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Highlights

Los Angeles Briefing on How To Use the Federal Register—See details on "What It Is and How to Use It" workshops on April 14, 15, and 16, in **Reader Aids** section in this issue.

Briefings on How To Use the Federal Register—For details on briefings **Washington, D.C.; Los Angeles, Calif.; Boston, Mass.; New York, N.Y.; Salt Lake Lake City, Utah; Seattle, Wash.; Chicago, Ill.;** and **New Orleans, La.;** see announcement in the **Reader Aids** section at the end of this issue.

24099 **Iran** Executive order prohibiting certain transactions

24101 **Iranian Aliens** Executive order

24408 **Census of Claims** Treasury/Foreign Assets Control Office makes provisions for a census of blocked Iranian assets and of claims against Iran and Iranian entities; effective 4–9–80 (Part VII of this issue)

24432 **Iranian Assets Control** Treasury/Foreign Assets Control Office imposes additional prohibitions on dealings with Iran; effective 4–7–80 (Part VIII of this issue)

24436, 24437 **Iranian Visas** State adopts final rule imposing additional requirements effective 4–7–80 and gives notice of revocation of non-immigrant visas (Part IX of this issue) (2 documents)

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Highlights

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24290 **Analysis of Science Resources Grants** NSF announces solicitation for proposals in training and employment, finding, and outputs and impacts in scientific and technical activities for FY 1981 funding apply by 11–14–80

24404 **Social Services** HEW/HDSO allots Federal limitation for fiscal year 1980 State and local training program; effective 10–1–80; (Part VI of this issue)

24352 **Ambulatory Health Care Facilities** HEW/PHS sets forth requirements for health maintenance organizations to obtain loans for acquisition; effective 4–9–80; comments by 6–9–80 (Part II of this issue)

24108 **Renegotiable Rate Mortgages** FHLBB authorizes Federal savings and loan associations to make, purchase, and participate to provide additional lending instrument; effective 4–3–80

24112 **Residential First Mortgages** FHLBB provides for permanent preemption of state interest ceilings on Federally-related loans; effective 4–1–80

24203 **Income Tax** Treasury/IRS proposes rules on consolidated returns for percentage depletion for independent producers and royalty owners; comments or request for hearing by 6–9–80

24130 **Equal Employment in Federal Government** EEOC revises regulations to allow agencies to award attorney's fees and costs; interim regulations effective 4–11–80; comments by 6–9–80

24384 **Management Official Interlocks** FRS, Treasury/Comptroller, FDIC, FHLBB, and NCUA publish final amendments to regulations, including definitions, clarifications, and technical changes; effective 5–9–80; (Part V of this issue)

24247 **Privacy Act Documents** HEW

24298 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Executive Order 12205 of April 7, 1980

Prohibiting Certain Transactions with Iran

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in order to take steps additional to those set forth in Executive Order No. 12170 of November 14, 1979, to deal with the threat to the national security, foreign policy and economy of the United States referred to in that Order, and in furtherance of the objectives of United Nations Security Council Resolution 461 (1979) adopted on December 31, 1979, it is hereby ordered as follows:

1–101. The following are prohibited effective immediately, notwithstanding any contracts entered into or licenses granted before the date of this Order:

(a) The sale, supply or other transfer, by any person subject to the jurisdiction of the United States, of any items, commodities or products, except food, medicine and supplies intended strictly for medical purposes, and donations of clothing intended to be used to relieve human suffering, from the United States, or from any foreign country, whether or not originating in the United States, either to or destined for Iran, an Iranian governmental entity in Iran, any other person or body in Iran or any other person or body for the purposes of any enterprise carried on in Iran.

(b) The shipment by vessel, aircraft, railway or other land transport of United States registration or owned by or under charter to any person subject to the jurisdiction of the United States or the carriage (whether or not in bond) by land transport facilities across the United States of any of the items, commodities and products covered by paragraph (a) of this section which are consigned to or destined for Iran, an Iranian governmental entity or any person or body in Iran, or to any enterprise carried on in Iran.

(c) The shipment from the United States of any of the items, products and commodities covered by paragraph (a) of this section on vessels or aircraft registered in Iran.

(d) The following acts, when committed by any person subject to the jurisdiction of the United States in connection with any transaction involving Iran, an Iranian governmental entity, an enterprise controlled by Iran or an Iranian governmental entity, or any person in Iran:

(i) Making available any new credits or loans;

(ii) Making available any new deposit facilities or allowing substantial increases in non-dollar deposits which exist as of the date of this Order;

(iii) Allowing more favorable terms of payment than are customarily used in international commercial transactions; or

(iv) Failing to act in a businesslike manner in exercising any rights when payments due on existing credits or loans are not made in a timely manner.

(e) The engaging by any person subject to the jurisdiction of the United States in any service contract in support of an industrial project in Iran, except any such contract entered into prior to the date of this Order or concerned with medical care.

(f) The engaging by any person subject to the jurisdiction of the United States in any transaction which evades or avoids, or has the purpose or effect of evading or avoiding, any of the prohibitions set forth in this section.

1–102. The prohibitions in section 1–101 above shall not apply to transactions by any person subject to the jurisdiction of the United States which is a non-banking association, corporation, or other organization organized and doing business under the laws of any foreign country.

1–103. The Secretary of the Treasury is delegated, and authorized to exercise, all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government.

1–104. The Secretary of the Treasury shall ensure that actions taken pursuant to this Order and Executive Order No. 12170 are accounted for as required by Section 401 of the National Emergencies Act (50 U.S.C. 1641).

1–105. This Order is effective immediately. In accord with Section 401 of the National Emergencies Act (50 U.S.C. 1641) and Section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703), it shall be immediately transmitted to the Congress and published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
April 7, 1980.

[FR Doc. 80–10897
Filed 4–7–80; 4:18 pm]
Billing code 3195–01–M

Editorial Note: The President's message to Congress, dated Jan. 7, 1980, on prohibiting certain transactions with Iran, is printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 15).

Presidential Documents

Executive Order 12206 of April 7, 1980

Amendment of Delegation of Authority with Respect to Entry of Certain Aliens into the United States

By the authority vested in me as President by the Constitution and laws of the United States, including Section 215 of the Immigration and Nationality Act, as amended (8 U.S.C. 1185), and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. *Amendment.*

Section 1–101 of Executive Order 12172 of November 26, 1979, is amended by deleting "holding nonimmigrant visas,".

1–102. *Effective Date.*

This order is effective immediately.

THE WHITE HOUSE,
April, 7, 1980.

Jimmy Carter

[FR Doc. 80–10898
Filed 4–7–80; 4:19 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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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.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

[Amdt. 4]

Export Sales Reporting Requirements

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Export Sales Reporting regulations (7 CFR Part 20), to change the time period of the transaction which must be reported (from Monday through Sunday to Friday through Thursday) and the day by which required reports covering such periods must be submitted (from the following Thursday to the following Monday). These changes will enable the Department to reduce the length of time between the end of a particular transaction period and the inclusion of reported information covering such period in the weekly compilation published by the Department. Further, this rule also amends the regulations to clarify the definition of a reportable "export sale" and to provide certain nonsubstantive wording changes.

EFFECTIVE DATE: June 16, 1980. See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Richard J. Finkbeiner, Director, Export Sales Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–5651. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." A notice of proposed rulemaking relating to this final rule was published by the Office of the General Sales Manager (now reorganized into the Foreign Agricultural Service) in the **Federal Register** on October 9, 1979 (44 FR 57931). A 60-day comment period ending December 10, 1979 followed, during which a total of ten written comments were received. All of the commentators expressed support for the idea of clarifying the definition of a reportable "export sale" along the lines suggested in the proposed rule and the general idea of reducing the length of time between the end of a particular transaction period and the inclusion of reported information covering such period in the weekly compilation published by the Department. It was noted that the latter change would definitely be in the public interest.

With respect to the methods suggested in the propoed rule for accomplishing the reduction of time between the end of a particular transaction period and the inclusion of the reported information in the weekly compilation, two commentators offered observations. One recommended that the proposal to change the time period of the transactions which must be reported from Monday through midnight Sunday to Saturday through midnight Friday be pushed forward one full day to Friday through midnight Thursday so that the weekly export data reported would be on the same basis as the weekly inspections for exports summarized and released by the Market News Service. The other commentator recommended that the weekly compilation published by the Department continue to be released on Thursday, rather than Friday as intimated in the preamble to the proposed rule, in order to provide the trade with one business day, Friday, before the end of the week following the transaction period to react to the information.

This final rule adopts the first recommendation just mentioned. Specifically, the transaction period will now run from Friday through midnight Thursday, rather than from Saturday through midnight Friday as suggested in the proposed rule. It is anticipated that, although the day by which the required reports must be submitted has also been pushed forward from Tuesday, as proposed, to Monday, the adoption of this recommendation will still afford reporting exporters an opportunity to assemble all the proper documentation on Friday, typically the last working day in the week, and immediately send the report to the Department by first class mail, thus utilizing the services of the Post Office during Friday, Saturday, Sunday and Monday. On the other hand, if the proposed rule's time frame had been retained, reporting exporters would have been required to assemble all the proper documentation on Monday, typically the first working day of the new week, and find some way of expediting the transmission of the report to the Department before the close of business the following day. Adoption of the proposed rule's time frame would have virtually precluded the use of first class mail for transmitting the reports.

Although the adoption of the second recommendation mentioned above is not explicitly reflected in the language of this final rule, the Department plans to continue to release its weekly compilation of export sales on the Thursday following the Monday by which the required reports concerning the seven day transaction period ending the immediately previous Thursday midnight are received. Not only does such a Thursday release increase the usefulness of the compilation, since the trade will have the last day of the business week immediately following the reported transaction period to act on the information, but as compared to the present system, it will reduce by four days the length of time between the end of a transaction period and the day the weekly compilation concerning transactions made during such period is released to the public. Under the present system, a transaction period runs from Monday through midnight Sunday. Reports concerning such period must be submitted by the immediately following Thursday, with the weekly compilation being released the next Thursday. This final rule would change the system so that the transaction period would run from Friday to midnight Thursday. The day by which reports concerning such period must be submitted will also be changed to the immediately following Monday, with the weekly compilation being released three days later on Thursday.

In addition to the foregoing, the existing definition of a reportable

"export sale" is amended in accordance with the definition proposed earlier to make it clear that export sales transactions are considered reportable as soon as the buyer and the seller have prepared what are known in the trade as trader documents. Several nonsubstantive changes, not appearing in the proposed rule, have also been made in Section 20.6 to eliminate gender references. Further, reference in the proposed Section 20.6(a) to "telex, TWX, Western Union telegram or facsimile" has been changed to "electronic transmission" so as not to be misconstrued as limiting the acceptable methods of communication.

This rule is being made effective as of Monday June 16, 1980. It is intended that reportable transactions as of June 15, should be reported by Thursday June 19, as required under existing regulations. In order to provide a transition period and insure that exporters report weekly as required by law, the first period for which transactions will be reported under the new regulations will be shortened. That is, transactions for the period June 16 through June 19 will be reported by Monday, June 23. Friday June 20, will begin the first full week for which transactions must be reported under the new regulations.

Final Rule

PART 20—EXPORT SALES REPORTING REQUIREMENTS

Accordingly, 7 CFR, Part 20 is amended as follows:

1. The second sentence of § 20.4(h) is amended to read as follows:

§ 20.4 Definitions.

* * * * *

(h) *"Export sale"* * * * The transaction must be represented by a written document evidencing that (1) the exporter agrees to export the commodity, (2) the foreign buyer agrees to receive the commodity, (3) a fixed price or an agreed upon mechanism by which such a price can be determined is established, and (4) payment will be made to or for the account of the reporting exporter by or on the behalf of the foreign buyer for delivery of the commodity. * * *

* * * * *

2. Section 20.6 is amended by adding a new sentence at the end of paragraph (a); revising paragraphs (c) (5), (6), and (7); revising paragraph (e); amending the final sentence of paragraph (g); and revising paragraphs (i), (j) and (k) as set forth below:

§ 20.6 Submission of reports.

(a) *Weekly reports.* * * * If the reporting exporter determines that the report forms cannot be received in the office specified in § 20.10 by the time specified in paragraph (k) of this section, the exporter shall make an initial report by transmitting the information contained in the report forms by the use of telephone or electronic transmission. The required form must be subsequently submitted in accordance with § 20.6(k)(2).

* * * * *

(c) *Exporters who are required to report.*

* * * * *

(5) Firm A makes a purchase from an agent of a foreign seller and the agent's place of doing business with respect to the transaction is in the United States. In this example, Firm A is required to report the purchase. The agent is not a principal party in interest in the contract and cannot report the sale to Firm A. The foreign seller is not a reporting exporter and is not required to make a report of the sale.

(6) Firm A, the agent of the foreign buyer, whose place of doing business with respect to the transaction is in the United States, purchases commodities domestically at interior warehouses and arranges for exportation to its principal, the foreign buyer. In this example, Firm A is required to report the sale and export.

(7) If a reporting exporter has a transaction not described in subparagraphs (1) through (6) of this paragraph and is in doubt whether a transaction should be reported, the exporter should request a decision from the office specified in § 20.10.

* * * * *

(e) *Reporting of destination.* The reporting exporters shall report the country of destination specified in the export sale contract or otherwise declared in writing by the foreign buyer. (Where a government, or agency of such government, is the sole importer of the commodity in a country, the exporter shall report that country as the country of destination only if the exporter or foreign buyer has made a direct sale to that foreign government or agency.) If the country of destination is not so specified or declared, the exporter shall report the destination as "unknown." If by the time of exportation the exporter has not so ascertained the country of destination, the name of the country reported to the Bureau of Customs of the Shipper's Export Declaration for such export shipment should be reported, even though it may be an intermediate destination. The reporting exporter is not expected to report destination changes made after reporting the export on FAS–98, "Report of Export Sales and Exports."

* * * * *

(g) *Range in contract quantity.* * * * If an option is exercised for a lesser quantity at a later date, the reporting exporter shall report the reduction as an amendment to an export sale previously reported.

* * * * *

(i) *Errors on previous reports.* Whenever an exporter discovers an error or is advised by the office specified in § 20.10 of an error on a prior report, the error shall be corrected in the current weekly report to reflect the proper outstanding export sales and exports. The exporter shall also furnish a complete written explanation of such reporting error.

(j) *When reports are required.* (1) A reporting exporter shall submit reports for those commodities for which there are new export sales, outstanding export sales, exports for exporter's own account for which an offsetting export sale has not been made and reported, or purchases from foreign sellers.

(2) A reporting exporter may discontinue reporting for a commodity only when actual exports and other required reporting of changes have reduced to zero all export sales, exports for exporter's own account and purchases from foreign sellers. The reporting exporter shall report a zero balance prior to discontinuing reporting for the commodity involved.

(3) If a reporting exporter discontinues making reports because a zero balance has been reached for a particular commodity, the exporter shall be responsible to commence reporting again once a new export sale, a new export for exporter's own account, or a new purchase from a foreign seller for that commodity is made.

(k) *Manner and time of reporting.* (1) *Manner.* An original of all report forms must be filed with the office specified in § 20.10. Each report form shall contain the full business name, address and telephone number of the reporting exporter and the name and original signature of the person submitting the report form on behalf of the reporting exporter. Computer generated printouts may be used in lieu of standard reporting forms when approved by the office specified in § 20.10.

(2) *Time of filing reports.* Information required to be reported weekly must be received in the office specified in § 20.10 no later than 5:00 p.m., Eastern time, on each Monday, or such other time as may be approved in advance by that office.

Such weekly report must set forth the required information as to export sales transactions made during the seven day period ending the preceding Thursday, midnight. If Friday or Monday is a national holiday, the due date shall be Tuesday. If information is transmitted by other than use of forms specified in § 20.6(a) (such as by use of telephone or electronic transmission) the required forms containing such information shall be transmitted by first class mail the next business day. It is the responsibility of the reporting exporter to arrange the most efficient and expeditious manner for the office specified in § 20.10 to receive the reported information.

(Sec. 812, Pub. L. 91–524, as added by Pub. L. 93–86, § 1(27)(B), 87 Stat. 238 (7 U.S.C. 612c–3))

Signed at Washington, D.C. on this 3rd day of April 1980.

Thomas R. Hughes,

Administrator, Foreign Agricultural Service.

[FR Doc. 80-10631 Filed 4-8-80; 8:45 am]

BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 979

[979.302]

Melons Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. The regulation will promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, (202) 447–2615.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (44 FR 22038) regulate the handling of melons grown in 19 designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This regulation is based upon unanimous recommendations made by the committee at its public meeting in McAllen, Texas, on December 12, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1980 spring crop of South Texas melons and of the marketing prospects for the shipping season which is expected to begin about May 1.

The regulation will benefit consumers and producers by standardizing and improving the quality of melons shipped from the production area. The grade requirements will prevent melons of poor quality from being shipped to fresh market outlets. Not more than 50 percent of the melons in any lot may fail the requirements for U.S. Commercial grade. A tolerance of 20 percent is allowed for serious damage of which not more than 10 percent may be for melons affected by soft decay. Black surface discoloration is not considered a defect. Individual cartons are required to contain at least 25 percent U.S. Commercial quality melons.

The container requirements will prevent the shipment of bulk loads of packing house culls which adversely affect the reputation and returns of packed South Texas melons. However, the containers required are those customarily packed for the retail trade.

Exceptions are provided to certain of these handling requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 120 pounds of melons may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing are exempt under the legislative authority for this part. Shipments for charity or relief are exempt since no useful purpose would be served by regulating such shipments.

Notice of rulemaking was published in the January 9, 1980, **Federal Register** (45 FR 1887). The notice afforded interested persons through March 10, 1980, to file written comments on the proposal.

A comment was filed February 4 by the committee proposing to change the wording of the provision regarding the minimum quantity exemption in order to conform more closely to similar programs in the production area. The Department considered this an improvement and agreed to the change.

One comment was received from Mrs. Eileen J. Petrus of Ingleside, Texas. Mrs. Petrus suggested that the order was not to the advantage of producers more than 50 miles from packing and inspection facilities. She stated that inspection would be very expensive to obtain in areas other than the Lower Valley or Laredo districts. Last season the Inspection Service charged a flat fee for inspection of melons regardless of the distance from the production area. With respect to packing supplies, although the major carton suppliers are located in the Lower Valley, all have indicated a willingness to service customers in the Coastal Bend district. The allegation that the consumer must ultimately pay the additional costs incurred for committee expenses is, of course, true. However, the actual cost per melon is negligible, particularly when compared with the benefits obtained from orderly marketing of the South Texas melon crop. The minimum quantity of melons that may be handled without being subject to handling requirements is low, but no more so than under comparable programs in the production area. Also, special purpose shipments made under a Certificate of Privilege for charity can be prearranged to minimize inconvenience to small handlers.

Federal standards for quality do, as Mrs. Petrus suggests, tend to require a quality of melon that will survive shipping and rough handling and still remain salable at retail. However, we believe the order requirements may be met even by ripe melons. While over-ripe melons might not meet quality requirements, neither would they remain salable for more than a day or two at most.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice and the comments filed by interested persons, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of melons grown in the production area are expected to begin on or about the effective date specified herein, (2) to maximize benefits to producers this regulation should apply to as many shipments as possible during the marketing season, (3) notice was given in the January 9, 1980, **Federal Register** (45 FR 1887) allowing interesting persons until March 10, 1980, to file comments, and (4) compliance with this regulation, which is similar to the regulation issued last season, requires no special preparation by handlers subject to it which cannot be completed by the effective date.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Charles W. Porter (202) 447–2615.

A new § 979.302 is added. The regulation is as follows:

* * * * *

§ 979.302 Handling regulation.

From May 1, though August 31, 1980, no person shall handle cantaloup or honey dew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(4), (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅜ nor less than 9¾ inches in depth. All honey dew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each container shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the container in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the container shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(4) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787–4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (512) 723–9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1½¢ per carton.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the provisions of Sections 979.42, 979.52, 979.60, and 979.80, but this exemption shall not apply to any shipment or any portion thereof of over 120 pounds of melons.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipment of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475–2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740–2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

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

Dated: April 2, 1980. To become effective May 1, 1980.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-10505 Filed 4-8-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

[Regs. G, T, U, and X]

List of OTC Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The list of OTC Margin Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published

List and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of stocks traded over-the-counter on file at the Office of the Federal Register as of October 1, 1979. The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X. Copies of the current List may be obtained from any Federal Reserve Bank. A copy is also on file at the Office of the Federal Register.[1]

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR 207.5 (d) and (e), 220.8 (h) and (i), and 221.4 (d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78g and w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there is set forth below additions to and deletions from the Board's List:

Additions

Advanced Patent Technology, Inc., $.10 par common
American Equity Investment Trust, $11.00 par shares of beneficial interest
American States Life Insurance Company, $1.00 par common
Anderson, Greenwood & Co., No par common
Atlantic Oil Corporation, $.01 par common
Auto-trol Technology Corporation, $.10 par common
Bank of Montana System, $10.00 par common
Barton Brands, Ltd., No par units of limited interest
Basco, Inc., $.10 par common
Biomedical Reference Laboratories, Inc., $.10 par common
Brookwood Health Services, Inc., $1.00 par common
CMT Investment Trust, $1.00 par shares of beneficial interest; $7.50 par preferred shares of beneficial interest
Caesars New Jersey, Inc., Warrants (expire 10–31–81)
Carolina Casualty Insurance Company, $1.00 par common
Cavanagh Communities Corporation, $.01 par common
Central National Chicago Corporation, $10.00 par common
Centura Energy Corporation, $.05 par common
Chomerics, Inc., $.10 par common
Church & Dwight Company, Inc., No par common
Compact Video Systems, Inc., $.10 par common
DSI Corporation, $.16⅔ par common
Data Packaging Corporation, $.10 par common
Decision Systems, Inc., $.25 par common
Eldon Industries, Inc., $1.00 par common
Emons Industries, Inc., $12.50 par cumulative convertible preferred
Excelsior Insurance Company of New York, $4.00 par common
Fife Corporation, $.10 par common
First Memphis Realty Trust, $1.00 par shares of beneficial interest
First Mortgage Investors, No par shares of beneficial interest
First New Mexico Bankshare Corporation, $5.00 par common
First Newport Corporation, $1.00 par shares of beneficial interest
First of Denver Mortgage Investors, $1.00 par common
General Telephone Company of California, Series 1956, 4½% cumulative preferred
Great National Corporation, $.40 par common
Hibernia Bank, The, $6.25 par common
Hines, Edward Lumber Co., $10.00 par common
Hoe, R. & Co., Inc., $.01 par common
Intercole Automation, Inc., $1.00 par common
Interface Mechanisms, Inc., No par common
International Clinical Laboratories, Inc., $.33⅓ par common
International Shipholding Corporation, $1.00 par common
Jackson National Life Insurance Co., $1.15 par common
Kroy Industries, Inc., $.50 par common
Luria, L. & Son, Inc., $.01 par common
Magma Energy, Inc., $.02 par common
Magnetic Controls Company, $.20 par common
Marine Petroleum Trust, Units of beneficial interest
McRae Consolidated Oil & Gas, Inc., $.01 par common
Metallurgical Industries, Inc., Class A, $.10 par common
Moraga Corporation, $1.00 par common
Mutz Corporation, No par common
National Railway Utilization Corporation, $.05 par common
National Savings Corporation, $1.00 par common
New Virginia Bancorporation, $1.00 par common
Norstan, Inc., $.10 par common
Parkway Company, The, $1.00 par shares of beneficial interest
Petroleum Equipment Tools Company, $.50 par common
Piccadilly Cafeterias, Inc., No par common
Preston State Bank (Dallas, Texas), $2.50 par capital
Quadrex Corporation, No par common
RSI Corporation, $.05 par common
RSR Corporation, $.01 par common
Ramtek Corporation, No par common
Raypak, Inc., $.15 par capital
Reeves Communications Corporation, $.40 par common
Safety-Kleen Corporation, $.10 par common
Security American Financial Enterprises, Inc., $1.00 par common
Seneca Oil Company, $.50 par common
Shop & Go, Inc., $.01 par common
Sigmaform Corporation, $.34 par common
Southern National Corporation, $5.00 par common
Southwest Bank, No par common
Spectrum Control, Inc., No par common
State National Bancorp, Inc., $1.00 par common
Statex Petroleum, Inc., $1.00 par common
Stryker Corporation, $.10 par common
Super Dollar Stores, Inc., $1.00 par common
Sykes Datatronics, Inc., $.10 par common
Tele-Communications, Inc., Class B, $1.00 par common
Teleco Oilfield Services, Inc., $.⅒ par common
Telecom Equipment Corporation, $.01 par common
Tidelands Royalty Trust "B," Units of beneficial interest
Tocom, Inc., $.10 par common
Tomlinson Oil Company, Inc., Warrants (expire 03–06–82)
Toreador Royalty Corporation, $.625 par common
Trans Delta Corporation, $.01 par common
Unit Drilling & Exploration Company, $.20 par common
United Fire & Casualty Company, $3.33⅓ par common
United International Research, Inc., $.10 par common
Verbatim Corporation, No par common
Visual Sciences, Inc., $.01 par common
Wavetek, No par common
Westport Company, The, No par shares of beneficial interest

Deletions

Stocks Removed for Failing Continued Listing Requirements

Bank of the Commonwealth, $.50 par common
Data Resources, Inc., $.10 par common
Fidelity Union Life Insurance Company, $1.00 par common
GRT Corporation, $.50 par common
National Bank of Georgia, The, $5.00 par common
Realty & Mortgage Investors of the Pacific, 6¾% convertible subordinated debentures

[1] Copy of current List filed as part of original document.

Tolley International Corporation, $.25 par common
Topps & Trowsers, $.10 par common
Wellington Management Company, Class A, $.10 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Adams Resources & Energy, Inc., $.10 par common
Advanced Micro Devices, Inc., $.01 par common
Alaska International Industries, Inc., $.10 par common
Anderson Jacobson, Inc., $.10 par common
Bankers Security Life Insurance Society, $2.00 par common
Barnett Banks of Florida, Inc., $2.00 par common
Basic Resources Corporation, $.05 par common
Beneficial National Corporation, $.25 par common
Billy the Kid, Inc., $.10 par common
Carboline Company, $1.00 par common
Century 21 Real Estate Corporation, $.01 par common
Chamberlain Manufacturing Corporation, $2.50 par common
Comdisco, Inc., $.10 par common
Continental American Life Insurance Company, $5.00 par common
Criterion Insurance Company, $2.00 par common
Dixico, Incorporated, $.50 par common
Donaldson Company, Inc., $5.00 par common
Dougherty Brothers Company, $.25 par common
Dunes Hotels & Casinos, Inc., $.50 par common
Ethan Allen, Inc., Class A, $1.00 par common
Farinon Corporation, No par common
Financial Security Group, Inc., $.10 par common
First Bancshares of Florida, Inc., $1.00 par common
First Security National Corporation, $2.50 par common
Galveston-Houston Company, $.33⅓ par common
Guarantee Bank, $1.00 par common
Hamilton Brothers Exploration Company, $1.00 par common
Hexcel Corporation, No par common
Hillhaven Corporation, The, $1.00 par common
Intext, Inc., No par common
James River Corporation of Virginia, $.10 par common
Kallestad Laboratories, Inc., $.05 par common
Koger Properties, Inc., $.10 par common
Lear Petroleum Corporation, $.10 par common
Lowe's Companies, Inc., $.50 par common
Management Assistance, Inc., $.40 par common
McDowell Enterprises, Inc., No par common
Microdata Corporation, No par common
Microwave Semiconductor Corporation, $.50 par common
Midwestern Fidelity Corporation, $1.66⅔ par common
Mostek Corporation, $.10 par common
National Gas & Oil Corporation, $1.00 par common
New Jersey Life Company, $.01 par common
Oil Base, Inc., $1.00 par common
Pennzoil Louisiana and Texas Offshore, Inc., $1.00 par common; 6% convertible subordinated debentures
Penril Corp., $.01 par common
RMIC Corporation, $1.00 par common
Recognition Equipment, Inc., $.25 par common
Reserve Oil and Gas Company, Warrants (expire 01–20–81)
Security-Connecticut Life Insurance Company, $1.00 par common
Seiscom Delta, Inc., $.10 par common
Southwestern Drug Corporation, $1.00 par common
Tosco Corporation, $.15 par common
Transocean Oil, Inc., $1.00 par common
Tremco, Inc., $1.00 par common
Triton Oil & Gas Corporation, $1.00 par common
Utilities & Industries Corporation, $.10 par common
Volume Shoe Corporation, $.50 par common
Weatherford International, Inc., $.10 par common
Webb Resources, Inc., $.10 par common
Winn's Stores, Inc., $1.25 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), April 7, 1980.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 80–10714 Filed 4–4–80; 2:40 pm]

BILLING CODE 6210–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80–231]

Renegotiable Rate Mortgage Instruments

April 3, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment authorizes Federal savings and loan associations to make, purchase, and participate in renegotiable rate mortgage instruments. The new authorization is intended to provide an additional instrument for mortgage lending.

