Projects (Section 213 of the National Housing Act; Housing Act of 1950; PL 81-475; 12 U.S.C. 1715(e))

14.124 Mortgage Insurance-Investor Sponsored Cooperative Housing (Section 213 Investor Sponsored; National Housing Act as amended, Section 213(a)(3); Housing Act of 1956; PL 84-1020; 12 U.S.C. 1715(e))

14.126 Mortgage Insurance-Management-type Cooperative Projects (Section 213 Management Type; National Housing Act, Section 213; Housing Act of 1950; PL 81-475; 12 U.S.C. 1715(e); 1969, PL 91-152, 83 Stat. 379, 383; 1955, PL 84-345, 69 Stat. 635; 1961, PL 87-70, 75 Stat. 149, 179; 1959 PL 86-372, 73 Stat. 654, 656; 1965, PL 89-117, 79 Stat. 451, 469; 1966, PL 89-754, 80 Stat. 1255-66)

Health Facilities

14.116 Mortgage Insurance-Group Practice Facilities (Title XI of the National Housing Act, as amended in 1966; PL 89-754; PL 93-383; 12 U.S.C. 1749)

14.128 Mortgage Insurance-Hospitals (Section 242 of the National Housing Act, as amended in 1968, PL 90-448; PL 93-383; 82 Stat. 476)

14.129 Mortgage Insurance-Nursing Home and Intermediate Care Facilities (Section 232 of the National Housing Act; Housing Act of 1959; PL 86-372; Housing and Urban Development Act of 1969; PL 91-152; 73 Stat. 654 and 83 Stat. 379)

College Housing

14.100 College Housing Debt Service Grants (Title IV, Housing Act of 1950, PL 81-475)

NON-HOUSING PROGRAMS

14.001 Flood Insurance (Applications for community eligibility; Housing and Urban Development Act of 1968, Title XIII; PL 90-448, 82 Stat. 476, 572, as amended; 42 U.S.C. 4011, 4127; 83 Stat. 39, 42 U.S.C. 4056; 83 Stat. 579, 42 U.S.C. 4021, and Flood Disaster Protection Act of 1973, PL 93-234)

14.203 Comprehensive Planning Assistance (701 Planning Assistance; Housing Act of 1954, Section 701, as amended; PL 83-560, 68 Stat. 590, 640; 40 U.S.C. 461)

14.207 New Communities-Loan Guarantees (Title VII Guarantees; Housing and Urban Development Act of 1970 (Urban Growth and New Community Development Act of 1970); PL 91-609; and Title IV of the Housing and Urban Development Act of 1968)

14.218 Community Development Block Grants—Entitlement Grants (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.219 Community Development Block Grants—Discretionary (Small Cities) Grants (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.221 Urban Development Action Grants (UDAG) (Title I of the Housing and Community Development Act of 1974, PL 93-383, 42 U.S.C. 5301-5317)

14.702 State Disaster Preparedness Grants (Disaster Plans and Programs; Disaster Relief Act of 1974, PL 93-288, Section 201 (c) and (d), 42 U.S.C. 5133, 88 Stat. 145; Reorganization Plan No. 1 of 1973; Executive Order 11749, 38 FR 34177; Executive Order 11795, 39 FR 25939; Delegation of Authority, Secretary of HUD to the Administrator of the Federal Disaster Assistance Administration, 39 FR 28227; Redelegation of Authority to Regional Directors of Federal Disaster Assistance Administration, as amended, 39 FR 32045 and 39 FR 40186)

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THURSDAY, MARCH 29, 1979

PART V



FEDERAL HOME LOAN BANK BOARD

■

CONVERSION FROM MUTUAL TO STOCK FORM

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 79-200]

PART 563b—CONVERSION FROM MUTUAL TO STOCK FORM

MARCH 21, 1979.

AGENCY: Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Savings and Loan Insurance Corporation's present regulations governing conversions of FSLIC insured institutions from mutual to stock form of ownership provide for sale of conversion stock by means of a subscription offering to eligible account holders, other association members, and officers, directors and employees. All shares unsubscribed for may be sold in a public offering, if such an offering is practicable, otherwise in a private distribution. This amendment will continue to provide for the sale of conversion stock by means of a subscription offering but would generally increase the rights of eligible account holders and other association members and limit purchases by officers and directors. In addition, the amendments will provide for the sale of all unsubscribed for shares in a public offering either through an underwriter or by a direct community marketing by the association. The purpose of these changes is to promote wider participation in conversions by account holders and the public at large and to limit the degree of concentration of stock held by officers and directors.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas P. Faucette, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone Number (202) 377-6410.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-541, published in the FEDERAL REGISTER on October 19, 1978 (43 FR 48956-48980), proposed to amend Part 563b of the Rules and Regulations for Insurance of Accounts and related forms regarding conversions of institutions insured by the Federal Savings and Loan Insurance Corporation from mutual to stock form.

Having considered all relevant material presented by interested persons and otherwise available to it, the Bank Board has decided to adopt the proposed regulations, modified as discussed below.

Part 563b now provides that a converting association must offer its stock to its eligible account holders based on their deposit balances as of a record date prior to adoption of the plan of conversion by the association's board of directors. That part further provides that any stock not purchased by account holders must be sold either in a publicly underwritten offering or a private placement. Officers and directors are subject under that part to few restrictions other than a one year holding requirement.

The Bank Board's proposal substantially expands the class of account holders given subscription rights in cases where significant time has passed, creating a supplemental class of eligible subscribers composed of persons with deposits as of a date within three months prior to Bank Board approval. The proposal also eliminates private placement of shares not subscribed for by account holders. It contains several other provisions all of which are intended to diminish concentration of ownership and encourage account holder participation. Also, it prescribes several restrictions on officers and directors in connection with their purchase of conversion stock both during and after a conversion. The most significant of these are the 25% overall limitation on officer and director purchases and the three year holding period for such purchases.

The proposal left unchanged the optional provision in paragraph (d)(5) of § 563b.3 which allows an association to place a percentage limitation on each purchase priority of not less than 1% on account holder subscriptions. The Bank Board determined after careful consideration that the optional limitation is consistent with its goals of enhancing the wide distribution of the stock offering and expanding account holder participation especially if the limitation applies to the aggregated subscriptions by persons in the subscription offering. The Bank Board, therefore is adopting the proposal modified to extend the limitation on subscriptions to the total subscriptions by any person in the subscription offering.

The proposal also categorized the requirement that stock not purchased by account holders be sold publicly through an underwriter or a direct community marketing as an optional provision. Inasmuch as the converting association is required to do one or the other, and to avoid any confusion as to the mandatory nature of this provision, the proposal is adopted with this provision classified as a required step.

Further modifications are revisions of the prescribed form for the Offering Circular, to clarify that the association may commence both its subscription and public offering simultaneously, and the form for the proxy statement, to standardize and improve the disclosure requirements relating to management remuneration. Also, the language of the form for 4(b) notices has been changed to clarify that failure to make timely objection may foreclose subsequent action in opposition to the plan. The remaining changes merely conform other provisions to these modifications.

DISCUSSION OF MAJOR COMMENTS

Thirty public comments were received. Five approved the proposal without exception. Twenty two approved but took exception to some provision. Three opposed.

Six respondents argued that the twenty-five percent limit on purchases by officers, directors and their associates is too restrictive. Several respondents opposed the breadth of the associate definition, while others argued that 25 percent is too low a number.

Analysis of completed conversions as of December 31, 1977, indicates that officers and directors purchased an average of 34.1 percent of conversion stock and 21 percent of conversion stock was purchased through other than account holder subscriptions. This was primarily a result of conversions involving private placements, although officers and directors did take large amounts of stock in some public offerings. The Bank Board determined that the unlimited ability of insiders to take stock not purchased by account holders created undue pressure on the process in that in many cases insiders dominated the conversion. The Bank Board believes the fairness of conversions can be assured only by striking a proper balance between account holder and insider participation. It further believes that the twenty-five percent limitation is an appropriate and accepted measure of significant ownership as it is the level of definitional control in other statutes governing savings and loan ownership.

The Bank Board also determined that it would be administratively too difficult to enforce this limitation effectively without the broad definition of associate contained in the proposal.

Four respondents opposed creation of a supplemental class of eligible account holders as of a more current date on grounds of cost and the problem of deposits in anticipation of subscription rights. The primary purpose of this classification is to promote account holder participation. As this

new category substantially increases the breadth of account holder eligibility, the Bank Board believes its cost is justified. Moreover, the Bank Board is confident that with the requirements that all unsold shares be offered to the public and individual purchases be restricted to a total of five percent, deposits in anticipation of receiving rights will not be a significant problem.

Five respondents commented, four negatively, on the increased holding period of three years required for conversion stock purchased by officers and directors. The Bank Board determined that an increase in the holding period from one to three years is desirable in order to provide assurance that purchases by insiders are made for investment and not for speculative purposes or as a step in an ultimate distribution not subject to the regulatory disclosure requirements.

Two respondents recommend that the liquidation account be changed. One argued that it should be created exclusively for the benefit of eligible account holders; the other argued it should be for the exclusive benefit of the current account holders. The Bank Board determined that the account should recognize the interest of as large a class as is consistent with the regulatory scheme. That is, it believes that an account which includes the interests of both eligible and supplemental account holders is the most desirable.

Two respondents commented that all of the stock should not be required to be sold in a conversion. The Bank Board determined that this comment, which opposes one of the principle criteria of a conversion, that the stock be sold for its total pro forma market value, and similar comments in opposition to other basic requirements for conversions were not relevant to the proposal and did not present any justification for revision.

The Bank Board also determined to adopt the proposed limit on cash dividends of 50% of net income for a period of 10 years. One respondent argued that the prior limit of 66⅔ percent of net income be retained. The Bank Board determined that the amount of dividends permitted under the new restriction far exceeds the normal dividend amounts paid by companies listed on national exchanges or by other public savings and loan associations.

Two commentators opposed the requirement that actual notice of the filing of a plan of conversion (4b notice) be given to account holders in addition to publication of such notice. The Bank Board determined, based on its experience with the use of actual notice in some experimental cases, that it is the most effective manner in which to assure full participation of the association's membership in the conversion. Moreover, it gives the Bank Board assurance that an association's members are aware of their right to bring relevant matters before the Bank Board for resolution. Finally, the public benefits this requirement bring to the process, in the Bank Board's view, justify the expense.

Accordingly, the Bank Board amends 12 CFR Part 563b and accompanying forms to read as follows:

Part 563b is revised in its entirety to read as follows:

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Sec.

563b.1 Scope of part.
563b.2 Definitions.
563b.3 General principles for conversions.
563b.4 Notice of filing; public statements; confidentiality.
563b.5 Solicitation of proxies; proxy statement.
563b.6 Vote by members.
563b.7 Pricing and sale of securities.
563b.8 Procedural requirements.
563b.9 Acquisitions of Securities of Converted Associations.

AUTHORITY: Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

§ 563b.1 Scope of part.

(a) *General.* Except as the Corporation may otherwise determine, the provisions of this part shall exclusively govern the conversion of mutual insured institutions to capital stock insured institutions. No such mutual insured institution shall convert to the capital stock form of organization without the prior written approval of the Corporation pursuant to the provisions of this part, except as the Corporation may otherwise provide in supervisory cases.

(b) *Provisions of prescribed forms.* Any provision in a form prescribed under this part and covering the same subject matter as any provision of this part shall have the same force and effect as if it were a provision of this part except as it relates to information not deemed material.

(c) *Conflicts with State law.* (1) In the event an applicant finds that compliance with any provision of this part would be in conflict with applicable State law, the applicant may file with the Corporation a written request for waiver of compliance with such provision. Such request may be incorporated in the application for conversion; otherwise, the applicant shall file four copies of such request.

(2) In making any such request, the applicant shall:

(i) Specify the provision or provisions of this part with respect to which the applicant desires waiver;

(ii) Furnish an opinion of counsel demonstrating that applicable State law is in conflict with the specified provision or provisions of this part; and

(iii) Demonstrate that the requested waiver would not result in any effects that would be inequitable or detrimental to the applicant, its account holders or other insured institutions or be contrary to the public interest.

§ 563b.2 Definitions.

(a) As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(1) *Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified person, is 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.

(2) *Amount.* The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) *Applicant.* An "applicant" is an insured institution which has applied to convert pursuant to this part.

(4) *Associate.* The term "associate", when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the applicant or any of its parents or subsidiaries.

(5) *Association members.* The term "association members" refers to persons who, pursuant to the charter or bylaws of the applicant, are eligible to vote at the applicant's meeting at which conversion will be voted upon.

(6) *Board.* The term "Board" refers to the Federal Home Loan Bank Board.

(7) *Broker.* The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(8) *Capital stock.* The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock,

or any similar certificate evidencing nonwithdrawable capital.

(9) *Charter.* The term "charter" includes articles of incorporation, articles of association, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(10) *Control.* The term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(11) *Corporation.* The term "Corporation" refers to the Federal Savings and Loan Insurance Corporation.

(12) *Dealer.* The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(13) *Director.* The term "director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(14) *Eligibility record date.* The term "eligibility record date" means the record date for determining eligible account holders of a converting institution.

(15) *Eligible account holder.* The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with § 563b.3(e).

(16) *Employee.* The term "employee" does not include a director or officer.

(17) *Equity security.* The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such security; or any such warrant or right.

(18) *Insured institution.* The term "insured institution" has the same meaning as in section 561.1 of this subchapter.

(19) *Market Maker.* The term "market maker" means a dealer who, with respect to a particular security, (i) regularly publishes a bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

(20) *Material.* The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant, or matters as to which an average prudent association member ought reasonably to be informed in voting upon the plan of conversion of the applicant.

(21) *Member.* The term "member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

(22) *Offer.* The term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(23) *Officer.* The term "officer" means the chairman of the board, president, vice-president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(24) *Person.* The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(25) *Proxy.* The term "proxy" includes every form of authorization by which a person is, or may be deemed to be, designated to act for an association member in the exercise of his voting rights in the affairs of an insured institution. Such an authorization may take the form of failure to dissent or object.

(26) *Purchase.* The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(27) *Sale.* The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but such terms do not include an exchange of securities in connection with a merger or acquisition approved by the Board or the Corporation.

(28) *Savings account.* The term "savings account" has the same meaning as in section 561.11 of this subchapter and includes certificates of deposit.

(29) *Security.* The term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(30) *Solicitation; solicit.* The terms "solicitation" and "solicit" refer to (i) any request for a proxy whether or not accompanied by or included in a form of proxy; (ii) any request to execute, not execute, or revoke a proxy; or (iii) the furnishing of a form of proxy or other communication to association members under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to an association member upon the unsolicited request of such association member, the performance of acts required by § 563b.5(f), or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(31) *Subscription offering.* The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (1) eligible account holders as required by § 563b.3(c)(2); (2) supplemental eligible account holders as required by § 563b.3(c)(4); (3) members entitled to vote at the meeting called to consider the conversion as required by § 563b.3(c)(5); (4) directors, officers and employees, as permitted by § 563b.3(d)(1); and (5) eligible account holders, supplemental eligible account holders and voting members as permitted by § 563b.3(d)(2).

(32) *Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly through one or more intermediaries.

(33) *Supervisory Agent.* The term "Supervisory Agent" means (i) the President of the Bank of the Federal Home Loan Bank district in which the applicant has its principal office, or (ii) any other person who is specifically designated as an agent by the Corporation to act in its behalf in the administration of this part.

(34) *Supplemental eligibility record date.* The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting institution required by § 563b.3(c)(3). The date shall be the last day of the calendar quarter preceding Board approval of the application for conversion.

(35) *Supplemental eligible account holder.* The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors and their associates,

as of the supplemental eligibility record date.

(36) *Underwriter.* The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which he is the underwriter.

(b) Terms defined in other parts of this subchapter, when used in this part, shall have the meanings given in such definitions, to the extent such definitions are not inconsistent with the definitions contained in this part, unless the context otherwise requires.

§ 563b.3 General principles for conversions.

(a) *Findings of Federal Home Loan Bank Board.* (1) The regulations contained in this part are promulgated to provide rules by which mutual insured institutions may convert to the stock form of organization on an equitable basis. In determining the equity of conversion standards and procedures, the Board, both directly and as operating head of the Corporation, finds that it is necessary to consider the effects of various standards and procedures that might be adopted, not only on an individual applicant but also on the entire system of insured institutions. Indeed, the Board believes that it has a public responsibility also to consider the effects on financial institutions which are not thrift institutions and on thrift institutions which are not subject to the Board's regulatory jurisdiction. If a particular method of conversion would unacceptably threaten the financial stability of such institutions, or a substantial portion of them, the Board cannot consider such method of conversion to be on an equitable basis. Further, if a particular method of conversion would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby, the Board cannot consider such a method of conversion to be on an equitable basis.

(2) The Board has determined that a method of conversion which provides a so-called "windfall" distribution to the account holders of a converting mutual insured institution would create strong incentives for significant shifts of savings funds among insured institutions and other financial institutions and that such shifts of savings funds would unacceptably threaten the financial stability of such institutions. The Board has also determined that a method of conversion which provides a so-called "windfall" distribution would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby. The Board therefore finds that no method of conversion can be considered equitable unless such "windfall" distribution is virtually eliminated. The Board further finds that such "windfall" distribution is not virtually eliminated by methods of conversion under which the control of such distribution is intended to be effected by systems of averaging or weighting deposits, by restricting transferability of the capital stock of converted insured institutions, by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash, or by segregating the net worth accounts of converted insured institutions and proportionally allocating the future income of such institutions to such accounts, or by any of the foregoing methods taken in combination. The Board also finds that, in order for conversion regulations to be effective against the undesirable results of such "windfall" distributions, the basic provisions of such regulations must operate with substantial uniformity with respect to mutual insured institutions on a national scale.

(3) The regulations contained in this part, while providing the account holder with rights to a share in the equity of the converting mutual insured institution in the event of a subsequent complete liquidation, are designed virtually to eliminate the "windfall" aspect of conversion and the resulting disruptive effect on the economy. Accordingly, the Board finds that these regulations provide a means by which mutual insured institutions may convert to stock form on an equitable basis.

(b) *General requirements.* No application for conversion shall be approved by the Corporation if:

(1) The plan of conversion adopted by the applicant's board of directors is not in accordance with the provisions of this part;

(2) The conversion would result in any reduction of the Federal insurance reserve or would cause the applicant to fail to meet any net worth requirement of § 563.13 of this subchapter;

(3) The conversion may result in a taxable reorganization of the applicant under the Internal Revenue Code of 1954, as amended; or

(4) The converted institution would not have its accounts insured by the Corporation.

(c) *Required provisions in plan of conversion.* The plan of conversion shall:

(1) Provide that the converting insured institution shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of such stock in the converted insured institution, based on an independent valuation, as provided in § 563b.7.

(2) Provide that each eligible account holder shall receive without payment, nontransferable subscription rights to purchase capital stock in an amount equal to the greater of 200 shares, one tenth of one per cent of the total offering of shares or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting insured institution. If the allotment made in this paragraph (c)(2) results in an oversubscription, shares shall be allocated among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to 100 shares. Any shares not so allocated shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(3) Nontransferable subscription rights to purchase capital stock received by officers and directors and their associates of the converting insured institution based on their increased deposits in the converting association in the one year period preceding the eligibility record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to paragraph (c)(2) of this section.

(4) Provide that, in plans involving an eligibility record date that is more than fifteen months prior to the date of the latest amendment to the application for conversion filed prior to Board approval, a supplemental eligibility record date be determined whereby each supplemental eligible account holder of the converting insured institution, shall receive without payment, nontransferable subscription

rights to purchase supplemental shares in an amount equal to the greater of 200 shares, one tenth of one per cent of the total offering of shares or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the supplemental eligible account holder and the denominator is the total amount of the qualifying deposits of all supplemental eligible account holder in the converting insured institution on the supplemental eligibility record date.