EFFECTIVE DATE: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy L. Feldman, Associate General Counsel (202–377–6440) or Dale Riordan, Director, Office of Policy and Economic Research (202–377–6752), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552

SUPPLEMENTARY INFORMATION: On December 27, 1979, the Federal Home Loan Bank Board proposed to amend its lending rules for Federally chartered savings and loan associations by authorizing a new mortgage instrument, the renegotiable rate mortgage (Board Resolution No. 79–708; 45 FR 1425, published on January 7, 1980). The renegotiable rate mortgage as proposed is an automatically-renewable short-term loan note secured by a long-term mortgage, with renegotiation of the interest rate at the time of renewal.

The Board received more than 1500 comment letters from Federal and State-chartered savings and loan associations, trade associations, consumer groups, law firms, members of Congress, federal and state agencies, housing-related companies, and individuals. Lenders strongly favored the proposal, although a number of them recommended modifications and easing of some of the proposed restrictions, and consumers and their representatives either flatly opposed the new instrument or recommended increased restrictions, borrower options, and disclosure requirements. After considering the comments received and other available information, the Board has determined to authorize renegotiable rate mortgages ("RRMs") with certain modifications to the proposal, as discussed below.

A number of commenters expressed concern that state laws might affect the ability of Federal associations to make RRMs. The Board is promulgating this regulation pursuant to its plenary and exclusive authority to regulate all aspects of the operations of Federal associations, as set forth in section 5(a) of the Home Owners' Loan Act of 1933, as amended, and its exercise of this authority is preemptive of any state law purporting to restrict, directly or indirectly, the ability or right of any Federal association to make, purchase, or participate in RRMs. In order to avoid any later uncertainty on this point, language setting forth the Board's authority has been codified in the final regulation.

The Board specifically solicited comment in its proposal on whether an instrument comprised of a short-term loan secured by a long-term mortgage would create intervening-lien problems in lenders' jurisdictions, and a number of commenters responded. Possible problems arise in two situations: (1) Where the entire loan may become subordinate to junior lienholders at the end of the short-term loan, and (2) where the incremental interest resulting from an interest-rate increase may become subordinate due to lack of definiteness or because the increase is optional rather than mandatory.

With regard to the first situation, most commenters believed that the automatic-renewal feature of the RRM (which has been strengthened in the final regulation, see discussion below), coupled with a full description in the mortgage document of the debt which it secures, would alleviate any intervening-lien problem.

In the second situation, a number of commenters felt that a subordinate position for incremental interest was a distinct possibility but was not a substantial problem; others believed that a first lien could be maintained on such interest if the mortgage accurately described the debt it secured, with reference to an initial note and subsequent renewal notes with interest-rate adjustments at the time of each renewal, and specified the maximum interest rate that could ever be charged. Such disclosure would put junior lienholders on notice of the total possible indebtedness secured by the property. Several commenters mentioned that a mandatory increase provision would strengthen the analogy to future-advances cases, where mandatory increases generally share the first-lien status of original advances; one commenter, however, suggested that the arguments could be made that an RRM's rate changes are an integral part of the transaction, analogous to advances for preservation of the property (taxes, maintenance, insurance) which "optional" advances generally enjoy protected lien status under state law. The Board is reluctant to change the optional increase provision to a mandatory one, because it believes this gives the association needed flexibility in appropriate cases; nevertheless, it is noted that lenders are given the right to offer renewal at the increased rate, and in states where a mandatory provision would materially assist a lender's lien position, associations may want to consider a loan provision indicating that increases are mandatory unless waived in writing by the lender.

As proposed, the lender is required to give the borrower the option to renew the loan for a new loan term, which option the borrower may exercise at the end of each loan term until the principal of the loan is repaid. The description of the renewal in paragraph (a) of the regulation has been clarified to indicate that loan terms other than interest rate must be the same as those contained in the original loan. The loan would be automatically renewable at equal intervals after an original term which, to permit simplified recordkeeping, could be a maximum of six months longer than the subsequent terms.

The proposal provided that the association would have the option, determined at the time of loan application, to offer refinancing to the borrower at either its current market rate for similar loans or at a rate established with reference to a national index. A majority of lenders favored this choice and particularly approved of the option to use their own current rate, on the grounds of local competition and tailored adjustments reflecting their cost of funds. Consumers, however, strongly opposed use of a lender's own rate as an index to RRM refinancings, recommending that a standard be chosen which was beyond an individual lender's influence and manipulation. This, they asserted, would prevent lenders from establishing artificially high interest rates as a means of closing their loan windows during an economic period, such as the present, when relatively few new loans are being made. The Board notes some recent isolated instances of this practice, and although it believes that the provisions for refinancing without penalty and limits on increases would deter such practices, it is concerned that public perception of the new program not be distorted by this one element. Therefore, the Board has determined at this time that all lenders will be required to use a national index.

The national index proposed by the Board was the contract interest rate on the purchase of previously occupied homes for all major lenders. This series is computed by the Board and published monthly in the *Federal Home Loan Bank Board Journal* (Table S.5.1). The Board solicited comment on the use of this index versus an index based on cost of funds or a moving average. While some lenders favored cost-of-funds, a majority of commenters representing industry and consumer interests opposed it and recommended retention of a mortgage rate index as the most appropriate and the most likely to move down as well as up. With reference to a moving average mortgage-rate index, the Board notes that even the monthly "spot rate" index contained in the proposal is in fact a moving average because it is based on the closings of loans, the rates on which reflect commitments made over a several-month period. The Board has therefore determined to adopt the national index as proposed.

The proposal provided that associations would not be able to charge borrowers additional fees at renewal time, "except for nominal costs of preparing documents". This language was generally felt by commenters to be vague and was frequently misread to include possible costs for new appraisals, title searches and the like. Lenders indicated that it would be difficult to give an estimate of such costs in the application disclosure materials, with reference to charges to be assessed many years in the future. Rather than attempting to give a list of acceptable charges or setting an arbitrary maximum dollar amount, and in recognition of the fact that such charges could be burdensome when assessed at the time of a borrower's interest rate increase, the Board has determined to eliminate any assessment of costs or fees to the borrower at the time of renewal.

Another proposed provision which was criticized for vagueness was the conditioning of automatic loan renewal on "the borrower having consistently repaid principal and interest in a timely manner during the existing loan term." Commenters presented various hypothetical situations which might or might not result in forfeiture of the renewal option, and requested clarification. Others objected to the provision as an alternative to foreclosure proceedings, depriving borrowers of state-law protections available during those proceedings. The Board is persuaded that the proposed provision is unnecessary, as RRM lenders may elect to exercise their contractual rights upon borrower default even if the loan has been recently renewed, and therefore the quoted language has been deleted from the final regulation.

Many commenters addressed the question of the length of loan terms. The Board proposed to authorize terms of three to five years. Lenders frequently recommended that the Board allow terms as short as one year, and some requested interest-rate adjustment periods within the loan term. Consumers generally recommended minimum terms of five years. The Board had specifically solicited comment on whether the initial loan term should be longer, for example five years, regardless of the remainder of an RRM's renewal periods; consumers favored this proposal and lenders opposed it. The Board believes that, on balance, the three-to-five-year authorization is sufficiently flexible to allow lenders to approach market rates in their loan portfolios while providing consumers with both a period of stability and an oppportunity to benefit from downward shifts in interest rates without the costs of refinancing. The loan term provision thus has been adopted as proposed.

In addition, the regulation provides that the initial loan term may be up to six months longer than subsequent

terms. This provision is necessary to facilitate the purchase and sale of RRMs in the secondary mortgage market. Mortgages grouped for sale in the secondary market normally are arranged so that their maturities coincide. By permitting the initial loan term of an RRM to be six months longer than subsequent terms, the regulation enables lenders to match the maturities of RRMs they contemplate selling in the secondary market. By requiring lenders to treat extended loans, for purposes of calculation of the interest rate increase or decrease at renewal, as if their terms were only three, four or five years instead of slightly longer periods, the regulation ensures that the interest rates of all RRMs in a particular group increase or decrease by the same amount at renewal. This feature is important to secondary market purchasers.

Under the proposal, the maximum rate increase or decrease for each loan period was 0.5% per year of the loan term. For example, a three-year loan would have a maximum increase or decrease at each renewal of 1.5%. If, however, the rate at the time of first renewal were only 1% higher than the previous rate, the lender could not "save" the unused 0.5% and increase the rate by 2% at the end of the next period, even assuming the rate had increased by 2% or more during the subsequent period. The lender would, however, be able to "catch up" to the current market rate so long as the increase from the previous loan rate did not exceed 0.5% per year. The maximum increase or decrease was proposed to be 5% over the life of the mortgage, with rate increases at the lender's option, and mandatory decreases.

The Board asked for comment on all aspects of the proposed interest-rate limitations, and many persons responded. Lender reaction was mixed, with large numbers either favoring the proposed limitations or recommending elimination or liberalization of the limits, such as 1% per year or lifting the 5% total limitation after a certain number of years. Consumers generally believed that the 5% total limitation on increases was too generous, and that no limit should be placed on decreases.

After further considering this matter, the Board believes at this time that the proposed limits are fair to borrowers and lenders. The Board recognizes that mortgage interest rates have increased dramatically in the past 18 months. However, the Board believes the large size of this increase was due to a unique set of circumstances that is unlikely to re-occur. By limiting the maximum increase or decrease in the RRM interest rate to 5%, the regulation permits the rate to vary within a 10 percentage point spread. The Board feels the flexibility this spread gives the RRM is sufficient to meet the needs and interests of both borrowers and lenders, especially in view of the fact that the average life of a mortgage is 8–12 years.

The regulation also retains the 0.5% maximum annual interest rate increase or decrease. The Board is of the opinion that a higher figure, such as one percent, could result in increases in mortgage payments that some borrowers would be unable to absorb. Conversely, a lower maximum figure could make the RRM unresponsive to market conditions. The Board believes the 0.5% limitation will protect borrowers from excessive rate increases while providing associations with the interest flexibility they need in their mortgage portfolios.

The final regulation clarifies a provision relating to interest-rate changes. Additional language is included to provide that associations may offer RRMs that have smaller interest rate changes than the regulatory maximums, but that in such case the maximum increases may never exceed the maximum decreases. This language will give additional flexibility to both borrowers and lenders, but protects borrowers by ensuring that the maximum permissible interest rate increase may never exceed the maximum permissible decrease.

The proposal required two sets of disclosure materials, one to be given to the borrower when s/he receives an application for the RRM, and a 60-day notice prior to each renewal period. The Board requested comment on the clarity of the sample notice form, and whether mandatory forms should be adopted for either or both disclosures. Commenters favored standard disclosure forms, and indicated that the sample was clear and understandable. The Board has therefore adopted mandatory forms for both application and renewal-notice disclosures.

Consumers generally advocated additional disclosures, particularly with regard to application materials. The proposal required informing a potential applicant of (1) the difference between an RRM and a fixed-rate mortgage, (2) an example of an RRM with the maximum increase in interest rate and monthly payment at the end of the first term, and (3) an explanation of rate changes. (The fourth item, an estimate of renewal costs, has been dropped, see above, and need not be discussed.) Some lenders recommended dropping the comparison with fixed-rate mortgages and concentrating on a good description of the offered RRM. Consumers wanted a description of maximum increases through all renewal periods, with specific interest rates and monthly payments for the loan to be offered the borrower.

The Board's mandated application disclosure form retains the described provisions as proposed, and adds certain others. The Board believes that, at this time, borrowers generally are unfamiliar with the RRM concept and need a comparison with the prevalent mortgage form. However, the Board intends the disclosures to be provided prior to actual application, so that the borrower understands the nature of the credit instrument which may be offered before paying an application fee. Therefore, the disclosure cannot be instrument-specific, relative to rates and payments, because the loan has not been processed and commitment terms change frequently. With regard to a more extensive "worst case" disclosure, the Board believes that RRMs should be allowed to be competitive with other mortgage instruments, and notes that Truth-In-Lending statements will continue to provide specific credit information in addition to the Board's required early disclosure material. However, in order to give the borrower a closer estimate of possible interest rates and terms, the Board's disclosure form requires the lender to use its current commitment rate at the time of disclosure in calculating the maximum initial rate increase in the example. The form also describes the renewal notice, informs the applicant of prepayment rights and of the absence of renewal fees, and emphasizes the lender's right to take the maximum interest rate increases permissible under the regulation.

A number of comments were received on the subject of prepayment without penalty. Some lenders felt that prepayment without penalty should be permitted only within a specified time period (e.g., 60–90 days) after renewal or only if the reason for prepayment was that the borrower had secured lower-cost financing with another lender. Consumers, on the other hand, favored deleting the prepayment penalty completely. The Board has determined to retain the provision as originally proposed. The Board believes that permitting imposition of a penalty only during the initial loan provides sufficient protection to lenders. It was felt that, considering the adjustable rate nature of the RRM, borrowers should have the flexibility to prepay without penalty after the initial term.

The renewal notice provisions have also been amended to make clear that prepayment may be partial and may be made without penalty or any time after the beginning of the minimum notice period for the first renewal, or at any earlier time specified in the loan contract.

Many consumers and a few lenders suggested that a 60–day notice may be insufficient for a borrower to obtain refinancing in the case of an increase in mortgage payments. Although it is emphasized that no prepayment penalty may be assessed at any time after the first renewal, the Board at this time has determined to extend the notice period to 90 days to allow borrowers more leeway in making suitable financial arrangements before commencement of higher monthly payments. Because lenders must make their rate calculations prior to the 90-day period, the 90-day notice also applies to decreases in rates.

The Board believes that these provisions will provide borrowers with timely information and allow them to take advantage of a drop in mortgage rates by seeking more advantageous refinancing should that option appear desirable.

The proposed RRM regulation places a 30-year limit on the RRM. Several commenters suggested authorizing lenders to extend maturity of the mortgage to 40 years. If at renewal the term of an RRM were extended in conjunction with an increase in its interest rate, the effect would be to lessen the increase in the borrower's monthly payment since the RRM would be amortized over the extended time period. After considering these comments, the Board has determined to retain the 30-year limit as proposed. Although permitting an extension to 40 years would provide a very small mitigation of the effects of an increase in the interest rate, such an extension would result in a substantial increase in the total mortgage payments. It was felt that the short-term benefit of slightly smaller monthly payments was far outweighed by the long-term drawback of a much larger total payment. Another drawback of permitting such an extension is that disclosure notices would be substantially complicated and computer problems created by combinations of term extension and rate increase. Finally, term extensions would create secondary market problems because instruments included in a loan portfolio would move at different rates. It was determined, therefore, that extensions of maturity to 40 years should not be permitted.

Many commenters discussed the possibility of requiring lenders to offer a mandatory choice between a fixed-rate mortgage and an RRM, and/or a portfolio limitation on RRMs, although these were not contained in the proposal. Lenders opposed such restrictions, and consumers supported them. As stated in the proposal, the Board believes that the required disclosures will give the consumer sufficient information to make an informed choice about mortgage financing, and that associations need not be required to offer a standard mortgage in lieu of an RRM, nor to limit the number of RRMs they may offer.

The Board further believes that the proposed renegotiable rate mortgage will benefit lenders and consumers by providing funds for housing while giving consumers the protections of guaranteed renewal, ceilings on rate increases, no prepayment penalties after the first notice of renewal, mandatory rate decreases, and lender disclosure to enable them to make informed choices in mortgage financing.

The Board finds that delay of the effective date of this regulatory amendment for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because (1) it relieves restriction, and (2) it is in the public interest, since it will increase the availability of mortgage funds and provide lender flexibility in earnings during a time of unstable market conditions.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) by adding a new § 545.6–4a, to read as set forth below.

§ 545.6–4a Renegotiable rate mortgage instruments.

(a) *Authorization.* (1) A Federal association may make, purchase, or participate in a renegotiable rate mortgage loan under this section if the loan complies with the provisions of § 545.6–2(a), pertaining to one-to-four-family home loans. (2) This regulation is promulgated pursuant to the plenary and exclusive authority of the Board to regulate all aspects of the operations of Federal associations, as set forth in section 5(a) of the Home Owners' Loan Act of 1933, as amended. This exercise of the Board's authority is preemptive of any state law purporting to address the subject of a Federal association's ability or right to make, purchase, or participate in renegotiable rate mortgages, or to directly or indirectly restrict such ability or right.

(b) *Description.* For purposes of this section, a renegotiable rate mortgage loan is a loan issued for a term of three, four or five years, secured by a long-term mortgage of up to 30 years, and automatically renewable at equal intervals except as provided in paragraph (c)(1) of this section. The loan must be repayable in equal monthly installments of principal and interest during the loan term, in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining term of the mortgage. At renewal, no change other than in the interest rate may be made in the terms or conditions of the initial loan. Prepayment in full or in part of the loan balance secured by the mortgage may be made without penalty at any time after the beginning of the minimum notice period for the first renewal, or at any earlier time specified in the loan contract.

(c) *Interest-rate changes at renewal.* (1) The interest rate offered at renewal shall reflect the movement, in reference to the date of the original loan, of the contract interest rate on the purchase of previously-occupied homes in the Board's most recent monthly national average mortgage rate index for all major lenders: *Provided,* That an association may alter the initial terms of loans originated within a six-month period so that they mature on the same date three, four or five years after the end of that period, in which case the interest rate offered at renewal shall reflect the movement of the index from the end of that period (that is, as though all loans in the group had originated at the end of the period).

(2) The maximum rate increase or decrease shall be one-half of one percentage point (0.5%) per year multiplied by the number of years in the loan term, with a maximum increase or decrease of five percentage points (5%) over the life of the mortgage. Associations may offer a borrower a renegotiable rate mortgage loan with maximum annual and total interest rate decreases smaller than the maximums set out in this subparagraph, except that in such a case the maximum annual and total interest rate increases offered shall not exceed the maximum annual and total decreases set out in the loan contract.

(3) Interest rate decreases from the previous loan term are mandatory. Interest rate increases are optional with the association, but the association may obligate itself to a third party to take the maximum increase permitted by this paragraph.

(d) *Cost of renewal.* The borrower may not be charged any costs or fees in

connection with the renewal of such loan.

(e) *Renewal notice.* At least ninety (90) days before the due date of the loan, the association shall send written notification in the following form to the borrower:

Notice

Your loan with ———— Federal Savings and Loan Association, secured by a [mortgage/deed of trust] on property located at [address], is due and payable on [90 days from date of notice].

If you do not pay by that date, your loan will be renewed automatically for ——— years, upon the same terms and conditions as the current loan, except that the interest rate will be ———%. (See accompanying Truth-In-Lending statement for further credit information.)

Your monthly payment, based on that rate, will be $———, beginning with the payment due on ————, 19——.

You may pay off the entire loan or a part of it without penalty at any time.

If you have questions about this notice, please contact [title and telephone number of association employee].

(f) *Application disclosure.* An applicant for a renegotiable rate mortgage loan must be given, at the time s/he requests an application, a disclosure notice in the following form:

Information About the Renegotiable-Rate Mortgage

You have received an application form for a renegotiable-rate mortgage ("RRM"). The RRM differs from the fixed-rate mortgage with which you may be familiar. In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3–5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan. This means that the amount of your monthly payment may also increase or decrease.

The term of the RRM loan is ——— years, and the length of the underlying mortgage is ——— years. The initial loan term may be up to six months longer than later terms.

The lender must offer to renew the loan, and the only loan provision that may be changed at renewal is the interest rate. The interest rate offered at renewal is based on changes in an index rate. The index used is computed monthly by the Federal Home Loan Bank Board, an agency of the Federal government. The index is based on the national average contract rate for all major lenders for the purchase of previously-occupied, single-family homes.

At renewal, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to offer a renewal of the loan at an interest rate equalling the original interest rate plus the increase in the index rate. This is the maximum increase permitted to the lender. Although taking such an increase is optional with the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

If the index has moved down, the lender *must* at renewal reduce the original interest rate by the decrease in the index rate. No matter how much the index rate increases or decreases, THE LENDER, AT RENEWAL, MAY NOT INCREASE OR DECREASE THE INTEREST RATE ON YOUR RRM LOAN BY AN AMOUNT GREATER THAN ———— OF ONE PERCENTAGE POINT PER YEAR OF THE LOAN, AND THE TOTAL INCREASE OR DECREASE OVER THE LIFE OF THE MORTGAGE MAY NOT BE MORE THAN ———— PERCENTAGE POINTS.

As the borrower, you have the right to decline the lender's offer of renewal. If you decide not to renew, you will have to pay off the remaining balance of the mortgage. Even if you decide to renew, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the minimum notice period for the first renewal. To give you enough time to make this decision, the lender, ninety (90) days before renewal, will send a notice stating the due date of the loan, the new interest rate and the monthly payment amount. If you do not respond to the notice, the loan will be automatically renewed at the new rate. You will not have to pay any fees or charges at renewal time.

The maximum interest-rate increase at the first renewal is ——— percentage points. On a $50,000 mortgage with a loan term of ——— years and an original interest rate of [lender's current commitment rate] percent, this rate change would increase the monthly payment (principal and interest) from $——— to $———. Using the same example, the highest interest rate you might have to pay over the life of the mortgage would be ——— percent, and the lowest would be ——— percent.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-10750 Filed 4-8-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 590

[80-234]

Regulations for Federally Related Mortgage Loans; Preemption of State Usury Laws

Dated: April 3, 1980

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These regulations implement section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980 which provides for permanent preemption of state interest ceilings with respect to Federally-related residential first mortgage loans made after March 31, 1980. The regulations: (1) describe mortgage lenders subject to the statute and regulations; (2) define mortgage loans covered by the statute and regulations; (3) provide special rules for loans secured by first liens on mobile homes; and (4) provide notice that the Board will issue interpretations of the statute upon written request and explain the procedure for filing such requests.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 ((202) 377–6457).

SUPPLEMENTARY INFORMATION: As authorized under Section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96–221, 94 Stat. 161, the Board has adopted regulations governing the preemption of state usury laws with respect to Federally-related first mortgages made after March 31, 1980. These regulations replace the regulations implementing the temporary usury exemption contained in section 105(a)(1) of Public Law 96–161, 93 Stat. 1233 (1979). The Board, however, adheres to the positions taken in the Interpretations issued pursuant to those regulations. *See* 45 FR 2840 (Jan. 15, 1980); 45 FR 6165 (Jan. 25, 1980); 45 FR 8000 (Feb. 6, 1980); 45 FR 15921 (Mar. 12, 1980).

Although section 501 preempts state usury laws applicable to both mortgage loans and payment of interest on deposits, these regulations implement the provisions governing mortgage loans only. Regulations concerning the payment of interest on deposits by Bank System members are contained in Part 526 of the Federal Home Loan Bank System regulations. Similar regulations of the Federal Reserve Board (12 CFR Part 217), the Federal Deposit Insurance Corporation (12 CFR Part 329) and the National Credit Union Administration (12 CFR Part 701.35(g)) are in effect for deposits in depository institutions regulated by those agencies.

The Board has implemented section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980 which preempts state laws expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be assessed in connection with making a Federally-related residential first mortgage. Federally-related loans include those made by: (1) Federally-chartered banks, credit unions, or savings and loans; (2) state-chartered

lenders whose accounts are insured by the FSLIC, FDIC, or NCUA; (3) members of the Federal Reserve or Federal Home Loan Bank Systems; and (4) lenders approved by the Department of Housing and Urban Development for participation in any mortgage insurance program. The regulations also apply to loans eligible for purchase by GNMA, FNMA, or FHLMC. Lenders that do not meet any of the above criteria will still be eligible for the exemption if they are considered "creditors" under the Truth in Lending Act, 15 U.S.C. 1602(f), and make, or invest in, residential real estate loans totaling over one million dollars annually. Creditors selling residential mobile home loans will not have to meet this million dollar test to be eligible for the exemption, if they sell their mobile home loans to a lender otherwise covered by this preemption.

The preemption prescribed by this Part applies to loans, mortgages, credit sales, and advances secured by first liens on: (1) residential real estate; (2) stock in a residential housing co-op; or (3) residential mobile homes. The regulations define residential real estate to mean property improved, or to be improved, by a residence. There is no limitation on the number of dwelling units contained in the structure improving the property. Accordingly, loans secured by first liens on multi-unit apartment buildings are exempted from state interest ceilings by these regulations.

It also should be noted that although the preemption applies to individual cooperative unit loans secured by stock in the cooperative only when the loan proceeds are used to purchase the stock, a blanket mortgage on the entire coop would be secured by residential real property and therefore not subject to the purchase money limitation.

Section 501 preempts applicable state interest ceilings unless the state legislature provides by law that the preemption will not apply in that state. Any state action of this nature must be taken within three years to be effective. In the event a state overrides the preemption, the provisions of section 501 shall continue to apply to any loan, mortgage, credit sale, or advance made pursuant to a commitment made prior to the state's override legislation.

The preemption created by section 501 applies only to state laws expressly limiting interest, discount points, and similar charges. It does not affect consumer protections contained in state law. Examples of unaffected consumer protections are prohibitions against prepayment and other penalties or state laws requiring that attorney fees, assumption fees, etc., reflect their reasonable cost. *See* S. Rep. No. 368, 96th Cong., 1st Sess. 19 (1979).

Federally-Related Loans or Credit Sales Secured by First Liens on Residential Manufactured Homes

Section 501 specifically exempts loans and credit sales secured by first liens on mobile homes from state usury laws. The mobile home securing the loan must be used, or be intended for use, as a residence and must meet the standards set forth in Section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. § 5402(6). Section 501(c) of the Depository Institutions Deregulation and Monetary Control Act of 1980 directs the Federal Home Loan Bank Board to adopt regulations establishing consumer safeguards which must be included in any mobile home loan contract or credit sale contract before the contract is eligible for the usury exemption. Until such regulations are adopted, however, mobile home loans and credit sales generally will be exempted from state interest ceilings. If these contracts contain precomputed finance charges, however, the agreement must provide for the refund of unearned precomputed finance charges in the event of prepayment. Moreover, the amount of this refund must not be less than would be refunded if the unearned interest were calculated by the actuarial method.

Under the actuarial method, the interest earned in any given period is calculated on the declining amount financed. Any payment by the debtor is applied first to the interest earned in that period and any excess is used to reduce the outstanding balance. When calculated by the actuarial method, the interest earned in a given period is almost always less than that earned under the Rule of 78's or the Sum of the Digits method of calculation. Accordingly, loans secured by first liens on mobile homes generally will not be eligible for the usury exemption provided in this Part if such loans require that unearned interest will be computed by the Rule of 78's or the Sum of the Digits method. If state law requires the use of a method which yields a refund greater than that obtained under the actuarial method, the state mandated method should be used.

It should be noted also that the term "prepayment" includes refinancings, consolidations, and payments of indebtedness after acceleration or judgment against the debtor.

Outstanding Commitments and Loans

The state usury preemption will not apply to loans or credit sales for which commitments were made prior to the effective date of the Act. Commitments made in the three months prior to March 31, 1980, generally are exempted from state interest ceilings by Public Law 96–161. Loan commitments dated prior to the December 28, 1979, effective date of Public Law 96–161 continue to be governed by state law, if no other preemption is applicable.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. § 553(b) and 12 CFR 508.11, because these amendments implement a statute and immediate implementation serves the public interest in ensuring the availability of Federally-related mortgage loans in states with restrictive usury laws; and (2) publication of said amendments for the 30-day period specified in 5 U.S.C. § 553(d) and 12 CFR 508.14 prior to the effective date is unnecessary for the same reasons.

Accordingly, the Federal Home Loan Bank Board hereby adopts a new Subchapter G, Regulations for Federally-Related Mortgage Loans, to replace the temporary Subchapter G which expired on March 31, 1980, and adds a new Part 590, to read as follows:

SUBCHAPTER G—REGULATIONS FOR FEDERALLY RELATED MORTGAGE LOANS

PART 590—PREEMPTION OF STATE USURY LAWS

Sec.

590.1 Authority, purpose, and scope.
590.2 Definitions.
590.3 Operations.
590.4 Special Rules for Federally-related Loans Secured by First Liens on Residential Manufactured Homes.
590.5 Interpretations.

§ 590.1 Authority, purpose, and scope.

(a) *Authority.* This Part contains regulations issued under section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96–221, 94 Stat. 161.

(b) *Purpose and Scope.* The purpose of this permanent preemption of state interest-rate ceilings applicable to Federally-related residential mortgage loans is to ensure that the availability of such loans is not impeded in states having restrictive interest limitations. This Part applies to loans, mortgages, credit sales, and advances, secured by first liens on residential real property, stock in residential cooperative housing corporations, or residential manufactured homes as defined in § 590.2 of this Part.

§ 590.2 Definitions.

For the purposes of this Part, the following definitions apply:

(a) Loans means any loans, mortgages, credit sales, or advances.

(b) Federally-related loans include any loan:

(1) Made by any lender whose deposits or accounts are insured by any agency of the Federal government;

(2) Made by any lender regulated by any agency of the Federal government;

(3) Made by any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

(4) Made in whole or in part by the Secretary of Housing and Urban Development; insured, guaranteed, supplemented, or assisted in any way by the Secretary or any officer or agency of the Federal government, or made under or in connection with a housing or urban development program administered by the Secretary, or a housing or related program administered by any other such officer or agency;

(5) Eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or made by any financial institution from which the loan could be purchased by the Federal Home Loan Mortgage Corporation; or

(6) Made in whole or in part by any entity which:

(i) Regularly extends, or arranges for the extension of, credit payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and

(ii) Makes or invests in residential real property loans aggregating more then $1,000,000 per year; *except* that the latter requirement shall not apply to such an entity selling residential manufactured homes and providing financing for such sales through loans or credit sales secured by first liens on residential manufactured homes, if the entity has an arrangement to sell such loans or credit sales in whole or in part, or where such loans or credit sales are sold in whole or in part, to a lender or other institution otherwise included in this section.

(b) "Loans which are secured by first liens on real estate" means loans on the security of any instrument (whether a mortgage, deed of trust, or land contract) which makes the interest in real estate (whether in fee, or in a leasehold or subleasehold extending, or renewable, automatically or at the option of the holder or the lender, for a period of at least 5 years beyond the maturity of the loan) specific security for the payment of the obligation secured by the instrument; *Provided* That the instrument is of such a nature that, in the event of default, the real estate described in the instrument could be subjected to the satisfaction of the obligation with the same priority as a first mortgage of a first deed of trust in the jurisdiction where the real estate is located.

(c) "Loans secured by first liens on stock in a residential cooperative housing corporation" means loans on the security of: (1) a first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; and (2) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(d) "Loans secured by first liens on residential manufactured homes" means a loan made pursuant to an agreement by which the party extending the credit acquires a security interest in the residential manufactured home which will have priority over any conflicting security interest.

(e) "Residential real property" means real estate improved or to be improved by a structure or structures designed primarily for dwelling, as opposed to commercial, use.

(f) "Residential manufactured home" means a structure, transportable in one or more sections, which is at least eight body feet wide, thirty-two body feet long, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, and which structure is or will be used as a residence.

(g) "State" means the several states, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

§ 590.3 Operation

(a) The provisions of the constitution or law of any state expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any Federally-related loan:

(1) Made after March 31, 1980; and

(2) Secured by a first lien on:

(i) Residential real property;

(ii) Stock in a residential cooperative housing corporation when the loan is used to finance the acquisition of such stock; or

(iii) A residential manufactured home, *provided* that the loan so secured contains the consumer safeguards required by § 590.4 of this Part;

(b) The provisions of paragraph (a) shall apply to loans made in any state on or before the date (after April 1, 1980 and prior to April 1, 1983) on which the state adopts a law or certifies that the voters of such state have voted in favor of any law, constitutional or otherwise, which states explicitly and by its terms that such state does not want the provisions of paragraph (a) to apply with respect to loans made in such state, *except* that—

(1) The provisions of paragraph (a) shall apply to any loan which is made after such date pursuant to a commitment therefor which was entered into during the period beginning on April 1, 1980, and ending on the date the state takes such action;

(2) The provisions of paragraph (a) shall apply to any rollover of a loan which loan was made, or committed to be made, during the period beginning on April 1, 1980, and ending on the date the state takes such action, if the mortgage document or loan note provided that the interest rate to the original borrower could be changed through the use of such a rollover; and

(3) At any time after the date of enactment of this Act, any state may adopt a provision of law placing limitations on discount points or such other charges on any loan described in this Part.

(c) Nothing in this section preempts limitation in state laws on prepayment charges, attorneys' fees, late charges or other provisions designed to protect borrowers.

§ 590.4 Special rules for federally-related loans secured by first liens on manufactured homes.

(a) In order to qualify for the usury exemption contained in this Part, any loan secured by a first lien on a residential manufactured home that includes a precomputed finance charge must provide for the refund of the unearned portion of this precomputed finance charge in the event the entire indebtedness is prepaid. The amount of such refund must not be less than the amount which would be refunded if the unearned interest were calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than one dollar.

(b) As used in this section:

(1) A "prepayment" occurs upon—

(A) The refinancing or consolidation of the indebtedness;

(B) The actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of

the payment obligation by the creditor; or

(C) The entry of a judgment for the indebtedness in favor of the creditor.

(2) The term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation.

(3) The term "precomputed finance charge" means interest or a time price differential (including service or carrying charges and any amount payable under a point, discount, or other system of additonal charges) as computed by the add-on or discount method.

§ 590.5 Interpretations.

(a) The Board periodically will publish Interpretations under section 501 of the Depository Institutions Deregulation and Monetary Act of 1980, Pub. L. No. 96–221, 94 Stat. 161, in the **Federal Register** in response to written requests sent to the Secretary to the Board, 1700 G Street, N.W., Washington, D.C. 20552.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–10770 Filed 4–8–80; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[ER–1172; Amdt No. 53; Docket 31290]

Tariffs; Conforming Amendment

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is revising its policy statement on domestic passenger fares in PS–92, also issued today. (FR Doc 80–10760) This amendment of the CAB's rule on tariffs corrects a cross-reference to that policy statement.

DATES: Adopted: April 3, 1980. Effective: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Norman D. Schwartz, Chief, Legal Analysis Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, 202–673–5056.

SUPPLEMENTARY INFORMATION: This amendment of 14 CFR Part 221 is interpretative. The Board therefore finds that notice and public procedure and a delayed effective date are unnecessary and not in the public interest.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs*, as follows:

In § 221.165, paragraph (d)(4) is amended to read:

§ 221.165 Explanation 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 and the District of Columbia that are within the zones set forth in § 399.32 of this chapter.

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

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–10759 Filed 4–8–80; 8:45 am]

BILLING CODE 6320–01–M

14 CFR Part 399

[PS–92; Amdt. No. 69; Docket 31290]

Statements of General Policy; Domestic Passenger Fares

AGENCY: Civil Aeronauticss Board.

ACTION: Final rule.

SUMMARY: The CAB revises its policy statement about domestic passenger fares to reflect the Airline Deregulation Act of 1978. In a market with one, two, or three airlines, each can now charge up to 5 percent above the Standard Industry Fare Level year-round, rather than being limited to a certain number of days. Also, the CAB changes its method of adjusting the fare ceiling for cost increases, to conform to the Deregulation Act. In PSDR–66, also issued today, the CAB is proposing more far-reaching changes in domestic fare policy. (See FR Doc. 80–10761).

DATES: Adopted: April 3, 1980. Effective: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Norman D. Schwartz, Chief, Legal Analysis Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5056.

Introduction

In 1978, the Board voluntarily established a broad zone within which we would ordinarily not suspend passenger fares for markets within the 48 contiguous states and the District of Columbia. This policy was set out in PS–80, PR–177, ER–1072, and Order 78–8–152, which are collectively referred to as "PS–80" (43 FR 39522, September 5, 1978). Then, the Airline Deregulation Act of 1978 (Pub. L. 95–504) amended the Federal Aviation Act ("the Act") to create a statutory zone of reasonableness for domestic passenger fares.

In notice of proposed rulemaking PSDR–61 (44 FR 30108, May 24, 1979) ("the Notice"), we proposed two changes in the domestic passenger fare policies to conform them to the Deregulation Act. First, we tentatively decided to remove the 110-day limitation on the 5 percent upward flexibility now allowed carriers in markets where two or three carriers are authorized to provide service. Second, we proposed to modify the methodology we adopted in PS–80 to update the fare ceiling to the one required by section 1002(d)(6) of the Act.

We also proposed eliminating our policy of allowing local service carriers the flexibility to raise their fares in a zone ranging up to 30 percent above the coach fare level established for the trunks without submitting an economic justification. We felt that the locals should be subject to the same fare policies prescribed for the trunks, including the limitations on upward pricing flexibility, since the historic distinction between the trunks and local service carriers was disappearing as the latter rapidly entered trunk-type routes. We also saw no reason to subject certificated carriers operating aircraft having 60 seats or less to fare regulation during the relatively short transitional period to complete fare freedom.

Comments have been received from American, Delta, Eastern, Ozark, Pacific Southwest (PSA), Piedmont, Republic (filing comments as North Central), TWA, United USAir (filing comments as Allegheny), Swift Aire Lines, the Commuter Airline Association of America (CAAA) and the Puget Sound Traffic Association (PSTA). United also submitted a supplemental comment requesting that we eliminate the 58-day limitation on upward pricing flexibility in monopoly markets. A motion to file an otherwise unauthorized document accompanied these comments. We will grant the motion. A detailed summary of these comments is attached as Appendix A. Generally, most of the carriers supported the Board's proposed changes to its PS–80 policies. PSA pointed out that language governing

intrastate fares adopted in PS–82 (44 FR 9940, February 15, 1979) was omitted from proposed § 399.31(a) and requested its reinstatement. The omission was inadvertent and the final rule has been revised accordingly. Several carriers have, however, suggested that the methodology proposed for updating the standard industry fare level be modified to account for fuel price increases on a more frequent basis. See comments of American, Delta, Eastern and United. Both Delta and TWA questioned other aspects of the methodology, which we discuss below. On the other hand, PSTA questioned the Board's tentative decision to allow the carriers greater flexibility than prescribed by the Act. Piedmont, Republic and USAir opposed our proposed elimination of the 30 percent upward zone for local service carriers, while Swift Aire and the CAAA fully endorsed our tentative decisions not to subject certificated carriers operating aircraft having 60 seats or less to fare regulation. CAAA suggested that the Board also vacate those provisions of orders dealing with replacement service by commuters for local service carriers which provide that the commuters cannot charge fares higher than those charged by the local service carriers.

We have examined these objections and suggested modifications carefully. On the basis of this review and our own analysis as set forth in the Notice, we have decided to adopt the changes in our fare policy as proposed, except in the following respects.

First as suggested by United, we are eliminating the 58-day limitation on the 5 percent upward fare flexibility now allowed carriers in their monopoly markets. We see no reason to continue this limitation especially since it is difficult to administer, and our experience under PS–80 shows that prices have not been out of line with costs. Second, we have decided to continue allowing local service carriers the flexibility to raise fares up to 30 percent above the trunk formula fare. As further explained below, we believe that the continuation of this zone is necessary to encourage these carriers to remain in their short-haul, low-density markets. These determinations are not, of course, our last word on domestic fare policy. Since PSDR–61 was issued, free entry has become the rule domestically, and a significant increase in fare flexibility over the policies of PS–80, as modified here, appears warranted. Accordingly, the Board is issuing concurrently PSDR–66, outlining new proposals in the evolution of our fare policy.

Changes to the Board's PS–80 Policies

1. *Fare Flexibility Above the Fare Ceiling.* The Board's domestic fare policies recognize the need for allowing carriers the flexibility to raise their fares above a fare level based on industry averages with limited risk of suspension. Under these policies, a ceiling fare is based on the formula established in Phase 9 of the Domestic Passenger Fare Investigation (DPFI) (Docket 21866–9). The ceiling is updated periodically by the Board. Carriers in workably competitive markets (defined as those with four or more carriers authorized) are allowed the flexibility to raise their fares up to 10 percent above the ceiling. In two- and three-carrier markets, carriers are able to raise their fares up to 5 percent above the ceiling on 110 days of the year; and in their monopoly markets, carriers have the flexibility to raise their fares up to 5 percent above the ceiling on 58 days of the year. In the Notice, we proposed to continue this general policy during the transition period before January 1, 1983, when our authority over domestic passenger fares ends. We also proposed to expand the scope of the upward zone governing two and three-carrier markets by eliminating the 110-day limitation.

These zones (as modified) will give the carriers more freedom to raise their fares than that provided under section 1002(d)(4)(A) of the Act which allows only non-monopoly carriers (defined as carriers which provide air transportation to less than 70 percent of the passengers traveling in air transportation between a pair of points) the flexibility to raise their fares up to 5 percent above the ceiling. As discussed in the Notice, we felt that it would be reasonable and consistent with the purposes of the Airline Deregulation Act to allow a carrier to price its services above the ceiling within the zones established by PS–80, regardless of whether it provides air transportation to 70 percent or more of the passengers traveling in the market. American and Ozark, however, stated that this decision was not clearly set forth in the proposed policy statement. The source of their concern is footnote 4 to proposed § 399.31(c)(2), which, as drafted, suggested that upward fare proposals of carriers transporting 70 percent or more of the passengers in a market will be suspended. We are revising several sections of Part 399, to more clearly state our policy on fare flexibility, including increases above the zone. PSTA challenged our authority to adopt a policy on upward fare flexibility that is more permissive than the upward zone established by the statute. It argued that Congress clearly intended that the 5 percent statutory zone be the only upward pricing flexibility allowed the carriers, pointing out that while Congress specifically authorized the Board to increase the downward no-suspend zone, it failed to give the Board similar authority to expand the upward zone. PSTA also questioned the Board's policy of establishing the size and scope of the upward zone on the basis of the number of authorized carriers in the market. This policy was adopted in PS–80 and the reasons for it were fully explained in that document. Indeed, in that rulemaking, in which PSTA participated, the Board asked the commenters to address specifically the issue of upward pricing flexibility; our decision was based on the comments before us then, and we will not reconsider it here.

PSTA's argument that upward flexibility must be limited to that set forth in the Act is not persuasive. As we stated in the Notice, although the Act affects our ability to regulate fares within the statutory zones, it does not diminish our powers to determine the reasonableness of fares outside of these zones. Because we retain our traditional suspension powers over fares outside the statutory zones, we retain the responsibility for developing a policy for the benefit of the public and the industry, announcing how and under what circumstances we will exercise these powers. Indeed, PSTA conceded that the establishment of zones allowing the carriers pricing flexibility with limited risk of suspension is not banned by the Act. By now allowing the carriers some pricing flexibility above the ceiling with limited risk of suspension, we are simply establishing guidelines for the exercise of our discretionary suspension power. We are not relinquishing our *jurisdiction* over fares outside the statutory zone. In this regard, PSTA's observation that Congress has expressly given us the authority to disclaim jurisdiction over the reasonableness of fares below the floor of the statutory zone by increasing the downward zone but failed to give us similar authority to increase the upward zone is correct. But it is not relevant.

We have therefore decided, as proposed in the Notice, to continue allowing carriers the flexibility to price their services above the ceiling within specified zones with limited risk of suspension. The dimensions of the zones governing markets with at least four nonstop carriers authorized, and those markets with two or three, will be as we proposed in the Notice, *i.e.*, 10 percent in

the former markets and 5 percent in the latter.

The zone we are adopting for monopoly markets, however, differs from the one set forth in the Notice. There, we proposed to continue our PS–80 policy of allowing a carrier in a monopoly market the flexibility to raise the fares up to 5 percent above the ceiling on only 58 days of the year. We now conclude that the 58-day limitation is no longer necessary and that monopoly carriers should be allowed this modest 5 percent upward fare flexibility throughout the year. In the first place, our experience under PS–80 shows that prices have continued to bear a reasonable relationship to costs, and that there is reason to expect that they still would do so once the 58-day limitation is removed. In the second place, this additional flexibility will enable the carriers to more easily cope with the rapid escalation in costs, especially fuel prices, by adjusting fares more often than we update the ceiling. Finally, this limitation is extremely difficult to administer both for the Board's staff and the carriers. As United pointed out in its supplemental comments, the volatile nature of competition and prices makes the 58-day limitation all but unmanageable. These administrative burdens simply are too great in relation to any benefits to be gained. To the extent that the Notice may be considered as not having fully stated the possibility that we would remove the 58-day limitation, we find that notice and public procedure are impracticable and contrary to the public interest, in view of the extreme difficulty there would be in administering the limitation during a further rulemaking proceeding.

In sum, pending resolution of the issues raised in PSDR–66, our policy on upward fare flexibility will be as follows: carriers in markets where four or more carriers are authorized to provide nonstop service will be able to raise their fares up to 10 percent above the ceiling with limited risk of suspension. In all other markets, carriers will be allowed 5 percent upward fare flexibility on all days throughout the year. Pricing changes outside the zones may continue to be filed, but we will suspend them if they are not justified by cost or competitive factors.

2. *Definition and Updating of the Fare Ceiling (SIFL).* In addition to expanding upward fare flexibility, the Notice proposed to change both the basis of the fare ceiling and the method of updating it set forth in our policy statement. Under PS–80, the basis of the ceiling was the formula established in Phase 9 of the DPFI ("the DPFI formula fare"). We updated this ceiling by adjusting actual operating costs per passenger mile on a semiannual basis to a hypothetical level, reflecting the DPFI ratemaking standards of load factor, seating, utilization, and depreciation.

Instead of the DPFI formula fare, the Deregulation Act keys the statutory zone of reasonableness to a standard industry fare level ("SIFL"). The SIFL is generally defined in new section 1002(d)(6) as the "[adjusted] fare level * * * in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service * * *" We interpreted this to mean the predominant fare in effect on that date. In most cases, that was equal to the DPFI formula fare. Under the DPFI standards, however, local service carriers had the flexibility to set fares up to 30 percent above the formula. In cases where such a fare was the predominant one on July 1, 1977, therefore, the original SIFL is higher than the DPFI formula fare. The Notice proposed to conform the PS–80 ceiling to this new basis.

Instead of the practice followed under PS–80, our updating of the SIFL must now conform to section 1002(d)(6)(B), which states—

> The Board shall, not less than semiannually, adjust [the SIFL] 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.

We proposed, therefore, to eliminate the DPFI ratemaking standards from our policy statement. We proposed also to exclude from consideration an allowance for tax and return markup, as well as the costs attributable to traffic other than passengers in scheduled service, e.g., non-scheduled operations, all-cargo services and the costs associated with belly cargo, using the revenue offset method. We decided, however, to continue our policy on anticipating costs 3 months beyond the time we make the adjustment to the SIFL. Details of the proposal were illustrated in an example set out in Appendix A to the Notice.

Although most of the commenters who discussed the methodology agreed with our basic approach, several suggested changes, especially in the treatment of fuel expense. Delta, Eastern and United, for example, urged that because of the volatile nature of fuel prices, we readjust the SIFL for fuel cost increases more frequently than the six months we propose.

We recognize, of course, that fuel prices have risen very sharply in recent months and additional increases are likely to continue for the foreseeable future. We recognize, also, that carriers must have the opportunity to recover these costs in their fares without undue regulatory lag. For these reasons the Board is now, at least on an interim basis, adjusting the SIFL ceiling every 2 months to reflect these fuel costs. But while we expect to utilize this procedure as long as the current trend in fuel prices continues, we do not believe that it or any other method to account for fuel cost increases more quickly than other costs should become a permanent feature of our fare policy during the transition period. Neither the Board nor the airline industry knows whether the current trend in fuel prices will continue, and we think it unwise to base a fare policy on what may essentially prove to be a relatively short-lived phenomenon. In our view, the better approach is to establish an updating methodology to be used in more normal times and deviate from it when circumstances warrant. Thus, we will not adopt the modification suggested by these carriers.

TWA would have us include a tax and return element in our computation of the latest operating expenses since it maintains that interest rates are high and are subject to the same inflationary pressures as other costs. The only problem with this argument is that it ignores the fact that in the long history of the Board's rate regulation these elements have never been considered as operating expenses and there is no reason to begin now during the transition period. We also find no merit in TWA's argument that the Board should not use the DPFI-Phase 9 mileage block costs to determine the SIFL. Because the Act requires that we base the SIFL on the fare level in effect on July 1, 1977, we must use the Phase 9 formula as the basis for computing the original SIFL, and cannot deviate from it except in those cases where actual fares departed from the formula. TWA disputed our use of the revenue offset method to exclude the costs associated with belly cargo carried on combination aircraft as understating the expenses attributable to passengers. According to it, belly cargo revenues cover economic costs (i.e., return on capital and an income tax element) and this should not be used to reduce total operating expenses which do not include these elements. TWA did not indicate, however, how we would determine a tax and return element for cargo

especially since the data necessary to make these calculations are no longer being updated by the Board. In fact, because the Board no longer controls cargo rates we cannot even presume that these rates necessarily have a tax and profit element as TWA would have us accept. Thus we reject TWA's suggested revision.

Delta suggested that the Board use the "Trunks plus Locals" data for computing the SIFL rather than "Total Passenger/Cargo" so as to properly adjust for capitalized leases. This adjustment was excluded from the Total Passenger/Cargo column in the Appendix attached to the Notice. Under the Act, the Board must use the operating costs associated with all interstate and overseas transportation combined and Delta's suggestion simply cannot be adopted. In any event, we now include in computing the interim SIFL a capitalized lease adjustment in determining the costs associated with total passenger/cargo operations. We will continue to do so and thus Delta's objection is moot. A recent example of SIFL updating is attached to this issuance, and made a part of the rule.

(3) *Local Service Carrier Fares.* In the Notice, the Board proposed eliminating the DPFI policy of allowing local service carriers the flexibility to raise their fares in a zone ranging up to 30 percent above the coach fare established for the trunks without submitting an economic justification. We tentatively decided that the basis for this policy was no longer valid, pointing out that it was designed in part to encourage the locals to experiment with fare changes in order to reduce their dependence on subsidy. At the time, locals were heavily subsidized and serving predominantly short-haul low density markets. Today, however, USAir and Texas International no longer receive subsidy, and the locals are taking advantage of the new regulatory environment engendered by the Airline Deregulation Act, leaving the shorter-haul, lower-density markets to the commuters and expanding into the longer-haul, higher-density markets traditionally served by the trunks. We tentatively concluded, therefore, that the historic distinction between the trunks and local service carriers was fast disappearing and the locals should be subject to the same fare policies as the trunks. We also proposed allowing all certificated carriers unrestrained fare freedom on flights operated with aircraft having 60 seats or less.

Three local service carriers—Piedmont, Republic (filing comments as North Central) and USAir (filing comments as Allegheny) opposed our tentative proposal to eliminate the 30 percent upward zone. While their arguments varied, they all revolved around the same basic theme: Although the locals are now entering longer-haul, trunk-type routes, they continue to serve the short haul, low-density markets, where the DPFI formula fares—which form the basis for the SIFL calculations—are below costs. Therefore, if the 30 percent zone is eliminated, they would be forced to leave these markets or increase their dependence on subsidy.

The Board is becoming increasingly concerned over the general trend by certificated carriers away from providing service in shorter-haul markets. We certainly do not want to accelerate this trend, which we now believe might result from reducing the fare flexibility that the local service carriers now enjoy. For this reason we will not eliminate the 30 percent upward flexibility that was based on the DPFI formula fare. In fact, we are considering in PSDR–66, removing the ceiling in all markets of 200 miles or less. Meanwhile, the 30 percent upward flexibility for local service carriers is restated in § 399.33(c). Where 130 percent of the July 1, 1977, DPFI formula fare, as adjusted for cost increases, is greater than the ceiling applicable to trunks (that is, 105 or 110 percent of the current SIFL, depending on the number of carriers in the market), local service carriers may set their fares up to that higher level.

4. *Small Aircraft.* The CAAA suggested that, in conjunction with our policy of allowing all certificated carriers unrestrained fare freedom on flights operated with small aircraft, the Board should vacate those orders dealing with replacement service by commuters for local service carriers which provide that the commuter cannot charge fares higher than those charged by local service carriers. We believe that the CAAA's suggestion is a valid one. The policy we establish here, therefore, will supersede those orders, and commuters providing replacement service will have unrestrained fare freedom on flights using small aircraft. We have also restated this fare flexibility provision to conform to the air taxi rule, 14 CFR Part 298, which speaks of aircraft designed to have a maximum passenger capacity of 60 or fewer seats. This reflects our intent in the Notice.

In addition to the changes to our proposal indicated above, we are making editorial changes for clarity, which do not affect the substance of the rule.

Since this rule relieves a restriction, it may become effective immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, Statements of General Policy, as follows:

1. The Table of Contents is amended by moving § 399.30 to § 399.38, redesignating § 399.30 through 399.33, and adding a new § 399.37, to read:

Subpart C—Policies Relating to Rates and Tariffs

Sec.

399.330 Definitions.
399.331 Standard industry fare level.
399.332 Zone of limited suspension for domestic passenger fares.
399.333 Additional fare flexibility.
399.334–36 [Reserved].
399.337 Joint fares.
399.338 Temporary subsidy rates.