(i) Subscription rights received pursuant to this paragraph (c)(4) shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to paragraph (c), (2) and (3) of this section.

(ii) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with paragraph (c)(2) of this section shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this paragraph (c)(4).

(iii) In the event of an oversubscription for supplemental shares pursuant to this paragraph (c)(4), shares shall be allocated among the subscribing supplemental eligible account holders as follows:

(A) Shares shall be allocated among subscribing supplemental eligible account holders so as to permit each such supplemental account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares, if any, allocated in accordance with paragraph (c)(2) of this section) equal to 100 shares.

(B) Any shares not allocated in accordance with paragraph (c)(4)(iii)(A) of this section shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(5) Provide that association voting members who are not either eligible account holders or supplemental eligible account holders shall receive, without payment, nontransferable subscription rights to purchase 200 shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders and supplemental eligible account holders provided for under paragraphs (c) (2) and (4) of this section. In the event of an oversubscription for shares under the provisions of this paragraph (c)(5), the shares available shall be allocated among the subscribing voting members on such equitable basis as may be provided in the plan of conversion.

(6) Provide that any shares of the converting insured institution not sold in the subscription offering shall either be sold in a public offering through an Underwriter or directly by the converting insured institution in a direct community marketing, subject to the applicant demonstrating to the Corporation the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. Such conditions shall include, but not be limited to:

(i) A condition limiting purchases by each officer and director or their associates in this phase of the offering to one tenth of one percent of the total offering of shares;

(ii) A condition limiting purchases by persons and their associates in this phase of the offering to a number of shares or a percentage of the total offering so long as such limitation does not exceed two percent of the share to be sold in the total offering;

(iii) A condition that any direct community offering by the converting institution shall give a preference to natural persons residing in the counties in which the institution has an office.

(7) Provide that the number of shares which any person together with any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five percent of the total offering of shares. For purposes of this paragraph (c)(7) the members of the converting insured institution's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.

(8) Provide that the number of shares which officers and directors of the converting insured institution and their associates may purchase in the conversion shall not exceed twenty-five percent of the total offering of shares.

(9) Provide that no officer, or director or their associates, shall purchase without the prior written approval of the Corporation the capital stock of the converted insured institution except from a broker or dealer registered with the Securities and Exchange Commission for a period of three years following the conversion. This provision shall not apply to negotiated transactions as defined by § 563.8-1(d)(3)(i) involving more than one per cent of the outstanding capital stock of the converted insured institution.

(10) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with § 563b.7; and specify the underwriting and/or other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

(11) Provide that each savings account holder of the converting insured institution shall receive, without payment, a withdrawable savings account or accounts in the converted insured institution equal in withdrawable amount to the withdrawal value of such account holder's savings account or accounts in the converting insured institution.

(12) Provide for the establishment and maintenance of a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted insured institution, in accordance with the provisions of paragraph (f) of this section.

(13) Provide for an eligibility record date, which shall be not less than 90 days prior to the date of adopton of the plan by the converting insured institution's board of directors.

(14) Provide that the holders of the capital stock of the converted insured institution shall have exclusive voting rights, unless in the case of a State-chartered converted insured institution State law requires savings account holders and/or borrowers of the converted insured institution to have voting rights, in which case the charter of the converted insured institution shall (i) limit such voting rights to the minimum required by State law, and (ii) provide for the management of the converted insured institution to solicit proxies from such savings account holders and/or borrowers in the same manner as it solicits proxies from its shareholders.

(15) Provide that the plan of conversion adopted by the applicant's board of directors may be substantively amended by such board of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from members to vote on the plan and at any time thereafter with the concurrence of the Corporation; and that the conversion may be terminated by such board of directors at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Corporation.

(16) Provide that all shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the insured institution (by subscription or otherwise) or from an underwriter of such shares, shall be subject to the restriction that such shares shall not be sold for a period of not less than three years following the date of purchase, except in the event of death of the director or officer.

(17) Provide that, in connection with shares of capital stock subject to restriction on sale for a period of time:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of such restriction;

(ii) Appropriate instructions shall be issued to the transfer agent for the converted insured institution's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(iii) Any shares issued as a stock dividend, stock split or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to such restricted stock.

(18) Provide that the converting insured institution shall:

(i) promptly following the conversion register the securities issued in connection therewith pursuant to the Securities Exchange Act of 1934 and undertake not to deregister such securities for a period of three years thereafter;

(ii) use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(iii) use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

(19) Provide that the expenses incurred in the conversion shall be reasonable.

(20) Contain no provision which the Corporation shall determine to be inequitable or detrimental to the applicant, its savings account holders or other insured institutions or to be contrary to the public interest.

(d) *Optional provisions in plan of conversion.* The plan of conversion may provide any or all of the following:

(1) That directors, officers, and employees of the converting insured institution, as part of the subscription offering, shall be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders, supplemental eligible account holders and members provided for under paragraphs (c)(2), (4) and (5) of this section, subject to the following conditions:

(i) The total number of shares which may be purchased under this paragraph (d)(1) shall not exceed 25 percent of the total number of shares to be issued in the case of a converting insured institution with total assets of less than $50 million or 15 percent in the case of a converting insured institution with total assets of $500 million or more; in the case of a converting insured institution with total assets of $50 million or more but less than $500 million, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, 20 percent in the case of a converting insured institution with total assets of approximately $275 million); and

(ii) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service, compensation and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person associate thereof, or group of affiliated persons or group of persons otherwise acting in concert.

(2) Any account holder receiving rights to purchase stock in the subscription offering, shall also receive, without payment, nontransferable subscription rights to purchase up to one percent of the total offering of shares of capital stock, to the extent that such shares are available after satisfying the subscriptions provided for under paragraphs (c)(2), (4), and (5) of this section, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for such additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders and voting members on such equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion. Where possible such subscriptions shall be allocated in such a manner that total purchases by eligible account holders, supplemental eligible account holders, and voting members shall be rounded to the nearest 100 shares.

(3) That any insignificant residue of shares of the converting insured institution not sold in the subscription offering or in a public offering referred to in paragraph (c)(6) of this section may be sold in such other manner as provided in the plan with Board approval.

(4) That the number of shares which any person, or group of persons affiliated with each other or otherwise acting in concert, may subscribe for in the subscription offering may be made subject to a limit of not less than one percent of the total offering of shares.

(5) That any person exercising subscription rights to purchase capital stock shall be required to purchase a minimum of up to 25 shares to the extent such shares are available (but the aggregate price for any minimum share purchase shall not exceed $500).

(6) That a stock option plan may be adopted at the meeting at which the plan of conversion is voted upon by the members of the coverting insured institution. The number of shares reserved for such stock option plans should be limited to ten percent of the number of shares sold in the conversion.

(7) That the converted insured institution shall issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock and long-term warrants or other equity securities, in which event any reference in the provisions of this part to capital stock shall apply to such units of equity securities unless the context otherwise requires.

(8) That the Corporation may approve such other equitable provisions as are necessary to avert imminent injury to the converting insured institution.

(e) *Determination of amount of qualifying deposit; predecessor and successor accounts.* (1) Unless otherwise provided in the plan of conversion, for the purposes of this section, the amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's savings accounts in the converting insured institution as of the close of business on the eligibility record date or supplemental eligibility record date. However, the plan of conversion may provide that any savings accounts with total deposit balances of less than $50 (or any lesser amount) shall not constitute a qualifying deposit.

(2) As used in this section, the term "savings account" includes a predecessor or successor account of a given savings account which is held only in the same right and capacity and on the same terms and conditions as the given savings account. However, the plan of conversion may provide for lesser requirements for consideration as a predecessor or successor account.

(f) *Liquidation account.* (1) Each converted insured institution shall, at the time of conversion, establish a liquidation account in an amount equal to the amount of net worth of the converting insured institution as of the latest practicable date prior to conversion. For the purposes of this paragraph, the insured institution shall use the net worth figure no later than that set forth in its latest statement of financial condition contained in the final offering circular. The function of the liquidation account is to establish a priority on liquidation and, except as provided in paragraph (g)(2) of this section, the existence of the liquidation account shall not operate to restrict the use or application of any of the net worth accounts of the converted insured institution.

(2) The liquidation account shall be maintained by the converted insured institution for the benefit of eligible

account holders and supplemental eligible account holders who maintain their savings accounts in such institution. Each such eligible account holder and supplemental eligible account holder shall, with respect to each savings account hold, have a related inchoate interest in a portion of the liquidation account balance ("subaccount").

(3) In the event of a complete liquidation of the converted insured institution (and only in such event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts then held, before any liquidation distribution may be made with respect to capital stock. No merger, consolidation, purchase of bulk assets with assumption of savings accounts and other liabilities, or similar transaction, in which the converted institution is not the surviving institution, is considered to be a complete liquidation for this purpose. In such transactions, the liquidation account shall be assumed by the surviving insured institution.

(4) The initial subaccount balance for a savings account held by an eligible account holder and/or supplemental eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits in such savings account on the eligibility record date and/or the supplemental eligibility record date and the denominator is the total amount of qualifying deposits of all eligible account holders and supplemental eligible account holders in the converting insured institution on such dates. For savings accounts in existence at both dates, separate subaccounts shall be determined on the basis of the qualifying deposits in such saving accounts on such record dates. Such initial subaccount balances shall not be increased, and it shall be subject to downward adjustment as provided in paragraph (f)(5) of this section.

(5) If the deposit balance in any savings account of an eligible account holder or supplemental eligible account holder at the close of business on any annual closing date subsequent to the respective record dates is less than the lesser of (i) the deposit balance in such savings account at the close of business on any other annual closing date subsequent to the eligibility record date or supplemental eligibility record date or (ii) the amount of qualifying deposit as of the eligibility record date or the supplemental eligibility record date, the subaccount balance for such savings account shall be adjusted by reducing such subaccount balance in an amount proportionate to the reduction in such deposit balance. In the event of such a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. If any such savings account is closed, the related subaccount balance shall be reduced to zero.

(g) *Restrictions on repurchase of stock and payment of dividends.* Each insured institution that converts pursuant to this Part shall be subject to the following conditions:

(1) No converted insured institution shall for a period of 10 years repurchase any of its capital stock from any person except in the case of a repurchase, on a pro rata basis pursuant to an offer, approved by the corporation, made to all shareholders of such institution and except for the repurchase of qualifying shares of a director.

(2) No converted insured institution shall declare or pay a cash dividend on, or repurchase any of, its capital stock if the effect thereof would cause the net worth of the converted insured institution to be reduced below (i) the amount required for the liquidation account or (ii) the net worth requirements contained in § 563.13(b) of this subchapter.

(3) Without the prior approval of the Corporation, no converted insured institution shall, for a period of 10 years after the date of its conversion, declare or pay a cash dividend on, or repurchase any of, its capital stock in an amount in excess of one half of the greater of:

(i) The institution's net income (as defined in § 563c.12 of this subchapter) for the current fiscal year; or

(ii) The average of the institution's net income (as so defined) for the current fiscal year and not more than two of the immediately preceding fiscal years.

(h) *Manipulative and deceptive devices.* In the offer, sale or purchase of securities issued incident to its conversion, no insured institution, or any director, officer, attorney agent or employee thereof, shall (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means or any untrue statement of a material fact of any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

(i) *Acquisition of converted insured institutions.* (1) *General.* The Board finds that the new capital to be received by converted insured institutions upon the sale of capital stock will cause such insured institutions, during an initial period following conversion, to be specially vulnerable to attempts by other companies to acquire control of such insured institutions. The Board further finds that acquisition of control of such insured institutions by companies significantly engaged in unrelated business activities is inconsistent with the provision of economical home financing by such insured institutions. Accordingly, the provisions of this paragraph are designed to prevent such acquisitions of newly converted insured institutions for a limited period of time following conversion sufficient to reduce or eliminate their special vulnerability and the adverse impact on the provision of economical home financing.

(2) *Required agreement.* No conversion shall be approved by the Corporation unless the plan of conversion provides that the converted insured institution shall enter into an agreement with the Corporation, in form satisfactory to the Corporation, which shall provide that for a period of three years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted insured institution.

(3) *Optional charter provision.* To the extent permitted by applicable Federal or State law, a plan of conversion may provide for a provision in the charter of the converted insured institution containing, in substance, the restriction set forth in paragraph (i)(2) of this section. There may also be included a restriction providing that such charter provision may be amended only by a vote of up to 75 percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted insured institution. If the converted insured institution elects to adopt the foregoing optional charter provision, the Corporation will impose, as a condition to its approval of the conversion, a requirement that the converted institution fully enforce such charter provision.

(4) *Definitions.* As used in this paragraph:

(i) the term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(ii) The term "control" shall have the meaning given to it by section 408(a)(2) of the National Housing Act, as amended.

(iii) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis,

more than 15 percent of its consolidated net worth at the close of this preceding fiscal year or of its consolidated net earnings for such fiscal year.

(iv) The term "unrelated business activity" means any business activity not authorized for a multiple savings and loan holding company under section 408(c)(2) of the National Housing Act, as amended, or under regulations adopted pursuant thereto.

§ 563b.4 Notice of filing; public statements; confidentiality.

(a) *Information prior to approval of plan of conversion.* (1) An insured institution which is considering converting pursuant to this part and its directors, officers and employees shall keep such consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached the Corporation may require remedial measures including:

(i) A public statement by the institution that its board of directors is currently considering converting pursuant to this Part;

(ii) Providing for an eligibility record date which shall be as of such a date prior to the adoption of the plan by the converting insured institution's board of directors as to assure the equitability of the conversion;

(iii) Limitation of the subscription rights of any person violating or aiding the violation of this section to an amount deemed appropriate by the Corporation; and

(iv) Any other actions the Corporation may deem appropriate and necessary to assure the fairness and equitability of the conversion.

(2) If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

(3) Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the insured institution shall:

(i) Notify its members of such action by publishing a statement in a newspaper having general circulation in each community in which an office of the insured institution is located and/or by mailing a letter to each of its members; and

(ii) Have copies of the adopted plan of conversion available for inspection by its members at each office of the insured institution. The insured institution may also issue a press release with respect to such action. Copies of the proposed statement, letter and press release are not required to be filed with the Corporation, but may be submitted for comment to the Office of General Counsel. Copies of the definitive statement, letter and press release shall be filed with the Corporation as part of the application for conversion.

(4) The statement, letter and press release, unless otherwise authorized by the Corporation shall contain only (but need not contain all of) the following:

(i) A statement that the board of directors has adopted a proposed plan to convert the insured institution from a Federal (or State, as the case may be) mutual institution to a Federal (or State, as the case may be) capital stock insured institution;

(ii) A statement that the proposed plan of conversion must be approved by at least a majority of the votes eligible to be cast either in person or by proxy by association members at a meeting at which the plan will be submitted for their approval;

(iii) A statement that existing proxies held with respect to voting rights in the insured institution will not be voted regarding the conversion, and that new proxies will be solicited for voting on the proposed plan of conversion;

(iv) A statement that a proxy statement setting forth more detailed information with respect to the proposed plan of conversion will be sent to association members prior to the meeting of members;

(v) A statement that the proposed plan of conversion is subject to approval by the Federal Home Loan Bank Board and by the appropriate State regulatory authority or authorities (naming such an authority or authorities) before such plan can become effective and that members of the applicant will have an opportunity to file written comments including objections and materials supporting such objections to the Board;

(vi) A statement that the proposed plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(vii) A statement that there is no assurance that the approval of the Federal Home Loan Bank Board or the approval of any appropriate State authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(viii) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

(ix) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

(x) A brief statement as to the extent to which voting members will participate in the conversion;

(xi) A brief description of the proposed plan of conversion;

(xii) The par value (if any) and approximate number of shares of capital stock to be issued and sold under the proposed plan of conversion;

(xiii) A brief statement as to the extent to which directors, officers and employees will participate in the conversion;

(xiv) A statement that savings account holders will continue to hold accounts in the converted insured institution identical as to dollar amount, rate of return and general terms, and that their accounts will continue to be insured by the Federal Savings and Loan Insurance Corporation;

(xv) A statement that the insured institution will continue to be a member of the Federal Home Loan Bank System;

(xvi) A statement that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security and other conditions will remain contractually fixed as they existed prior to conversion;

(xvii) A statement that the normal business of the insured institution in accepting savings and making loans will continue without interruption; that the converted insured institution will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

(xviii) A statement that the proposed plan of conversion may be substantively amended by the board of directors as a result of comments from the regulatory authorities or otherwise prior to the meeting, and that the proposed plan may also be terminated by the board of directors; and

(xix) A statement that questions of members will be answered in the proxy material to be sent after the regulatory approvals of the proposed plan of conversion have been obtained and that any questions at this time may be answered by telephoning or writing to the insured institution.

(4) Such statement, letter and press release shall not in any manner solicite proxies, include financial statements or describe the benefits of conversion or the value of the capital stock of the insured institution upon conversion. In replying to inquiries, the insured institution should limit its answers to the matters listed in paragraph (a)(3) of this section.

(b) *Notice of filing.* (1) Upon determination that an application for conversion is properly executed and is not materially incomplete, the Corporation will advise the applicant, in writ-

ing, to publish notices of the filing of such application. Promptly after receipt of such advice, the applicant shall furnish a written notice of such filing to each eligible account holder and member and also publish a notice of such filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION FOR CONVERSION TO CONVERT TO A STOCK SAVINGS AND LOAN ASSOCIATION

Notice is hereby given that, pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts

_____
(fill in name of applicant)

has filed an application with the Federal Savings and Loan Insurance Corporation for approval to convert to the stock form of organization.

_____
(state chartered or Federally-chartered)

Copies of the application have been delivered to the Securities Division, Office of General Counsel of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and to the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of _____.

_____
(Street address)

_____
(City) (State)

(Zip Code)_____

Written comments, including objections to the plan of conversion and materials supporting such objections, from any member of the applicant or aggrieved person will be considered by the Corporation if filed within 20 business days after the date of this notice. Failure to make such written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of such comments should be sent to the aforementioned Securities Division of the Office of General Counsel with one copy to said Office of the Supervisory Agent. The proposed plan of conversion and any comments thereon will be available for inspection by any member of the applicant as said Office of General Counsel and at said Office of the Supervisory Agent. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's members speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of such notice shall also be published in such newspaper.

(2) Promptly after publication of the notices prescribed in paragraph (b)(1) of this section, the applicant shall file four copies thereof with the Corporation. The applicant shall also file four copies of an affidavit of publication from each newspaper publisher.

(c) *Confidential information.* Should the applicant desire to submit any information it deems to be of a confidential nature regarding the answer to any item or a part of any exhibit included in any application under this part, such information pertaining to such item or exhibit shall be separately bound and labeled "confidential", and a statement shall be submitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this part shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the Corporation determines to withhold from public availability under 5 U.S.C. 552 and Part 505 of this chapter. The Corporation will withhold the public availability of preliminary copies of proxy soliciting materials without the necessity of their being bound and labeled as "confidential". The applicant will be advised of any decision by the Corporation to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent it deems necessary the Corporation may comment on such confidential submissions in any public statement in connection with its decision on the application without prior notice to the applicant.

§ 563b.5 Solicitation of proxies; proxy statement.

(a) *Solicitations to which rules apply.* This section applies to every solicitation of a proxy from an association member of an insured institution for the meeting at which a conversion plan will be voted upon, except the following:

(1) Any solicitation made otherwise than on behalf of the management of the insured institution where the total number of persons solicited is not more than 50;

(2) Any solicitation through the medium of a newspaper advertisement which informs association members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other soliciting material and does no more than (i) name the insured institution, (ii) state the reason for the advertisement, (iii) identify the proposal or proposals to be acted upon by association members, and (iv) urge the member to vote at the meeting.

(b) *Use of proxy soliciting material to be authorized.* No proxy soliciting material required to be filed with the Corporation prior to use shall be furnished to association members or otherwise released for distribution until the use of such material has been authorized in writing by the Corporation.