* * * * *

§ 399.30 [Redesignated as § 399.38]

2. Section 399.30, *Temporary Subsidy Rates,* is redesignated as § 399.38.

3. New §§ 399.30 through 399.33 and § 399.37 are added to Subpart C, to read:

§ 399.30 Definitions.

As used in this subpart—

"DPFI formula fare" means the trunk coach formula fare on July 1, 1977, as established by the Board in Phase 9 of the Domestic Passenger Fares Investigation (Docket 21866–9).

"SIFL" means the standard industry fare level, as set forth in § 399.31.

§ 399.31 Standard industry fare level.

(a) *Generally.* Except as set forth in paragraph (d) of this section, the standard industry fare level ("SIFL") for coach/standard service in a market is equal to the predominant fare in effect in that market on July 1, 1977, as adjusted by the Board for cost increases.

(b) *Predominant fare.* For each market, it is presumed that the lowest unrestricted fare in effect on July 1, 1977, was the predominant fare. This presumption may be rebutted by showing that more passengers used a higher fare.

(c) *Adjustments for cost increases.* The Board adjusts the SIFL at least once every 6 months by the percentage change, since the previous adjustment, in the actual operating cost per available seat-mile for interstate and overseas transportation combined. The method of adjustment is illustrated in the example set out at the end of this subpart.

(d) *Intrastate markets in California, Florida, and Texas.* For these markets, the SIFL is equal to 110 percent of the predominant fare in effect on July 1, 1977, as adjusted by the Board for cost increases and as follows: 8 percent upward every 6 months beginning on

July 1, 1979, until it reaches the interstate SIFL. In any event, it will increase to the interstate SIFL on January 1, 1981. As used in this paragraph, "interstate SIFL" means the level that the SIFL would be if the market were an interstate one whose predominant fare on July 1, 1977, was the DPFI formula fare.

§ 399.32 Zone of limited suspension for domestic passenger fares.

(a) *Applicability.* This section sets forth the Board's policy on passenger fares for scheduled service by certificated air carriers within the 48 contiguous states and the District of Columbia, except to the extent that greater flexibility is set forth in § 399.33.

(b) *Bottom of zone.* Each carrier may set fares in each market as low as 50 percent below the SIFL. Also, on 40 percent of their weekly available seat miles, carriers may set fares as low as 70 percent below the SIFL. Where the SIFL is based on a fare higher than the DPFI formula fare, the formula fare (as adjusted for cost increases) is to be used to compute these floors. If a fare is below the SIFL and within the zone, the Board will not suspend the fare on the ground that its level is unreasonable, except in the following extraordinary circumstances:

(1) There is a high probability that the fare would be found to be unlawful after investigation;

(2) There is a substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if the fare were allowed to go into effect;

(3) The harm to competition is greater than the injury to the traveling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest.

(c) *Fares below the zone.* Tariff filings that state fares below the zone must include the data and information set forth in § 221.165 of this chapter. The Board will not suspend a fare below the zone that is based on such factors as the carrier's individual costs or specialized marketing needs, unless the level of the fare will result in an inability of the carriers in the market to provide adequate service to the public, or the fare is otherwise unjust, unreasonable, predatory, unjustly discriminatory, unduly preferential, or unduly prejudicial.

(d) *Top of zone.* Each carrier may set fares above the SIFL as follows, and except in unusual or extraordinary circumstances the Board will not suspend the fares on the ground that their level is unreasonable:

(1) Up to 10 percent above the SIFL, in markets where four or more carriers are authorized to provide nonstop service on either an unrestricted or restricted basis (but not counting carriers that have only fill-up authority or that cannot carry local traffic); and

(2) Up to 5 percent above the SIFL in all other markets.

(e) *Fares above the zone.* Tariff filings that state fares above the applicable zone must include the data and information set forth in § 221.165 of this chapter. For peak fares, this should include a showing that off-peak fares are available in the market. The Board will suspend a fare above the zone that it finds not to be justified by cost or competitive factors.

§ 399.33 Additional fare flexibility.

For scheduled service within the 48 contiguous states and the District of Columbia, certificated air carriers have the following fare flexibility in addition to that set forth in § 399.32:

(a) *First class.* Carriers may without restriction set the level of first class fares.

(b) *Small aircraft.* Carriers may without restriction set the level of fares for service with aircraft designed to have a maximum passenger capacity of 60 or fewer seats.

(c) *Local service carriers.* In markets where the DPFI formula fare, adjusted for cost increases and multiplied by 130 percent, is higher than the ceiling set forth in § 399.32(d), local service carriers may set their fares up to that higher level. The Board will not suspend such fares, except in unusual or extraordinary circumstances.

§§ 399.34-36 [Reserved]

§ 399.37 Joint fares.

There should be joint fares in all markets over all routings within the contiguous 48 states and the District of Columbia as follows:

(a) *Level.* The level shall not exceed the sum of the maximum local fares permitted by this subpart minus one tax-rounded coach ceiling terminal charge for each interline connection, and in any event shall not exceed the sum of the actual local fares. For purposes of constructing joint fares, maximum local fares in all markets, including California, Florida, and Texas, will be based on the DPFI formula fare, as adjusted for cost increases.

(b) *Division.* Joint fares shall be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement. However, where a joint fare is equal to the sum of the actual local fares, each carrier shall get the local fare as its share.

4. The *Example of SIFL Adjustment* attached to this rule is inserted at the end of Subpart C.

(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, and 1482)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

EXAMPLE OF SIFL ADJUSTMENT

[Methodology for determining change in operating expense per available seat-mile]

Year ended September 1979	Trunks	Locals	Trunks plus locals	Total passenger/cargo [16]
Total operating expense [1] (millions)	$16,455	$2,522	$18,977	$19,384
Less:				
All-cargo expenses [2]	269	.....	269	269
Belly offset [3]	952	153	1,105	1,153
Nonscheduled [4]	141	46	187	205
Transport related [5]	379	31	410	416
Plus: Capitalized lease adjustment [10]	119	2	121	121
Passenger operating expense	14,833	2,294	17,127	17,462
Passenger fuel cost [11]	.....	.....	4,103	N.A.
Scheduled service ASM's (mils.)	281,671	33,051	314,722	318,459
Passenger nonfuel operating expense per ASM (dollars)	.....	.....	.04138	N.A.
Passenger fuel expense per ASM (dollars)	.....	.....	.01304	N.A.
Total passenger expense per ASM (dollars)	.....	.....	.05442	.05483
Year ended September 1978				
Total operating expense [1] (millions)	14,081	2,033	16,114	16,448
Less:				
All-cargo expenses [2]	282	.....	282	282
Belly offset [3]	869	152	1,021	1,065
Nonscheduled [4]	193	53	246	256
Transport related [5]	419	30	449	454
Plus: Capitalized lease adjustment [10]	78	1	79	79

EXAMPLE OF SIFL ADJUSTMENT—Continued

[Methodology for determining change in operating expense per available seat-mile]

Year ended September 1979	Trunks	Locals	Trunks plus locals	Total passenger/ cargo [16]
Passenger operating expense	12,396	1,799	14,195	14,470
Passenger fuel cost [11]	.....	.....	3,129	N.A.
Scheduled service ASM's (mils.)	262,068	27,067	289,135	292,255
Passenger nonfuel operating expense per ASM (dollars)	.....	.....	.03827	N.A.
Passenger fuel expense per ASM (dollars)	.....	.....	.01082	N.A.
Total passenger expense per ASM (dollars)	.....	.....	.04909	.04951
Percent change in nonfuel operating expense per ASM (percent)	.....	.....	8.13	N.A.
Projected change in nonfuel expense from April 1, 1979 to April 1, 1980 [6]	.....	.....	8.13	N.A.
Estimated change in fuel cost, year ended September 1979 average to April 1, 1980 [14]	.....	.....	73.06	N.A.
Nonfuel operating expense per ASM at April 1, 1980 [7] (dollars)	.....	.....	.04474	N.A.
Fuel expense per ASM at April 1, 1980 [7] (dollars)	.....	.....	.02257	N.A.
Total expense per ASM at April 1, 1980 [7] (dollars)	.....	.....	.06731	[15] .06782
Year ended March 1977				
Total operating expense [1] (millions)	$11,726	$1,520	$13,316	$13,601
Less:				
All-cargo expense [2]	238	.....	238	238
Belly offset [3]	729	96	825	865
Nonscheduled [4]	220	35	225	266
Transport related [5]	427	111	538	554
Passenger operating expense	10,112	1,348	11,460	11,678
Passenger fuel cost	2,190	230	2,420	N.A.
Scheduled service ASM's (mils.)	239,593	23,428	263,021	265,837
Operating expense per ASM (dollars)	.04221	.05754	.04357	.04393
Projected expense per ASM (dollars) as at July 1, 1977 [13]	.....	.....	.....	.04593
Projected operating expense per ASM as at April 1, 1980 (page 1) (dollars)	.....	.....	.....	.06782
Ceiling adjustment factor [9] (percent)	.....	.....	.....	47.66
D.P.F.I. formula effective July 15, 1977 [12]				
Terminal charge	$16.16			
Plus	.0884/mile (0–500 miles).			
Plus	.0674/mile (501–1,500 miles).			
Plus	.0648/mile (over 1,500 miles).			
Ceiling formula through April 30, 1980 [8]				
Terminal charge	$23.86			
Plus	.1305/mile (0–500 miles).			
Plus	.0995/mile (501–1,500 miles).			
Plus	.0957/mile (over 1,500 miles).			

[1] Total operating expense for all operations and service (in millions).

[2] Scheduled all-cargo operations expense.

[3] Total scheduled-service cargo revenue, less scheduled all-cargo operations revenue, carried as a by-product in aircraft belly compartments. Includes freight, express, priority and non-priority U.S. mail, and excess baggage.

[4] Total non-scheduled revenues times 0.95, assuming charter operations would only be conducted at a profit.

[5] Total transport-related expense, less any excess of expense over total transport-related revenues.

[6] We here project costs from April 1, 1979 (the midpoint of the data year ended September 1979) to April 1, 1980 the resultant increase factor effective through April 30, 1980.

[7] Operating expense per ASM for year-ended September, 1979, times projected change.

[8] Projected operating expense per ASM on April 1, 1980 divided by the operating expense as at July 1, 1977.

[9] Adjustment results in a 2.5 percent increase in level over current January 1, 1980 factor.

[10] Additional rental expense that would have been incurred had leases not been capitalized under FASB–13, less actual amortization of capitalized lease expense.

[11] Total fuel cost, scheduled service, times complement of rate of All-Cargo expense to total Operating Expense.

[12] Order 77–7–26.

[13] Year ended March, 1977 cost per ASM, times cost escalation factor of 1.04543 (to July 5, 1977). See DPFI workpapers, Y.E. March, 1977.

[14] Estimated average cost per gallon for the trunk plus local service carriers at April 1, 1980, divided by the average for the year ended Semptember, 1979 (48.33¢).

[15] Change in Trunks plus Locals cost per ASM as at April 1, 1980, to year ended September, 1979 times total Psgr/Cargo cost for the year ended Sept., 1979.

[16] Includes Alaskan, Hawaiian and other regional carriers.

Appendix A—Summary of Comments to PSDR–61

American Airlines

American supports the proposed rulemaking as a fair and reasonable method of implementing the Airline Deregulation Act of 1978. Its only suggestion is to revise the language of footnote 4 to § 399.31(c)(2) to eliminate what it believes to be an ambiguity in the Board's policy on upward fare flexibility.

Delta Airlines

Delta has focused on the methodology proposed by the Board to compute the Standard Industry Fare Level (SIFL), citing three major deficiencies. First, it believes that the Board has understated fuel costs in its calculations shown in Appendix A [1] and, in any event, does not indicate whether it will provide for more frequent review of the impact of fuel costs on the SIFL. Second, Delta states that the text of the Notice and Appendix A appear to be inconsistent as to which date the Board has projected ASM costs, pointing out that in the text the Board states that costs have been projected through September 1979, while in the Appendix costs have been computed as of July 1, 1979. Finally, Delta suggests that the Board use the "Trunks plus Locals" data for computing the SIFL rather than "Total Passenger/Cargo" so as to properly adjust for capitalized leases.[2] Delta concedes, however, that some of the problems it cites exist in the Board's method for calculating the interim SIFL (Order 79–6–96) and urges the Board to adopt that method in finalizing PSDR–61.

Eastern Airlines

Eastern's comments incorporate its petition for reconsideration of Order 79–6–96 establishing the interim SIFL.[3] Specifically, it requests that the Board utilize the latest fuel data available to calculate the SIFL; that the Board project fuel costs on the basis of the average increase in price over three months rather than six; that we review actual fuel costs each month as it becomes available and make the necessary adjustment to the SIFL; and that we permit carriers to file tariffs on short notice so that they can implement fare modifications on the data established for the SIFL.

Ozark Air Lines

Ozark believes that footnote 4 to § 399.31(C)(2) contradicts the Board's policy on upward fare flexibility and suggests that it be eliminated.

Pacific Southwest Airlines

PSA points out that the Board has deleted from the proposed § 399.33(a) the language governing fares in interstate markets adopted on an interim basis in PS–82. It urges us to reinstate that language. It also urges us to clarify that cost increases calculated for PS–80 markets will also be used in PS–82 markets.

Piedmont Airlines

Piedmont opposes the Board's tentative decision to eliminate the 30 percent upward zone of fare flexibility now allowed local service carriers. While it agrees with the Board that the locals are now entering the longer-haul trunk-type markets where there is no reason for the 130 percent rule, it argues that the locals are still serving the shorter-haul lower-density markets where the upward zone continues to have validity. It points out that it was the fact that the locals were serving these types of higher cost markets that led the Board to adopt the 130 percent rule and the elimination of it would only increase the local's dependence on subsidy.

Indeed, Piedmont claims that it would experience a revenue erosion of $10.8 million [4] if the 130 percent is eliminated, since it reads PSDR–61 as requiring the local services carriers to roll back their standard fares in order to reestablish the same percentage relationship with this coach fare level existing on July 1, 1977. In Piedmont's case, the standard fare as of that date averaged 113 percent of the coach fare. Piedmont recognizes that it might not be required to roll back its fares but maintains that it would still suffer the revenue loss since PSDR–61 would freeze their current fare until they equaled the SIFL based on the lower percentage relationship. This revenue squeeze will only force Piedmont to abandon several of its smaller markets or seek increases in subsidy.[5]

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[1] Although Delta does not have the data underlying Appendix A, it believes that the Board has increased fuel by 11.27 percent from the year ended September 30, 1978, to July 1, 1979. Fuel costs in May 1979 were already 15 percent above this level.

[2] The capitalized base adjustment is excluded from "Total Passengers/Cargo."

[3] Eastern's petition was denied by Order 79–7–190, dated July 30, 1979.

[4] Of the $10.8 million, Piedmont claims $6.5 million is in nonsubsidy markets and $4.3 million is in subsidized markets. It states that, at least as to former, it will not be able to recover the lost revenue through increased subsidy.

[5] Piedmont also notes that the Board will allow carriers operating small airplanes complete fare freedom. In its case, however, this provision is of no practical effect since it is significantly reducing its small aircraft fleet.

Republic Airlines

Republic (filing comments as North Central) urges that the Board retain the 130 percent upward zone of fare flexibility in all local service carrier markets of 400 miles, or less. While it agrees with the Board that the locals have taken advantage of the new regulatory environment to enhance their route systems, it points out that the locals continue to serve the low-density short-haul markets [6] where under the Phase 9 fare formula, fares are set below costs. And it claims that this gap will widen as the Board updates the SIFL level because these adjustments will be based on short-haul fares which failed to cover costs on July 1, 1977, and will use industry average costs that do not adequately reflect the costs of serving short-haul markets. Thus, Republic claims there is a continuing need for the 130 percent rule.

Trans World Airlines, Inc.

TWA's comments are limited to the Board's proposed methodology for updating the SIFL, and although it believes that the proposal is quite reasonable, it feels that the methodology could be improved in three ways. First, it argues that the Board should consider the cost of capital as an actual operating expense since interest rates are high and are subject to the same inflationary trends as other operating costs. Second, TWA questions the Board's use of revenues from non-scheduled all-cargo and belly-cargo operations for excluding costs associated with these services. It points out that the revenue derived from these operations covers economic costs (i.e., return on capital and income tax elements) and should not be used to reduce operating expenses which do not include these elements. Finally, TWA states that the use of Phase 9 costs by mileage block to compute the SIFL is incorrect since it doesn't take into account the high costs associated with carrying a passenger whose trip involves two or more flights. TWA believes that the SIFL should take these costs into account.

United Airlines

United views the Board's proposed method for computing fuel cost adjustments to the SIFL, even as modified by Order 79–6–96,[7] as too structural in a period of extremely volatile fuel prices. It especially objects to the Board's use of a six-month fare to project fuel costs. It suggests three alternatives. United suggests that the Board devise a system for obtaining the most current fuel price data to be used in projecting fuel costs. Alternatively, it believes that the Board should shorten the historical six-month base period and project fuel prices using the most recent data. Finally, the Board could obtain forecasts from reliable government agencies and use them to project future fuel prices.

USAir

USAir (filing comments as Allegheny Airlines) objects to the Board's proposed elimination of the 30 percent upward zone of fare flexibility now allowed local service carriers. It points out that the DPFI Phase 9 fare formula produced fares below average costs in short-haul market and because that formula will be used to develop the SIFL, fares in these markets will remain below costs. Thus, continuation of the 30 percent upward zone is fully justified. It also disputes the Board's conclusion that locals are leaving shorter-haul markets and entering trunk-type routes, arguing the average stage length of the locals in the first two months of 1979 was 248 miles or only 40 percent of that of the trunks. Finally, USAir asserts that elimination of the 130 percent rule will create a disincentive for locals to serve short-haul markets and is inconsistent with the Board's decision to allow carriers operating aircraft with 60 seats or less complete fare freedom.

Swift Aire Lines, Inc.

Swift Aire supports the proposal to allow carriers operating aircraft with 60 seats or less complete freedom to set fares.

Commuter Airline Association of America, Inc. (CAAA)

The CAAA supports the Board's tentative decision to allow carriers operating aircraft having 60 seats or less unrestricted freedom to set their own fares. Its only suggestion is that the Board vacate those provisions of orders dealing with replacement service by commuters for local service carriers which provide that the commuter cannot charge fares higher than those charged by the local service carriers. To retain such provision would, in its view, make little sense especially since the Board proposes to eliminate the 30 percent upward zone and to allow all carriers unrestricted fare freedom on their operations with aircraft of 60 seats or less.

Puget Sound Traffic Association (PSTA)

PSTA expresses concern over the Board's tentative decision to continue and in some instances to expand the upward zones of fare flexibility created by PS–80. It requests a clarification of these policies since it is unclear as to whether the Board is creating absolute "no-suspend" zones above the SIFL, or ones allowing the carriers some upward pricing flexibility with some risk of suspensions in certain presumptively competitive markets. If the Board proposes to establish absolute no-suspend zone of upward fare flexibility, PSTA maintains that it is exceeding its statutory authority. It argues that the Airline Deregulation Act establishes a maximum upward no-suspend zone of five percent and points out that while Congress specifically authorized the Board to increase the downward no-suspend zone, it failed to give the Board similar authority to expand the upward zone.[8]

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BILLING CODE 6320–01–M

[6] It points out that as of the end of 1978 North Central's average length of haul was 254.6 compared to the trunkline figure of 837.1 miles and its cost per RPM as of September 1978 was 15 while the trunks' average cost was 8.8.

[7] In PSDR–61, the Board proposed continuing the policy of projecting all costs, including fuel costs three months beyond the tariff effective date. This method would cover a six-month period and require only two SIFL adjustments each year. In Order 79–6–96, the Board decided to use on an interim basis fuel costs projected forward six weeks beyond the tariff effective date which would require four fuel related SIFL adjustments each year.

[8] PSTA also questions the Board's policy of establishing the size of the upward zone on the basis of the number of authorized competition in the market. It claims that this policy ignores the actual competitive situation in the market and the practical constraints on that competition.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3014]

Mid City Chevrolet, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Laurel, Md. motor vehicle dealer and its corporate officer to cease, in connection with the advertising and sale of an automobile retrofit device known as the Power Pak, making false or unsubstantiated fuel economy claims and misrepresenting the purpose, content or conclusion of tests and surveys. Advertisements referring to fuel economy improvement resulting from the installation of an automobile retrofit

device must include a disclaimer and at least one fuel economy claim expressed in miles per gallon. Further, respondents are required to send to each consumer who had purchased a Power Pak from them a letter offering a full refund of the purchase and removal of the device at no charge. All refund requests must be honored in a timely manner and relevant records maintained for a period of three years.

DATES: Complaint and order issued March 17, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Linda Colvard Dorian, Washington, D.C., 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Wednesday, January 9, 1980, there was published in the **Federal Register**, 45 FR 1857, a proposed consent agreement with analysis In the Matter of Mid City Chevrolet, Inc., a corporation, and John Tyler, individually and as an officer of the corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.170–34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–55 Refunds, rebates and/or credits. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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

Carol M. Thomas,

Secretary.

[FR Doc.80-10720 Filed 4-8-80; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 272

Election Required Under Section 107(d) of the NGPA Regarding Applicability of Incentive Pricing and Deregulation

Issued: April 7, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Clarificaiton regarding election required under section 107(d) of the Natural Gas Policy Act of 1978.

SUMMARY: On April 2, 1980, the President signed the Crude Oil Windfall Profit Tax Act of 1980, under which production tax credits are allowable for certain qualified production of high-cost natural gas from certain wells drilled on or after January 1, 1980. Section 107(d) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3317(d)) provides that the provisions permitting incentive pricing and deregulation will not apply to any gas to which such a tax credit is specifically allowable unless an election has been filed by the taxpayer with the Commission that the NGPA's pricing provisions should apply to such gas in lieu of the allowable tax credit.

DATES: If the election is made with respect to qualified production from any well the surface drilling of which began on or before May 2, 1980, the election under section 107(d) of the NGPA must be filed with the Commission on or before May 2, 1980.

If the election is made with respect to any well the surface drilling of which begins on or after May 3, 1980, the election under section 107(d) of the NGPA must be filed with the Commission before the date the surface drilling of the well begins.

ADDRESS: The election should be filed with: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, (202) 357–8400.

FOR FURTHER INFORMATION CONTACT: NGPA Hotline, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE, Washington, DC 20426, Toll Free (800) 424–5200, (202) 357–8137.

SUPPLEMENTARY INFORMATION: On Wednesday April 2, 1980, President Carter signed the Crude Oil Windfall Profit Tax Act of 1980 (Act), Pub. L. 96–223. Section 231 of the Act allows a tax credit with respect to certain qualified production from geopressured brine, Devonian shale, coal seams, and tight formations.

Section 107(d) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3317(d)) provides that the provisions of subsections (a) and (b) (relating to incentive pricing under section 107) and the provisions of subtitle B of title I (relating to deregulation) shall *not* apply to the sale of gas to which a tax credit is allowable *unless* an election has been filed with the Commission. The incentive pricing and deregulation provisions of the NGPA shall apply in lieu of the tax credit *only* if such election is made. The election must be filed on or before the later of (1) the 30th day after enactment of the Act extending such credits (May 2, 1980, in the case of the Windfall Profits Tax Act), or (2) the date the surface drilling of the well began. Each taxpayer who seeks to have such provisions of the NGPA relating to incentive pricing and deregulation applied to such qualified production must file with the Commission a notification of such election under section 107(d) of the NGPA. The election requirement applies to all taxpayers who have an interest in such qualifying production.

The Commission will allow such election to be made on a well-by-well or a blanket basis. If the election is made on or before May 2, 1980, such election may be made with respect to any well the surface drilling of which begins on or after January 1, 1980. Such elections may, but are not required to be applicable to:

1. Wells specifically designated in the election (identified by the well name, API well number and state in which the well is or will be drilled); or

2. All wells drilled on or after January 1, 1980, and before the date the election is made; or

3. All wells the surface drilling of which began or will begin on or after January 1, 1980.

If such election is made after May 2, 1980, such election may be made with respect to any well the surface drilling of which will begin after the election is filed with the Commission. Such elections may but are not required to be applicable to:

1. Wells specifically designated in the election (identified by the well name, API well number and state in which the well will be drilled); or

2. All wells the surface drilling of which will begin after the election is filed with the Commission.

The election that the pricing provisions in section 107 should apply in lieu of the tax credit may be revoked with respect to any well or wells the surface drilling of which has not commenced at the time of revocation.

Election may be made, but is not required to be made, in the following forms. The elections must contain the Employer Identification Number, or, if not available, the taxpayer's Social Security Number.

By the Commission.

Kenneth F. Plumb,

Secretary.

Blanket Election Pursuant to Section 107(d) of the Natural Gas Policy Act of 1978

Taxpayer Name: _____
Employer Identification Number (if not available the taxpayer's Social Security Number):
Address: _____
City, State, Zip code: _____

(Authorized Signatory) certifies that the above-named taxpayer elects to have the provisions of subsections (a) and (b) of section 107 and subtitle B of title I of the Natural Gas Policy Act of 1978 apply to natural gas produced from all existing and future qualifying wells, the production of which would otherwise make allowable a tax credit under section 231 of the Crude Oil Windfall Profits Tax of 1980.

(Signature)

Election Pursuant to Section 107(d) of the Natural Gas Policy Act of 1978

Taxpayer Name: _____
Employer Identification Number (if not available the taxpayer's Social Security Number):
Address: _____
City, State, ZIP Code: _____

(Authorized Signatory) certifies that the above-named taxpayer elects to have the provisions of subsection (a) and (b) of section 107 and subtitle B of title I of the Natural Gas Policy Act of 1978 apply to natural gas produced from the wells identified herein, the production of which would otherwise make allowable a tax credit under section 231 of the Crude Oil Windfall Profits Tax of 1980.

(Signature)

State	County	API well No.	Permit No.	Well name

[FR Doc. 80-10906 Filed 4-8-80; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Part 274

[Docket No. RM79-3]

Determinations by Jurisdictional Agencies, U.S. Geological Survey and the State of Colorado Oil and Gas Conservation Commission Applications for Alternative Filing Requirements; Order Granting Application for Alternative Filing Requirements

Issued: April 3, 1980.

AGENCY: The Federal Energy Regulatory Commission.

ACTION: Order granting application for alternative filing requirements.

SUMMARY: On November 21, 1979, the Colorado Department of Natural Resources, Oil and Gas Conservation Commission (Colorado) and the United States Geological Survey (USGS) filed applications for approval of alternative filing requirements pursuant to § 274.207 of the Commission's regulations. The proposed alternative filing requirements sought jointly by Colorado and the USGS would enable operators to apply for eligibility determinations under section 103 of the Natural Gas Policy Act of 1978 (NGPA) for additional wells in existing proration units in the Fruitland-Pictured Cliffs, Mesaverde and Dakota-Morrison pools without repeated submissions of geological and engineering data to show that the additional well is necessary to effectively and efficiently drain the portion of the reservoir covered by a proration unit that cannot be effectively and efficiently drained by any existing well within the proration unit. In a separate application, Colorado seeks approval of similar alternative filing requirements applicable to persons seeking section 103 eligibility determinations for wells drilled in the "J" Sand Formation of the Wattenberg Field.

The Commission finds that good cause exists to approve the applications for alternative filing requirements and accordingly amends § 274.208 to authorize the filing of applications under the alternative requirements submitted, for well category determinations for section 103 of the NGPA, where the subject wells qualify under the applicable State of Colorado Orders.

EFFECTIVE DATE: April 3, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8400.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On November 21, 1979, the Colorado Department of Natural Resources, Oil and Gas Conservation Commission (Colorado) and the United States Geological Survey (USGS) filed applications for approval of alternative filing requirements pursuant to § 274.207 of the Commission's regulations. The proposed alternative filing requirements sought jointly by Colorado and the USGS would enable operators to apply for eligibility determinations under section 103 of the Natural Gas Policy Act of 1978 (NGPA) for additional wells in existing proration units in the Fruitland-Pictured Cliffs, Mesaverde and Dakota-Morrison pools without repeated submissions of geological and engineering data to show that the additional well is necessary to effectively and efficiently drain the portion of the reservoir covered by a proration unit that cannot be effectively and efficiently drained by any existing well within the proration unit. In a separate application, Colorado seeks approval of similar alternative filing requirements applicable to persons seeking section 103 eligibility determinations for wells drilled in the "J" Sand Formation of the Wattenberg Field.

Section 103 of the NGPA establishes the maximum lawful price for natural gas produced from new, onshore production wells. Under § 271.305(b) of the Commission's regulations, a well drilled on or after February 19, 1977, in an existing proration unit may qualify for the section 103 price if the jurisdictional agency finds that the well is necessary to effectively and efficiently drain that portion of the reservoir covered by the proration unit.

An applicant seeking a determination of eligibility under § 271.305(b) to collect the section 103 price is required to file with the appropriate jurisdictional agency the information specified in § 274.204 of the Commission's regulations. Under § 274.204(f), an applicant must submit, on a well-by-well basis, geological evidence and engineering data that an additional well within an existing proration unit is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit, which cannot be effectively and efficiently drained by any existing well within the proration unit. However, a jurisdictional agency is authorized under § 274.207 to apply for

Commission approval of alternative filings requirements.

The application of Colorado and USGS for approval of alternative filing requirements is based on the State of Colorado's Order No. 112–46, as ratified by the USGS Oil and Gas Supervisor for the Southern Rocky Mountain Area, which authorizes an infill well drilling program for the Fruitland-Pictured Cliffs, Mesaverde, and Dakota-Morrison pools. Order No. 112–46 permits the drilling of an additional well in the undrilled quarter-section of existing 320-acre proration units, and also permits the drilling of three additional wells in the undrilled quarter-sections of existing 640-acre proration units in the Ignatio Blanco Field, La Plata and Archuleta Counties, Colorado. Well locations are required to be no closer than 990 feet to the boundaries of the quarter-section upon which it is located, and in cases of fractional sections, no closer than 990 feet from another well producing from the same formation. Exceptions may be granted due to topographical or surface hazards, or for other reasons, provided the owners of the contiguous and cornering units toward which the proposed location would be moved, file a waiver, or consent in writing to the exceptions. The Colorado order also rescinded a provision found in a former field order which required the consolidation of all interests in a drilling and spacing unit by a pooling agreement prior to the drilling of a well.

Colorado and USGS have concluded that the data upon which the drilling program is based, which was collected under oath at hearing, provides substantial evidence for finding that a well drilled in compliance with Colorado Order No. 112–46 is necessary to effectively and efficiently drain that portion of the reservoir covered by the existing proration unit. For that reason, Colorado and the USGS assert that it is unnecessary to require the submission of geological and engineering data in support of a section 103 eligibility determination for each well in the subject pool. Therefore, Colorado and the USGS propose to replace the requirement of § 274.204(f) with a statement by the applicant specifying the number of Colorado Order No. 112–46 authorizing an infill well drilling program on a field-wide basis.

Colorado additionally submitted a separate application for approval of alternative filing requirements for additional wells drilled pursuant to Colorado's Oil and Gas Conservation Commission's Order No. 232–20. This order provides for optional drilling of an additional well in the undrilled quarter-section of each 320-acre drilling and spacing unit for production of gas from the "J" Sand underlying certain lands in the Wattenberg Gas Spaced Area. For those locations not presently included in a 320-acre unit, 160-acre units will be established. Well locations are required to be no closer than 990 feet to the boundaries of the quarter section. On the basis of evidence accumulated under oath at hearing, Colorado has found that there exists substantial evidence to conclude that wells in compliance with Order No. 232–20 are necessary for effective and efficient drainage.

In support of their applications, Colorado and USGS have submitted to the Commission the evidence relied on in adopting the field-wide drilling programs. The Commission has reviewed the information submitted with the applications, and finds that the proposed alternative filing requirements will provide sufficient information upon which determinations under section 103 of the NGPA can be based. Accordingly, the Commission is amending Part 274, Subpart B, in § 274.208 to adopt the alternative filing requirements proposed by Colorado and the USGS for wells drilled pursuant to Colorado's Order No. 112–46, and to adopt the alternative filing requirements proposed by Colorado for determinations made by Colorado for wells drilled pursuant to Colorado Order No. 232–20.

The Commission's regulations in § 271.305 (b) and (c) require jurisdictional agencies to notify the Commission when findings are made under § 271.305 that an additional well in an existing proration unit is necessary for efficient and effective drainage. Since Colorado's Order No. 112–46, as ratified by the USGS, and Colorado's Order No. 232–20 find that infill drilling of additional wells on established proration units is necessary on a field-wide basis for effective and efficient drainage of portions of the reservoir covered by proration units which cannot be effectively and efficiently drained by any existing wells within those units, the Commission finds that it is unnecessary for Colorado and USGS to notify the Commission on an individual well basis that the effective and efficient drainage finding has been made. Accordingly, the Commission is waiving the requirements of § 271.305 (b) and (c) with respect to determinations made by Colorado or USGS for wells drilled pursuant to Colorado's Order No. 112–46, as ratified by USGS. Such requirements are also waived with respect to determinations made by Colorado for wells drilled pursuant to Order No. 232–20.

Further, § 274.204(d)(4) requires the filing of an oath statement that the applicant's conclusion that the natural gas for which he seeks a determination is produced from a new, onshore production well is based on documents submitted in the application. The oath statement must be modified for wells covered by the alternative filing requirements inasmuch as the applications will not contain all the documents relied upon in making the determination. Therefore, the phrase "documents submitted in the application" will be deleted from the oath statement, as applicable to persons seeking section 103 eligibility determinations for wells within the subject pools.

Public Procedures and Effective Date

A notice regarding the USGS and Colorado applications was issued on December 21, 1979. (44 FR 77252; December 31, 1979) The Commission stated that comments on the proposed alternative filing requirements filed by January 7, 1980, would be considered by the Commission. No comments were received. In view of the above discussion, the Commission approves the alternative filing requirements submitted by Colorado and USGS and waives the provisions of § 271.305 (b) and (c) and § 274.204(d)(4) as noted above. The Commission believes that good cause exists to make the alternative filing requirements effective immediately for all determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.;* Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.;* Exec. Order No. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.*)

In consideration of the foregoing, Part 274 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

Section 274.208 of Part 274 is amended by inserting a new paragraph (b) to read as follows:

§ 274.208 Alternative filing and notice requirements accepted by the Commission.

* * * * *

(b) Certain Infill Wells in the Ignatio Blanco Field in La Plata and Archuleta

Counties, Colorado and the Wattenberg Field in Adams and Weld Counties, Colorado.

(1) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well in Colorado, drilled in accordance with the Colorado Department of Natural Resources, Oil and Gas Conservation Commission's Order No. 112–46, as ratified by the United States Geological Survey's Oil and Gas Supervisor for the Southern Rocky Mountain Area, in the Fruitland-Pictured Cliffs, Mesaverde or Dakota-Morrison Formations, Ignatio Blanco Field is a new, onshore production well, shall file with the Colorado jurisdictional agency or the Area Oil and Gas Supervisor of the United States Geological Survey, as appropriate, an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State Law proration unit in which the Well for determination is sought is located;

(iv) A statement by the applicant, under oath:

(A) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(B) that the well satisfies any applicable Federal or State well spacing requirements;

(C) that the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well; and

(D) that the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(v) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files; and

(vi) A statement referencing Colorado's Oil and Gas Conservation Commission Order No. 112–46 if the well is located in the Fruitland Pictured Cliffs, Mesaverde or Kakota-Morrison formations of the Ignatio Blanco Field.

(2) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well in Colorado, drilled in accordance with the Colorado Department of Natural Resources, Oil and Gas Conservation Commission's Order No. 232–20 in the "J" Sand Formation of the Wattenberg Field is a new, onshore production well, shall file with the Colorado jurisdictional agency an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) the items specified in clauses (i) through (v) of subparagraph (1) of this paragraph; and

(vi) a statement referencing Colorado's Oil and Gas Conservation Commission Order No. 232–20 if the well is located in the "J" Sand Formation of the Wattenberg field.

(3) With respect to wells to which this paragraph applies, receipt by the Commission of a notice of determination applies, receipt by the Commission of a notice of determination pursuant to § 274.104 shall be deemed to satisfy:

(i) The requirement of notice to the Commission under § 271.305(c); and

(ii) The requirement of§ 271.305(b)(1) that appropriate geological and engineering data be included in the notice of determination.

[FR Doc. 80–10776 Filed 4–8–80; 8:45 am]

BILLING CODE 6450–85–M

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18 CFR Part 292

[Docket No. RM79–55]

Rates and Exemptions for Qualifying Small Power Production and Cogeneration Facilities; Correction

April 3, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Erratum notice.

SUMMARY: This notice contains a correction of § 292.302 (a) and (b) of the Federal Energy Regulatory Commission's final regulations.

FOR FURTHER INFORMATION CONTACT: Deborah Gottheil, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8000.

SUPPLEMENTARY INFORMATION: In the Federal Energy Regulatory Commission's Final Regulations, issued February 19, 1980, entitled Regulations Under Section 210 of the Public Utility Regulatory Policies Act of 1978 (45 FR 12214, February 25, 1980), at 45 FR 12234, in § 292.302 (a) and (b), the reference to May 31, 1982 should be changed to June 30, 1982. This revision will accurately carry out the Commission's intent, as stated in the preamble to the rule, to "conform to the dates required by the Commission's regulations implementing section 133 of PURPA."

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–10766 Filed 4–8–80; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Antidumping Duty Order; Sugars and Syrups From Canada

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule: Antidumping Duty Order.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) and its superseding legislation, the Tariff Act of 1930, as amended (93 Stat. 162 et seq.), by the Commerce Department (and its predecessor in interest, the Treasury Department) and the United States International Trade Commission, respectively, have resulted in determinations that sugars and syrups from Canada are being sold at less than fair value and that these sales are materially injuring an industry in the United States. All unappraised entries of this merchandise made on or after November 8, 1979, the date on which liquidation was suspended, will be liable for the possible assessment of antidumping duties. Deposits of estimated antidumping duties shall be required on all entries of this merchandise made on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: April 9, 1980.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Office of Investigations, International Trade Administration, U.S. Commerce Department, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 566–5492.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) gave the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary of the Treasury determined that sugars and syrups from Canada are being sold at less than fair value within the meaning of section 201(a) of the Antidumping Act of 1921 (19 U.S.C. 160(a)) (published in the **Federal**

Register of November 8, 1979 (44 FR 64946–7)). Pursuant to section 102(c)(2) of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 189–190) the final determination of the Secretary of the Treasury under the Antidumping Act, 1921, shall be treated as a final determination under section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169–170, 19 U.S.C. 1673d(a)).

Section 735(b) of the Tariff Act of 1930, as amended (93 Stat. 170, 19 U.S.C. 1673d(b)) gives the United States International Trade Commission responsibility for determining whether by reason of such sales at less than fair value a domestic industry is being or is likely to be materially injured. The Commission has determined, and on March 17, 1980, it notified the Secretary of Commerce that an industry in the United States is materially injured by reason of the importation of sugars and syrups from Canada that are being sold at less than fair value within the meaning of the Act.

In accordance with section 736 of the Tariff Act of 1930, as amended (93 Stat. 172, 19 U.S.C. 1673e), Customs officers are directed to assess an antidumping duty equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise for all entries subject to the "Withholding of Appraisement Notice" published in the **Federal Register** of November 8, 1979 (44 FR 64946–7), and all future entries until further notice. Furthermore, Customs officers shall require a deposit of estimated antidumping duties pending liquidation of entries of the subject merchandise at the same time as estimated normal Customs duties on the merchandise are deposited. Deposits of estimated antidumping duties shall be required on all entries, or withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register.** Deposits shall be collected in the following amounts: $0.0237 per pound for Redpath Sugar, Ltd., and St. Lawrence Sugar, Ltd.; $0.0223 for Atlantic Sugar, Ltd., $0.010105 per pound for BC Sugar; and $0.0237 per pound for all other exporters of sugars and syrups from Canada. On behalf of the Secretary of Commerce, I hereby make public these determinations, which constitute an antidumping duty order with respect to sugars and syrups from Canada. For purposes of this notice the term "sugars and syrups" means sugars and syrups as provided for in item numbers 155.20 and 155.30, Tariff Schedules of the United States Annotated. The subject merchandise is produced from raw sugar derived from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Accordingly, Annex 1 of Part 353 of the Commerce Regulations (45 FR 8208) is being amended by adding the following to the list of antidumping duty orders currently in effect:

Merchandise	Country	Treasury Decision
Sugars and Syrups	Canada	(45 Fed. Reg.)

This notice is published pursuant to section 706 of the Tariff Act of 1930, as amended (19 U.S.C. 1671e), and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

April 3, 1980.

[FR Doc. 80-10731 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-25-M

19 CFR Part 353

Antidumping Duties; Spun Acrylic Yarn From Japan; Antidumping Duty Order

AGENCY: U.S. Commerce Department.

ACTION: Final rule. (Antidumping duty order.)

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et. seq.*) and its superseding legislation, the Tariff Act of 1930, as amended (93 Stat. 162 *et. seq.*), by the Commerce Department (and its predecessor in interest, the Treasury Department) and the United States International Trade Commission, respectively, have resulted in determinations that spun acrylic yarn from Japan is being sold at less than fair value and that these sales are materially injuring an industry in the United States. All unappraised entries of this mechandise made on and after July 13, 1979, the date on which liquidation was suspended, will be liable for the possible assessement of antidumping duties. Deposits of estimated antidumping duties shall be required of all entries made on and after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: April 9, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, International Trade Administration, U.S. Commerce Department, 14th St. and Constitution Ave. NW, Washington, DC 20230. Telephone: (202) 566–5492.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) gave the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary of the Treasury determined that spun acrylic yarn from Japan is being sold at less than fair value within the meaning of section 201(a) of the Antidumping Act of 1921 (19 U.S.C. 160(a)). (Published in the **Federal Register** of October 25, 1979 (44 FR 61492–3)). Pursuant to section 102(c)(2) of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 189–190) the final determination of the Secretary of the Treasury under the Antidumping Act, 1921, shall be treated as a final determination under section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169–170, 19 U.S.C. 1673d(a)).

Section 735(b) of the Tariff Act of 1930, as amended (93 Stat. 170, 19 U.S.C. 1673d(b)) gives the United States International Trade Commission responsibility for determining whether by reason of such sales at less than fair value a domestic industry is being or is likely to be materially injured. The Commission has determined and on March 18, 1980, it notified the Secretary of Commerce, that an industry in the United States is materially injured by reason of the importation of spun acrylic yarn from Japan that is being sold at less than fair value within the meaning of the Act. In accordance with section 736 of the Tariff Act of 1930, as amended (93 Stat. 172, 19 U.S.C. 1673e), Customs officers are directed to assess an antidumping duty equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise for all entries subject to the "Withholding of Appraisement" notice published in the **Federal Register** on July 13, 1979 (44 FR 41004–5) and all future entries until further notice. On or after the date of publication of this notice, Customs officers shall require a deposit of estimated antidumping duties pending liquidation of entries of subject merchandise at the same time as estimated normal customs duties on the merchandise are deposited. Deposits of estimated antidumping duties shall be required on all entries or withdrawals from warehouse, for consumption, made on and after the date of publication of this antidumping duty order in the **Federal Register.** Deposits shall be collected in the following amounts: Asahi Kasei: 29.05 percent *ad valorem;* Japan Exlan: 18.33 percent *ad valorem;* Mitsubishi Rayon: 20.26 percent *ad*

valorem; for any other exporters of the subject merchandise: 23.19 percent *ad valorem.*

On behalf of the Secretary of Commerce, I hereby make public these determinations, which constitute an antidumping duty order with respect to spun acrylic yarn from Japan. For the purposes of this notice, the term "spun acrylic yarn" means spun yarn of acrylic, as provided for in item 310.50, Tariff Schedules of the United States Annotated. Accordingly, Annex I Part 353 of the Commerce Regulations (45 FR 8208) is being amended by adding the following to the list of antidumping duty orders currently in effect:

Merchandise	Country	Treasury decision
Spun acrylic yarn	Japan	(45 FR).

This notice is published pursuant to section 706 of the Tariff Act of 1930, as amended (19 U.S.C. 1671e), and Section 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration, U.S. Department of Commerce.

April 3, 1980.

[FR Doc. 80-10730 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Ch. II

Controlled Substances in Emergency Kits for Long Term Care Facilities

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Statement of policy.

SUMMARY: The Drug Enforcement Administration has received numerous requests from State licensing and regulatory boards, pharmaceutical associations, and professional organizations concerning this agency's policy for the use and handling of controlled substances in emergency kits for patients in Long Term Care Facilities (LTCF). The Drug Enforcement Administration has determined that an amendment to current regulations is not necessary or desirable, in that LTCF's are not controlled premises under Federal law. However, issuance of a Statement of Policy will provide the individual State licensing and regulatory boards with general guidelines under which they may, in turn, promulgate specific rules for the use and handling of controlled substances in emergency kits in Long Term Care Facilities. Additionally, this course of action should improve health care services to such patients and decrease the quantities of controlled substances which might otherwise accumulate at Long Term Care Facilities which federally are non-registered locations.

DATE: Comments should be received on or before May 12, 1980.

ADDRESS: Send comments in quintuplicate to: Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 Eye Street, Northwest, Washington, D.C. 20537, Attention—Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 Eye Street, Northwest—Room 518, Washington, D.C. 20537, Telephone (202) 633-1091.

Statement of Policy

The placement of emergency kits containing controlled substances in non-federal registered Long Term Care Facilities (LTCF) shall be deemed to be in compliance with the Comprehensive Drug Abuse Prevention and Control Act of 1970, if the appropriate state agency or regulatory authority specifically approves such placement and promulgates procedures which delineate:

A. The source from which a LTCF may obtain controlled substances for emergency kits. The source of supply must be a DEA registered hospital/clinic, pharmacy or practitioner.

B. Security safeguards for each emergency kit stored in the LTCF which include the designation of individuals who may have access to the emergency kits and a specific limitation of the type and quantity of controlled substances permitted to be placed in each emergency kit.

C. Responsibility for proper control and accountability of such emergency kits within the LTCF to include the requirement that the LTCF and the providing DEA registered hospital/clinic, pharmacy or practitioner maintain complete and accurate records of the controlled substances placed in the emergency kit, the disposition of these controlled substances plus the requirement to take periodic physical inventories.

D. The emergency medical conditions under which the controlled substances may be administered to patients in the LTCF to include the requirement that medication be administered by authorized personnel only as expressly authorized by an individual practitioner and in compliance with the provisions of 21 CFR 1306.11 and 21 CFR 1306.21.

E. Prohibited activities which can result in the state revocation, denial, or suspension of the privilege of having or placing emergency kits, containing controlled substances, in a LTCF.

Dated: April 3, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-10769 Filed 4-8-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[T.D. 7691]

26 CFR Parts 1 and 31

Income Tax; Taxable Years Beginning After December 31, 1953 and Employment Taxes; Applicable on or After January 1, 1955; Companion Sitting Placement Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the exemption of companion sitting placement services from employer status. Changes in the applicable tax law were made by the Act of November 12, 1977. The regulations provide the public with the guidance needed to comply with the applicable part of this Act.

EFFECTIVE DATE: The regulations apply to remuneration received after December 31, 1974.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta 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) (202-566-3926).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On May 30, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and Employment Tax Regulations (26 CFR Part 31) to conform the regulations to section 10 of the Act of November 12, 1977 (Public Law 95-171, 91 Stat. 1356) which added section 3506 to the Internal Revenue Code of 1954. No public hearing was requested or held. This Treasury decision adopts the amendments as proposed.

These regulations add a new § 31.3506–1 under section 3506. Section 31.3506–1 provides that, for purposes of employment taxes, a companion sitting placement service shall not be treated as the employer of its sitters if the placement service neither pays nor receives the salary or wages of the sitters. A "companion sitting placement service" is an individual, trust, estate, partnership, association, company, or corporation engaged in the trade or business of placing sitters with individuals who desire the sitters' services. "Sitters" are individuals who provide companionship, personal attendance, or household care services to children, the elderly, or the disabled.

The principal concern expressed in the comments received on the notice of proposed rulemaking was that the proposed regulations would result in the loss of social security coverage of the sitters. However, a sitter who is deemed by § 31.3506–1 not to be the employee of a placement service is then deemed to be self-employed and becomes liable for the tax imposed by section 1401 on self-employment income earned after 1974. Except where net earnings from self-employment for the taxable year are less than $400, the sitter will be liable for tax and will continue to have earnings reported on which social security benefits may be based.

It is also important to note that the general rule of § 31.3506–1 only operates to remove sitters and placement services from the employee-employer relationship when, under §§ 31.3121 (d)–1 and 31.3121 (d)–2, that relationship would otherwise exist. Therefore, if under the common law a sitter is the employee of the individual for whom the sitting is performed rather than the employee of the placement service, that employee-employer relationship remains intact.

Drafting Information

The principal author of these regulations is David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the proposed amendments to 26 CFR Parts 1 and 31, as set forth in the notice of proposed rulemaking published in the **Federal Register** on May 30, 1979 (44 FR 31025), are hereby adopted without change.

This Treasury decision is issued under the authority contained in sections 3506 and 7805 of the Internal Revenue Code of 1954 (91 Stat. 1356, 26 U.S.C. 3506; 68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: March 25, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Income Tax Regulations [26 CFR Part 1]

Paragraph 1. Paragraph (a) of § 1.1402(c)–3 is amended by revising the parenthetical sentence at the end thereof to read as follows:

§ 1.1402(c)–3 Employees.

(a) *General rule.* * * * (As to when an individual is an employee, see section 3121 (d) and (o) and section 3506 and the regulations under those sections in part 31 of this chapter (Employment Tax Regulations).)

* * * * *

Employment Tax Regulations [26 CFR Part 31]

Par. 2. Paragraph (a)(1) of § 31.3121(d)–1 is amended by revising the first sentence thereof to read as follows:

§ 31.3121(d)–1 Who are employees.

(a) *In general.* (1) Whether an individual is an employee with respect to services performed after 1954 is determined in accordance with section 3121 (d) and (o) and section 3506. * * * * * * * *

Par. 3. A new § 31.3506–1 is added immediately after § 31.3505–1. This new section reads as follows:

§ 31.3506–1 Companion sitting placement services.

(a) *Definitions*—(1) *Companion sitting placement service.* For purposes of this section, the term "companion sitting placement service" means a person (whether or not an individual) engaged in the trade or business of placing sitters with individuals who wish to avail themselves of the sitters' services.

(2) *Sitters.* For purposes of this section, the term "sitters" means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

(b) *General rule.* For purposes of subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes), a companion sitting placement service shall not be treated as the employer of its sitters, and the sitters shall not be treated as the employees of the placement service. However, the rule of the preceding sentence shall apply only if the companion sitting placement service neither pays nor receives (directly or through an agent) the salary or wages of the sitters, but is compensated, if at all, on a fee basis by the sitters or the individuals for whom the sitting is performed.

(c) *Individuals deemed self-employed.* Any individual who, by reason of this section, is deemed not to be the employee of a companion sitting placement service shall be deemed to be self-employed for purposes of the tax on self-employment income (see sections 1401–1403 and the regulations thereunder in part 1 of this chapter (Income Tax Regulations)).

(d) *Scope of rules.* The rules of this section operate only to remove sitters and companion sitting placement services from the employee-employer relationship when, under §§ 31.3121(d)–1 and 31.3121(d)–2, that relationship would otherwise exist. Thus, if, under §§ 31.3121(d)–1 and 31.3121(d)–2, a sitter is considered to be the employee of the individual for whom the sitting is performed rather than the employee of the companion sitting placement service, this section has no effect upon that employee-employer relationship.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X is an agency that places babysitters with individuals who desire babysitting services. X furnishes all the sitters with an instruction manual regarding their conduct and appearance, requires them to file semimonthly reports, and determines the total fee to be charged the individual for whom the sitting is performed. Individuals who need a babysitter contact the agency, are informed of the charges, and, if agreement is reached, a sitter is sent to perform the services. The sitter collects the entire amount of the charges and remits a percentage to X as a fee for the placement. X is a companion sitting placement service within the meaning of paragraph (a)(1) of this section. Therefore, since the agency does not actually pay or receive the wages of the sitters, X is not treated as the employer of the sitters for purposes of this subtitle. The sitters are deemed to be self-employed for the purpose of the tax imposed by section 1401.

Example (2). Assume the same facts as in example (1), except that the individual for whom the sitting is performed pays to X the entire amount of the charges. X retains a percentage and pays the difference to the sitter. Since X actually receives and pays the wages of the sitters, X is the employer of the sitters.

Example (3). As a service to the community a neighborhood association maintains a list of individuals who are available to babysit. Parents in need of a sitter contact the association and are provided with a list of names and telephone numbers. The association charges no fee for the service and takes no action other than compiling the list

of sitters and making it available to members of the community. Issues such as hours of work, amount of payment, and the method by which the services are performed are all resolved between the sitter and parent. A, a parent, used the list to hire B to sit for A's child. B performs the services four days a week in A's home and follows specific instructions given by A. Under § 31.3121(d)–1, B is the employee of A rather than the employee of the neighborhood association. Consequently, this section does not apply and B remains the employee of A.

(f) *Effective date.* This section shall apply to remuneration received after December 31, 1974.

[FR Doc. 80–10703 Filed 4–8–80; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim revised regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is revising its regulations on equal employment in the Federal government (29 CFR Part 1613) to allow agencies to award attorney's fees and costs to complainants pursuing complaints under section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16. The purpose of this proposal is to effectuate the policies of Title VII by permitting full remedial relief during the administrative processing of complaints by agencies and the Commission.

DATES: The interim regulations are effective as of April 11, 1980, and will remain effective until final regulations are issued. Written comments on the interim regulations must be received on or before June 9, 1980. The Commission proposes to consider the submissions and thereafter to adopt final regulations.

ADDRESSES: Interested persons are invited to submit written comments regarding the revisions to Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506. Copies of the comments submitted by the public will be available for review at the Social Sciences Library, Room 2003, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6595.

SUPPLEMENTARY INFORMATION: Pursuant to Reorganization Plan No. 1 of 1978, the responsibility for enforcement of equal employment opportunity in federal employment was transferred to the Equal Employment Opportunity Commission. The Commission adopted most of the regulations previously promulgated by the Civil Service Commission and moved the regulations to 29 CFR Part 1613, effective January 1, 1979. (43 FR 60900). Amendments to 29 CFR 1613.233(a) approved by the Commission on May 1, 1979, are reflected in these amendments.