(c) *Information to be furnished association members.* No solicitation subject to this section shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement the use of which has been authorized by the Corporation.

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in bold face type whether the proxy is solicited on behalf of the management, (ii) shall provide specifically designated blank spaces for dating and signing the proxy, (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, (iv) shall be clearly labeled "Revocable Proxy" in bold face type (at least as large as 18 point), (v) shall describe any charter or State law requirement restricting or conditioning voting by proxy, (vi) shall contain an acknowledgement by the person giving the proxy that he has received a proxy statement prior to signing the form of proxy, (vii) shall contain the date, time and place of meeting, if practicable, and (viii) shall provide by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter referred to therein as intended to be acted upon, and (ix) shall indicate in bold face type how the proxy shall be voted on each such matter to which no choice is so specified.

(2) No proxy subject to this section shall confer authority to vote at any meeting other than the meeting (or any adjournment thereof) to vote on conversion. A proxy may be deemed to confer authority to vote with respect to matters incident to the conduct of such meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion.

(3) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted; that, where the person solicited specifies by means of a ballot provided pursuant to paragraph (d)(1)(viii) of this section a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications so made; and that if no choice is so specified, the votes will be cast as indicated in bold face type on the form of proxy.

(e) *Material required to be filed.* (1) Applicants shall file ten preliminary

copies of such proxy materials as are required by the form for applying for approval to convert under this part.

(2) Ten preliminary copies of any additional soliciting material subject to this section including soliciting material in the form of press releases, and radio or television scripts, to be used or furnished to association members subsequent to furnishing the proxy statement, shall be filed with the Corporation at least five business days prior to the date on which the Corporation is requested to authorize the use of such material. Speeches may, but need not be, filed with the Corporation prior to use.

(3) Twenty-five copies of the proxy statement and ten copies of the form of proxy and all other soliciting material, in the form in which such material it furnished to association members, shall be filed with or mailed for filing to the Corporation not later than the date such material is first sent or given to association members. All materials filed pursuant to this paragraph (e)(3) shall be accompanied by a statement of the date on which copies of such materials are to be released to association members.

(4) If the solicitation is to be made in whole or in part by personal solicitation, ten preliminary copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Corporation at least five business days prior to the date on which the Corporation is requested to authorize the use of such material.

(5) All preliminary copies of material filed pursuant to paragraph (e) (1), (2) and (4) of this section shall be clearly marked on the cover page "Preliminary Copy". Such preliminary copies shall be for the information of the Corporation only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the United States Government or appropriate State Government and the Corporation may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Corporation.

(6) Unless requested by the Corporation, copies of replies to inquiries from members of the insured institution and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this paragraph (e).

(7) Where any proxy statement, form of proxy or other material filed pursuant to this paragraph (e) is amended or revised, four of the required copies of such amended or revised material filed with the Corporation shall be marked to indicate clearly and precisely the changes effected therein subsequent to the last prior filing.

(f) *Mailing communications for associations members.* If the management of the applicant has adopted a plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any association member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested.

(1) The applicant shall mail or otherwise furnish to such association member the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of association members who have been or are to be solicited on behalf of the management, or any group of such holders which the association member shall designate.

(ii) An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to such association member.

(2) Copies of any proxy statement, form of proxy or other communication furnished by the association member and as approved by the Corporation shall be mailed by the applicant to such of the association members specified in paragraph (f)(1)(i) Special Rule of this section as the association member shall designate.

(3) Any such material which is furnished by the association member shall be mailed with reasonable promptness by the applicant after receipt of the material to be mailed, envelopes or other containers therefor and postage or payment for postage.

(4) Neither the management not the applicant shall be responsible for such proxy statement, form of proxy or other communication.

(g) *False or misleading statements.* (1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on conversion shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for such meeting which has become false or misleading.

(2) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Corporation and authorized for use shall not be deemed a finding by the Corporation that such material is accurate or complete or not false or misleading, or that the Corporation has passed upon the merits of or approved any proposal contained therein. No representation contrary to the foregoing shall be made by any person.

(3) If a solicitation by management violates any provision of this section, the Corporation may require remedial measures including:

(i) Correction of any such violation by means of a retraction and new solicitation;

(ii) Rescheduling of the meeting for a vote on the conversion; and

(iii) Any other actions the Corporation may deem appropriate in the circumstances in order to ensure a fair vote.

(h) *Prohibition of certain solicitations.* No person soliciting a proxy from an association member for the meeting to vote on conversion shall solicit:

(1) Any undated or post-dated proxy; or

(2) Any proxy which provides that it shall be deemed to be dated as of any data subsequent to the date on which it is signed by the association members; or

(3) Any proxy which is not revocable at will by the association member giving it; or

(4) Any proxy which is part of any other document or instrument (such as an account card).

§ 563b.6 Vote by members.

(a) *Vote at special meeting.* Following Corporation approval of an application for conversion, the plan of conversion shall be submitted to a special meeting of members, unless in the case of a State-chartered converting insured institution State law requires that the plan be considered at an annual meeting of members.

(b) *Determining members eligible to vote.* The record date for determining those members eligible to vote at the meeting called to consider a plan of conversion shall be not more than 50 nor less than 20 days prior to the date of such meeting, unless State law requires a different voting record date.

(c) *Notice to members.* Notice of the meeting to consider a plan of conversion shall be given by means of the proxy statement authorized for use by the Corporation which notice shall be given not more than 45 nor less than 20 days prior to the date of the meet-

ing to each association member, each eligible account holder and supplemental eligible account holder, postage pre-paid, at his last address as shown on the books of the applicant unless State law requires a different notice period.

(d) *Required vote.* The plan shall be approved by a vote of at least a majority of the total outstanding votes of the association members, unless State law requires a higher percentage for a State-chartered converting insured institution, in which case the higher percentage shall be used. Voting may be in person or by proxy.

§ 563b.7 Pricing and sale of securities.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation. No sale of such securities in the subscription offering may be made except by means of the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by means of the offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may commence during the subscription offering upon the declaration of effectiveness of the Offering Circular proposed for such community offering. The provisions of this paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(b) *Distribution of offering materials.* Any preliminary offering circular for the subscription offering or direct community marketing which has been filed with the Corporation, may be distributed to eligible account holders or supplemental eligible account holders not entitled to vote on the plan of conversion and to others in connection with the subscription offering at the same time as or after the proxy statement is mailed to association members pursuant to § 563b.6(c). Any preliminary offering circular for the public offering or direct community marketing of unsubscribed securities, which has been filed with the Corporation, may also be distributed in connection with such offering at the same time as or after such proxy statement is mailed to association members pursuant to § 563b.6(c). No final offering circular shall be distributed until such offering circular has been declared effective by the Corporation.

(c) *Estimated price information in proxy statements and preliminary offering circulars.* With respect to the capital stock of the applicant to be sold under the plan of conversions, the proxy statement and any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of such price range should normally be no more than 15 percent above the average of the minimum and maximum of such price range and the minimum should normally be no more than 15 percent below such average. The maximum price used in the price range should normally be no more than $50 per share and the minimum no less than $5 per share.

(d) *Prohibited representations.* The Corporation will review the price information required under paragraph (c) of this section in determining whether to give approval to the applications for conversion. No representations may be made in any manner that such price information has been approved by the Corporation or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Federal Home Loan Bank Board or the Corporation or that the Board or the Corporation has passed upon the accuracy or adequacy of any offering circular covering such shares.

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share acceptable to the Corporation. No underwriting commission shall be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

(f) *Pricing materials.* (1) In considering the pricing information required under paragraph (c) of this section, the Corporation will apply the following guidelines:

(i) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the Corporation;

(ii) The materials shall contain data which are sufficient to support the conclusions reached therein;

(iii) The materials shall contain a complete and detailed description of the appraisal methodology employed; and

(iv) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted insured institution, the materials must indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock associations, the materials must demonstrate the appropriate comparability of the form and substance of such outstanding capital stock and the appropriate comparability of such existing stock associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(2) In addition to the information required in subparagraph (1) above, the applicant shall submit information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing materials under this paragraph. However, a person will not be considered as lacking independence for the reason that such person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with such appraisal.

(g) *Order forms for purchase of capital stock.* (1) Promptly after the Corporation has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), voting members and other persons who may subscribe for such shares under the plan of conversion.

(2) Each order form shall be accompanied or preceded by the final offering circular for the subscription offering and a set of detailed instructions explaining how to properly complete such order forms.

(3) The maximum subscription price stated on each order form shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the Board's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within such subscription price range, the applicant must obtain an amendment to the Board's approval. If appropriate, the Board will condition its amended approval by requiring a resolicitation of proxies and/or order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to

those who have paid the maximum subscription price.

(4) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear and intelligible a manner as possible, the actions which are required or available to him with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(i) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering.

(ii) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than 20 days following the date of the mailing of the order form;

(iii) State the maximum subscription price per share of capital stock;

(iv) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(v) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(vi) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account holder's passbook savings account or certificate of deposit without penalty. If payment is to be made by such withdrawal, a box to check should be provided;

(vii) Provide specifically designated blank spaces for dating and signing the order form;

(viii) Contain an acknowledgement by the account holder or other person signing the order form that he has received the final offering circular for the subscription offering prior to so signing; and

(ix) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

(5) The order form may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a passbook savings account or certificate of deposit, the applicant may, but need not, cause such withdrawal to be made upon receipt of the order form. If such withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the account withdrawn as if such amount had remained in the account from which it was withdrawn until such closing date.

(h) *Withdrawal from certificate accounts.* Notwithstanding any regulatory provision regarding penalties for early withdrawal from certificate accounts, the applicant may allow payment for capital stock during the subscription period by withdrawal from a certificate account without the assessment of such penalties. In the case of early withdrawal of only a portion of such account, the certificate evidencing such account shall be cancelled if the applicable minimum balance requirement ceases to be met. The remaining balance will earn interest at the passbook rate.

(i) *Period for completion of sale.* The sale of all shares of capital stock of the converting insured institution to be made under the plan of conversion, including any sale in a public offering or direct community marketing, shall be completed as promptly as possible and within 45 calendar days after the last day of the subscription period, unless extended by the Corporation.

§ 563b.8 Procedural requirements.

(a) *Filing an application for conversion.* An applicant that desires to convert in accordance with this part shall file ten copies of an application for approval in the form prescribed by the Corporation.

(b) *Return of improperly executed or materially imcomplete filings.* Any application for approval that is improperly executed, or that does not contain copies of (1) a plan of conversion, (2) a preliminary proxy statement with signed financial statements, and (3) a preliminary form of proxy, shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion, proxy statement, or form of proxy may be returned by the Corporation to the applicant.

(c) *Additional filing requirements.* An applicant whose plan of conversion has been approved by the Corporation shall fulfill the following requirements.

(1) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of converson a certified copy of each resolution adopted at such meeting relating to the plan of conversion, together with the following information:

(i) The total number of votes eligible to be cast;

(ii) The total number of votes represented in person or by proxy at the meeting;

(iii) The total number of votes cast in favor of and against each such matter; and

(iv) The percentage of votes necessary to approve each such matter.

The compilation of the votes cast at the meeting may be prepared for the insured institution, by an independent public accountant or by an independent transfer agent.

(2) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion an opinion of counsel to the effect that (1) the meeting of members was duly held in accordance with all requirements of applicable State and Federal law and regulation; and (2) all requirements of State law applicable to the conversion have been complied with.

(3) The offering circulars for the subscription offering and for the public offering or direct community marketing shall be prepared in compliance with this part and Form OC. The applicant shall file with the Corporation ten copies of each preliminary offering circular and twenty-five copies of each final offering circular.

(d) *Termination or amendment of charter.* (1) Upon approval of a plan of conversion by the members of a State-chartered insured insitution or a Federal association which is converting to a State-chartered stock insured institution, the charter of such insured institution shall terminate effective upon the issuance to it of a stock charter under the laws of the State in which the home office of the applicant is located. If such converting insured institution is a Federal association, its Federal charter shall promptly be surrendered to the Board for cancellation. An insured institution converting to a State-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall promptly be surrendered to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federal association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a Charter S Association. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federal mutual association converting to a Federal Stock association shall not terminate but the converted association shall be deemed to be a continuation of the entity of the association so converted. In the case of a Federal or a State-chartered mutual insured

institution converting to a State-chartered stock insured institution, unless State law otherwise prescribes, the corporate existence of the converting insured institution shall similarly not terminate and the converted insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

(e) *Number of copies; place of filing; binding; signatures.* (1) Whenever a requirement is made under this part for the filing of four copies of any document with the Corporation, one copy shall be filed with the Supervisory Agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part for the filing of ten or more copies of any document with the Corporation, three copies shall be filed with the Supervisory Agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part that a document to be filled be manually signed, one manually signed copy shall be filed with the Supervisory Agent and another with such Securities Division, Office of the General Counsel. Other copies shall be conformed. Each of the copies filed under this part shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible.

(2) At least two copies of every application and every amendment thereto filed shall be manually signed by (i) a duly authorized representative of the applicant on its behalf, (ii) its principal executive officer, (iii) its principal financial officer, (iv) its principal accounting officer, and (v) at least two-thirds of its directors.

(3) If any name is signed to an application or any amendment thereto pursuant to a power of attorney, four copies of such power of attorney, including two manually signed, shall be filed with the application.

(4)(i) Except as provided in paragraph (e)(4)(ii) of this section, the filing of any application or amendment thereto under this part shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not such director has signed the application or any amendment thereto) severally that (A) he has read such application or amendment, (B) in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that such application or amendment complies to the best of his knowledge and belief with the applicable requirements of this part and forms prescribed hereunder, and (C) each such person holds such informed opinion.

(ii) The representations specified in paragraph (e)(4)(i) of this section shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, such director files with the Corporation within 10 business days after the filing of such application or amendment a statement describing those portions of such filing as to which he does not so represent.

(f) *Requirements as to paper and printing.* (1) Applications shall be filed on good quality, unglazed, white paper approximately 8½ by 13 or 8½ by 11 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to such sizes, and the plan of conversion, proxy statement and offering circular may be on smaller paper if the applicant so desires.

(2) Applications and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed or typewritten. However, applications for any portion thereof may be prepared by any similar process which, in the opinion of the Corporation, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(g) *Method of preparation.* Every application shall furnish information in item-and-answer form in response to the items of the appropriate form, and shall include the captions of the form, but omit the text of all items and instructions. Every proxy statement and offering circular shall present information as provided in paragraph (n) of this section in response to the items of the appropriate form in lieu of furnishing the information in item-and-answer form, and shall omit the captions and text of all items and instruction. Every application shall include a cross reference sheet showing the location in the proxy statement and offering circular of the response to the items of the appropriate form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.

(h) *Interpretation of requirements.* (1) Unless the context indicates otherwise, the forms require information only as to the applicant.

(2) Whenever words relate to the future, they have reference solely to present intention.

(3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

(i) *Additional information.* In addition to the information expressly required to be included in any application under this part, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they made, not misleading.

(j) *Information unknown or not reasonably available.* Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The Applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(k) *Incorporation of certain information by reference.* (1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to such item. No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing such information is attached thereto or is summarized or outlined as provided in paragraph (l) of this section. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline.

(2) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the

information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(l) *Summaries or outlines of documents.* Where a summary or outline of the provisions of any document is required, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be qualified in its entirety by such reference.

(m) *Legibility of materials.* The body of all printed plans of conversion, proxy statements, and offering circulars, including all notes to financial statements and other tabular data included therein, shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(n) *Presentation of information.* (1) The information required in a proxy statement or offering circular need not follow the order of the items or other requirements in the appropriate form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in tabular form it shall be given in substantially the tabular form specified in the item.

(2) All information contained in a plan of conversion, proxy statement or offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in any form under this part shall be divided into reasonably short paragraphs or sections.

(3) Every proxy statement and offering circular shall include in the forepart thereof a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each such section or subdivision begins.

(4) All information required to be included in a proxy statement or offering circular shall be clearly understandable without the necessity of referring to the particular form or to the regulations under this part. Except as to financial statements and information required in tabular form, the information set forth in a proxy statement or offering circular may be expressed in condensed or summarized form.

(5) Financial statements are to be set forth in comparative form, and shall include the notes thereto and the accountants' certificate or certificates. Section 563c.1 of this subchapter governs the certification, form and content of such financial statements, including the basis of consolidation.

(o) *Application of amendments to regulations and forms.* (1) The form and contents of any filing made under the provisions of this part need conform only to the applicable regulations and forms then in effect, and contain the information, including financial statements specified therein, required at the time the filing is made, notwithstanding subsequent amendments to such regulations, except as otherwise provided in any such amendment or in paragraph (o)(2) of this section.

(2) Whenever the Corporation prohibits by order or otherwise the use of any filing under this part, the form and contents of any filing used thereafter shall conform to the requirements of such order and the applicable regulations and forms in effect at the time such prohibition ceases to be effective.

(3) Applications for conversion filed pursuant to this part shall conform to the regulations and forms of this part as revised by the Corporation effective May 1, 1979.

(p) *Consents of experts.* (1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this part is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of such person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this part, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.

(2) All written consents filed pursuant to this paragraph (p) shall be dated and signed manually. A list of such consents shall be filed with the application. Where the consent of the expert is contained in his report, a reference shall be made in the list to the report containing such consent.

(q) *consents of persons about to become directors.* If any person who has not signed an application is named in the proxy statement or offering circular as about to become a director, the written consent of such person shall be filed with the appropriate form.

(r) *Date of Filing.* The date on which any documents are actually received by the Office of the Secretary of the Board shall be the date of filing thereof.

(s) *Amendments.* All amendments to any application under this part shall be filed under cover of an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent regulations applicable to the type of application which they amend.

(t) *Pre-filing conferences with applicants.* (1) The staff of the Board and the Supervisory Agent will be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Pre-filing review of an application may be refused by the staff of the Board and the supervisory agent if such review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this paragraph (t), the staff of the Board and the Supervisory Agent will not undertake to prepare material for filing but will limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

(u) *Review of the Board action.* Any person aggrieved by a final action of the Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this part may obtain review of such action by filing in the court of appeals of the United States for the circuit in which the principal office or residence of such person is located, or in the United States Court of Appeals for the District of Columbia Circuit, a written petition praying that the final action of the Board or Corporation be modified, terminated or set aside. Such petition must be filed within 30 days after publication of notice of such final action in the FEDERAL REGISTER, or 30 days after the mailing by the applicant of the notice to members as provided for in § 563b.6(c), whichever is later. The further procedure for review is as follows: A copy of the petition is forthwith transmitted to the Board or the Corporation by the clerk of the court and thereupon the Board or the Corporation files in the court the record in the proceeding, as provided in Section 2112 of Title 28 of the United States Code. Upon the filing of the petition,

the court has jurisdiction, which upon the filing of the record is exclusive, to affirm, modify, terminate, or set aside in whole or in part, the final action of the Board or the Corporation. Review of such proceedings is had as provided in Chapter 7 of Title 5 of the United States Code. The judgment and decree of the court is final, except that they are subject to review by the Supreme Court upon certiorari as provided in Section 1254 of Title 28 of the United States Code.

(v) *Post-Conversion reports.* The applicant shall file such post-conversion reports concerning its conversion as the Corporation may require.

§ 563b.9 Acquisitions of securities of converted associations.

(a) *Definitions.* (1) For the purpose of this section, the term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(2) For the purpose of this section, the term "person" means an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, and any unincorporated organization or similar company.

(3) Without limitation on the generality of its meaning, the term "security" includes nontransferable subscription rights issued pursuant to a plan of conversion.

(b) *Prohibited transfers.* Prior to completion of a conversion, no person shall transfer or enter into any agreement or understanding to transfer, the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another.

(c) *Prohibition of offers during conversion.* Prior to completion of a conversion, no person shall make any offer, or announcement of an offer or intent to make an offer, for any security of a converting association issued or to be issued in connection with such conversion.

(d) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* No person for a period of three years following the date of the completion of the conversion shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of an equity security of an association converted in accordance with the provisions of this Part, without the prior written approval of the Federal Savings and Loan Insurance Corporation.

(e) *Exceptions.* (1) Paragraphs (b) and (c) of this section shall not apply to a transfer, agreement or understanding to transfer, offer, or announcement of an offer or intent to make an offer which (i) pertains only to securities to be purchased pursuant to § 563b.3 (c)(6), (d)(3) or (8) of this part; and (ii) has prior written approval of the Corporation.

(2) Paragraphs (c) and (d) of this section shall not apply to any offer with a view toward public resale made exclusively to the association or underwriters or selling group acting on its behalf.

(3) Unless made applicable by the Corporation by prior advice in writing, the prohibition contained in paragraph (d) of this section shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other acquisitions by such person of the same class of securities during the preceding 12-month period, of not more than one percent of the same class of securities.

(f) *Criteria for denial.* The Corporation shall not approve an application involving an offer for, an announcement thereof or an acquisition of any security of a converted association submitted under paragraph (d) of this section if it finds that such offer frustrates the purposes of the foregoing provisions of this Part 563b, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the association, is not consistent with economical home financing, or is otherwise violative of law or regulation.

(g) *Penalty for willful violations.* For willful violation or assistance of any such violation of any provision of this section, any person who (1) has any connection with the management of a converting or converted association, including any director, officer, employee, attorney, or agent, or (2) controls more than ten percent of the outstanding shares of any class of equity security or voting rights thereto of a converting or converted association, shall be subject to a civil penalty of not more than $500 (which penalty shall be cumulative to any other remedies) for each day that such violation continues, which penalty the Corporation may recover by suit or otherwise for its own use. The Corporation in its discretion may, at any time before collection of such penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process thereof), compromise or remit in whole or in part any such penalty.

FORM AC

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1700 G Street, N.W.
Washington, D.C. 20552

Application for Conversion

_____

(Exact name of Applicant as specified in charter)

_____

(Street address of applicant)

_____

(City, State and Zip Code)

Date of Application——————.

GENERAL INSTRUCTIONS

A. RULE AS TO USE OF FORM AC

Form AC shall be used by any insured institution seeking Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation approval of conversion from the mutual to the stock form of organization pursuant to Part 563b of the Rules and Regulations for Insurance of Accounts.

B. APPLICATION OF RULES AND REGULATIONS

Attention is directed to Insurance Regulation § 563b.8. That section contains general requirements regarding preparation and filing of this Form. The definitions in Insurance Regulation § 563b.2 also should be noted.

Item 1. *Form of Application.*

Set forth an application for approval of the plan of conversion in the following form with the names and titles of the officers and directors signing the application indicated below their signatures:

The undersigned hereby makes application for approval to convert into a stock association, and submits herewith a statement of its proposed plan of conversion and other information and exhibits as required by Part 563b of the Rules and Regulations for Insurance of Accounts of the Federal Savings and Loan Insurance Corporation.

In submitting this application the applicant understands and agrees that, if further examinations or appraisals, or both, are required by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, they will be conducted by, or as approved by, the Board or the Corporation at the expense of the applicant; and applicant will pay the costs thereof as computed by the Board or the Corporation.

This application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with section 563b.8(e)(4) of the Rules and Regulations for Insurance of Accounts, by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent, except to the extent otherwise provided in said section, (1) that each such person has read this application; (2) that in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that this application complies to the

best of his knowledge and belief with the applicable requirements of Part 563b of the Rules and Regulations for Insurance of Accounts and forms thereunder; and (3) that each such person holds such informed opinion.

Attest:

_____
Applicant

By_____
(Duly Authorized Representative)

_____
(Principal Executive Officer)

_____
(Principal Financial Officer)

_____
(Principal Accounting Officer)

_____
(Director)

_____
(Director)

_____
(Director)

_____
(Director)

_____
(Director)

(Signatures of at least two-thirds of the Board of Directors)

Item 2. *Plan of Conversion.*

Furnish the complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this Item will be a basis for the Corporation's approval and the plan as approved will be distributed as an attachment to the proxy statement and the offering circular.

Item 3. *Proxy Statement and Offering Circular.*

Furnish preliminary copies of the proxy statement and offering circular. The proxy statement and offering circular should be prepared in accordance with Forms PS and OC, respectively.

Item 4. *Form of Proxy.*

Furnish preliminary copies of the form of proxy to be distributed to association members by the management.

Item 5. *Sequence and Timing of the Plan.*

Set forth the expected chronological order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the plan. Indicate the expected timing of any requisite approvals by State authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or direct community marketing of the applicant's securities as part of the plan of conversion, indicate the proposed timing of all aspects of such offering.

Item 6. *Record Dates.*

If the applicant's plan of conversion contains an eligibility record date substantially earlier than 90 days prior to the date of adoption of the plan of conversion by the board of directors, state the reason for the selection of such earlier date.

Indicate the circumstances that will require the use of a supplemental eligibility record date.

Item 7. *Savings Account Balances of Personnel.*

For each director and officer of the applicant whose total account balances, including the balances of each associate of the foregoing persons, were more than $5,000 as of the eligibility record date and which balances had increased by more than 25 percent during the two year period prior to that date, set forth in tabular form his total account balances as of (a) the eligibility record date and (b) each of the eight earnings distribution dates of the applicant immediately preceding such date.

Item 8. *Expenses Incident to the Conversion.*

Provide in substantially the tabular form indicated below the estimated expense of the conversion to the applicant.

Legal	
Postage and Mailing	
Printing	
Escrow or Agent Fees	
Underwriting Fees	
Appraisal Fees	
Transfer Agent Fees	
Auditing and Accounting	
Proxy Solicitation Fees	
Advertising	
Other Expenses	
Total	$

Instructions. 1. The applicant may exclude costs represented by salaries and wages of regular employees and officers, if a statement to that effect is made.

The cost of solicitation by specially engaged employees or paid solicitors under paragraph (b) of Item 3 of Form PS shall be stated under "Proxy Solicitation Fees" in this Item.

2. If the applicant has any category of expense exceeding $10,000 which is not specified in this Item, such expense shall be itemized rather than including it under the category "Other Expenses".

3. If the solicitation is conducted other than by management of the applicant, the information required in this Item shall be provided with respect to the cost of such solicitation.

Item 9. *Indemnification.*

State the general effect of any charter provisions, bylaw, contract, arrangement, statute, or regulation to be in effect during or after the conversion under which any underwriter, appraiser, lawyer, accountant or expert, or director or officer of the applicant will be insured or indemnified in any manner against any liability which he may incur in his capacity as such.

Item 10. *Federally Chartered Stock Associations—Charter S Association.*

State whether the converting Federal association is applying to amend its charter and bylaws to read in the form of the charter and bylaws of a Charter S association.

EXHIBITS

The following exhibits shall be attached to this Form.

EXHIBIT 1. RESOLUTION OF BOARD OF DIRECTORS

Set forth a certified copy or copies of a resolution or resolutions of the board of directors (1) adopting the plan of conversion filed with this application; (2) authorizing the filing of this application; and (3) applying for continued insurance of accounts by the Federal Savings and Loan Insurance Corporation and continued membership in the appropriate Federal Home Loan Bank. The action adopting the plan of conversion and authorizing the filing of this application must be approved by two-thirds of the board of directors.

EXHIBIT 2. COPIES OF DOCUMENTS, CONTRACTS, AND AGREEMENTS

Furnish the following documents, contracts and agreements: (a) proposed certificates for capital stock and any other securities to be issued; (b) proposed order forms with respect to the subscription rights; (c) proposed charter and bylaws of the applicant to take effect upon conversion including, if applicable, the optional charter provision provided for in § 563b.3(i)(3); (d) any proposed stock option plan and form of stock option agreement; (e) any proposed management employment contracts; (f) any contract described in response to Item 6(e) of Form PS; (g) contracts or agreements with paid solicitors described in response to Item 3(b) of Form PS; (h) any material loan agreements relating to borrowings by the applicant other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Corporation; (i) any appraisal agreement or proposed agreement, underwriting contracts or agreements among underwriters; (j) the agreement with the Corporation required by § 563b.3(i)(2); (k) any charter amendment filed for the purpose of converting a Federal mutual association to a Federal stock association; (l) any proposed contracts or agreements among members of a group regarding the purchase of unsubscribed shares pursuant to § 563b.3(d)(3); (m) any required undertaking or affidavits by officers or directors purchasing shares in the conversion that they are acting independently; (n) any documents referred to in the answer to Item 9; (o) any trustee agreements or indentures; and (p) any agreements for the making of markets or the listing on exchanges of the stock of the converted insured institution. Documents, contracts and agreements which are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of association members to consider the plan of conversion, except for documents which by their nature cannot be practically expected until a later time required by subdivisions (i) and (l) in which case they shall be furnished in substantially final form.

EXHIBIT 3. OPINION OF COUNSEL

Furnish an opinion of counsel for the applicant regarding each of the following matters: (a) the legal sufficiency of the applicant's proposed certificates and order forms for capital stock and any other securities; (b) State law requirements applicable to the plan of conversion including citations to applicable State law and whether such requirements will be fulfilled by the plan; (c) the legal sufficiency of the applicant's bylaws; (d) the type and extent of each class of voting rights in the applicant after conversion, including any requirement of State

law that savings account holders or borrowers have voting rights in the converted insured institution; (e) the legality and Federal income tax effect to the applicant of any proposed stock option plan described in response to Item 12 of Form PS; and (f) a certification that the proposed Charter S and bylaws conform to Part 552 of this Subchapter or if not a statement to that effect. Matters listed in subdivisions (b) (c) and (d) of this Exhibit only apply to an applicant which is converting to a State-chartered stock association.

EXHIBIT 4. FEDERAL AND STATE TAX OPINIONS AND RULINGS

(a) Furnish an opinion of the applicant's tax advisor or an Internal Revenue ruling as to the Federal income tax consequences of the plan of conversion to the applicant and to the various account holders who receive nontransferable subscription rights to purchase capital shock.

Instruction. The Corporation recommends that each applicant obtain in ruling from the Internal Revenue Service regarding the Federal income tax consequences of the plan of conversion. The Corporation may require that such a ruling be obtained if the applicant's plan of conversion is not substantially similar to plans of conversion which have received favorable rulings. The Corporation may also require that such a ruling be obtained if the applicant's plan of conversion contains novel provisions or there is otherwise a question as to the Federal income tax consequences of the plan.

(b) Furnish an opinion of the applicant's tax advisor or, if applicable, a ruling from the appropriate state taxing authority to any tax consequences of the plan of conversion under the laws of the State in which the applicant will be chartered upon conversion. Such opinion should relate to the applicant and to eligible account holders.

EXHIBIT 5. APPRAISAL MATERIALS

Furnish the materials required by § 563b.7 regarding appraisal of the applicant.

EXHIBIT 6. NOTICE TO MEMBERS

Furnish the notices to the applicant's members required by § 563b.4(a) and (b).

EXHIBIT 7. OTHER MATERIALS

(a) If information required by an appropriate form is not given for the reasons specified in § 563b.8(j), furnish the statement required for each such omission by § 563b.8(j)(2).

(b) Furnish all consents required to be filed by § 563b.8(p) and (q).

(c) If applicable, furnish the statement required by the Instruction to Item 5(e) of Form PS regarding events which occured within the last ten years to directors of the applicant.

(d) If information required by Item 15(h) of Form PS relating to historical financial information is omitted, furnish the statement required by Item 15(h)(1) of Form PS.

(e) Furnish any powers of attorney employed pursuant to § 563b.8(e)(3).

(f) Furnish the cross reference sheet referred to in § 563b.8(g).

(g) If the applicant wishes to request a waiver of compliance in accordance with § 563b.1(c), furnish the materials required by § 563b.1(c)(2).

FORM PS

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1700 G Street, N.W.
Washington, D.C. 20552

Proxy Statement

(Exact name of applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)

PROXY STATEMENT FORM

INDEX TO ITEMS

Item 1. Notice of Meeting
Item 2. Revocability of Proxy
Item 3. Persons Making Solicitation
Item 4. Voting Rights and Vote Required for Approval
Item 5. Directors and Executive Officers
Item 6. Remuneration and Other Transactions with Management and Others
Item 7. Business of the Applicant
Item 8. Description of the Applicant's Plan of Conversion
Item 9. Description of Capital Stock
Item 10. Capitalization
Item 11. Use of New Capital
Item 12. Stock Option Plans
Item 13. New Charter, Bylaws or Other Documents
Item 14. Other Matters
Item 15. Financial Statements
Item 16. Consents of Experts and Reports
Item 17. Attachments

FORM PS

INFORMATION REQUIRED IN CONVERSION PROXY STATEMENT

Notes

1. Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position or relationship provided a statement to that effect is made.

2. The proxy statement shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel by interpretative release or otherwise have deemed necessary to comply with items of this Form PS.

Item 1. *Notice of Meeting.*

The cover page of the proxy statement shall give notice of the meeting of the association members called by the board of directors to act upon the conversion. The cover page shall include the date, time, and place of the meeting, a brief description of each matter to be acted upon at the meeting, the date of record for association members entitled to vote at the meeting, the date of the statement, and the full address, ZIP code and telephone number of the applicant.

Item 2. *Revocability of Proxy.*

State that the person giving the proxy has the power to revoke it before the proxy is exercised at the meeting. If the right of revocation is subject to compliance with any formal procedure, briefly describe such procedure. Briefly describe any charter, bylaw or applicable Federal or State law requirements otherwise restricting voting by proxy. State that the proxy is solicited for that meeting, and any adjournment thereof, and will not be used for any other meeting. (See also § 563b.5(d)(3)).

Item 3. *Persons Making the Solicitation.*

(a) State whether the solicitation is made by the management of the applicant. Give the name of any director of the applicant who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and indentify the parties.

(c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. Any such solicitation normally need not respond to Items 5 through 17, but must include such information as to make such solicitations comply with § 563b.5(g)(1).

Item 4. *Voting Rights and Vote Required for Approval.*

(a) Describe briefly the voting rights of each class of association members. State the approximate total number of votes entitled to be cast at the meeting, and the approximate number of votes to which each class is entitled.

(b) As part of the description give the date of record for association members entitled to vote at the meeting.

(c) As to each matter which will be submitted to a vote of association members, state the vote required for its approval.

Item 5. *Directors and Executive Officers.*

(a) List the names and ages of all directors of the applicant, indicate all positions and offices held with the applicant by each such person, state his term of office as director and the period during which he has served as such and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as a director.

(b) List the names and ages of all executive officers of the applicant and indicate all positions and offices held with the applicant by each such person.

Instruction. The term "executive officer" means the president, vice-president, secretary, treasurer, controller, principal accounting officer, any officer in charge of a principal lending or savings function and any other officer or person who performs similar policy making functions for the applicant.

(c) State the nature of any family relationship between any director or executive officer and any other director or executive officer.

Instruction. The term "family relationship" means any relationship, by blood, marriage or adoption, not more remote than first cousin.

(d) Give a brief account of the business experience during the past five years of each director and each executive officer, including his principal occupations and employments during that period and the name and principal business of any corporation or other organization in which such occupations and employments were carried on.

(e) Describe any of the following events which occurred during the past ten years and which are material to an evaluation of the ability and integrity of any director of the applicant:

(1) A petition under the Bankruptcy Act of any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of, such person, or any partnership in which he was a general partner at or within two years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is the subject of a criminal proceeding which is presently pending (excluding proceedings for traffic violations and other minor offenses); or

(3) Such person was the subject of any order, judgment or decree of any court of competent jurisdiction permanently or temporarily enjoining him from acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank or insurance company, or removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of an insured institution, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security, or was the subject of any order of a Federal or State authority barring or suspending, for more than 60 days, the right of such person to be engaged in any such activity, which order has not been reversed or suspended.

Instruction. If any event specified in paragraph (e) has occurred but information in regard thereto is omitted on the ground that it is not material, the applicant shall furnish, as supplemental information and not as a part of the statement the reasons for the omission of information in regard thereto.

(f) State whether control of the applicant has been exercised through the use of proxies and the nature of such control.

Item 6. *Remuneration and Other Transactions with Management and Others.* (See the Note at the beginning of this Form.)

(a)(1) *Current Information.* Furnish the information required in the table below, in substantially the tabular form as specified, concerning all remuneration of the following persons and groups for services in all capacities to the applicant and its subsidiaries during the applicant's last fiscal year:

(i) Each director of the applicant whose aggregate direct remuneration exceeded $40,000, and each of the five highest paid officers of the applicant whose aggregate direct remuneration exceed that amount, naming each such director and officer.

(ii) All directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension or retirement benefits proposed to be paid to the following persons in the event of retirement at their normal retirement dates pursuant to any existing plan provided or contributed to by the applicant or any of its subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1)(i), naming each such person.

(2) All directors and officers of the applicant who are eligible for such benefits, as a group, stating the number of persons in the group without naming them.

(A)	(B)	(C)
Name of individual or number of persons in group	Amount set aside or accrued during applicant's last fiscal year	Estimated annual benefits upon retirement

Instructions. 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors and officers as a group.

3. The information called for by Column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction (2)) where the amount set aside each year depends upon the amount of earnings of the applicant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported in (a) or (b) of this Item) proposed to be made in the future, directly or indirectly, by the applicant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1)(i), naming each such person, and (ii) all directors and officers of the applicant as a group without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If, it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments shall be stated, together with an explanation of the basis for future payments.

(d) State as to each of the following persons who was indebted to the applicant or its subsidiaries at any time during the last three yars, (i) the largest aggregate amount of indebtedness outstanding at any time during such period; (ii) the nature of the indebtedness and of the transaction in which it was incurred, (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the annual percentage rate paid or charged thereon (as computed under 12 CFR Part 226):

(1) Each director or officer of the applicant; and

(2) Each associate of any such director or officer.

Instructions. 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. This paragraph does not apply to amounts due a person for ordinary travel and expense advances and similar transactions.

3. If the loans to such persons (a) are secured by a first lien on a single-family dwelling owned and occupied by a director or officer of the applicant at the time of making the loan and such loan at such time did not exceed the amount then specified in section 5(c) of the Home Owner's Loan Act of 1933, as amended, with respect to single-family dwellings if applicable or (b) are fully secured by a savings account, and if the lender is the applicant, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

4. Computation of the annual percentage rate under paragraph (d)(iv) is to be done as though 12 CFR Part 226 was applicable to the transaction.

(e) Describe briefly any transactions during or since the applicant's last three fiscal years or any presently proposed transactions, to which the applicant or any of its subsidiaries or any borrower from the applicant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

Instructions. 1. No information need be given in response to this Item 6(e) as to any remuneration or other transaction reported in response to Item 6 (a), (b), (c), or (d), or as to any transaction with respect to which information may be omitted pursuant to instructions relating to such Items.

2. No information need be given in answer to this Item 6(e) as to any transaction where—

(a) The transaction involves services as a bank depository of funds, transfer agent, registrar, or similar services;

(b) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $40,000, or $5,000 in the case of transactions giving rise to expenses of the type indicated in Item 8 of Form AC; or

(c) The interest of the specified person arises solely from the ownership of savings accounts of the applicant and the specified person receives no extra or special benefit not shared on a pro rata basis by all savings account holders as a class.

3. It should be noted that this Item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the applicant or its subsidiaries or with any borrower from the applicant or any of its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 6(e) where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) and (2) above, in the aggregate, of less than a ten percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in subparagraphs (1) and (2) above had an interest of less than ten percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the applicant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the applicant, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller.

6. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering paragraph (e) of this Item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this Item.