The amendments provide that an agency or the Commission may award a complainant reasonable attorney's fees and costs when an allegation of discrimination prohibited by Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e–16, is resolved in favor of the complainant, including a settlement under § 1613.217(a). The regulation will apply to all pending or future complaints. When discrimination covered by Title VII is found, the final agency decision must contain a determination of whether the complainant is entitled to attorney's fees and/or costs.

As made applicable to federal employment by Section 717(d) of Title VII, Section 706(k) of Title VII provides:

> In any action or proceeding under this subchapter, the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission of the United States shall be liable for costs the same as a private person.

Several recent court decisions have held that attorney's fees are to be awarded to a prevailing federal employee for work done during the administrative processing of a complaint. If agencies are unable to grant reasonable attorney's fees and costs as part of the administrative remedy, parties will be encouraged to circumvent the administrative process in order to recover attorney's fees and costs and, thus, undermine the intent of Congress that complaints be handled at the administrative level. Accordingly, the Commission has determined that the regulation is necessary and appropriate to carry out the policies of section 717 of Title VII of the Civil Rights Act of 1964, as amended.

It is, however, important to note that any award of attorney's fees or costs made pursuant to these regulations will have to be paid out of the agency's own budget. Fees awarded pursuant to a court order, on the other hand, are payable out of the fund created by 31 U.S.C. § 724a. Thus, the existing system may act as a disincentive to administrative resolution of the question of attorney's fees. Agencies may, in many cases, conclude that it is ultimately less costly to take the issue to court. The Commission directs attention to this problem and solicits comments.

Because of differences in statutory language, the current proposal is limited to complaints under Title VII. The handicap discrimination regulations were promulgated by the Civil Service Commission under the Back Pay Act, 5 U.S.C. 7153, and section 501 of the Rehabilitation Act, 29 U.S.C. 791, neither of which provided for the award of attorney's fees or costs. A recent amendment to the Rehabilitation Act may provide for such an award. See Act of Nov. 6, 1978, Pub. L. No. 95–602, § 120, 92 Stat. 2955. Title VII complaints against agencies funded under the Legislative Branch Appropriation Act of 1979 and complaints of age discrimination were also excluded from this proposal because recent enactments may preclude the award of attorney's fees and costs in such instances. See Act of Sept. 30, 1978, Pub. L. No. 95–391, § 308, 92 Stat. 763 and the Age Discrimination in Employment Act Amendments of 1978, Pub. L. No. 95–256, section 5, 92 Stat. 189. The Commission will be reviewing these statutes and determining their applicability during the comment period.

Therefore, the Commission encourages comments on the applicability of these regulations to handicap and age discrimination complaints and complaints against legislative agencies.

Additionally, the Commission will be consulting with the Merit Systems Protection Board in the development of its standards for awarding attorney's fees in Title VII complaints under the authority granted the Board pursuant to 5 U.S.C. 7701(g)(2). After such consultation, the Commission may issue separate regulations dealing with appeals from the award of attorney's fees under section 7701(g)(2).

Section 1613.213 has been revised to make clear that any time the aggrieved person is dissatisfied with the attempted resolution of the dispute by the EEO counselor, the aggrieved person must be provided with written notice of the right to file a formal complaint and the duty to inform the agency when complainant retains a representative. It is essential that the complainant be notifed of this responsibility since under

§ 1613.271(a)(1), the complainant is not entitled to attorneys fees unless the complaint is formally filed and the agency is on notice that the complainant has a representative. Note that the duty to inform the agency of the representation is merely to protect the agency from unwarranted fee claims. Thus, § 1613.271 provides that written submissions to the agency which are signed by the representative shall constitute adequate notice.

Section 1613.217 permits an agency to award attorney's fees and costs when a Title VII allegation is settled in favor of the complainant prior to an agency decision. Section 1613.221 permits an agency to award attorney's fees and costs in an agency decision finding discrimination.

Sections 1613.231 and 1613.233 provide that an agency's determination not to award attorney's fees may be appealed to the Commission. Similarly, when an agency determines that fees will be awarded, the sufficiency of the amount awarded by the agency will be appealable to the Commission.

Sections 1613.233 and 1613.281 provide that decisions of an agency are not final until the agency has made a determination on both the entitlement to and the amount of any attorney's fee awards. This interpretation will make the administrative process less complex than other alternatives since complainants will not have matters pending before an agency and the Commission at the same time. Under the proposed change, the entire matter will go forward on appeal to the Commission or for *de novo* trial to the district court.

Section 1613.271(c) contains the procedures for determining the amount of the award. A verified statement of costs and attorney's fees must be submitted within 20 days of the determination that attorney's fees will be awarded. The agency, complainant and complainant's representative will then attempt to agree on the amount of the award within 20 days of receipt of the submission, and if they cannot agree on the amount, the agency will issue its decision within 30 days of the receipt of the submission. The Commission has adopted the standards for awarding attorney's fees enunciated in *Evans* v. *Sheraton Park Hotel*, 503 F.2d 177 (D.C. Cir. 1974) and *Johnson* v. *Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). The Commission believes that the *Evans* and *Johnson* standards are equitable and appropriate in the administrative process.

Attorney's fees are limited to services of members of the Bar, and law clerks, paralegals or law students working under their supervision. However, no award of attorney's fees can be allowed for the services of federal employees. The costs which may be awarded are contained in 28 U.S.C. 1920 and 28 U.S.C. 1821.

These regulations have been reviewed in accordance with Executive Order 12044. They do not require regulatory analysis under Section 3 of that Order. Pursuant to 5 U.S.C. 553(d)(3), the Commission finds that good cause exists for making these revised regulations effective in less than 30 days, in order to provide continuity of operation in the processing of Federal EEO complaints. The interim revised regulations appear below.

By virtue of the authority vested in the Commission under Section 717 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–16, Reorganization Plan No. 1 of 1978 (43 FR 19807) and Executive Order 12106 (44 FR 1053), the Equal Employment Opportunity Commission hereby publishes the following amendments to its regulations on Equal Employment Opportunity in the Federal Government.

Signed at Washington, D.C. this 2nd day of April, 1980. For the Commission.

Eleanor Holmes Norton,

Chair.

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

1. Section 1613.213—is amended by revising paragraph (a) as follows:

§ 1613.213 Precomplaint processing.

(a) An agency shall require that an aggrieved person who believes that he or she has been discriminated against because of race, color, religion, sex, or national origin consult with an Equal Employment Opportunity Counselor to try to resolve the matter. The agency shall require the Equal Employment Opportunity Counselor to make whatever inquiry he or she believes necessary into the matter; to seek a solution of the matter on an informal basis; to counsel the aggrieved person concerning the issues in the matter; to keep a record of the counseling activities so as to brief, periodically, the Equal Employment Opportunity Officer on those activities; and, when advised that a complaint of discrimination has been accepted from an aggrieved person, to submit a written report to the Equal Employment Opportunity Officer, with a copy to the aggrieved person, summarizing the counselor's actions and advice both to the agency and the aggrieved person concerning the issues in the matter. The Equal Employment Opportunity Counselor shall, insofar as is practicable, conduct the final interview with the aggrieved person not later than 21 calendar days after the date on which the matter was called to the counselor's attention by the aggrieved person. If, within 21 days, the matter has not been resolved to the satisfaction of the aggrieved person, that person shall be immediately informed in writing, at the time of the final interview, of his or her right to file a complaint of discrimination. The notice shall inform the complainant of his or her right to file a discrimination complaint at any time up to 15 calendar days after receipt of the notice of the appropriate official with whom to file a complaint and of complainant's duty to assure that the agency is immediately informed if the complainant retains counsel, or any other representative. The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint. The Equal Employment Opportunity Counselor shall not reveal the identity of an aggrieved person who consulted the counselor, except when authorized to do so by the aggrieved person, until the agency has accepted a complaint of discrimination from that person.

2. Section 1613.217 is amended by revising paragraph (a) as follows:

§ 1613.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant and the complainant's representative a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials.

If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the complainant. An informal adjustment of a complaint may include an award of back pay, attorney's fees or other appropriate relief. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney's fees or costs should be awarded or on the amount of attorney's fees or costs, the issue of the award of attorney's fees or costs or the amount which should be awarded may be severed and shall be the subject of a final decision under 1613.221(d). The decision of whether to award attorney's fees or costs or of the amount to be awarded may be the subject of an appeal to the Commission

under the provisions of §§ 1613.231 through 1613.236. If the agency does not carry out, or rescinds, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the agency shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment.

3. Section 1613.221 is amended by revising paragraph (c), redesignating the present paragraph (d) as paragraph (e), and adding a new paragraph (d) as follows:

§ 1613.221 Decision by head of agency or designee.

* * * * *

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall (1) advise the complainant and his or her representative that any request for attorney's fees or costs must be documented and submitted within 20 calendar days of receipt, (2) require remedial action to be taken in accordance with § 1613.271, (3) review the matter giving rise to the complaint to determine whether disciplinary action against alleged discriminatory officials is appropriate, and (4) record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be recorded in the complaint file.

(d) When the final agency decision provides for an award of attorney's fees or costs, the amount of these awards shall be determined under § 1613.271(c). In the unusual situation in which the agency determines not to award attorney's fees or costs to a prevailing complainant, the agency shall set forth in its decision the specific reasons for denying the award.

(e) The decision letter shall inform the complainant of his or her right to appeal the decision of the agency to the Commission, and shall include the text of 29 CFR 1613.233 (a) and (b). The decision letter shall also inform the complainant of his or her right to file a civil action in accordance with § 1613.281, and of the time limits applicable thereto.

4. Section 1613.231 is amended by revising paragraph (a)(3) as follows:

§ 1613.231 Entitlement.

(a) * * *

(3) On the merits of the complaint under § 1613.217(c) or § 1613.221, or on the award of attorney's fees or costs, but the decision does not resolve the complaint to the complainant's satisfaction.

5. Section 1613.233 is amended by revising paragraph (a) as follows:

§ 1613.233 Time limit.

(a) Except as provided in paragraph (b) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorneys fees or costs. If a determination to award attorneys fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in §1613.271(c).

(6) Section 1613.271 is amended by adding a new paragraph (c) as follows:

§ 1613.271 Remedial actions.

* * * * *

(c) *Attorney's Fees or Costs.—*

(1) Awards of Attorney's Fees or Costs.

The provisions of this Subpart relating to the award of attorney's fees or costs shall apply to allegations of discrimination or retaliation prohibited by section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16, except that no award of attorney's fees shall be made with funds appropriated under Pub. L. 95–391, the Legislative Branch Appropriation Act of 1979. In a decision by an agency, under § 1613.217, §1613.220 (d) §1613.221 or §1613.612 or by the Commission, under §1613.234 or §1613.262 or §1613.631(a)(3), the agency or Commission may award the applicant or employee reasonable attorney's fees or costs incurred in the processing of the complaint or charge. (i) A finding of discrimination raises a presumption of entitlement to an award of attorney's fees. (ii) Any award of attorney's fees or costs shall be paid by the agency. (iii) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government. (iv) Attorney's fees shall be paid only for services performed after the filing of the complaint required in § 1613.214 and after the complainant has notified the agency that he or she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the complainant. Written submissions to the agency which are signed by the representative shall be deemed to constitute notice of representation.

(2) *Amount of awards.* When a decision of the agency, under § 1613.217(c), § 1613.220(d), § 1613.221 or § 1613.612 or of the Commission, under § 1613.234, § 1613.262 or § 1613.631(a) (3) provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(i) The amount of attorney's fees shall be made in accordance with the following standards: the time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience,

reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

(ii) The costs which may be awarded are those authorized by 28 U.S.C. 1920 to include (A) fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case; (B) fees and disbursements for printing and witnesses; and (C) fees for exemplification and copies of papers necessarily obtained for use in the case. Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. § 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

7. Section 1613.281 is revised as follows:

§ 1613.281 Statutory right.

An employee or applicant is authorized by section 717(c) of the Civil Rights Act, as amended, 84 Stat. 112, to file a civil action in an appropriate United States district court:

(a) Within thirty (30) calendar days of receipt of notice of final action taken by the agency on a complaint,

(b) After one hundred and eighty (180) calendar days from the date of filing a complaint with the agency if there has been no decision,

(c) Within thirty (30) calendar days after receipt of final action taken by the Commission on the complaint, or

(d) After one hundred and eighty (180) calendar days from the date of filing an appeal with the Commission, if there has been no Commission decision.

For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a determination to award attorneys fees is made the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.271(c).

8. Section 1613.602 is amended by revising paragraph (c) as follows:

§ 1613.602 Precomplaint processing.

* * * * *

(c) The Counselor shall conduct a final interview and terminate counseling with the aggrieved person not later than 30 calendar days after the date on which the allegation of discrimination was called to the attention of the Counselor. During the final interview, the Counselor shall inform the aggrieved person in writing that counseling is terminated, that he/she has the right to file a class complaint of discrimination with appropriate officials of the agency, and that he/she has a duty to assure that the agency is immediately informed if legal representation is obtained.

9. Section 1613.609 is amended by revising paragraph (c) as follows:

§ 1613.609 Opportunities for resolution of the complaint.

* * * * *

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or his/her designee. A resolution may include a finding on the issue of discrimination, an award of attorney's fees or costs, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided to the agent.

10. Section 1613.612 is amended by redesignating the present paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3), redesignating present paragraph (d) as paragraph (b) and adding new paragraphs (c) and (d) as follows:

§ 1613.612 Agency decision.

* * * * *

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall (1) advise the agent and his or her representative that any request for attorney's fees must be documented and submitted within 20 calendar days of receipt, (2) review the matter giving rise to the complaint to determine whether disciplinary action against alleged discriminatory officials is appropriate, and (3) record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be recorded in the complaint file.

(d) When the final agency decision provides for an award of attorney's fees and/or costs, the amount of these awards shall be determined under § 1613.271(c). When the agency determines not to award attorney's fees or costs, the agency shall set forth in its decision the specific reasons for denying the award.

* * * * *

11. Section 1613.614 is amended by revising paragraph (a) as follows:

§ 1613.614 Corrective action.

(a) When discrimination is found, an agency must eliminate or modify the personnel policy or practice out of which the complaint arose, and provide individual corrective action, including an award of attorney's fees and costs, to the agent in accordance with § 1613.271 of this Part. Corrective action in all cases must be consistent with law, Executive order, and Civil Service regulations, rules and instructions.

12. Section 1613.631 is amended by revising paragraphs (a) and (b) as follows:

§ 1613.631 Appeal to the Office of Review and Appeals.

(a) An agent may appeal to the Office of Review and Appeals the decision of the head of the agency or his/her designee: (1) To reject or cancel his/her complaint, or a portion thereof; for reasons covered by § 1613.604; (2) to refuse to reinstate the complaint for further processing in accordance with the provisions of § 1613.609(e); and (3) on the merits of the complaint, the issue of attorney's fees and costs and/or corrective action.

(b) A claimant may appeal to the Office of Review and Appeals from a decision of the head of the agency or his/her designee: (1) To cancel or reject a claim for individual relief in accordance with § 1613.614(f) and (g); and (2) on the merits of his/her claim for individual relief including attorney's fees or costs.

§ 1613.641 [Amended]

13. Section 1613.641 is amended by adding the following at the end of paragraph (a):

(a) * * *

For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees and costs. If a determination to award attorneys fees is made the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.271(c).

[FR Doc. 80-10775 Filed 4-8-80; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 222

Grazing and Livestock Use on the National Forest System: Wild Free-Roaming Horses and Burros

AGENCY: USDA, Forest Service.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the National Forest System relating to the Wild Free-Roaming Horses and Burros Act of 1971 as amended by Public Rangelands Improvement Act of 1978. This rule will facilitate management programs directed toward protecting and controlling populations of wild free-roaming horses and burros and their habitats.

EFFECTIVE DATE: April 9, 1980.

ADDRESSES: Chief, Forest Service, USDA, P.O. Box 2417, Room 610 RPE, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert M. Williamson, Range Management Staff, Forest Service, P.O. Box 2417, Room 610 RPE, Washington, D.C. 20013, 703–235–8139.

SUPPLEMENTARY INFORMATION: The Public Rangelands Improvement Act of 1978 (92 Stat. 1803, 43 U.S.C. 1901) amended the Wild Free-Roaming Horses and Burros Act of 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.). As a result of the legislative change, the following significant changes are being made in 36 CFR Part 222:

1. Not more than four animals per year may be adopted for maintenance and care by one individual, organization, or government agency, unless determined, in writing, that such individual, organization, or government agency is capable of humanely caring for more than four animals.

2. Title may be granted to not more than four animals per year to a qualified applicant after the applicant, through adoption for maintenance and care, has provided humane treatment for the animal for one year.

3. Wild free-roaming horses and burros or their remains shall lose their status as such and no longer be considered as falling within the purview of the Act when: (a) Title is passed to an individual; (b) upon transfer for private maintenance and care they die of natural causes before passage of title; (c) the animal is destroyed under the provisions of the Act; (d) upon death by natural causes on the National Forest System or on private lands where maintained, and disposal is authorized by a Forest Officer; or (e) upon destruction or death for purposes authorized by the Act.

4. Priorities have been established for removal of excess animals and provides for humane and cost-efficient disposal of unadoptable excess animals.

5. Provision has been made for consulting and cooperating with other agencies, organizations, and individuals in managing wild horses, burros, and their habitat.

7. Carcasses of animals that have lost their status as wild free-roaming horses or burros may be disposed of in any manner acceptable under State sanitary statutes. Previous regulations provided that the carcasses of wild free-roaming horses and burros could not be sold or processed into commercial products.

The Wild Free-Roaming Horses and Burros Act of 1971 is successful in its goal to protect the animal from capture, branding, and harrassment. It does not deal sufficiently with the social and economic consequences of management of the species, nor the biological requirements for the perpetuation of the species and its habitat, including inter-relationships of other wild animal species requiring and occupying the same habitat as that of wild horses and burros. This rule will alleviate these problems and provide a greater opportunity to protect and care for their perpetuation.

The Bureau of Land Management is publishing similar information regarding their rule for wild free-roaming horses and burros management.

Public Participation

Proposed rulemaking was published on pages 40355–40349 in the **Federal Register** of July 10, 1979, and invited comments for 60 days ending September 10, 1979. Comments were received from 10 sources including individuals, State governments, humane societies, user organizations, and environmentalists. These comments have been reviewed, analyzed, and considered in preparation of the final regulations. Comments are summarized as follows:

Section 222.20 Definitions.

Some commented that they felt it was unacceptable to use a wild free-roaming horse or burro for any kind of commercial gain. It would seem that the use of wild free-roaming horses or burros for commercial purposes that do not exploit their wild characteristic is an acceptable alternative to destroying the animals. A definition of "commercial exploitation" has not been included in the regulations. Legislation as amended does not reference the term commercial exploitation. It is felt that restrictions now contained in 36 CFR 261.21 cover the intent of that suggestion.

There were requests to define the words "old," "sick" and "lame." Definitions of the three words have been added to these regulations and should help alleviate some of the concerns expressed about the fate of these animals.

It was suggested that the definition of "inhumane practices" be revised by using an expression such as "not using humane practices or procedures." Using the positive term, "humane," to describe the negative term, "inhumane," is not acceptable.

It was suggested that the regulations define "qualified applicant." The term has not been defined as qualifications are set out in the regulations. The definition of "commercial product" is being eliminated from this part and will be placed in 36 CFR 261—Prohibitions. This is done to achieve continuity in rulemaking, and to clarify the language in the proposed regulation. This will put all material related to prohibited acts in the National Forest System in one part of Title 36.

Section 222.21 Administration.

Although there were many suggestions to identify additional persons or groups to be consulted about the actions necessary to protect, manage and control wild free-roaming horses and burros, only one change has been made in this section. The change will allow consulting with anyone who has special expertise, knowledge or experience in the field of wild free-roaming horses or burros.

Section 222.24 Motorized vehicles.

A comment expressed concerne about humane transportation and suggested detailed standards for this subpart. These suggestions will be considered in revising the Forest Service Manual which provides detailed instructions for implementing the program. Regulations provide for following State laws in transporting animals and maximum time limit that animals can be transported unless waived in writing.

Section 222.25 Protection when on other than National Forest System.

One comment suggested that § 222.25 be deleted as it was an attempt to broaden Federal authority by the Secretary. Section 222.25 is left intact as it is within the intent of Congress.

Section 222.29 Relocation and Disposal of Animals.

There were suggestions that the paragraph on "capture" specify a time limit for holding animals pending their disposal. A time limit has not been specified because of the differing numbers of applicants, availability of transportation and other variables that are involved in adoption.

It was recommended that the expression "destroyed in the most humane manner possible" be clarified. The need to destroy an animal can occur

under such a wide variety of circumstances and times that a set of guidelines for destruction is impractical. An animal could be found at a location or under weather conditions that would preclude the use of a veterinarian to provide the most humane method. It is possible also that there could be disagreement among veterinarians themselves as to what method is most humane. This is further complicated by the continual development of new and improved drugs. The regulations stress that humane destruction is the primary consideration and that cost effectiveness is secondary.

It was suggested that title not be transferred if animals are adopted prior to the effective date of these regulations. The apparent concern here was that title to large numbers of animals might be granted to someone who would sell them to a slaughter house upon receipt of title. Since title cannot be granted for more than four animals per year to any qualified adopter, the potential for making a business of selling animals is limited.

There were recommendations as to which drugs to use, and not to use, in performing an act of mercy. This is considered impractical because of the possible variations in the opinions of veterinarians and the continual development of new drugs.

Question was raised on how to distinguish between an animal that is a wild free-roaming horse and burro and one that has become the legal property of an adopter. The legal status of a former wild free-roaming horse or burro can be confirmed by a certificate of title. Records are also kept on each animal for this purpose.

There were comments about adopting more than four animals per year as provided in § 222.29. There were also suggested actions to follow to ensure that these animals would receive humane treatment and not be commercially exploited or sold by adopters. The requirement to justify additional adoptions in writing should in itself, be sufficient to ensure humane treatment and protection. An adopter cannot gain title to more than four animals in any one year regardless of the total number adopted. This limitation should ensure that selling so few animals for conversion to commercial products would limit the potential for making this a business operation.

It was suggested that the Forest Service make systematic inspections of all adopted animals. The logistics involved in such an endeavor would make it difficult. There will be inspections of adopted animals whenever possible.

There were some questions as to whether titles could be granted to horses that were adopted prior to the effective date of these regulations. The regulations have been amended to show that they apply to all animals adopted after December 15, 1971.

Section 222.30 Disposal of carcasses

The second sentence of the proposed § 222.30, addressing the disposal of carcasses, was deleted to make the section clear.

Other Changes

Sections 222.27 and 222.28 have been revised to eliminate the word "Cooperative" wherever it occurs in the term "Cooperative Agreement." This change is to conform with Pub. L. 95–224, Federal Grants and Cooperative Agreements Act of 1977. The intent of the regulation remains the same. In accordance with exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804), it has been determined that advance notice and request for comments on this change are unnecessary.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has been classified "significant" under those criteria. An approved final Environmental Assessment Report (including cost analysis) has been prepared and is available from: Range Management Staff, Forest Service, P.O. Box 2417, Rm 610 RPE, Washington, D.C. 20013.

Dated: April 3, 1980.

Bob Bergland,

Secretary.

Under the authority of the Wild Free-Roaming Horses and Burros Act (85 Stat. 649), as amended (16 U.S.C. 1331 et. seq.), 36 CFR Part 222, Subpart B, is revised as set forth below.

PART 222—RANGE MANAGEMENT

* * * * *

Subpart B—Management of Wild Free-Roaming Horses and Burros

Sec.

222.20 Authority and definitions.
222.21 Administration of wild free-roaming horses and burros and their environment.
222.22 Ownership claims.
222.23 Removal of other horses and burros.
222.24 Use of helicopters, fixed-wing aircraft and motor vehicles.
222.25 Protection of wild free-roaming horses and burros when they are upon other than the National Forest System or the public lands.
222.26 Removal of wild free-roaming horses and burros from private lands.
222.27 Maintenance of wild free-roaming horses and burros on privately-owned lands.
222.28 Agreements.
222.29 Relocation and disposal of animals.
222.30 Disposal of carcasses.
222.31 Loss of status.
222.32 Use of non-Forest Service personnel.
222.33 Management coordination
222.34 National Advisory Board.
222.35 Studies.
222.36 Arrest.

Authority: 85 Stat. 649, as amended (16 U.S.C. 1331–1340); Sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 32, 50 Stat. 522, as amended (7 U.S.C. 1011); 92 Stat. 1803 (43 U.S.C. 1901 note).

PART 222—RANGE MANAGEMENT

§ 222.20 Authority and definitions.

(a) *Authority.* The Chief, Forest Service, shall protect, manage, and control wild free-roaming horses and burros on lands of the National Forest System and shall maintain vigilance for the welfare of wild free-roaming horses and burros that wander or migrate from the National Forest System. If these animals also use lands administered by the Bureau of Land Management as a part of their habitat, the Chief, Forest Service, shall cooperate to the fullest extent with the Department of the Interior through the Bureau of Land Management in administering the animals.

(b) *Definitions.*

(1) "Act" means the Act of December 15, 1971 (85 Stat. 649, as amended, 16 U.S.C. 1331–1340)

(2) "Captured animal" means a wild free-roaming horse or burro taken and held in the custody of an authorized officer, his delegate, or agent. This term does not apply to an animal after it is placed in private custody through a Private Maintenance and Care agreement.

(3) "Excess animals" means wild free/roaming horses and burros which have been removed by authorized personnel pursuant to applicable law or which must be removed from an area in order to preserve and maintain a thriving natural ecological balance in coordination with other resources and activities.

(4) "Herd" means one or more stallions and their mares, or jacks and their jennies.

(5) "Humane treatment" means kind and merciful treatment, without causing unnecessary stress or suffering to the animal.

(6) "Inhumane treatment" means causing physical stress to an animal through any harmful action or omission that is not compatible with standard animal husbandry practices; causing or allowing an animal to suffer from a lack

of necessary food, water, or shelter; using any equipment, apparatus, or technique during transportation, domestication, or handling that causes undue injury to an animal; or failing to treat or care for a sick or injured animal.

(7) "Lame" means a wild free-roaming horse or burro with malfunctioning muscles, ligaments or limbs that impair freedom of movement.

(8) "Malicious harassment" means any intentional act demonstrating deliberate disregard for the well-being of wild free-roaming horses and burros and which creates a likelihood of injury or is detrimental to normal behavior pattern of wild free-roaming horses or burros including feeding, watering, resting, and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping, or attempting to gather wild free-roaming horses or burros. It does not apply to activities conducted by or on behalf of the Forest Service or the Bureau of Land Management in implementation or performance of duties and responsibilities under the Act.

(9) "National Advisory Board" means the Advisory Board as established jointly by the Secretary of Agriculture and the Secretary of the Interior under the provisions of the Act.

(10) "National Forest System" includes the National Forests, National Grasslands, and other Federal lands for which the Forest Service has administrative jurisdiction.

(11) "Old" means a wild free/roaming horse or burro characterized by inability to fend for itself because of age, physical deterioration, suffering or closeness to death.

(12) "Sick" means a wild free-roaming horse or burro with failing health, infirmness, or disease from which there is little chance of recovery.

(13) "Wild free-roaming horses and burros" mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat, but does not include any horse or burro introduced onto the National Forest System on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Unbranded, claimed horses and burros for which the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above.