(f) Describe briefly any transactions during or since the applicant's last three fiscal years or any presently proposed transactions, to which any, retirement or similar plan provided by the applicant or any of its subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director of officer of any subsidiary of the applicant; or

(3) The applicant of any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4 and 5 to Item 6(e) shall apply to this Item 6(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 6(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to this paragraph (f) with respect to—

a. Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

b. Payment of remuneration for services not in excess of five percent of the aggregate remuneration received by the specified person during the applicant's last fiscal year from the applicant and its subsidiaries; or

c. Any interest of the applicant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 7. *Business of the Applicant.*

(a) *Organization.* State the year in which the applicant was organized and whether its present charter was issued by the State or Federal government. Describe briefly any previous conversion of the applicant.

(b) *Selected Statement of Financial Condition and Other Items.* As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts of the following items: (1) total assests, (2) real estate loans outstanding, (3) savings accounts, (4) advances from the Federal Home Loan Bank, (5) other borrowed money, if material, (6) net worth and (7) number of offices indicating any which are less than full service. The applicant may use other substantially similar captions, and may include other items such as number of real estate loans outstanding and number of savings accounts.

(c) *Mergers and Acquisitions.* Indicate in tabular form, any mergers, bulk purchase of assets and similar acquisitions which have occurred in the periods covered by statements of operations required by Item 15(b). With respect to each such acquisition, give names of the association involved, its location, its total assets immediately prior to such acquisition, the number of offices acquired, the method of accounting for such acquisition, and any excess of cost over the net assets acquired (goodwill) included in the latest statement of financial condition. The information provided in this section should be referenced to any appropriate notes to the financial statements required by Item 15.

(d) *Lending Activities.*

(1) Describe briefly applicable Federal and State restrictions on the lending activities of the applicant including applicable laws affecting mortgage loan interest rates. Describe the applicant's general policy concerning loan to value ratios. Describe briefly the applicant's customary methods of obtaining loan originations such as the use of loan consultants and approval of security properties and use of a loan committee, if any. Describe briefly the applicant's policies as to requiring title insurance and fire and casualty insurance on security properties.

(2) As of the end of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amount and percentage of the loan portfolio of the applicant (i) by type of loan and (ii) by type of security.

Instructions. 1. For the classification required by subparagraph (2)(i), separate types of loans into real estate loans for other purposes. Also, separate real estate loans into conventional loans and FHA/VA loans, and conventional loans shall be separated into loans for construction, loans on existing property and loans refinanced.

2. For the classification required by subparagraph (2)(ii), type of security shall be separated into residential and other types. Residential loans shall be separated into single-family dwellings, and other dwelling units. Also, indicate any material classification of other loans such as mobile home loans, home improvement loans, home equipping loans, passbook loans, commercial or industrial loans, and undeveloped land loans.

(3) For each of the periods covered by the statements operations required by Item 15(b), set forth in tabular form the amount for each period of (i) loans originated, (ii) loans purchased, (iii) loans sold, and (iv) total net loan activity. Also describe briefly the applicant's total activity as of the date of the latest statement of financial condition required by Item 15(a), and briefly indicate the applicant's general future intentions with respect to activities in secondary mortgage markets including transactions with the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or mortgage bankers. If significant, indicate loan service fee income as a percentage of gross income for the year ended as of the latest statement of financial condition required by Item 5(a).

Instructions. 1. For the classification required by subparagraph (3)(i), loans originated shall be separated into real estate loans, loans for other purposes, and total loans originated. Real estate loans shall be further separated into conventional loans and FHA/VA loans, and conventional loans shall be separated into loans for construction, loans on existing property, and loans refinanced.

2. For the classification required by subparagraph (3)(ii), loans purchased shall be separated into real estate loans, loans for other purposes, and total loans purchased. Real estate loans shall be further separated into conventional loans and FHA/VA loans.

3. For the classification required by subparagraph (3)(iii), loans sold shall be separated into whole loans, participation loans, and total loans sold.

4. For the classification required by subparagraph (3)(iv), total net loan activity shall be equal to total loans originated plus total loans purchased minus total loans sold.

(4) As to the lending area of the applicant, describe briefly (i) the lending area restrictions applicable to the applicant, (ii) the areas in which the applicant normally lends, and (iii) any material loan concentration areas of the applicant. Such descriptions may include a map illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

(5) Describe briefly the general long term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings and loan associations. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time such loans are outstanding.

(6) As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form, excluding origination fees, discounts and premiums on real estate loans originated, the following: (i) weighted average of return on loans originated and purchased during each period, (ii) weighted average rate of return on loans held at the end of each period, (iii) weighted average interest cost savings at the end of each period, (iv) weighted average interest cost of Federal Home Loan Bank advances and other borrowings during the period, (v) total weighted average interest cost of savings and borrowings for the period (the total of (iii) and (iv)), and (vi) the gross margin ((ii) minus (v)).

Instruction. As an example of the calculation of the weighted average rate, the following method should be used to calculate the weighted average interest rate on savings:

1. Determine the percentage of total savings represented by each type of savings instrument.

2. Multiply these percentages by the contractual interest rate the applicant is committed to pay on such instruments.

3. The resulting percentages are then totalled, giving the weighted rate.

(7) As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form loan origination fees charged to borrowers expressed as a percentage of the total amount of loans originated and net income. In addition, fee income, broken down into its various components including but not limited to GHMA commitment fees, serving fees, loan commitment fees, should all be expressed as a percentage of both gross and net income.

(8) Describe briefly the applicant's method of loan origination fee and discount amortization and the total of such balances deferred by the applicant as of the date of the latest statement of financial condition required by Item 15(a). Describe briefly the normally volatile nature of loan fee income.

(9) Describe briefly the regulatory classifications of scheduled items and the applicant's customary procedures regarding delinquent loans. As of the end of each of the periods covered by the statements of operations required by Item 15(b)(1) and as of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts and categories (slow loans, real estate owned, loans to facilitate, and others) of scheduled items and the ratio of such scheduled items to specified assets and to total assets. Where real estate owned is a significant portion of scheduled items, include a brief description of the major properties included therein and a statement as to the applicant's probable loss, if any, upon disposition of such properties.

(e) *Savings Activities.* (1) As of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts and percentages of savings accounts by categories of interest rate. As to certificates of deposit, indicate the term and minimum balances required for each. As of the date of the latest statement of financial condition required by Item 15(a), set forth in tabular form the amounts of such certificates maturing by quarter during the three years following such date and the total maturing thereafter, the percentage of such amounts to total savings.

(2) Describe the applicant's methods of computing and paying interest for both passbook savings accounts and certificates of deposit. State that the maximum rate of interest which the applicant may pay is established by the Board. State that in the event of liquidation of the applicant after conversion, savings account holders will be entitled to full payment of their accounts prior to payment to shareholders. Also, indicate the percentage of total savings accounts which are from out-of-state sources, if such total is significant.

(f) *Insurance of Accounts.* (1) Describe briefly insurance of accounts and the general regulatory authority of the Corporation.

(2) Describe briefly the Federal insurance reserve requirements, the results of failure to meet those requirements, and the applicant's Federal insurance reserve account position in relation to those requirements. Also describe the annual insurance premium payment and prepayment requirements.

(g) *Federal Home Loan Bank System.* (1) Describe briefly the Federal Home Loan Bank System and state that the applicant is a member. Such description shall include (i) limitations on borrowings, (ii) recent loan policies of the applicant's Federal Home Loan Bank and current interest rates, and (iii) Federal Home Loan Bank stock purchase requirements and the applicant's position with respect to those requirements.

(2) Describe briefly applicable liquidity requirements under section 5A of the Federal Home Loan Bank Act, as amended, the regulations thereunder, and State law. State the applicant's position with respect to those requirements.

(h) *State Savings and Loan Association Law.* If the applicant is converting to a State-chartered stock association, describe briefly applicable provisions of State law which have a material effect on the business of the applicant.

(i) *Federal and State Taxation.* Describe briefly the Federal income tax laws applicable to the applicant including (1) permissible bad debt reserves, (2) the applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under Item 15(a), (3) future increases in the effective income tax rate, (4) the date through which the applicant's Federal income tax returns have been audited by the Internal Revenue Service, and (5) the tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.

(j) *Competition.* Describe the material sources of competition for savings and loan associations generally and indicate to the extent practicable the applicant's position in its principal lending and savings markets.

Instruction. In answering Item 7(j) give to the extent known the association savings and mortgage product market shares by county in its geographic market. Also indicate its rank and any material changes or trends in its competitive standing.

(k) *Office and Other Material Properties.* (1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all such offices as of the date of the latest statement of financial condition required by Item 15(a). If any such office is leased, state the expiration dates of such leases.

(2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic data processing equipment principally for its own use, describe briefly such equipment indicating net book value if owned or the principal lease terms if leased.

(l) *Employees.* State the number of persons employed fulltime by the applicant including executive officers listed under Item 5. State whether employees are represented by a collective bargaining group and whether the applicant's relations with its employees is satisfactory. Summarize briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to Item 6.

(m) *Service Corporations.* Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary which are material to its operations.

(n) *Pending Legal Proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the applicant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underly the proceeding, the relief sought and counsel's opinion as to the merits of the applicant's position in each such matter. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(o) *Additional Information.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of any of the information required by this Item or the furnishing is substitution therefor of appropriate information of comparable character. The Corporation may also require the furnishing of other information in addition to, or in substitution for, the information required by this Item in any case where such information is neces-

sary or appropriate for an adequate description of the applicant's business done or intended to be done.

Item 8. Description of the Plan of Conversion.

(a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Item: The Federal Home Loan Bank Board has given approval to the plan of conversion, subject to its approval by association members and the satisfaction of certain other conditions. However, such Board approval does not constitute a recommendation or endorsement of the plan by the Board.

(b) The proxy statement shall contain a description of the plan of conversion. Such description shall contain the information required by paragraphs (c) through (j) of this Item and such additional information as may be necessary to accurately describe the material provisions of the plan.

(c) Briefly describe the effects of conversion from a mutual institution to a stock institution including the following information: (1) state that savings accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of insurance of savings accounts by the Corporation; (2) state whether savings and borrowing members of the applicant will continue to have voting rights in the applicant after conversion, and describe any voting rights they will have; (3) state the present liquidation rights of account holders and describe the liquidation account to be established and maintained by the applicant, including the conditions under which such account will be paid, the interest of eligible account holders and supplemental eligible account holders in such account and the formula by which such account will be adjusted; (4) state that the rights and obligations of borrowers from the applicant will not be changed in any manner; (5) state that capital stock to be sold by the applicant will not be insured by the Corporation; (6) state that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident thereto; and (7) state briefly the reasons why management is recommending the conversion, including any advantages to the community served by the applicant.

(d) With respect to the subscription offering, furnish the following information: (1) the formula to be used for determining the subscription rights of account holders to purchase shares pursuant to § 563b.3(c) (2), (4), and (5); (2) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of capital stock including the purchase priorities, limitation on total purchases, the total number of shares which may be purchased, and the formula for their allocation; (3) the allocation formulas to be used in the event that there is an oversubscription of shares at any time during the sale of stock under the plan of conversion; and (4) the use and timing of the order forms with respect to the subscription offering.

(e)(1) Set forth on a per share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion; (2) state that the public offering price will be the pro forma market value of such shares based on an independent valuation; (3) state that all of the shares are required to be sold; and (4) describe briefly the results of the appraisal of the association made by an independent appraiser for the purpose of determining the estimated price range.

(f) Discuss (1) the earnings per share on a pro forma basis of the capital stock to be sold as of the end of the most recent period covered by the statements of operation required by Item 15(b)(1); and (2) the book value per share on a pro forma basis as of the date of the latest statement of financial conditions required by Item 15(a).

Instruction. Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock, and then after giving effect to such proceeds with all assumptions used clearly stated.

(g) With respect to the subscription offering, state the proposed commencement and expiration dates of the subscription period and describe any provisions in the plan of conversion related to the timing of the subscription offering or extension of the subscription period. Also, state (1) that a maximum subscription price will be set forth in the offering circular used for the subscription offerings; (2) that the actual subscription price will be the public offering price; (3) that the actual subscription price will not exceed the maximum subscription price shown on the order form; and (4) that any difference between the maximum and actual subscription prices will be refunded.

(h) Furnish the following information: (1) state that the converted insured institution will enter into an agreement with the Corporation in accordance with § 563b.3(i) and briefly described the material terms of such agreement; (2) describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future; (3) describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferable subscription rights to purchase capital stock in the conversion, and (4) state that the plan of conversion is attached as an exhibit to the proxy statement and should be consulted for further information.

(i)(1) State whether the plan of conversion provides for the capital stock not purchased in the subscription offering to be offered to the public through underwriters or directly by the converting institution. If such is the case, provide the information to the extent known required by Item 6 of Form OC and indicate the estimated timing of the proposed offering. (2) State whether the plan of conversion provides for the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the subscription offering or the public offering.

(j) Furnish the following information in tabular form regarding proposed purchases of capital stock involving directors and officers of the applicant:

(1) State the total number of shares proposed to be purchased by all officers, directors and their associates as a group without naming them.

(2) As to each officer and director named in Item 6(a)(1)(i), name him, state his position, and the number of shares proposed to be purchased by him.

(3) As to any officer, director or associate thereof who proposes to purchase 1 percent or more of the total number of shares of capital stock of the applicant to be outstanding, name him, state his position, and the number of shares proposed to be purchased by him.

(4) With respect to the information required by (1), (2) and (3) above, indicate separately the number of shares proposed to be purchased in each offering category.

Instruction. With respect to the information requested as to associates of officers and directors such information is required only to the extent known. In a case where such confirmation is not obtainable, only the number of shares which the associate is given subscription rights to purchase need be disclosed.

Item 9. Description of Capital Stock.

(a) Furnish the following information concerning the capital stock of the applicant to be sold upon conversion:

(1) Outline briefly (i) dividend rights and restrictions; (ii) voting rights; (iii) liquidation rights; (iv) pre-emptive rights; (v) liability to further calls or to assessment by the applicant; and (vi) other material provisions.

(2) If the rights of holders of such capital stock may be modified otherwise than by a vote of a majority or more of the capital stock outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of, and payment of dividends on, capital stock, or any part thereof, by the applicant.

Instructions. 1. This Item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the capital stock will be materially limited or qualified by the rights of savings account holders or borrowers, include such information regarding such limitation or qualification as will enable investors to understand the rights evidenced by the capital stock.

(b) An undertaking should be included in the proxy statement that the applicant where practical will use its best efforts to encourage and assist a professional market maker in establishing and maintaining a market for the capital stock of the applicant.

(c) Outline briefly the trading market that is expected to exist for the capital stock following the conversion including the estimated number of market members and stockholders, and the anticipated success of the applicant in listing the stock.

Instructions. Any discussion of the listing of the applicant's stock should include the basic requirement that must be met for such listing.

Item 10. Capitalization.

Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant:

	(A) Capitalization as of latest statement of condition date	(B) Adjustments as a result of conversion	(C) Pro-forma capitalization after giving effect to the conversion
1. Saving accounts	$	$	$
2. FHL bank advances			
3. Subordinated debt securities			
4. Other borrowings			
5. Capital stock			
6. Paid in capital			
7. Undivided profits			
8. Federal insurance reserve			
9. Other reserves			
10. Total			

Instructions. 1. With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.

2. With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained and in a footnote state the price per share used in making such estimate. Such total amount and price per share shall be clearly identified as being estimates.

Item 11. Use of New Capital.

State the principal purposes for which the net proceeds to the applicant from the capital stock to be sold are intended to be invested or otherwise used, and the approximate amount intended for each such purpose.

Instruction. Details of proposed investments are not to be given. There need be furnished, for example, only a brief statement of any investment or other activity of the applicant which will be affected materially by availability of the proceeds. Examples of such activities may include expanded secondary market activities, larger scale lending projects, loan portfolio diversification, increased liquidity investments, repayment of debt, additional branch offices and other facilities, service corporation investments, and acquisitions.

Item 12. Stock Option Plan.

If action is to be taken with respect to the granting to officers and employees of any stock options to purchase capital stock of the applicant to take effect after conversion, furnish the following information:

(a) State (1) the title and number of shares to be called for by such options; (2) the prices, expiration dates and other material conditions upon which the options may be exercised; (3) the consideration to be received by the applicant for the granting of the options and (4) the Federal income tax consequences of the issuance and exercise of such options to the recipient and to the applicant.

(b) State separately the amount of options to be received by the following persons, naming each such person: (1) each director or officer named in answer to Item 6(a)(1)(i); (2) each associate of such directors or officers; and (3) each other person who is to receive five percent or more of such options to be received by all directors and officers of the applicant as a group, without naming them.

(c) Furnish such information, in addition to that required by Item 6, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 6(a)(1)(i) who may participate in the stock option plan to be acted upon; (ii) all directors and officers of the applicant as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions. The term "plan" as used in paragraph (c) of this Item means any plan as defined in Instruction 1 to Item 6(b).

State whether the adoption of any stock option or purchase plan is contemplated following the completion of the conversion. If so, indicate the material terms of the proposed plan.

Item 13. New Charter, Bylaws or Other Documents.

Describe briefly any material differences between the provisions of existing charter, bylaws and any similar documents of the applicant and those which will take effect after conversion, including, if applicable, the optional charter provision provided for in § 563b.3(i)(3).

Instruction. This Item requires only a brief summary of the provisions which are pertinent from both an investment standpoint and a voting standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions verbatim; only a succinct resume is required.

Item 14. Other Matters.

State that the applicant will register its capital stock under section 12(g) of the Securities Exchange Act of 1934, as amended, and that it will not deregister such stock for a period of three years. It should be noted that upon such registration the proxy rules, insider trading reporting and restrictions, annual and periodic reporting and other requirements of that Act will be applicable.

Item 15. Financial Statements.

Notes: 1. The following instructions specify the statements of financial condition, the statement of operations and statements of stockholders' equity required to be included in the proxy statement. Section 563c.1 governs the certification, form and content of such financial statements including the basis of consolidation.

2. If the applicant has previously used an audit period in connection with its certified financial statements which does not coincide with its fiscal year, such audit period may be used in place of any fiscal year requirement provided it covers a full twelve months' operations and is used consistently.

3. To enable investors to understand and evaluate material periodic changes in the various items of the statement of operations a separately captioned section (entitled "Management's Discussion and Analysis of the Statement of Operation) immediately following such statement of operation should include a statement explaining (1) material changes from period to period in the amounts of the items of revenues and expenses, and (2) changes in accounting principles or practices or in the method of their application that have a material effect on net income as reported. The purpose of this statement is to provide investors with management's analysis of the financial data included in the statement of operation through a discussion of the causes of material changes in the items of the statement of operation and of disclosure of the dollar amount of each such change and the effect of each such change on the reported results for the applicable periods. This discussion is necessary to enable investors to compare periodic results of operations and to assess the source and probability of recurrence of earning (losses). The analysis should include a discussion of material facts, whether favorable or unfavorable, which, in the opinion of management, may make historical operation or earnings as reported in the statement of operations not indicative of current or future operations or earnings.

(a) In general, the discussion of material periodic changes should be limited to: (1) the latest interim period presented and the comparable interim period in the immediately preceding fiscal year; (2) the most recent fiscal year presented and the fiscal year immediately preceding it; and (3) the second most recent fiscal year presented and the fiscal year immediately preceding it. There may be circumstances, however, under which an explanation of revenue or expense item changes between two or more of the earlier periods of the five year summary may be material to an understanding of the summary. Further, to better explain revenue and expense items changes for interim periods it may be necessary to give an analysis of changes between consecutive fiscal quarters.

(b) While it is not feasible to specify all subjects which should be covered in the discussion and analysis of the statement of operation, the following are examples which applicants should consider in making disclosure:

1. Material changes in the revenues generated by types of operation:

2. Material changes in the line items contained in the statement of operations;

3. Material changes in advertising, promotion or other discretionary costs;

4. The acquisition or disposition of a material asset other than in the ordinary course of business;

5. Material and unusual charges or gains, including credits or charges associated with discontinuation of operations;

6. Material changes in assumptions underlying deferred costs and/or income and the plan for amortization of such costs or income;

7. Material changes in the associations categorized or nonproductive, slow loans or scheduled items;

8. Material changes of any kind in the statements of condition and/or operations of a subsidiary; and

9. Material concentration of loans made to one or more borrowers.

(c) The textual analysis should be presented in a manner that will best communicate the significant elements necessary to a clear

understanding by the investor of the financial results. Favorable as well as unfavorable trends and changes should be discussed. Tables and charts may be used where appropriate. A mechanistic approach to this analysis which uses boiler plate or mere notation of percentage change by classification or line item should be avoided.

(d) A discussion of a change in an item of revenue or expense generally is required when an item required to be set forth in the statement of operations or disclosed pursuant to Section 563c.7(a) through (v) increased or decreased by more than 10% as compared to the prior period (but only if such prior period is presented), and increased or decreased by more than 2% of the average net income or loss for the most recent three years presented. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent years, the average loss shall be used for purposes of this test. Should the applicant be of the opinion that an explanation of a change is not necessary to an understanding of the statement of operations even though the change meets the foregoing standards, the applicant shall furnish the Corporation, as supplemental information, a written statement of the reasons for the omission.

(e) Notwithstanding the fact that a change in an item of revenue or expense does not meet the standards set forth in paragraph (d) it should be discussed if the applicant believes an explanation of such a change is necessary to an understanding of the statement of operations.

(f) When the text of the proxy statement or offering circular contains a discussion of factors indicating a material change in operating results, whether favorable or unfavorable subsequent to the latest period included in the statement of operations the management discussion and analysis should call attention to the change and refer to the place in the proxy statement or offering circular where it is discussed.

(a) *Statements of Financial Condition of the Applicant.* (1) Furnish certified statements of financial condition as of the close of the applicant's latest fiscal year and as of the close of the preceding fiscal year. (2) If the latest statement furnished under (1) is in excess of 120 days from the date of filing of the application for conversion, or any amendment thereto, furnish an additional statement of financial condition as of a date within 120 days of such filing. This additional statement need not be certified.

(b) *Statements of Operations and Statement of Stockholders' Equity.* Furnish in comparative columnar form statements of operations and statements of stockholders' equity of the applicant (1) for each of the five fiscal years preceding the date of the statement of financial condition as of the close of the applicant's latest fiscal year filed under paragraph (a) and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the statement of financial condition filed under paragraph (a). Furnish a statement of operations for the period comparable to (b)(2) in the immediately preceding fiscal year. Statements for the three latest fiscal years under (b)(1) shall be certified.

Instructions. 1. Reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the proxy statement. Include comparable data for any additional fiscal years necessary to keep the statements from being misleading. The statements shall reflect the retroactive adjustment of any material items affecting the comparability of the results.

2. In connection with capital stock sold pursuant to the plan of conversion, the statements shall reflect earnings that would have been applicable to such outstanding stock.

(c) *Statements of Changes in Financial Position.* Furnish certified statements of changes in financial position (1) for each of the three fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a) and (2) furnish a statement for the period if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a). This additional statement need not be certified.

(d) *Omission of Applicant's Statements in Certain Cases.* Notwithstanding paragraphs (a), (b), and (c), the individual financial statements of the applicant may be omitted if (1) the conditions specified in either of the following paragraphs are met, and (2) the Corporation is advised as to the reasons for such omission.

(1) The applicant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(2) The applicant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85% or more of the total assets shown by the consolidated statement of financial condition filed and the applicant's total gross revenues for the period for which its statements of operations would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85% or more of the total gross revenue shown by the consolidated statements of operations filed.

(e)(1) *Consolidated Statements.* Furnish consolidated statements for the same periods and as of the same dates as would be required for the applicant. These statements shall be certified as would be required for the applicant's statements. (Paragraphs (a), (b), and (c) above).

(2) *Unconsolidated Subsidiaries and Other Persons.* Subject to 563c.1(q)(2) regarding group statements of unconsolidated subsidiaries, there shall be set forth for each majority-owned subsidiary of the applicant not consolidated the financial statements which would be required if the subsidiary were itself an applicant. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the applicant.

(3) *Fifty-Percent-Owned Persons and Other Persons.* If the applicant owns directly or indirectly approximately 50 per cent of the voting securities of any person and approximately 50 per cent of the voting securities of such person is owned directly or indirectly by another single interest, or if the applicant takes up the equity in undistributed earnings of any other unconsolidated person, there shall be set forth for each such person the financial statements which would be required if it were an applicant, subject to 563c.1(q)(2) regarding group statements. The statements set forth for each person shall identify the other single interest, or other interests in any person operated jointly.

(4) *Omission of Statements Required by Paragraphs (2) and (3).* Notwithstanding paragraphs (2) and (3), there may be omitted from the proxy statement all financial statements of any one or more unconsolidated subsidiaries or 50-percent-owned persons or other persons: (1) if all such subsidiaries and 50-percent-owned and other persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary; or (2) if the income from the subsidiary reported by the applicant does not exceed 10 per cent of the consolidated net income for the latest

(f) *Special Provisions.* (1) *Succession to Other Business.* (i) If during the period for which its statements of operations are required, the applicant has by merger, consolidation or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the statements of financial condition set forth. In addition, statements of operations for each constituent business, or combined statements if appropriate, shall be set forth for such period prior to the succession as may be necessary when added to the time, if any, for which statements of operations after the succession are set forth to cover the equivalent of the period specified in paragraph (a), (b), and (c) above.

(ii) If the applicant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined, if appropriate, which would be required by these instructions. In addition, there shall be set forth a statement of financial condition of the applicant giving effect to the plan of succession. These statements of financial condition shall be set forth in such form, preferably columnar, as will show in related manner the statements of financial condition of the constituent business, the changes to be effected in the succession and the statement of financial condition of the applicant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(iii) This subparagraph (1) shall not apply with respect to the applicant's succession to the business of any totally-held subsidiary, or to the acquisition of one or more businesses by purchase if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(2) *Acquisition of Other Businesses.* (i) There shall be set forth for any business directly or indirectly acquired by the applicant after the date of the statement of financial condition set forth pursuant to paragraph (a) and for any business to be directly or indirectly acquired by the applicant, the financial statements which would be required if such business were an applicant.

(ii) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(iii) No financial statements need be set forth pursuant to this subparagraph (2), however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more businesses may be omitted if such business-

es, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(g) *Filing of Other Statements in Certain Cases.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Corporation may also require the inclusion of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of account holders and others.

(h) *Historical Financial Information.* (1) *Applicability of Paragraph (h).* The information required by this paragraph (h) shall be included in the proxy statement if in the opinion of the applicant it is material to the understanding of its financial condition. If the applicant determines to omit the information required by this paragraph, it shall file with its application for conversion a statement briefly explaining such omission.

(2) *Scope of Paragraph (h).* The information required by paragraph (h) shall be furnished for the seven-year period preceding the period for which statements of operations are set forth, as to the accounts of each person whose statement of financial condition is set forth. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Paragraph (h) does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to account holders and others.

(3) *Revaluation of Property.*

(i) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (*a*) in what year or years such revaluations were made; (*b*) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (*c*) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(ii) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering on the books current values, reproduction cost or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(4) *Other Changes in Surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration of payment of dividends, state (i) the year or years in which such increases or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Paragraph (3)(iii) shall also apply here.

(5) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the applicant from the beginning of the period to that date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(6) *Omission of Certain Information.*

(i) No information need be furnished as to any subsidiary whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the applicant or of the predecessor for which information is required above.

(ii) No information need be furnished to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in paragraph (3) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

Item 16. Consents of Experts and Reports.

(a) The proxy statement shall briefly describe all consents of experts filed pursuant to section 563b.8(p).

(b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.

Instruction. The instruction to Item 13 shall apply to paragraph (a) of this Item.

Item 17. Attachments.

There shall be attached to the proxy statement distributed to association members and others a copy of the applicant's plan of conversion as approved by the Corporation. There may also be attached to such statement a copy of any stock option plan described under Item 12.

FORM OC

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation

1700 G Street, N.W.

Washington, D.C. 20552

Offering Circular

(Exact name of Applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)

OFFERING CIRCULAR FORM

Item 1. *Information Required by and use of Form OC.*

The offering circular shall be dated as of the date of its issuance. The offering circular shall contain substantially the same information required to be included in the proxy statement of the applicant distributed to association members to vote upon the plan of conversion. Information of the type required to be included in the proxy statement may be omitted from the offering circular only to the extent that it is clearly inapplicable. The offering circular may be in "wrap around" form with the proxy statement attached.

Instructions 1. The term "offering circular" refers to both the offering circular for the subscription offering and the offering circular for the public offering through an Underwriter or the direct community marketing by the converting insured institution of the unsubscribed shares, unless otherwise indicated.

2. The offering circular shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel, by interpretive release or otherwise, has deemed necessary to comply with this Form OC.

3. An offering circular for the subscription offering in "wrap around" form distributed to association members and other persons who have previously been furnished a copy of the proxy statement need not contain the proxy statement as an attachment provided such offering circular states that a copy of the proxy statement has previously been furnished to such persons and that an additional copy thereof will be furnished promptly upon request to the applicant (with the telephone number and mailing address of the applicant stated).

Item 2. *Additional Current Information Required.*

The final offering circular for the subscription offering, the preliminary offering circular for the public offering or the direct community marketing used during the subscription period and the final offering circular for the public offering or the direct community marketing shall as of their respective dates of issuance include, to the extent available, the following additional current information to the extent that such information is not already included in the proxy statement:

(a) Information with respect to the vote of association members upon the plan of conversion and any other proposals considered at the meeting of members;

(b) Information with respect to any recent material developments in the business or affairs of the applicant;

(c) Information with respect to the trading market that is expected to exist for the capital stock following the conversion.

(d) Information, on the outside front cover page, summarizing the results of the subscription offering including the number of shares sold to eligible account holders, voting members and others, the price at which the shares were sold, and the number of unsubscribed shares.

(e) Any other information necessary to make such offering circular current, including full financial statements of the applicant within six months prior to the date of issuance of such offering circular.

Item 3. *Statement Required in Offering Circulars.*

There shall be set forth on the outside cover page of every offering circular the following statement in capital letters printed in bold-face Roman type at least as large as ten-point modern type and at least two points leaded:

THESE SHARES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE FEDERAL HOME LOAN BANK BOARD OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION NOR HAS SUCH BOARD OR CORPORATION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

Item 4. *Preliminary Offering Circular.*

The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of such offering circular.

"This offering circular has been filed with the Federal Savings and Loan Insurance Corporation, but has not been authorized for use in final form. Information contained herein is subject to completion or amendment. The shares covered hereby may not be sold nor may offers to buy be accepted prior to the time the offering circular is declared effective by the Federal Savings and Loan Insurance Corporation. This offering circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these shares in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State."

Item 5. *Information with respect to Subscription Offering.*

The offering circular used for the subscription offering shall describe all material terms of the subscription offering to the extent that such description is not already in the proxy statement. Such terms include the expiration date, any subscription agent, method of exercising subscription rights, payment for shares, delivery of stock certificates for shares purchased, maximum subscription price, possible reduction of subscription price, relationship of subscription price to public offering price, requirement that all unsubscribed shares be sold, and any other material conditions of the subscription offering.

Item 6. *Information With respect to Public Offering or Direct Community Marketing.*

The offering circular for the subscription offering and the offering circular for the public offering or direct community marketing shall both describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock not purchased by account holders or others pursuant to the subscription offering to the extent such description is not already in the proxy statement, including the following:

(a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this paragraph. In the case of the offering circular for a public offering, such information shall be given in substantially the tabular form set forth below. In the case of the offering circular for the subscription offering, and the direct community marketing such information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

	Price to public	Underwriting discounts and commissions	Proceeds to applicant
Per share	$	$	$
Total	$	$	$

(b) An offering circular for a public offering or direct community marketing may omit the description for the subscription offering required by Item 5.

(c) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offering shall state the names of the principal underwriters and the respective amounts underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering. Both offering circulars shall identify each principal underwriter having a material relationship to the applicant and state the nature of the relationship. Both underwriting circulars shall state briefly the nature of the underwriters' obligation to take the unsubscribed shares.

(d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. Such information may be omitted from the offering circular for the subscription offering.

(e) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. Such information may be omitted from the offering circular for the subscription offering.

Instructions. 1. Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.

2. Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

3. All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the shares if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such shares as they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs", need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.

(f) If the unsubscribed shares are to be sold by the converting insured institution by direct community marketing, indicate the timing of the offering, the geographical area wherein the offering will be made, the method to be employed to market the shares including the frequency and nature of communications or contacts with potential purchases, any preferences that will be given any such geographical area or class of potential purchasers and the limitations on purchases by potential purchaser.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-9579 Filed 3-28-79; 8:45 am]

federal register

THURSDAY, MARCH 29, 1979

PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

BILINGUAL EDUCATION

Interim Final Regulations and Notices of Closing Dates for Grant Applications for Fiscal Year 1979

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 123—BILINGUAL EDUCATION

Interim Final Regulations

AGENCY: Office of Education, HEW.

ACTION: Interim Final Regulations.

SUMMARY: The Commissioner amends existing regulations for the purpose of governing awards under the Bilingual Education Act made in fiscal year 1979. The amendments implement changes made by the Education Amendments of 1978. These interim final regulations are necessary because it is not possible to use regular procedures for proposed rulemaking and still make awards on a timely basis.

EFFECTIVE DATE: These interim final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these interim final regulations, call or write the Office of Education contact person.

ADDRESSES: Any comments or questions concerning these interim final regulations should be addressed to Ms. Barbara Wells, U.S. Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202. Telephone: 202-447-9273.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Wells, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: 202-447-9273.

SUPPLEMENTARY INFORMATION:

WAIVER OF PROPOSED RULEMAKING PROCEDURES

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), it has been the practice of the Office of Education to offer interested parties the opportunity to review and comment on proposed regulations. For the reasons described in the following paragraphs, the use of this practice in connection with these interim final regulations is impracticable and contrary to the public interest under 5 U.S.C. 553(b).

Regulations needed to implement changes in the Bilingual Education Act made by the Education Amendments of 1978 must become effective in time to make awards in fiscal year (FY) 1979. The use of regular procedures for proposed rulemaking would involve a substantial delay in the effective date of the regulations resulting from: (1) The period for public comment, and (2) a further period for the review of any comments received and preparation, clearance, and publication of regulations in final form.

Given these considerations, the Commissioner has determined that final regulations would not be in effect in time to govern timely awards for assistance for the coming school year if regular procedures for proposed rulemaking were used. As a result, these regulations are being published as interim final regulations. They govern only FY 1979 awards.

More comprehensive amendments to the regulations will be developed to govern awards in FY 1980 and subsequent years. The Commissioner will use regular procedures for proposed rulemaking in preparing those amendments.

While the interim final regulations are issued as a final rule, comments on them are welcomed. These comments will be considered in developing the comprehensive amendments to the regulations for FY 1980. In addition, if the comments indicate that provisions of these interim final regulations are substantially incorrect in their direction, the Commissioner may make changes in these interim final regulations to govern awards for 1979.

SCOPE OF INTERIM FINAL REGULATIONS

Awards made in FY 1979 will be based on the existing program regulations (45 CFR Parts 123 *et seq.*) subject to—

1. Amendments to the Bilingual Education Act enacted by the Education Amendments of 1978; and

2. Amendments to the existing regulations contained in this document.

A number of the statutory changes are self-explanatory and do not require the development of regulations for FY 1979. The major self-explanatory statutory changes affecting grants that will be awarded this year are listed under Heading I. Amendments to the existing regulations needed to implement changes in the statute for FY 1979 are listed under Heading II. The application package will contain a modified version of the existing regulations reflecting both the self-explanatory changes and the amendments to the regulations.

I. SELF-EXPLANATORY STATUTORY CHANGES

The following major changes to the Bilingual Education Act ("the Act") were enacted by the Education Amendments of 1978 and are referred to as the self-explanatory statutory changes. These changes will be implemented without the development of regulations for FY 1979.

A. The statute defines a program of bilingual education as a program of instruction in elementary or secondary schools designed for children of limited English proficiency. The program shall include instruction given in, and the study of, English. The native language of the children of limited English proficiency shall be used to the extent that is necessary to allow these children—

1. To achieve competence in the English language; and

2. To progress effectively through the educational system.

The program's instruction shall be given with appreciation for the cultural heritage of children of limited English proficiency and of other children in American society.

B. All references in the statute to "children of limited English speaking ability" are replaced by references to "children of limited English proficiency." The term "limited English proficiency," as defined by the statute, refers to individuals who have sufficient difficulty speaking, reading, writing, or understanding the English language to deny them the opportunity to learn successfully in classrooms in which the language of instruction is English. These individuals are of limited English proficiency if they—

1. Were not born in the United States or their native language is a language other than English; or

2. Come from environments where a language other than English is dominant; or

3. Are American Indian or Alaskan Native students and come from environments where a language other than English has had significant impact on their level of English language proficiency.

C. In order to prevent the segregation of children on the basis of national origin, the statute provides that a program of bilingual education may include the participation of children whose language is English. These children may not make up more than 40 percent of the children in the program and participate in the program in order to assist children of limited English proficiency improve their English language skills. The program may provide for centralization of teacher training and curriculum development, but the program shall serve the children in the schools that they normally attend.

D. The statute provides that parents of children participating in a program of bilingual education shall be informed of—

1. The instructional goals of the program; and

2. The progress of their children in the program.

E. The statute provides that the Commissioner may not issue a termination order to a local educational agency (LEA) under the following circumstances:

1. The LEA shows adequate progress in meeting the goals of the Act and demonstrates it is fiscally unable to provide a bilingual education program without assistance; and

2. The LEA meets one of the following requirements:

a. The number of children of limited English proficiency participating in the program is substantial; or

b. There has been a recent, substantial increase in the number of children of limited English proficiency enrolled in the program; or

c. The LEA is required to comply with a court order or a plan approved by the Secretary of Health, Education, and Welfare under Title VI of the Civil Rights Act of 1964 regarding services to be provided for children of limited English proficiency.

3. In issuing a termination order, the Commissioner—

a. Determines—after giving the LEA notice and opportunity for a hearing—that a school or group of schools does not have a long-term need for continued assistance.

b. Issues a termination order requesting the LEA to submit, within one year, an application setting forth a schedule under which the school or group of schools will stop receiving assistance in five years.

c. Provides the LEA with an opportunity to request the Commissioner to review the termination order within 60 days of its issuance.

d. Reduces the amount made available for the third, fourth, or fifth year of the project to ensure that the LEA gradually assumes the cost of the project.

e. Annually reviews the conditions in the school(s) for which a termination order was issued.

f. Withdraws the termination order if changed conditions warrant withdrawal.

4. A project approved for multi-year funding prior to October 1, 1978 may continue to receive funds for the duration of the project.

F. The statute provides that an application for a grant for a bilingual education program may be approved only if the Commissioner determines that—

1. The program of bilingual education will use the most qualified personnel, including, to the extent possible, only those personnel who are proficient both in English and in the language of instruction;

2. The program includes a plan for evaluation;

3. In designing the program, the applicant has taken into account the needs of private school children by—

a. Consulting with private school officials; and

b. Providing for the participation of private school children in the program if their educational needs, language, and grade levels are similar to those of the public school children to be served.

The services provided these private school children shall be comparable to the services provided public school children.

4. The assistance will help build the applicant's capacity to provide a program of bilingual education on a regular basis. That program shall be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency;

5. The applicant will have sufficient resources and commitment to continue the program of bilingual education when Federal assistance is reduced or no longer available;

6. The program will—

a. Serve those children most in need of assistance;

b. Provide measurable goals for determining when these children no longer need assistance. This shall include individual evaluations every two years for children enrolled in the program; and

c. Provide follow-up services from State and local sources to sustain the academic achievement of children after they leave the program.