(14) "Wild-horse and burro range" means an area of National Forest System specifically so designated by the Chief, Forest Service, from wild horse and burro territory, for the purpose of sustaining an existing herd or herds of wild free-roaming horses and burros, provided the range does not exceed known territorial limits and is devoted principally, but not necessarily exclusively, to the welfare of the wild horses and burros, in keeping with the multiple-use management concept for the National Forest System.

(15) "Wild horse and burro territory" means lands of the National Forest System which are identified by the Chief, Forest Service, as lands which were territorial habitat of wild free-roaming horses and/or burros at the time of the passage of the Act.

§ 222.21 Administration of wild free-roaming horses and burros and their environment.

(a) The Chief, Forest Service, shall:

(1) Administer wild free-roaming horses and burros and their progeny on the National Forest System in the areas where they now occur (wild horse and burro territory) to maintain a thriving ecological balance considering them an integral component of the multiple use resources, and regulating their population and accompanying need for forage and habitat in correlation with uses recognized under the Multiple-Use Sustained Yield Act of 1960 (70 Stat. 215; 16 U.S.C. 528–531);

(2) Provide direct administration for the welfare of wild free-roaming horses and burros that are located on the National Forest System by use of the Forest Service organization rather than by the granting of leases and permits for maintenance of these animals to individuals and organizations;

(3) Establish wild horse and burro territories in accordance with the Act and continue recognition of such territories where it is determined that horses and/or burros will be recognized as part of the natural system, and designate areas within these territories as a specific wild horse and burro range in those situations where he determines such designation as especially fitting to meet the purposes of the Act and the Multiple Use Sustained-Yield Act, after consultation with the appropriate State agencies where such range is proposed and with the National Advisory Board;

(4) Analyze each wild horse or burro territory and, based on the analysis, develop and implement a management plan, which analysis and plans will be updated, whenever needed, as determined by conditions on each territory;

(5) Maintain a current inventory of wild free-roaming horses and burros on each territory to determine whether and where excess animals exists;

(6) Based on paragraphs (a) (4) and (5) of this section, determine appropriate management levels, whether action should be taken to remove excess animals and what actions are appropriate to achieve the removal or destruction of excess animals; and

(7) In making determinations cited in this section, the authorized officer shall consult with the U.S. Fish and Wildlife Service, wildlife agencies in the State, individuals and organizations independent of Federal or State Government recommended by the National Academy of Sciences, and any other individual or organizations determined to have scientific expertise or special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to range management.

§ 222.22 Ownership claims.

(a) Any person claiming ownership under State branding and estray laws of branded or unbranded horses or burros within a wild horse or burro territory or range on the National Forest System where such animals are not authorized must present evidence of ownership to justify a roundup before permission will be granted to gather such animals. Claims of ownership with supporting evidence were required to be filed during a claiming period which expired November 15, 1973. Unauthorized privately owned horses or burros entering the National Forest System after November 15, 1973, which become intermingled with wild horses or burros, may be claimed by filing an application with the District Ranger. All authorizations to gather claimed animals shall be in writing in accordance with instructions as the Chief, Forest Service, may prescribe. After such public notice as an authorized officer deems appropriate to inform interested parties, gathering operations may be authorized. The authorization shall provide that the gathering or roundup be consistent with regulations, and will (1) establish a specific reasonable period of time to allow the gathering of claimed animals and (2) stipulate other conditions, including visual observation by Forest Service personnel deemed necessary to ensure humane treatment of associated wild free-roaming horses and burros and to protect other resources involved.

(b) Prior to removal of claimed animals which have been captured from the National Forest System, claimants shall substantiate their claim of ownership in accordance with whatever criteria are cooperatively agreed to between the Forest Service and the State agency administering the State

estray laws. In the absence of an agreement, ownership claims shall be substantiated in accordance with State law and subject to approval of the Forest Service.

§ 222.23 Removal of other horses and burros.

Horses and burros not within the definition in § 222.20(b)(13) which are introduced onto Wild Horse and Burro Territories or ranges after December 15, 1971, by accident, negligence, or willful disregard of private ownership, and which do not become intermingled with wild free-roaming horses or burros shall be considered as unauthorized livestock and treated in accordance with provisions in 36 CFR 261.7 and 262.2.

§ 222.24 Use of helicopters, fixed-wing aircraft and motor vehicles.

The Chief, Forest Service, is authorized to use helicopters, fixed-wing aircraft, and motor vehicles in a manner that will ensure humane treatment of wild free-roaming horses and burros as provided by the following paragraphs:

(a) Prior to using helicopters in capture operations and/or using motor vehicles for the purpose of transporting captured animals, a public meeting will be held in the proximity of the territory where the capture operation is proposed.

(b) Helicopters may be used in all phases of the administration of the Act including, but not limited to, inventory, observation, surveillance, and capture operations. In capture operations, helicopters may be used to locate the animals involved to assist ground crews in moving the animals and for related purposes, such as, to transport personnel and equipment. The condition of the animals shall be continuously observed by the authorized officer and, should signs of harmful stress be noted, the source of stress shall be removed so as to allow recovery. Helicopters may be used in roundups or other capture operations subject to the following procedures.

(1) Helicopters shall be used in such a manner that bands or herds will tend to remain together.

(2) Horses or burros will not be moved at a rate which exceeds limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of the animals.

(3) Helicopters shall be used to observe the presence of dangerous areas and may be used to move animals away from hazards during capture operations.

(4) During capture operations, animals shall be moved in such a way as to prevent harmful stress or injury.

(5) The authorized officer shall supervise all helicopter uses as follows:

(i) Have means to communicate with the pilot and be able to direct the use of the helicopter; and

(ii) Be able to observe effects of the use of the helicopters on the well-being of the animals.

(c) Fixed-wing aircraft may be used for inventory, observation, and surveillance purposes necessary in administering the Act. Such use shall be consistent with the Act of September 8, 1959, as amended (18 U.S.C. 41 et seq.). Fixed-wing aircraft shall not be used in connection with capture operations except as support vehicles.

(d) Motor vehicles may be used in the administration of the Act except that such vehicles shall not be used for driving or chasing wild horses or burros in capture operations. Motor vehicles may also be used for the purpose of transporting captured animals subject to the following humane procedures.

(1) Such transportation shall comply with appropriate State and Federal laws and regulations applicable to humane transportation of horses and burros.

(2) Vehicles shall be inspected by an authorized officer prior to use to ensure vehicles are in good repair and of adequate rate capacity.

(3) Vehicles shall be carefully operated to ensure that captured animals are transported without undue risk or injury.

(4) Where necessary and practical, animals shall be sorted as to age, temperament, sex, size, and condition so as to limit, to the extent possible, injury due to fighting and trampling.

(5) The authorizing officer shall consider the condition of the animals, weather conditions, type of vehicle, and distance to be traveled when planning for transportation of captured animals.

(6) Unless otherwise approved by the authorized officer, the transportation of wild free-roaming horses and burros shall be limited in sequence, to a maximum of 24 hours in transit followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.

§ 222.25 Protection of wild free-roaming horses and burros when they are upon other than the National Forest System or public lands.

Individual animals and herds of wild free-roaming horses and burros will be under the protection of the Chief, Forest Service, even though they may thereafter move to lands of other ownership or jurisdiction as a part of their annual territorial habitat pattern or for other reasons. The Chief will exercise surveillance of these animals through the use of cooperative agreements and as otherwise authorized by law and act immediately through appropriate administrative or criminal and civil judicial procedures to provide them the protective measures of the Act at any time he has cause to believe its provisions are being violated.

§ 222.26 Removal of wild free-roaming horses and burros from private lands.

Owners of land upon which wild free-roaming horses and burros have strayed from the National Forest System may request their removal by calling the nearest office of either the Forest Service or Federal Marshall.

§ 222.27 Maintenance of wild free-roaming horses and burros on privately-owned lands.

Owners of land who wish to maintain wild free-roaming horses and burros which have strayed onto their lands from the National Forest System may do so by notifying the nearest office of the Forest Service in a timely fashion and providing such information on a continuing basis as the Chief, Forest Service, may require. Such owners shall protect the wild free-roaming horses and burros on their lands. They may not, in so maintaining these animals, impede their return to National Forest System lands unless authorized by agreement with the Forest Service.

§ 222.28 Agreements.

The Chief, Forest Service, may enter into agreements as he deems necessary to further the protection, management, and control of wild free-roaming horses and burros.

§ 222.29 Relocation and disposal of animals.

(a) The Chief, Forest Service, shall, when he determines over-population of wild horses and burros exists and removal is required, take immediate necessary action to remove excess animals from that particular territory. Such action shall be taken until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from deterioration associated with over-population.

(b) No person except an authorized Forest Service officer or his agent shall destroy, remove, or relocate any wild free-roaming horse or burro located on the National Forest System.

(c) Wild horses and burros shall be relocated or removed in the following order of priority:

(1) In the most humane manner possible, sick, lame, or old animals shall be destroyed;

(2) Relocate animals to other National Forest System lands which were identified as 1971 wild horse or burro territory, providing suitable habitat exists and relocation of animals will not jeopardize vegetation condition;

(3) Relocate animals to other Federally-owned lands which were identified as 1971 wild horse or burro occupied lands, providing suitable habitat exists and relocation of animals will not jeopardize vegetation condition and animals are requested by the appropriate land manager having jurisdiction;

(4) Place animals under private maintenance and care agreements where there is an adoption demand by qualified individuals, groups, or Government agency, and for which there is assurance of humane treatment and care, provided not more than four animals are placed under private maintenance and care agreements per year to any individual, organization, or government agency unless there is a determination expressed otherwise in writing, by an authorized Forest Service Officer; and

(5) Excess animals, for which an adoption demand by qualified applicants does not exist, shall be destroyed in the most humane manner possible, and if several methods are equally humane, select the most cost efficient.

(d) Where excess animals have been placed under private maintenance and care agreements after December 15, 1971, as provided for in paragraph (c)(4) of this section, and animals have been provided humane conditions, treatment, and care, for a period of one year, the Chief, Forest Service, may grant title to not more than four animals per year to each individual, organization, or government agency.

(6) The applicants must make written application for title and/or adoption and must be of legal age in the State in which they reside. Humane conditions treatment and care must have been provided for no less than one year preceding the filing of the application for title. Unless waived *in writing* the application for title shall include a written statement by a licensed veterinarian attesting that the animal is in good condition.

§ 222.30 Disposal of carcasses.

Carcasses of animals that have lost their status as wild free-roaming horses or burros may be disposed of in any customary manner acceptable under applicable State sanitary statutes including disposal through a rendering plant.

§ 222.31 Loss of status.

Wild free-roaming horses and burros or their remains shall lose their status under the 1971 Wild Horses and Burros Act.

(a) Upon passage of title pursuant to § 222.29 (d) and (e).

(b) Upon transfer to private maintenance and care pursuant to § 222.29(c)(4) and die of natural causes before passage of title;

(c) Upon destruction by an authorized Forest officer pursuant to § 222.29(c)(5).

(d) Upon death by natural causes or accident on the National Forest System or on private lands where maintained thereon pursuant to § 222.27 and disposal is authorized by a Forest officer; and

(e) Upon destruction or death for purposes of or incident to the program authorized in § 222.20(a).

§ 222.32 Use of non-Forest Service personnel.

The Chief, Forest Service, may authorize the use of non-Forest Service personnel to assist in specific situations of short duration.

§ 222.33 Management coordination.

All management activities by the Chief, Forest Service, shall be carried out in consultation with the appropriate agencies of the State involved. The expert advice of qualified scientists in the fields of biology and ecology shall also be sought in administering wild free-roaming horses and burros. The advice and suggestions of agencies, qualified scientists, and other qualified interest groups shall be made available to the National Advisory Board for their use and consideration. Actions taken in connection with private ownership claims shall be coordinated to the fullest extent possible with the State agency responsible for livestock estray law administration.

§ 222.34 National Advisory Board.

The Chief, Forest Service, shall appoint a representative to attend meetings of the National Advisory Board for Wild Free-Roaming Horses and Burros and to function as prescribed by the Memorandum of Agreement between the Department of the Interior and the Department of Agriculture and the Joint Charter issued by the Secretary of the Interior and the Secretary of Agriculture. Policies and guidelines relative to proposals for the establishment of ranges, adjustments in number, relocation and disposal of animals, and other matters relating generally to the protection, management, and control of wild free-roaming horses and burros shall be presented to the National Advisory Board for recommendations.

§ 222.35 Studies.

The Chief, Forest Service, is authorized and directed to undertake those studies of the habits and habitat of wild free-roaming horses and burros that he may deem necessary. In doing so, he shall consult with the appropriate agencies of the State(s) involved and the National Academy of Sciences.

§ 222.36 Arrest.

Any employee designated by the Chief, Forest Service, shall have the power to arrest without warrant, any person committing in the presence of the employee a violation of the Act and to take such person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so designated shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act.

[FR Doc. 80-10629 Filed 4-8-80; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loans for the Acquisition of a Mobile Home and a Suitable Lot and/or Necessary Site Improvements

AGENCY: Veterans Administration.

ACTION: Final regulations with request for comments.

SUMMARY: The VA (Veterans Administration) is amending its regulations to delete the requirement that in combination mobile home loans; (loans to simultaneously purchase a mobile home plus lot and/or the cost of site preparation) the loan carry one rate for the mobile home portion of the loan and a lower rate for the portion of the loan attributable to land. In lieu thereof a single maximum interest rate for such loans is prescribed of 14½ percent per annum. VA believes that this amendment will increase lender participation in the program and thereby increase the opportunity for veterans to obtain loans for such purpose if they choose.

DATES: Effective date: April 1, 1980. Comments on or before May 9, 1980.

ADDRESSES: Comments to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: Section 1819, title 38, United States Code and VA regulations provide for a combination loan to acquire a mobile home and a parcel of land upon which to place the home and/or any necessary site preparation. Section 36.4212 of Title 38, the Code of Federal Regulations currently provides for one interest rate on the portion of the loan for land and site preparation and a different interest rate on the portion of the loan for the mobile home. At the time this section was issued (1971), it was the generally accepted view that interest rates on mobile home loans should be higher than on real estate loans because of higher risk; e.g., mobile homes being chattels, they depreciated rather rapidly; buyers were generally in lower income groups and more susceptible to disruption in their incomes, and mobile homes could be moved without the lender's knowledge. Conventionally, they were financed in a manner similar to that used in financing automobiles, boats and airplanes. By contrast, land is permanently fixed, does not depreciate due to age or use as a residential lot, and its acquisition and sale is not keyed to any particular income group. Hence, it was considered that the maximum interest rate on the lot portion of a mobile home should be the same as that for a site-built home.

However, the dual interest rate structure has required lenders to draw up two individual notes in order to evidence the separate portions of the veteran's obligation. Combination loans have not been popular with lenders because they are "different" from their other loans, "don't fit their computer programs," and because there is no secondary market for such loans. There is believed to be a large, unsatisfied demand for VA guaranteed combination mobile home loans.

Recent surveys indicate that mobile homes are appreciating in value, and providing owners with increasing equity in their investments, especially where the mobile home, just like the "traditional house," is sited on an improved lot. GNMA (Government National Mortgage Association) published proposed regulations in the Federal Register of August 9, 1979 (44 FR 46891) concerning the establishment of a secondary market for combination mobile home loans. It is our understanding that GNMA will be publishing final regulations in the near future. Therefore, in order to simplify the VA combination mobile home loan program, and in anticipation of GNMA's final regulations implementing a secondary market for such loans, we are establishing a single interest rate of 14½ percent for the simultaneous purchase of a mobile home unit and a lot on which to place the home and/or necessary site improvements.

The setting of a new combination mobile home loan interest rate at 14½ percent was accomplished after careful consideration of the market rates for conventional combination mobile home loans and other market indicators. The new interest rate for combination mobile home loans should increase lender participation in the program, thus allowing veterans to obtain less expensive mobile home housing and lots on which to place such homes.

The combination mobile home interest rate is established by amending § 36.4212(a) (3). In addition, technical clarifying amendments to § 36.4212(a)(1) and (2) have been made.

Compliance with the provisions of section 1.12 of this chapter which requires publication of proposed regulations prior to final adoption is waived in this instance. Since this regulation serves only to simplify the previous cumbersome dual interest rate structure, we have determined that this regulation is nonsignificant pursuant to Executive Order 12044 (43 FR 12661) and the VA Final Report implementing Executive Order 12044 published in the Federal Register on February 5, 1979 (44 FR 7026). In addition, we have determined that publication of this amendment in proposed form would not be in the public interest because such publication for comment would unnecessarily delay the implementation of liberalizing amendments.

This amendment is adopted under authority granted the Administrator by sections 210(c), 1819 (f) and (g) of title 38, United States Code.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding this regulation to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All material received will be considered, and appropriate regulatory revisions will be published if necessary. These amendments, however, shall remain effective until further amended. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until May 19, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: April 1 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to April 1, 1980. (38 U.S.C. 1819(f))

(1) 15 percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) 13 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) 14½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

(38 U.S.C. 210(c)(1), 1819(g))

[FR Doc. 80-10704 Filed 4-8-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRC 1450-1]

Approval and Promulgation of Implementation Plans; Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On March 11, 1980 (45 FR 15531), the Environmental Protection Agency (EPA) promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended.

This conditional approval required, among other things, the submission to EPA of fully executed memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and involved metropolitan planning organizations; this action was to be implemented by March 1, 1980.

The purpose of this notice is to advise the public that this condition has been fulfilled, via submission of the required documentation under cover of a February 27, 1980 letter, and that EPA is taking final action to approve the State's submission. Furthermore, EPA is incorporating the provisions of the State's submission into the approved SIP, and is revoking the applicable condition on its approval of the plan. Until all conditions are met conditional approval of the SIP will continue.

EFFECTIVE DATE: This action is made immediately effective, April 9, 1980. Inasmuch as it provides no additional burden upon any affected party.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses:

Environmental Protection Agency Air Programs Branch, Region II Office, 26 Federal Plaza, Room 908, New York, New York 10007.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 908, New York, New York 10007 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On March 11, 1980, at 45 FR 15531, the Environmental Protection Agency promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended. The reader is referred to this **Federal Register** notice for a detailed discussion of EPA's findings. Today's notice discusses one condition of EPA's approval of the plan which required the State to submit, by March 1, 1980, fully executed memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and metropolitan planning organizations involved in the implementation of the SIP. This condition was intended to insure that transportation—air quality planning work is properly carried out.

In response to this requirement, on February 27, 1980, the State submitted five memoranda of understandings (MOUs) between the New Jersey Departments of Environmental Protection and Transportation and the following metropolitan planning organizations:

- Atlantic County Urban Area Transportation Study
- Cumberland County Urban Area Transportation Study
- Delaware Valley Regional Planning Commission
- Philipsburg Urban Area Transportation Study
- Wilmington Metropolitan Area Planning Council

A separate submission, made on October 3, 1979, included an MOU with the Tri-State Regional Planning Commission. These six MOUs discuss the breakdown of specific responsibilities for program development and implementation, program management, funding, and public participation.

Based on its review of the submitted documents, EPA finds that the condition on its approval has been fully met. Therefore, EPA is incorporating the provisions of the MOUs into the SIP and revoking the applicable condition. Furthermore, this action serves to continue EPA's conditional approval.

EPA finds that further notice and comment on this issue are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act), insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Dated: April 2, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart FF—New Jersey

1. Section 52.1570 paragraph (c) is revised by adding a new subparagraph (24) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(24) a supplementary submittal, dated February 27, 1980 from the New Jersey Department of Environmental Protection consisting of five memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and the following metropolitan planning organizations:

- Atlantic County Urban Area Transportation Study
- Cumberland County Urban Area Transportation Study
- Delaware Valley Regional Planning Commission
- Philpsburg Urban Area Transportation Study
- Wilmington Metropolitan Area Planning Council

§ 52.1581 [Amended]

2. Section 52.1581 is amended by revoking paragraph (b)(3).

[FR Doc. 80-10695 Filed 4-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1456-1]

Approval and promulgation of State Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Part D of the Clean Air Act as amended 1977 requires that states revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The State of Missouri submitted revisions to its SIP to the EPA on July 2, 1979, in order to satisfy the requirements of Part D. Availability of the Missouri revisions was announced in the **Federal Register** on July 25, 1979 (44 FR 43490), and the public was invited to make comments at that time. EPA's proposed action on various portions of the submittal were stated in the **Federal Register** on October 25, 1979 (44 FR 61384). Many of the issues discussed in the proposed rulemaking were either satisfactory at the time of submission or have since been resolved by the Missouri Department of Natural Resources in a manner consistent with discussion in the proposed rulemaking. These items are to be approved without conditions.

EPA is taking final action to conditionally approve certain elements of Missouri's plan. A discussion of

conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979).

It is not possible to make a final approval/disapproval decision on portions of the state plan submittal. These are portions which were not addressed in the July 2, 1979, submittal.

DATES: This promulgation is effective April 9, 1980.

ADDRESSES: Copies of the state submission, all public comments received, and the EPA prepared evaluation report are available during normal business hours at the following locations:

Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.
Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.
Missouri Department of Natural Resources, 615 East 13th Street, Room 483, Kansas City, Missouri 64106.
Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.
Missouri Department of Natural Resources, 8460 Watson Road, St. Louis, Missouri 63229.

FOR FURTHER INFORMATION: Contact Wayne G. Leidwanger at 816–374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act Amendments of 1977 added requirements to the Act for revised State Implementation plans for areas which have not attained the National Ambient Air Quality Standards. These requirements are found in Part D which includes Sections 171 through 178 of the Act. The requirements for an approvable nonattainment plan are listed in Section 172.

The general requirements for all SIP revisions are found in Section 110(a). Section 121 requires the state to consult with local governments on certain matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate abatement. Section 127 requires public notification of violations of health related standards. Section 128 imposes requirements on state boards. Sections 161 through 169 (Part C) require each state plan to contain measures for the prevention of significant deterioration (PSD) of air quality.

In order for a plan to be fully approvable, it must meet all of the requirements discussed above. The Part D requirements were discussed in the **Federal Register** on April 4, 1979 (44 FR 20372), and supplemented July 2, 1979 (44 FR 38583). Additional supplements to the general preambles were published in the **Federal Register** on August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). These notices contain the general preamble to the Proposed Rulemaking for all nonattainment plan submissions. They describe in detail the requirements for an approvable nonattainment plan. For a background discussion of the Missouri rulemaking, the reader is referred to the Proposed Rulemaking on the submittal which was published in the **Federal Register** on October 25, 1979 (44 FR 61384).

The Missouri Department of Natural Resources (MDNR) on behalf of the Missouri Air Conservation Commission (MACC) submitted on July 2, 1979, a package of SIP revisions for nonattainment areas in Missouri. The submittal included plans to attain the primary TSP, ozone, and carbon monoxide standards in the Metropolitan St. Louis area; the primary TSP and SO_2 standards in the St. Louis "hotspot"; primary TSP and ozone standards in the Metropolitan Kansas City area; and secondary TSP in Columbia, Missouri. The St. Louis "hotspot" is an area within a radius of approximately one mile of the confluence of the Mississippi River and River Des Peres and includes a portion of South St. Louis City and an adjoining portion of St. Louis County. The submittals contained requests for extensions to submit plans for attainment of the appropriate secondary standards.

The October 25, 1979, **Federal Register** (44 FR 61384) contained a proposal to redesignate certain areas of the State of Missouri pursuant to the recommendations of the MACC. Those areas of the state where nonattainment plans are required, but for which plans have not been submitted are St. Joseph and New Madrid. The final rulemaking for area designations under Section 107(d) of the Act is published eleswhere in this issue of the **Federal Register.**

B. Nonattainment Plan Provisions

The following is a discussion of each of the requirements for the nonattainment plan provisions, the general provisions of the Act, and the approval status of the Missouri plan with respect to each of these requirements. Included in the discussions are summaries of public comments on the proposed rulemaking followed by EPA's response.

Certain portions of the Missouri SIP are being conditionally approved today. The conditional approval requires the state to submit additional materials by the deadlines specified in today's notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below, when determining if the state has satisfied the conditions.

1. If the state submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the state's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditonal approval and disapprove the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the state fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

Certain deadlines for satisfying conditions are being promulgated today which differ from the deadlines proposed in the October 25, 1979 notice of proposed rulemaking cited above. EPA finds that for good cause, notice and comment on these deadlines are unnecessary. The state is the party responsible for meeting the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions. The only comments received on the proposed deadlines were from the state and the St. Louis metropolitan planning organization.

(1) *Demonstration of Primary TSP.—Standard Attainment.* Section 172(a)(1) requires the plan to provide for attainment of the NAAQS as expeditiously as practicable, but no later than December 31, 1982, for primary standards. The plan shows that reasonably available control technology (RACT) applied to stationary sources is not adequate to attain the standard. The state submitted schedules to conduct studies of nontraditional source controls. The Missouri submission projects attainment of the primary

standard for TSP in the Kansas City and St. Louis nonattainment areas. The control strategy demonstration shows that reasonable further progress will be made and projects incremental reductions to attain the primary standard by December 31, 1982, on the assumption necessary reductions will be obtained from nontraditional sources.

The schedule for Kansas City requires that the study begin ten days after final EPA rulemaking on the plan. The plan presented several alternative street cleaning methods for evaluation including mechanical sweeping, vacuum cleaning and flushing. The street cleaning study is to be conducted during spring, summer and fall months of 1980. The precise beginning and ending dates will depend primarily on weather factors, since periods of relatively low precipitation are necessary for such studies.

The schedule for the St. Louis nonattainment area is to begin in the spring of 1980 and is to be completed during the fall months of 1980. The St. Louis study will include street cleaning and parking lot paving.

At the state's request the EPA is contracting the study design and data analysis with a consultant. This contract includes the St. Louis and Kansas City areas. The EPA and the state believe this will provide more comprehensive information and will produce comparable data to determine the effectiveness of street cleaning as a workable and realistic suspended particulate matter control strategy.

In a memorandum to the Regional Administrators on February 24, 1978, (43 FR 21673, May 19, 1978) the Administrator stated where attainment of the standard cannot be demonstrated by requiring RACT for traditional sources, the state may conduct studies of nontraditional sources and submit implementing regulations to demonstrate attainment of the primary TSP standard by no later than December 31, 1982. This approach is allowed only if the state requires RACT on all traditional sources. Nontraditional sources include urban fugitive dust, resuspension and construction. The anticipated reductions because of nontraditional source controls in St. Louis and Kansas City indicate that the primary TSP standard will be attained by December 31, 1982. However, if as a result of the nontraditional source studies, it is determined that additional reductions will be required, the state is responsible for implementing additional controls on industrial particulate sources and on nontraditional sources, and demonstrating attainment of the standard by the required date.

One commentor stated that the reasonable further progress (RFP) demonstration for St. Louis improperly took credit for background reductions for reduced emissions from point and area sources.

Credit for background reduction was included in the preliminary plan revision for St. Louis; however, changes included with the final plan, on which the proposed rulemaking was based, deleted background reduction credit and used specific nontraditional source controls to predict attainment of the primary TSP standard.

This same commentor stated that the attainment demonstration for Kansas City disregarded the Climatological Dispersion Model (CDM) predicting a violation at one TSP monitoring site, and therefore, the state had not adequately demonstrated attainment.