G. The statute provides that an application for a project or activity under part A of the Act may be approved only if the Commissioner determines that—

1. Federal funds will be used to supplement, and not supplant, State and local funds that would have been expended for special programs for children of limited English proficiency in the absence of Federal funds. However, the statute states that nothing in this provision precludes an LEA from using funds under the Act to carry out activities under a court order or a plan approved by the Secretary of Health, Education, and Welfare as meeting the requirements of Title VI of the Civil Rights Act of 1964 with respect to services to children of limited English proficiency; and

2. To the extent possible, personnel recruited and employed to carry out projects and activities under the Act will be bilingual.

H. The statute provides that programs of bilingual education in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed to meet the needs of—

1. Children of limited English proficiency; and

2. Children of limited Spanish proficiency.

I. The statute provides that an LEA's application may cover a project period of from one to three years. The length of time for which it is approved shall be based on—

1. The severity and likely duration of the problems addressed by the program; and

2. The nature of the proposed activities.

J. The statute provides that an LEA that has had a project approved for a period of more than one year need not submit another application for that project until that period has expired, unless it proposes to carry out new activities. After the first year of the project period, the Commissioner continues the funding only if—

1. Sufficient appropriations are available;

2. The LEA is still eligible for assistance; and

3. The LEA demonstrates that satisfactory progress is being made toward meeting the objectives of the program.

K. The statute provides that if an applicant is unable or unwilling to provide for the participation of children of limited English proficiency enrolled in nonprofit private schools in the area to be served, the Commissioner shall either—

1. Withhold approval of the application until the applicant demonstrates that it will provide for their participation in the program; or

2. Reduce the amount of the grant. The reduction shall be equal to the amount required to arrange to assess the needs of nonprofit private school children for a program of bilingual instruction and to carry out that program.

L. The statute defines "eligible applicants" for the purposes of section 723 of the Act (relating to all training activities, including training resource centers) as—

1. Institutions of higher education and nonprofit private organizations that apply jointly or after consultation with one or more LEAs or a State educational agency (SEA);

2. LEAs; and

3. SEAs.

II. Amendments to Existing Regulations

Provisions of the Education Amendments of 1978 that are not self-ex-

planatory and require regulations in FY 1979 follow:

A. The statute requires that an applicant establish both an advisory council and an advisory committee.

1. Advisory Council:

The advisory council shall have a majority of parents and other representatives of children of limited English proficiency. The council's role is to advise applicants during the preparation of the application. The applicant shall describe how the council members were selected. The council shall comment on the application and document the extent to which it was consulted.

2. Advisory Committee:

The advisory committee shall have a majority of parents of children of limited English proficiency. The committee's role is to participate in the implementation and operation of the program. The committee shall be selected by parents of participating children.

B. The statute provides that before approving an LEA's application the Commissioner shall determine that adequate funds will be spent for auxiliary and supplementary training under a basic program.

In order for the Commissioner to determine that adequate funds are provided for, the regulations require an LEA to conduct a needs assessment of its staff and to submit to the Commissioner a comprehensive staff development plan addressing the needs.

C. The statute provides that the Commissioner shall prescribe the authorized training activities for the basic program (subpart B of the regulations) and for the training program (subpart D). The regulations list the type of training activities that are authorized.

D. The statute provides that the Commissioner shall prescribe activities which satisfy the work requirement under the fellowship program. The regulations list the type of activities that are authorized to satisfy the work requirement.

E. The regulations also contain—

1. Procedures for paying back assistance if a fellowship recipient does not work in an authorized activity; and

2. Circumstances under which the Commissioner will grant a waiver or a deferment of the repayment requirement.

F. Some requirements in the Education Amendments of 1978 that are self-explanatory and for which no new regulations have been written are the basis for additional criteria for assistance. These additional criteria are included in the new regulations. The requirements on which they are based are listed in paragraphs F and G under Heading I.

CITATION OF LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of these interim final regulations has been placed in parentheses on the line following the text of the section.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: February 2, 1979.

JAMES PICKMAN,
Acting U.S. Commissioner of Education.

Approved: March 18, 1979.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 123 of Title 45 of the Code of Federal Regulations is amended as follows:

* * * * *

1. The table of contents is amended by adding an entry for new § 123.35 and revising the authority citation to read as follows:

SUBPART D—TRAINING PROGRAMS

Sec.
123.35 Funding procedures.
123.36-123.40 [Reserved]

* * * * *

AUTHORITY: Title VII of the Elementary and Secondary Education Act of 1965, as amended. 92 Stat. 2268-2282 (20 U.S.C. 3221-3252).

2. Section 123.12 (c)(1)-(4) is revised and a new paragraph (e) is added as follows:

§ 123.12 Authorized activities.

* * * * *

(c) Providing auxiliary and supplementary training activities for all persons, including paraprofessionals, who conduct or who are preparing to conduct basic programs. The following activities are authorized:

(1) Necessary language training in the languages used in the basic program;

(2) Opportunities for career development, including opportunities to:

(i) Enroll in degree programs in bilingual education at institutions of higher education; and

(ii) Improve the special skills necessary to conduct a program of bilingual education;

(3) Training designed to help participants meet State certification requirements for teachers; and

(4) Any other training activity for which the Commissioner gives prior written approval.

* * * * *

(e) The Commissioner may pay stipends to persons participating in any of the training activities described in paragraph (c) of this section.

(20 U.S.C. 3231(a), 3233(a)(7))

3. Section 123.13(c) is revised and paragraph (f) is added as follows:

§ 123.13 Requirements of a basic program.

* * * * *

(c) An applicant shall:

(1) Include in its budget for a basic program adequate funds for the auxiliary and supplementary training activities described in § 123.12(c) for its teachers, counselors, paraprofessionals, and any other persons who conduct or are preparing to conduct basic programs;

(2) Include in its application a comprehensive plan for providing the training activities on the basis of an assessment of the needs of its personnel for these activities;

(3) Include in its application a copy of the needs assessment.

(20 U.S.C. 3231(a)(3)(B), (b)(3)(B))

* * * * *

(f)(1) A recipient of funds under this subpart may use these funds only to supplement, and not to supplant, State and local funds that, in the absence of these Federal funds, would have been spent for special programs for children of limited English proficiency.

(2) Notwithstanding the requirement of paragraph (f)(1) of this section, a local educational agency may use funds under this subpart in order to:

(i) Comply with an order of a court of the United States or of any State concerning services to be provided to children of limited English proficiency; or

(ii) Carry out a plan, approved by the Secretary—as meeting the requirements of Title VI of the Civil Rights Act of 1964—to provide services to children of limited English proficiency.

(20 U.S.C. 3231(b)(3)(G))

4. Section 123.14(b)(5)(i) is revised and (b)(7)(iii)(D) is added; (b)(10) is revised; (b)(11)-(14) are added as follows:

§ 123.14 Applications.

* * * * *

(b) * * *

(5)(i)(A) The number and percentage of children of limited English proficiency enrolled in the schools of the applicant local educational agency or agencies as of the date of the application, including those who have never participated in a Federal program of bilingual education; and

(B) Among those children in (A), the number and percentage of those who are from low-income families.

* * * * *

(7)(iii)(D) Provision for setting measurable goals for determining when children enrolled in a bilingual education program under this part no longer need assistance in developing English language proficiency. This includes an individual evaluation of each child who has been enrolled in a bilingual education program under this part for two years to determine if the child should remain in the program;

* * * * *

(10) *Cross-reference.* The assurances and information described in §123.16 and § 123.17 and an assurance that the requirement of § 123.13(f) will be met.

(11) *Capacity building.* A description of how the assistance provided under this part will contribute toward building the applicant's capacity to provide a program of bilingual education.

(12) *State and local resources.* A description of State and local resources that the applicant will use to continue the program when assistance under this part is no longer available, including its plan for providing follow-up services to sustain the academic achievement of children after they have left the program.

(13) *Use of bilingual personnel.* A description of the extent to which the applicant will recruit, hire, and use in the program of bilingual education personnel who are bilingual.

(14) *Commitment.* Evidence of the applicant's commitment to continue a program of bilingual education when Federal assistance is no longer available.

(20 U.S.C. 3231(b)(1), (b)(3), (b)(4); 1232c(a)(1), (2), (b)(3))

5. Section 123.15(a)(1)(i) is revised and (iv) is added; (a)(2)(ii)(D) and (2)(iii) are revised; (a)(2)(iv)(B) is revised and (C) is added; (a)(2) (vi) and (vii) are added; (a)(3) (iii) and (v) are revised; (a)(3)(vi) is added to read as follows:

§ 123.15 Criteria for assistance.

(a)(1)(i) The number and percentage of children of limited English proficiency enrolled in the schools of the applicant local educational agency or agencies as of the date of the application; and, among those children, the number and percentage from low-income famililes.

* * * * *

(iv) The extent to which the applicant demonstrates that the proposed program will serve children who have never participated in programs of bilingual education under this title or under similar Federal programs.

* * * * *

(2)(ii)(D) Affords promise of facilitating among children of limited English proficiency conceptual development and the improvement of skills in speaking, reading, writing, and understanding English in order to permit these children to progress through the educational system at the same rate as other children of the same age and ability; and

* * * * *

(iii) The quality of the applicant's plan to:

(A) Ensure, through selective criteria, that services are provided to children most in need of assistance;

(B) Identify participating children who have achieved proficiency in English;

(C) Provide for the transfer of these students to English language classrooms;

(D) Provide services from State and local funds to sustain the academic achievement of children who have left the program;

* * * * *

(iv)(B) Demonstrates that the advisory council described in § 123.17(a) participated extensively in planning the proposed program;

(C) Provides for the extensive participation of the advisory committee described in § 123.17(b) in implementing and operating the proposed program;

* * * * *

(vi) The quality of the applicant's plan to use, recruit, and employ, to the extent possible, the services of persons with proficiency both in the native language of participating children and in English to carry out the basic program;

(vii) The quality of the applicant's plan for informing parents of participating children of the instructional goals of the program and of their children's progress in the program;

* * * * *

(3) * * *

(iii) Reasonable costs for the proposed program, and evidence that efforts have been made to minimize funds requested for the purchase of equipment;

* * * * *

(v) Evidence that assistance under this part will build the applicant's capacity to provide a program of bilingual education of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency.

(vi) Evidence of:

(A) The commitment of the applicant to continue the program of bilingual education without Federal support; and

(B) The sufficiency of the resources that the applicant can provide to continue the program.

(20 U.S.C. 3223; 3231 (b)(1), (b)(3), (b)(4).

6. Section 123.16 is revised to read as follows:

§ 123.16 Participation of children enrolled in nonpublic schools.

An application for assistance under this subpart shall contain:

(a)(1) Evidence that the applicant has assessed the needs of children in nonprofit private schools through consultation with appropriate private school officials;

(2) Evidence that:

(i) The applicant has provided for the participation, in the proposed project, of children enrolled in nonprofit private schools in the area to be served whose language, grade level, and educational needs are similar to those that the project is intended to address; and

(ii) The participation of these children is on a basis comparable to that provided for public school children;

(3) A description of the nature and extent of such participation; and

(4) The information relating to program participants described in § 123.14(b)(5) as applied to eligible children enrolled in nonprofit private schools.

(b) The number of children of limited English proficiency enrolled in nonprofit private schools who participate in the program, in relation to the total number of such children in the area to be served whose educational needs are of the type the program is designed to meet, shall be consistent with the number of public school children of limited English proficiency who participate in the program in relation to the total number of public school children in the area to be served whose educational needs are of the type the program is designed to meet.

(c) The applicant shall provide information satisfactory to ensure that services to participating private school children will be provided under public administrative direction and control.

(20 U.S.C. 3231(b)(3)(C)(ii))

7. Section 123.17 is revised to read as follows:

§ 123.17 Parent and community participation.

(a) Advisory Council.

(1) An applicant shall establish an advisory council before preparing the application for assistance. The council shall consist of at least seven persons, a majority of whom shall be parents and other representatives of children of limited English proficiency. The applicant shall describe as part of its application for assistance the process used to select council members.

(2) The advisory council shall:

(i) Participate in planning the proposed project;

(ii) Review drafts of the application for assistance;

(iii) Prepare comments on the content of the application;

(3) The applicant shall include in its application documentation from the council indicating that the council participated in the preparation of the application;

(4) The applicant shall also include in its application comments from the council concerning the content of the application;

(5) The applicant shall provide adequate staff and resources for the council to prepare comments and recommendations concerning the application.

(b) Advisory Committee.

(1) The applicant shall include in its application an assurance that, after the application is approved, it will provide for continuing consultation with, and participation by, an advisory committee in conducting the basic program:

(2) Parents of children participating in the program shall select the committee;

(3) Parents of children of limited English proficiency who are participating in the program shall be a majority of the committee;

(4) The committee may also include:

(i) Parents of other participants in the proposed program;

(ii) Teachers; and

(iii) Other interested individuals.

(5) In the case of programs carried out in secondary schools, the committee shall include secondary students participating in the program who are selected by secondary students participating in the program.

(c) An advisory council member may serve as a member of the advisory committee.

(20 U.S.C. 3223(a)(4)(E))

Subpart D—Training Programs

8. Section 123.31 is amended by relettering existing paragraph (c) as (d) and adding a new paragraph (c) to read as follows:

§ 123.31 Eligibility for assistance.

* * * * *

(c) In the case of a joint application submitted by one or more nonprofit private organizations under this section, a single application with a single budget shall be submitted, and a single nonprofit private organization shall serve as the fiscal agent for all joint applicants.

(d) Not more than 15 percent of the funds obligated for training activities under this subpart and Subparts B, C, and E of this part in any fiscal year shall be made available to State educational agencies in that fiscal year.

(20 U.S.C. 3233(b))

9. Section 123.32 is revised to read as follows:

§ 123.32 Authorized activities.

(a) The following activities are authorized to be carried out with financial assistance made available under this subpart if they are designed to carry out the purposes described in § 123.01 (*Purpose*):

(1) Providing, through an institution of higher education, training programs that lead to a degree or a teaching credential with a specialization in bilingual education. These programs may be offered only to persons who conduct or are preparing to conduct bilingual education programs.

(2) Encouraging reform, innovation, and improvement relating to bilingual education through:

(i) Developing curricula for bilingual education programs at institutions of higher education;

(ii) Recruiting and retaining qualified bilingual faculty members at institutions of higher education; and

(iii) Providing training in language, research, or administrative skills to faculty members at institutions of higher education who are directly involved in training personnel for bilingual education programs.

(3) Providing, through an institution of higher education, training leading to a graduate degree in administration for individuals who are preparing to become administrators or supervisors of bilingual education programs.

(4) Training persons associated with programs of bilingual education, including teachers, administrators, counselors, paraprofessionals, teacher aides, and parents. The training may include projects using bilingual techniques to help parents of limited English proficiency children participate in the educational process of their children.

(5) Operating short term training institutes designed to improve the skills of participants in programs of bilingual education and facilitate their effectiveness in carrying out responsibilities in connection with these programs.

(6) Training leading to a graduate degree at an institution of higher education to prepare specialists in various fields to staff adequately bilingual education programs.

(b)(1) The Commissioner may pay stipends, as defined in § 123.02 (*Definitions*), to personnel participating in training programs under this section.

(2) However, stipends to persons who are enrolled in a full-time program of study at an institution of higher education, and who are gainfully employed on a full-time basis shall include only the costs of tuition, books, and fees and other costs directly related to the program of study and required by the institution of higher education.

(c) In selecting participants for activities authorized under this section, the applicant shall give priority to persons who are bilingual and who demonstrates a high degree of interest in bilingual education.

(20 U.S.C. 3233(a)(1), (a)(3), (a)(7))

10. Section 123.33(b)(11) is added to read as follows:

§ 123.33 Applications.

* * * * *

(b) * * *

(11) A description of the degree of proficiency in the target language and in English that will be required of the participants in the training programs described in § 123.32(a)(1).

(20 U.S.C. 3233(a)(1), (a)(8), (b))

11. Section 123.35 is added to read as follows:

§ 123.35 Funding procedures.

(a) An applicant may include as separate components of one application, one or more of the authorized activities described in § 123.32.

(b) Applications or components of applications proposing a particular activity compete against other applications or components of applications proposing that activity.

(c) The Commissioner sets aside funds for each of the activities listed in § 123.32 (*Authorized activities*). The notice of closing date published in the FEDERAL REGISTER indicates the amount of funds set aside for each activity.

(20 U.S.C. 3233(a)(1), (a)(7))

§§ 123.36 through 123.40 [Reserved]

* * * * *

12. Section 123.43(e)-(n) are added to read as follows:

§ 123.43 Awards of fellowships to individuals.

* * * * *

(e)(1) A recipient of a fellowship shall agree to work in an activity related to the training of bilingual education teachers and other bilingual education personnel for a period of time equivalent to that for which he or she received assistance under this subpart.

(2) The recipient shall begin working in such an activity within one year of the date he or she is no longer enrolled as a full-time student at an institution of higher education.

(3) If the recipient does not work in such an activity, he or she shall repay the full amount of assistance received.

(f) The recipient of a fellowship award may satisfy the requirement of paragraph (e) by working in one or more of the following activities:

(1) Training personnel for bilingual education programs at institutions of higher education.

(2) Doing research related to training bilingual education personnel.

(3) Conducting evaluations of programs designed to train bilingual education personnel.

(4) Developing curriculum materials designed for bilingual instruction.

(5) Training personnel employed by a State or local agency, or by a nonprofit private organization to meet the special educational needs of students of limited English proficiency.

(6) Training parent or community advisory groups in school districts serving students of limited English proficiency.

(7) Working in any other activity that relates to training bilingual personnel and that has been approved in advance by the Commissioner.

(g) Each recipient of a fellowship under this subpart shall comply with one of the following requirements no later than one year from the date he or she ceases to be enrolled as a full-time student at an institution of higher education:

(1) Submit to the Commissioner a description of the authorized activity described in paragraph (f) in which he or she is employed; or

(2) Submit to the Commissioner the first monthly payment required under paragraph (h); or

(3) Submit to the Commissioner a request for a waiver or deferment under paragraphs (j) or (k) and a statement of the circumstances justifying such a waiver or deferment.

(h) A recipient who does not work in an authorized activity described in paragraph (f), and who has not received a waiver or deferment under paragraphs (j) or (k), shall repay the amount of the fellowship award to the Office of Education in the following manner:

(1) Payment shall begin one year from the date the recipient ceases to be enrolled as a full-time student at an institution of higher education.

(2) The recipient shall repay the amount owed in equal monthly installments, except that a monthly installment shall be at least $30.

(3) The recipient shall repay the amount owed, including interest, no later than 15 years after the beginning of the repayment period. This 15 year period will be extended to include any periods for which the recipient is granted a deferment under paragraphs (j) or (k).

(4) If the recipient has completed part of the work requirement contained in paragraph (e), the amount he or she is required to repay will be prorated accordingly.

(i) Interest will be charged on the unpaid balance owed by the recipient under paragraph (h) at the rate of seven percent per year. No interest will accrue for the period of time—

(A) That precedes the date on which the recipient is required to commence repayment under paragraph (h); or

(B) During which repayment has been deferred under paragraphs (j) or (k).

(j) The Commissioner may waive or defer enforcement of the requirement of paragraph (h) if the recipient—

(1) Suffers from a serious physical or mental disability that prevents or substantially impairs the recipient from being employed in a position described in paragraph (f); or

(2) Demonstrates the existence of other extraordinary circumstances.

(k) The Commissioner may defer the enforcement of the requirement of paragraph (h) if the recipient—

(1) Is unable to secure employment in any of the authorized work activities listed in paragraph (f);

(2) Re-enrolls as a full-time student at an institution of higher education;

(3) Is a member of the Armed Forces of the United States;

(4) Is in service as a volunteer under the Peace Corps Act;

(5) Is a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973; or

(6) Demonstrates to the Commissioner's satisfaction the existence of circumstances that prevent him or her from making a scheduled payment(s).

(l) A recipient granted a deferment under paragraphs (j) or (k) shall renew that deferment on a yearly basis, unless the Commissioner determines otherwise.

(m) A deferment granted under paragraphs (k) (3), (4), or (5) may not exceed three years.

(n) Upon selection for a fellowship award, the recipient will be required to sign a contract, provided by the Commissioner, agreeing to the requirements, terms and conditions described in paragraphs (e) through (m) of this section.

(20 U.S.C. 3231(c), 3233(a)(2), (a)(6))

§§ 123.44-123.50 [Reserved]

[FR Doc. 79-9338 Filed 3-28-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BILINGUAL EDUCATION—ELEMENTARY AND SECONDARY PROGRAMS

Closing Date for Transmittal of Applications—Basic Non-Competing Continuations Fiscal Year 1979

Applications are invited for basic noncompeting continuation awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants are current recipients of basic grants who are operating bilingual education projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

Closing date for transmittal of applications.—To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail.—An aplication sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information.—Basic noncompeting continuation projects must meet all the new requirements of the Bilingual Education Act enacted in the Education Amendments of 1978 (Pub. L. 95-561). The new legislative provisions and the corresponding regulation changes are summarized in the preamble of the 1979 interim final regulations. Applicants may propose activities covering the remainder of their approved project periods, but not to exceed three years. Applicants will not be required to submit additional applications in subsequent years unless they wish to carry out activities not included in this year's approved application.

Available funds.—Approximately $80,650,000 are available for 456 continuation projects in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Ofice of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in fiscal Year 1979 (45 CFR Part 123, Subparts A and B).

Further information.—For further information contact Rudolph Munis, Director, Division of Bilingual Education Elementary and Secondary Programs, Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3222-3223; 3231-3232)

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9339 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—ELEMENTARY AND SECONDARY PROGRAMS

Closing Date for Transmittal of Applications—New Projects Fiscal Year 1979

Applications are invited for new basic awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants are:

(1) One or more local educational agencies including—

(a) Certain nonprofit institutions or organizations of Indian tribes that operate elementary or secondary schools for Indian children, and

(b) Elementary or secondary schools for Indian children that are on reservations and that are operated or funded by the Bureau of Indian Affairs; or

(2) An institution of higher education, including a junior or community college—applying jointly with one or more local educational agencies.

The purpose of this program is to provide financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

Closing date for transmittal of applications.—Applications for new awards must be mailed or hand delivered by June 1, 1979.

Applications delivered by mail.—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method. Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program information.—Awards for basic grants are made to successful applicants to establish, operate, or improve programs of bilingual education in elementary and secondary schools under the provisions of Pub. L. 95-561 and program regulations as amended in Fiscal Year 1979. An applicant may propose a project covering a period of from one to three years.

Available funds.—Approximately $21,700,000 is available for 134 new projects in Fiscal Year 1979, with an

expected average amount for initial awards of $161,900.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Elementary and Secondary Programs, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subparts A and B).

Further information.—For further information contact Rudolph Munis, Director, Division of Elementary and Secondary Programs, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3222-3223; 3231-3232)

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9340 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—SUPPORT SERVICES PROGRAMS

Closing Date for Transmittal of Applications Noncompeting Continuations Fiscal Year 1979

Applications are invited for noncompeting continuation projects for support centers under the Bilingual Education Program.

Authority for this program is contained in sections 721 and 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for noncompeting continuation Support Services Centers are those centers presently in operation with an approved project period in excess of one year, who are proposing to continue their present projects.

Closing date for transmittal of applications.—To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail.—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time daily, except Saturdays, Sundays, and Federal holidays.

Program information.—Authorized activities for support services for programs of bilingual education are listed under § 123.23 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.23).

Each noncompeting continuation applicant is expected to submit an application for continuing the scope of work approved when the initial award was made. If new activities are proposed that will alter the approved scope of work, the application will be reviewed with other competing applications, and will no longer be considered a noncompeting continuation application.

Available funds.—Approximately $11,250,000 will be available for 13 continuation materials development centers, 2 continuation dissemination and assessment centers, and 10 continuation training resource centers in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart C).

Further information.—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(a)(4),(b)(1); 3233(a)(1),(b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9341 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—FELLOWSHIP PROGRAMS

Closing Date for Transmittal of New Requests for Participation in the Fellowship Program, Fiscal Year 1979

The Commissioner invites, from institutions of higher education, new requests for participation in the fellowship program for trainers of bilingual education personnel.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

The purpose of this program is to provide financial assistance to full time graduate students who are preparing to become trainers of bilingual education personnel.

Eligible applicants are institutions of higher education that have graduate degree programs with an emphasis in bilingual education.

The Office of Education awards fellowships to individuals nominated by institutions whose programs of study are approved by the Commissioner. Payments to individuals are made through these institutions.

Closing Date for Transmittal of Requests.—Requests for participation must be mailed or hand delivered by May 4, 1979.

Requests delivered by mail.—A request sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each institution of higher education that submits a late request will be notified that its request will not be considered in the current competition.

Requested delivered by hand.—A request that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. The Application Control Center will accept hand delivered requests between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Requests that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program information.—The Commissioner will review the institutional request in accordance with the criteria in § 123.42 of the program regulations as amended in Fiscal Year 1979. From those institutions whose programs are approved, the Commissioner will make final selections of fellowship recipients. A student nominated who is not initially selected as a fellowship recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to an institution of higher education that has submitted an application for this program. The application forms required of an individual by the institutions vary, but all must include the information which is specified in §§ 123.41-43 of the program regulations as amended in Fiscal Year 1979. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll.

In accordance with the program regulations as amended in Fiscal Year 1979, individuals who receive a fellowhship will be required to sign a contract by which they will agree to either work for an equivalent period of time in an activity related to training bilingual education personnel, or to repay the assistance received. Additional information on this agreement is contained in the program regulations.

Available funds.—Approximately $1,000,000 is available for 150 fellowships at an average cost of $6,700 through 15 institutions of higher education.

These figures are only estimates and do not bind the U.S. Office of Education.

Request forms.—Request forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program request package.

Applicable regulations.—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart E).

Further information.—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a) (2), (3), (4), (6))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education.)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9342 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—COORDINATION OF TECHNICAL ASSISTANCE BY STATE EDUCATIONAL AGENCIES

Closing Date for Transmittal of Applications for Non-Competing Awards, Fiscal Year 1979

Applications are invited for noncompeting awards under the Title VII program for States to coordinate technical assistance for bilingual education programs.

Authority for this program is contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for these awards are State Educational Agencies in the states where programs of bilingual education assisted under the Bilingual Education Act were operated during Fiscal Year 1978. A State educational agency may receive up to 5 percent of the amount received under the Bilingual Education Act by local educational agencies in its State in Fiscal Year 1978.

Closing date for transmittal of applications.—To be assured of consideration for funding, applications for noncompeting awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail.—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Application delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information.—The activities authorized to be carried out with financial assistance made available to States are technical assistance activities related to needs identified by each State, including monitoring, evaluation of impact, and dissemination of information.

Available funds.—Approximately $4,875,000 is available for 49 projects in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart F).

Further information.—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(b)(5))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9343 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—FELLOWSHIP PROGRAMS

Closing Date for Transmittal of Continuation Requests for Participation in the Fellowship Program, Fiscal Year 1979

The Commissioner invites continuation requests from institutions of higher education for participation in the fellowship program for trainers of bilingual education personnel.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

The purpose of this program is to provide financial assistance to full time graduate students who are preparing to become trainers of bilingual education personnel.

Eligible applicants are institutions of higher education whose programs have been previously approved by the Commissioner for a period in excess of one year.

The Office of Education awards fellowships to individuals nominated by these approved institutions and makes payments to the participants through these institutions.

Closing date for transmittal of requests.—To be assured of consideration for participation, requests for continuation in the fellowship program should be mailed or hand delivered by May 4, 1979.

If the request is late, the Office of Education may lack sufficient time to review it with other continuation requests and may decline to accept it.

Requests delivered by mail.—A request sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

Institutions of higher education that submit a request are encouraged to use registered or at least first class mail.

Requests delivered by hand.—A request that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand delivered requests between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information.—Each continuation institution is asked to submit a ranked list of nominees for fellowships together with the insititution's request. This list should also indicate the language and degree program for each nominee. The Commissioner will make final selections from this list. A student nominated who is not initially selected as a recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to approved institutions of higher education. The application forms required of an individual by the institutions vary, but all must include the information which is specified in §§ 123.41-43 of the program regulations as amended in Fiscal Year 1979. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll.

In accordance with the program regulations as amended in Fiscal Year 1979, individuals who are selected will be required to sign a contract by which they will agree to either work for an equivalent period of time in an activity related to training bilingual education personnel, or to repay the assistance received. Additional information on this agreement is contained in the program regulations.

Available funds.—Approximately $4,000,000 will be available to support 600 fellowships, at an average cost of $6,700, through 34 institutions of higher education.

These figures are only estimates and do not bind the U.S. Office of Education.

Request forms.—Requests forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart E).

Further information.—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(2)(3)(4), (6))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9344 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—TRAINING PROGRAMS

Closing Date for Transmittal of Applications Training—Noncompeting Continuations, Fiscal Year 1979

Applications are invited for noncompeting continuation training projects under the Bilingual Education Training Program.

Authority for this program is contained in section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

Eligible applicants for noncompeting continuation projects are those who are proposing to continue projects presently in operation under an approved project period in excess of one year.

Closing date for transmittal of applications.—To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by May 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail.—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information.—Authorized activities for the training program are listed under section 123.32 of the program regulations, as amended in Fiscal Year 1979. All applications are expected to be in compliance with these regulations.

Each noncompeting continuation applicant should submit an application for continuing the scope of work which was approved when the initial award was made. If new activities are proposed which alter the approved

scope of work, the application will be reviewed along other competing applications, and will no longer be considered a noncompeting continuation application.

Available funds.—Approximately $4,500,000 is available for 39 noncompeting continuation projects in Fiscal Year 1979.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations.—The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart D).

Further information.—For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(1),(7),(8),(b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9345 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—TRAINING PROGRAMS

Closing Date for Transmittal of Applications Training—New Projects, Fiscal Year 1979

Applications are invited for new training projects under the Bilingual Education Training Program.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

An application for this program may be submitted by:

(1) An institution of higher education (including a junior college or a community college) that applies after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(2) A nonprofit private organization that applies after consultation with, or jointly with, one or more local educational agencies or a state educational agency;

(3) A local educational agency; or

(4) A State educational agency.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by June 1, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delievered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program information: Authorized activities for the Training Program are listed under section 123.32 of the program regulations, as amended in Fiscal Year 1979. An applicant may include as separate components of one application, one or more of the authorized activities described in section 123.32. Applications or components of applications proposing a particular activity compete against other applications or components of applications proposing that activity.

Available funds: Approximately $11,500,000 are available for funding new applications for training projects. These funds are reserved for the authorized activities described in § 123.32 of the program regulations, as amended in Fiscal Year 1979, in the following estimated amounts:

(1) *Activity:* Degree or credential oriented projects and projects for reform, innovation and improvement in bilingual education (§ 123.32(a) (1), (2)).

Available funds: $6,100,000 for approximately 55 projects at an average award of $110,000.

(2) *Activity:* Graduate degree in administration (§ 123.32(a)(3)).

Available funds: $2,000,000 for approximately 20 projects at an average award of $100,000.

(3) *Activity:* Training projects for parents and others (§ 123.32(a)(4)).

Available funds: $800,000 for approximately 8 projects at an average award of $100,000.

(4) *Activity:* Short-term training institutes (§ 123.32(a)(5)).

FOR MANAGEMENT TRAINING FOR ADMINISTRATORS

Available funds: $300,000 for approximately 28 projects at an average award of $75,000.

FOR MANAGEMENT TRAINING FOR NON-ADMINISTRATORS

Available funds: $3,000,000 for approximately 6 projects at an average award of $50,000.

(5) *Activity:* Graduate degree programs for specialists (§ 123.32(a)(6)).

Available funds: $300,000 for approximately 5 projects at an average award of $60,000.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms: Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obtained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Postsecondary Education, 400 Maryland Avenue, S.W. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart D).

Further information: For further information contact Robert (Kelly) Acosta, Director, Division of Postsecondary Education, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W. (Reporters Building, Room 421), Washington, D.C. 20202, Telephone (202) 447-9273.

(20 U.S.C. 3233(a)(1), (7), (8), (b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9346 Filed 3-28-79; 8:45 am]

[4110-02-M]

BILINGUAL EDUCATION—SUPPORT SERVICES PROGRAMS

Closing Date for Transmittal of Applications—New Projects Fiscal Year 1979

Applications are invited for new centers under Title VII—Bilingual Education Support Services Programs.

Authority for this program is contained in sections 721 and 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

An application for assistance for a *Training Resource Center* may be submitted by:

(1) An institution of higher education (including a junor college or a community college) that applies after consultation with, or jointly with, one or more local educational agencies, or a State educational agency;

(2) A private nonprofit organization that applies, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(3) A local educational agency; or

(4) A State educational agency.

An application for assistance for a *Materials Development Center* or a *Dissemination/Assessment Center* may be submitted by:

(1) One or more local educational agencies; or

(2) An institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by June 1, 1979.

Applications delivered by mail.—An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202.

Proof of mailing may consist of a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand.—An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Aplications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program information.—Authorized activities and designated service areas for Support Services for programs of bilingual education are listed under §§ 123.22 and 123.23 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.22; 123.23).

Under § 123.22(d)(1) of the program regulations (45 CFR 123.22(d)(1)), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in a fiscal year in each service area designated under § 123.22 (a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Also, the Commissioner may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart most effectively.

Applicants that purpose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area designation.

Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a noncompetitive basis in Fiscal Year 1979, in accordance with § 123.04 of the program regulations as amended in Fiscal Year 1979 (45 CFR 123.04).

With respect to training resource activities, service areas 1, 2, 3, and 4 have training resource centers in operation which will be reviewed for refunding on a noncompetitive basis.

With respoect to materials development center activities, service areas 5, 6, and 7 have materials development centers in operation which will be reviewed for refunding on a noncompetitive basis.

With respect to dissemination/assessment center activities, service areas 1 and 3 have dissemination/assessment centers in operation which will be reviewed for refunding on a noncompetitive basis.

Available funds.—Approximately $7,375,000 will be available for funding no more than 6 Materials Development Centers, 10 Training Resource Centers, and 1 Dissemination and Assessment Center.

These figures are only estimates and do not bind the U.S. Office of Education.

Application forms.—Application forms and instructions are expected to be ready for mailing by March 30, 1979. They may be obained by writing to the U.S. Office of Education, Office of Bilingual Education, Division of Program Development, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application packages.

Applicable regulations.—Regulations that are applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Bilingual Education Program Regulations as amended in Fiscal Year 1979 (45 CFR Part 123, Subpart C).

Further information.—For further information contact Rudy Cordova, Director, Division of Program Development, Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447-9227.

(20 U.S.C. 3231(a)(4), (b)(1); 3233(a)(1), (b))

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: March 22, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-9347 Filed 3-28-79; 8:45 am]

federal register

THURSDAY, MARCH 29, 1979

PART VII



DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

■

NOTICE OF A REEXAMINATION OF THE DEFINITION OF DETENTION AND CORRECTION FACILITIES CONTAINED IN STATE PLANNING AGENCY GRANTS MANUAL

[44-1018-M]

STATE PLANNING AGENCY GRANTS GUIDELINE MANUAL

Re-examination of the Definition of Detention and Correction Facilities

The Office of Juvenile Justice and Delinquency Prevention, Law enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et. seq.*, is in the process of re-examining the present definition of juvenile detention and correctional facilities contained in the State Planning Agency Grants Guideline Manual, M 4100.1F, July 25, 1978, Chapter 3, Paragraph 52n(2).

Section 223(a)(12)(A) of the Juvenile Justice and Deliquency Prevention Act requires as a condition for the receipt of formula grants funds that the state plan submitted in accordance with the Act shall:

provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities * * *

On March 24, 1978, the Office of Juvenile Justice and Delinquency Prevention published in the FEDERAL REGISTER the criteria for determining whether an institution constituted a detention and correctional facility within the meaning of Section 223(a)(12)(A). The Office invited interested persons to submit comments on or before April 25, 1978.

As a result of the comments received, the Office modified the criteria and published them in the August 16, 1978, FEDERAL REGISTER. See LEAA Guideline Manual, M 4100.1F, July 25, 1978, Paragraph 52n(2). As defined, a detention and correctional facility would consist of the following:

(a) Any *secure* public or private *facility used for the lawful custody* of *accused or adjudicated juvenile offenders* or *non-offenders;* or

(b) Any public or private facility, secure or *non-secure* which is also used for the *lawful custody* of accused or convicted adult *criminal offenders;* or

(c) Any *non-secure* public or private facility that has a *bed capacity* for more than 20 accused or adjudicated *juvenile offenders* or *non-offenders* unless:

1. The facility is *community-based* and has a *bed capacity* of 40 or less; or

2. The facility is used *exclusively* for the lawful custody of *status offenders* or *non-offenders.*

NOTE.—The underlined terms are defined in LEAA's State Planning Agency Grants Guideline M 4100.1F, Chg. 3, Appendix 1, Sec. 4. To assist the public in this, the developmental stage of the significant guideline process, these definitions appear as Appendix A to this publication.

Concern has, however, been expressed over these definitional criteria. The areas of concern that have been raised involve both the scope and the underlying basis of the present definition, its impact on such groups as private non-profits and community-based organizations as well as its potential impact on the eligibility of a number of jurisdictions to participate further in the Act. The Office of Juvenile Justice and Delinquency Prevention has determined that these concerns merit a re-examination of the above definition.

In light of the above, consideration will be given to definitional alternatives. One such alternative would be to develop a definition of detention and correctional facilities which is predicated solely on a secure/non-secure distinction. If adopted, this would result in the elimination of sub-parts (b) and (c) of the present definition. In order to assist this Office in formulating a draft guideline and in order to ensure that interested organizations, agencies and individuals have an opportunity to participate in its development, this notice and opportunity to submit written views, comments and specific recommendations is being provided. Following receipt and analysis of the comments, a proposed change will be published in the FEDERAL REGISTER. At that point in time, the views of the public will again be solicited.

Interested parties are invited to submit written comments or suggestions to Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W. Washington, D.C. 20531, on or before April 30, 1979.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

APPENDIX A

DEFINITIONS RELATING TO PAR. 52 REQUIREMENTS FOR PARTICIPATION IN FUNDING UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(a) *Juvenile Offender*—an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law.

(b) *Criminal-type Offender*—a juvenile who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(c) *Status Offender*—a juvenile who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(d) *Non-offender*—a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(e) *Accused Juvenile Offender*—a juvenile with respect to whom a petition has been filed in the juvenile court alleging that such juvenile is a criminal-type offender or is a status offender and no final adjudication has been made by the juvenile court.

(f) *Adjudicated Juvenile Offender*—a juvenile with respect to whom the juvenile court has determined that such juvenile is a criminal-type offender or is a status offender.

(g) *Facility*—a place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

(h) *Facility, Secure*—one which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

(i) *Facility, Non-secure*—a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(j) *Community-based*—facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family, and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services. This definition is from Section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

(1) *Small:* Bed capacity of 40 or less.

(2) *Near:* In reasonable proximity to the juvenile's family and home community which allows a child to maintain family and community contact.

(3) *Consumer Participation:* Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and deci-

sion making related to the program as it affects them.

(4) *Community Participation:* Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.

(k) *Lawful Custody*—the exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(l) *Exclusively*—as used to describe the population of a facility, the term "exclusively" means that the facility is used only for a specifically described category of juvenile to the exclusion of all other types of juveniles.

(m) *Criminal Offender*—an individual, adult of juvenile, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction.

(n) *Bed Capacity*—the maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction.

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