The State of Missouri used CDM as a screening technique to determine the amount of reduction that would be obtained using RACT on stationary sources. The CDM modeling predicted two monitoring sites would exceed the primary TSP standard after application of RACT controls. The plan commits to street cleaning in the vicinity of the sampling site predicted to have the highest TSP values. The control strategy will apply the same nontraditional controls to the other area predicted to exceed the primary TSP standard. The study committed to by the state is to verify the predicted air quality improvements due to street cleaning. The EPA believes the State of Missouri has met the requirements of Section 172(a)(1) with respect to the primary TSP standard in Kansas City. The application of RACT to traditional sources combined with a commitment to a schedule for study and implementation of controls on nontraditional sources is an acceptable approach to demonstrating attainment of the standard. Therefore, EPA believes that the state did not disregard the modeling results and has assured that predicted violations will be eliminated.

The commentor also questioned the 1982 emissions projected for Kansas City and criticized the report adopted as part of the Kansas City plan for not identifying the methodology used for making these projections. The commentor specifically criticized the apparent lack of identification of the assumptions used in making the projected emission estimates. Further, the commentor expressed concern over a statement in the report that point sources are not legally bound to the projected emission rates.

The report states that the 1982 emission projections were obtained from the state and local agencies with primary jurisdiction over the sources. The methodology used to make the 1982 TSP projections is contained in the plan revision. The state and local agencies surveyed the major point sources regarding anticipated increases in operating hours. Projected increases in emissions from these sources reflect anticipated increased operating hours. Some point sources are required to reduce emissions to be in compliance with existing RACT regulations before 1982. These resulting reductions of emissions are reflected by the reduced emissions in the 1982 projections. Reduced emissions claimed because of reduced operating hours would not be acceptable unless such operating hour restrictions are legally enforceable. The projected emissions for 1982 are not based on reduced operating hours and no emission reductions because of reduced hours are claimed by the state.

Emission rates contained in the regulations applicable in the Kansas City area are a part of the applicable SIP and are enforceable by the state and local agencies as well as EPA. The operating hours are not enforceable. However, the 1982 projections are based on historical source operations and any increases in operating hours anticipated by the sources. The state is required to make yearly reports on Reasonable Further Progress (RFP) toward attainment. If unanticipated increases in operating hours are found to interfere with the RFP demonstration, the state will be required to correct the problem. The emissions reductions for which the plan takes credit are based on legally enforceable requirements.

The 1982 emission inventory projection is based on the best estimate of the state and local agencies using established EPA emission inventory guidelines. The EPA recognizes that the projections are only estimates and that actual emissions from individual point sources may vary. It is the responsibility of the state and local agencies to report (RFP) toward meeting the primary TSP standard in Kansas City as well as any other nonattainment area with an approved plan. Substantial emissions reductions are required in the early years of the RFP demonstration. If progress reports and air quality improvements are behind projections, the state will be required to obtain additional emission reductions which will meet the RFP schedule.

In the case of Kansas City, the Missouri plan shows that area sources including paved streets account for approximately 50 percent of the measured TSP. To provide the

additional reductions necessary for attainment of the primary TSP standard by December 31, 1982, the state committed to a nontraditional source control study, and implementation of control strategies resulting from the study. The projected results show that the primary TSP standard can be attained by the mandatory deadline.

EPA proposed to approve the plan as meeting the requirements of Section 172(a)(1) (44 FR 61384, October 25, 1979).

ACTION: EPA approves the Missouri plan with respect to the approach to be used to demonstrate attainment of the primary TSP standard as expeditiously as practicable in the St. Louis Metropolitan area and Kansas City, as required by Section 172(a)(1) of the Act.

(2) *Attainment of the Secondary Standards.* The State of Missouri has demonstrated that RACT measures will not achieve attainment of the secondary standard for TSP and SO_2 in the secondary nonattainment areas. The state's submittal requested an extension until July 1, 1980, to submit plans to attain the secondary TSP standard in the St. Louis Metropolitan area, the St. Louis "hotspot", Kansas City, and Columbia; and SO_2 in the St. Louis "hotspot."

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the state's request for an extension to submit the secondary nonattainment plans. EPA received no comments on the proposal.

Action

EPA approves the extension request as authorized under Section 110(b) of the Act, allowing the state until July 1, 1980, for submittal of secondary nonattainment plans.

(3) *Public Participation.* Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

The Missouri submission contained evidence in the form of hearing transcripts and publishers' affidavits that the plan was adopted after reasonable notice and public hearings. The EPA has received no comments regarding public participation.

On October 25, 1979 (44 FR 61384), the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(1).

Action

The EPA approves the plan as satisfying the requirements of Section 172(b)(1) of the Act.

(4) *Reasonably Available Control Measures.* Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable.

The proposed rulemaking of October 25, 1979 (44 FR 61384) stated that major stationary sources of TSP have RACT controls or are required to have RACT controls, and that the Missouri plan for the Kansas City area was approvable and satisfied the requirements of Section 172(b)(2).

One commentor expressed the opinion that the EPA was treating the State of Kansas differently than Missouri, i.e., EPA is requiring Kansas to show that Kansas regulations represent RACT, but not Missouri. EPA has not yet proposed action on the Kansas plan and is still in the process of evaluating it. Each state is required to make its own RACT determinations. EPA will evaluate the Kansas demonstration with the same criteria it has used to evaluate the Missouri demonstration.

The basis for the RACT determination for the Missouri portion of the Kansas City area was a report prepared by an EPA contractor. This contractor did most of the preparatory work for the SIP in the Kansas City area. Copies of the resulting report were provided to both states and to the involved local agencies.

The contractor's report was adopted by the state and incorporated directly into the SIP for Kansas City, Missouri. The report listed the major TSP sources and described the control equipment installed and indicated the control efficiency. The conclusion was that these controls are required by existing state and local regulations which represent RACT on TSP sources.

The Missouri Air Conservation Commission (MACC) adopted rules for the eleven (11) Group I Volatile Organic Compound (VOC) sources as representing RACT. These rules apply only in the St. Louis and Kansas City ozone nonattainment areas. EPA review of the VOC source regulations is based on the information contained in the Control Techniques Guidelines (CTGs). The CTGs provide information on available air pollution control techniques and provide recommendations of what EPA calls the "presumptive norm" for RACT. As discussed in the October 25, 1979, **Federal Register** (44 FR 61384), the EPA believes the submitted regulations are consistent with the CTGs, except as noted below. Those regulations not discussed are approved as representing RACT.

(a) Rule 10 CSR 10–2.210, Control of Emissions from Solvent Metal Cleaning, applies to the Kansas City ozone nonattainment area; and Rule 10 CSR 10–5.300, Control of Emissions from Solvent Metal Cleaning, applies to the St. Louis ozone nonattainment area.

The EPA proposed to approve the solvent metal cleaning regulations for the Kansas City and St. Louis ozone nonattainment areas on October 25, 1979 (44 FR 61384), because the state demonstrated to EPA that those rules control emissions within five percent of the emissions allowed by the CTG recommendation.

One commentor expressed the belief that EPA must disapprove that part of the Missouri 10 CSR 10–2.210 and 10 CSR 10–5.300 which exempt methylene chloride and methl chloroform pursuant to the concern expressed in the October 25, 1979, proposed rulemaking.

Early in the SIP revision process, the EPA expressed its concern to the State of Missouri over the exemption of methylene chloride and methyl chloroform and recommended that the exemptions be removed. The MACC rejected this recommendation because EPA is unable to show that these substances are in fact health hazards and do indeed impact on stratospheric ozone. The MACC indicated that when the EPA adopted regulations prohibiting or restricting the use of these substances, they would act to remove the exemptions on methylene chloride and methyl chloroform.

While the EPA is concerned about the possible effects upon the stratospheric ozone layer and health implications resulting from unrestricted use of methylene chloride and methyl chloroform, these compounds are classified as nonreactive and do not have a role in ambient ozone formation. Control of the use of these compounds will not provide improved ambient ozone levels. For this reason, the EPA VOC policy must allow exemption of these compounds.

Action

The EPA approves Rule 10 CSR 10–2.210 and Rule 10 CSR 10–5.300 as representing RACT in the Kansas City and St. Louis ozone nonattainment areas.

(b) Rule 1 CSR 10–2.220, Liquid Cutback Asphalt Paving Restricted, is applicable in the Kansas City ozone nonattainment area and Rule 10 CSR 10–5.310, Liquid Asphalt Cutback Asphalt Paving Restricted, is applicable in the St. Louis ozone nonattainment area. The Missouri regulations define cutback asphalt as containing seven percent diluent. This is consistent with EPA guidance. On October 25, 1979 (44 FR 61384), the EPA proposed to approve these rules.

One commentor expressed the opinion that these rules were not representative of RACT because of the exemptions for pothole filling contained in these rules.

The state has demonstrated to the EPA that emissions reductions anticipated because of these asphalt regulations are within five percent of that obtainable by following the CTG recommendations, considering the exemptions.

Action

The EPA approves Rule 10 CSR 10–2.220 and Rule 10 CSR 10–5.310, Liquid Asphalt Paving Restricted, applicable in Kansas City and the metropolitan St. Louis area as representing RACT for those areas.

(c) Rule 10 CSR 10–2.260 and Rule 10 CSR 5.220, Control of Petroleum Liquid Storage, Loading, and Transfer, are applicable in Kansas City and the St. Louis metropolitan area respectively.

Section (2) of 10 CSR 10–5.220 requires floating roof tanks for liquids having a vapor pressure of 1.8 psia at 70 degrees Fahrenheit. The CTG recommended 1.5 psia at storage conditions. In the October 25, **Federal Register** (44 FR 61384), the EPA proposed to conditionally approve this regulation if the state could demonstrate that emissions resulting from their regulation would be within five percent of that allowed by the CTG recommendation. The only tank in the St. Louis ozone nonattainment area which would be subject to the CTG recommendation is found to have VOC emissions of approximately 470 tons per year. Application of the CTG recommendation would control an estimated 15 tons per year additional VOC emissions.

The state has adequately demonstrated that existing emissions from this fixed roof tank are within five percent of the CTG recommendation.

Action

The EPA approves Section (2) of Missouri Rule 10 CSR 10–5.220, Control of Petroleum Liquid Storage, Loading and Transfer.

In the October 25, 1979, **Federal Register** (44 FR 61384) the EPA proposed to conditionally approve Rule 10 CSR 10–2.260 provided the state could show that allowable emission would be within five percent of the CTG recommendation. The limits of Section (2) of 10 CSR 10–2.260 are the same as Section (2) of 10 CSR 10–5.220 as discussed above. Missouri's rationale for adopting the limit for Kansas City was to have the rules for St. Louis and Kansas City consistent. In a letter dated January 28, 1980, the MDNR committed to amend 10 CSR 10–2.260 to agree with the CTG or enter into enforceable compliance orders to assure that the recommended limits are met. The state also committed to submitting such changes as a SIP revision.

Section (3) of Rule 10 CSR 10–2.260 and Rule 10 CSR 10–5.220 requires vapor recovery systems at gasoline terminals to control VOC emissions during gasoline loading operations. These rules applicable in the Kansas City and St. Louis ozone nonattainment areas respectively allow emissions of 0.50 grams of VOC per gallon of gasoline loaded. The CTG recommends 0.30 grams VOC per gallon of gasoline loaded.

During the comment period on the proposed rulemaking, the state submitted information regarding 10 CSR 10–5.220 stating that this rule for the St. Louis metropolitan area was adopted in early 1977 prior to the enactment of the Clean Air Act Amendments of 1977.

The state's work to develop this rule began in 1976 prior to EPA guidance recommending limits for petroleum storage, loading and transfer. The regulations for St. Louis required sources subject to the rule to submit plans for control by February 1, 1977, initiate on-site construction by February 1, 1978, and be in compliance by July 1, 1978. This regulation was submitted to the EPA as a SIP revision on August 28, 1978, but was not proposed for action until October 25, 1979 (44 FR 61384). Controls required by 10 CSR 10–5.220 have been installed and are presently in operation.

The state has indicated that the additional cost of achieving the lower emission limit may be significantly greater than the cost of meeting the state's limit of 0.5 gram per gallon with only a small increase in VOCs controlled. Such costs might not be economically reasonable and could be a factor in determining RACT for the St. Louis area. The EPA recognizes the difficulty in requiring more stringent controls than those which have already been installed. Nevertheless, the EPA cannot approve the state's higher emission limit without further justification. The state has agreed either to provide adequate economic justification for accepting its regulation or to change the regulation to be consistent with the CTG recommendation.

Action

The EPA conditionally approves Section (3) of 10 CSR 10–5.220 as RACT for the St. Louis ozone nonattainment area provided that by March 15, 1981, the state submits a revision to this regulation which contains limits that agree with the CTG recommendation or provides adequate economic justification to show that its rule represents RACT.

Missouri Rule 10 CSR 10–2.260, Section 3 requires controls to limit VOC emissions during gasoline loading at terminals in Kansas City to 0.50 gram per gallon of gasoline loaded. The CTG recommended 0.30 gram per gallon of gasoline loaded. On October 25, 1979, (44 FR 61384) the EPA proposed to conditionally approve this regulation provided that the state show that this regulation would control VOC emissions to within five percent of that recommended by the CTC.

The rationale used by the State of Missouri in the July 2, 1979, submittal and in comments on the October 25, 1979, proposed rulemaking was that the state desired to have consistent regulations in Kansas City and St. Louis.

Missouri Rule 10 CSR 10–2.260 does not agree with the CTG guideline for allowable emission from gasoline transfer operations at gasoline terminals. The state has not provided information showing that the regulation agrees within five percent of the CTG recommendation or otherwise represents RACT. The EPA cannot at this time approve Section (3) of rule 10 CSR 10–2.260 as representing RACT. The state has agreed to change the emission limit to agree with the CTG or enter into enforceable compliance orders to assure that the CTG recommended limits are met, and to submit such changes as SIP revisions.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs includes RACT requirements for VOC sources covered by the CTGs EPA issued by January 1978 and schedules to adopt and submit by each successive January additional RACT requirements for sources covered by CTGs issued the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980, to July 1, 1980, by **Federal Register** notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Missouri plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980, (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will

promptly take appropriate remedial action. While EPA proposed to conditionally approve the ozone portion of the SIP based on the above requirements, today's action in adding these requirements provides assurance that the regulations will be submitted within the specified time frame.

Action

The EPA conditionally approves Missouri Rule 10 CSR 10–2.260 as part of the Part D plan revision for the Kansas City ozone nonattainment area, provided that the state submits a revision to this regulation which contains limits that agree with the CTG recommendations or submits enforceable compliance orders which assure that the CTG recommended limits are met. These revisions shall be submitted to the EPA as SIP revisions by February 1, 1981.

(d) Rule 10 CSR 10–2.230, Control of Emissions from Industrial Surface Coating Operations, and rule 10 CSR 10–5.330, Control of Emissions from Industrial Surface Coating Operations, are applicable in the Kansas City and St. Louis ozone nonattainment areas, respectively. The EPA proposed to conditionally approve these regulations in the **Federal Register** on October 25, 1979 (44 FR 61384), provided that the state amend the emission limit for the Corvette assembly line and demonstrate that the effective dates for can coating represent compliance as expeditiously as practicable. This condition was proposed because the state had not provided justification for emission limit on the Corvette plant or for the time frame allowed for meeting the can coating emission limit. The proposal did not expressly state that the regulation could be approved, if the state provided adequate justification. However, this was implied by the discussion of this plan deficiency, also the proposed rulemaking solicited comments whether the plan should be approved, conditionally approved or disapproved. The EPA received no comment that the regulation should not be approved.

During the 30-day comment period, the state and General Motors provided information justifying the emission limit at the Corvette assembly plant. The state also provided information showing the compliance date for can coating is as expeditious as practicable. General Motors stated that the CTG recommended emission limit was based upon automobile bodies made of steel, whereas the Corvette body is a fiberglass reinforced plastic. The CTG recommended limit is based upon the use of corrosion resistant primer coats and high solids (low volatile) finishing coats. Since the Corvette body is plastic and noncorrosive, such prime coats are unnecessary. In addition, low volatile paints require high temperature baking to dry and cure. The plastic material in the Corvette body softens at temperatures normally associated with paint baking ovens; thus, lower temperatures are required for paint curing. The EPA believes that under these circumstances the emission limit adopted by the MACC represents RACT for the Corvette assembly plant.

The state provided documentation which demonstrated that can coating materials would not be available for use by the can manufacturers, so that an earlier compliance is not practicable. The EPA believes the compliance date adopted by the MACC is as expeditious as practicable. The EPA believes these rules should be approved.

Action

The EPA approves Rule 10 CSR 10–2.230 and Rule 10 CSR 10–5.330 as representing RACT in the Kansas City and St. Louis ozone nonattainment areas.

(e) The proposed rulemaking on October 25, 1979 (44 FR 61384) proposed approval of other regulations adopted by the MACC. These regulations provide for more stringent controls for visible TSP emissions, TSP mass emission rates, and sulfur dioxide emissions from indirect heating sources, i.e., steam generators.

Included with the July 2, 1979, plan submittal were variances (compliance schedules) which the Missouri Department of Natural Resources requested EPA to take action on at the same time as the Part D plan revision. These variances were not specifically mentioned in the October 25, 1979, proposed rulemaking (44 FR 61384).

During the comment period on the proposed rulemaking, one commentor observed the omission of the variances from the PRM, and urged that EPA not defer action, especially the variance affecting the company he represented.

At the time of the July 2, 1979, submittal from the state, the SIP revision request was incomplete. The transmittal letter stated that the additional material would be submitted at a later date. At the time of the original submittal, the EPA was not provided copies of the hearing transcript and strategy demonstration; thus a complete review could not be made at the time the SIP was submitted.

These variances were reviewed during the comment period on the Part D plan. Action will be proposed on these variances in the **Federal Register** in the near future.

Action

The EPA approves the following revised emission regulations adopted by the State of Missouri:

(1) Rule 10 CSR 10–5.030 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating;

(2) Rule 10 CSR 10–5.090 Restriction of Emission of Visible Air Contaminants;

(3) Rule 10 CSR 10–5.290 More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis area; and

(4) Rule 10 CSR 10–2.040 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.

Regulations not specifically discussed in this section are approved as representing RACT.

(5) *Reasonable Further Progress (RFP).* Section 172(b)(3) of the Act requires the state to demonstrate that it will make reasonable further progress toward attaining the standard by specified dates, including emission reductions which can be achieved by the application of RACT.

In the October 25, 1979, **Federal Register** (44 FR 61384) the EPA proposed to approve the overall Missouri plan as demonstrating reasonable further progress. The rationale for the proposal was that the State had shown incremental emissions reductions anticipated through application of RACT and other regulations and nontraditional source controls.

Comments concerning the RFP demonstration have been addressed in Section (1) which discusses attainment of the primary TSP standard in St. Louis and Kansas City.

One commentor stated that the incremental reductions claimed because of the transportation control measures are unwarranted because of the absence of firm commitments.

The EPA recognizes that the plan submittal contained inadequate commitments to schedules for obtaining the CO and ozone reductions claimed. The deficiencies are minor and the transportation control measures are conditionally approved. A detailed response is found in Section (13) Attainment Dates and Extensions.

The commentor stated that there is nothing in the TSP plan for Kansas City to account for the emissions reduction claimed between 1979 and 1980.

The plan to attain the primary TSP standard shows that one major source of TSP emissions will be in compliance during that time period, and is a large portion of the 1982 projected TSP emissions reductions. The EPA believes

the RFP demonstration in the plan is adequate and satisfies the requirements of Section 172(b)(3) of the Act.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(3) of the Act.

(6) *Emission Inventory.* The Missouri plan revision contains emissions inventories as required by Section 172(b)(4) of the Act. The EPA received no comment on EPA's proposal to approve this portion of the Missouri plan.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as meeting the requirements of Section 172(b)(4).

Action

The EPA approves the plan as meeting the requirements of Section 172(b)(4) of the Act.

(7) *Emission Growth.* Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(5) of the act.

One commentor expressed concern over the growth allowance for VOC's that the State of Missouri provided for the Missouri portion of the St. Louis metropolitan area, as compared to the allowance for the Illinois portion of the area. The reason for this concern is that the State of Illinois elected to use 1978 air quality data upon which to base its ozone plan for the Illinois portion of the St. Louis area. Missouri used the EPA guidance which recommended 1975 through 1977 air quality data as a basis for a strategy design, but permitted use of 1978 data where available. Utilizing 1977 air quality data, a 50 percent reduction in VOC emissions will be required to attain the ozone standard.

The Missouri plan provides for a total annual growth for VOC emissions of approximately 1,700 tons per year from 1980 through 1987 for a total of 10,000 tons, for stationary sources during this period. This annual growth includes new and existing sources. The State will track this growth using the existing permit system. Should the tracking system project an exceedance of the annual increment, new or modified sources would be required to employ offsetting emissions.

The St. Louis AQCR includes three counties in Illinois. The plan for the Illinois portion of the St. Louis Metropolitan area uses 1978 ozone air quality data as the basis for the estimated VOC reductions needed to meet the ozone standard. The Illinois analysis projects the need for a reduction of 54 to 60 percent in VOC emissions to attain the ozone standard. The Illinois plans would require major new sources to seek emission offsets.

The State of Missouri is required by Section 172(c) to prepare a plan revision for attainment of the ozone and carbon monoxide standards for the St. Louis area, and submit the revised plan to the EPA by July 1, 1982. The plan revision will use current air quality data to gauge the amount of growth allowable for St. Louis.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(5).

(8) *Permit Requirements.* Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified stationary sources in accordance with the permit requirements of Section 173.

The State's submittal demonstrates that the MACC has authority to issue permits to construct and operate, and commits to requiring the lowest achievable emission rate where necessary. Legislation was adopted granting the MACC the necessary legal authority to comply with the requirements of the Clean Air Act. However, any regulations which may have been promulgated to comply with Section 173 were not submitted with the July 2 SIP revisions. In the October 25, 1979, **Federal Register** (44 FR 61384), the EPA suggested four options for final action on this portion of the Missouri plan and requested comments on these options or other possible options which may have been overlooked. No specific action was proposed.

The options discussed in the proposed rulemaking are:

Option A. Disapprove the plan with respect to the requirements of Section 172(b)(6) and Section 173;

Option B. Conditional approval of the plan with respect to the permit requirements;

Option C. Delay approval until the appropriate regulations are adopted and submitted to EPA for approval; and

Option D. Under Section 110(c), promulgate plan provisions for Missouri tracking the language of Section 173.

The EPA received three comments regarding action on the permit requirement plan deficiency. One commentor supported Option D as a means of preventing unnecessary delays in new construction. The State of Missouri supported Option B in its comments because a revised permit regulation was being developed.

A third commentor stated that they could not conceive what legally enforceable certification the State of Missouri might be able to provide so that conditional approval was possible. This commentor supported any of the other three options as appropriate.

In the discussion of conditional approval in the proposed rulemaking (Option B, 44 FR 61384) the EPA expressed a concern that the state may be unable to legally prevent construction or modification (in a nonattainment area) of sources not in compliance with Section 173. The EPA also stated that conditional approval could *only* be granted if the state provides a certification demonstrated to be legally enforceable that it will not issue permits to sources which do not meet the requirements of Section 173. The State of Missouri has not provided the necessary certification that would allow conditional approval.

Promulgation of regulations tracking the language of Section 173 as suggested in Option D would allow growth to continue in the nonattainment areas under EPA regulation. After the state adopts and the EPA approves state regulations pursuant to Section 173, the EPA would withdraw its new or modified source permit requirements for nonattainment areas.

On March 7, 1980, the Missouri Air Conservation Commission adopted regulations to satisfy the requirements of Section 172(b)(6) that the state have a permit program consistent with the requirements of Section 173. The regulations also provide for a program that requires new or modified major sources of VOC and/or carbon monoxide to comply with the alternative siting requirements of Section 172(b)(11)(A).

In this rulemaking the EPA is taking no final action on the Missouri SIP revision with respect to the requirements of Sections 172(b)(6), 172(b)(11)(A) and 173. The growth restrictions remain in effect for nonattainment areas in the state until final action is taken on the promulgated regulations. EPA's proposed action on the Missouri regulations is being published in a separate **Federal Register** notice.

Action

The EPA is taking no final action on the Missouri plan with respect to the Part D permit requirements of the Act.

(9) *Resources.* Section 172(b)(7) requires the state to identify and commit the financial and manpower resources

necessary to carry out the plan provisions.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri SIP as satisfying the requirements of Section 172(b)(7).

The state plan identified and made a commitment to provide the necessary resources to carry out each portion of the plan. On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(7) of the Act. EPA received no comments on the resource commitments contained in the Missouri Part D plan revision.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(7).

(10) *Schedules.* Section 172(b)(8) requires emission limitations, schedules of compliance and other measures as may be necessary to meet the requirements of Section 172.

The Missouri plan contains emission limits to meet the requirements of Section 172. These emission limits are contained in new and revised emission control regulations which are being approved by this rulemaking.

Action

EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(8) of the Act.

(11) *Public, Local Government and Legislative Involvement.* Section 172(b)(9) requires evidence of involvement and consultation of the public, local government, and the state legislature in the planning process. The section also requires an identification and analysis of various effects of the plan and a summary of public comments on the analysis.

The Missouri submission demonstrated involvement of the public and local government with hearing transcripts and letters from local government officials commenting on the Missouri plan. On October 25, 1979, the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(9).

The EPA received no comments from the public regarding the state's effort to seek involvement of the general public, local government officials and the state legislature during the plan development process.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(9) of the Act.

(12) *Commitments.* Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legally enforceable requirements, and that agencies responsible are committed to their implementation and enforcement. For some types of measures, EPA interprets the Act as allowing approval of plans containing schedules for adoption and submittal of these measures (44 FR 20372, April 4, 1979).

The Missouri submittal contains written evidence of adopted requirements, assurances and commitments that the plan will be implemented and enforced. The state has made adequate commitments in all parts of the revised plan, except with regard to the transportation and the inspection and maintenance plans for St. Louis. This deficiency is discussed completely in Section (13) below.

On October 25, 1979 (44 FR 61384), the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(10).

Action

EPA approves the Missouri plan with respect to commitments required by Section 172(b)(10) of the Act except as stated in the discussion under the requirements of Section 172(b)(11).

(13) *Attainment Dates and Extensions.* The requirements of Section 172(b)(11) are applicable only in the case of ozone and carbon monoxide nonattainment areas if the state demonstrates that attainment of the standard is not possible for one or both pollutants prior to December 31, 1982. In such case, an extension may be granted until December 31, 1987, but the plans must meet the requirements of Section 172(b)(11)(A), (B) and (C).

The state has demonstrated that the ozone standard can be attained by December 31, 1982, in Kansas City. The state submittal for attainment of the carbon monoxide and ozone standards in St. Louis shows that an extension until December 31, 1987, will be needed for both pollutants. Application of RACT to stationary sources, the Federal Motor Vehicle Emission Control Program, and reasonable transportation control measures are not adequate to provide for attainment of the ozone and carbon monoxide standards by December 31, 1982, in St. Louis. The EPA proposed to conditionally approve the Missouri plan with respect to the requirements of Section 172(b)(11) provided certain specified deficiencies are corrected. These deficiencies are discussed below in subparagraphs (a), (b), and (c).

Action

The EPA approves Missouri's request for an extension to attain the carbon monoxide and ozone standards in St. Louis to not later than December 31, 1987.

Because EPA approves the request for an extension to meet the carbon monoxide and ozone standards in St. Louis, the Missouri SIP must meet the requirements of Section 172(b)(11).

(a) Section 172(b)(11)(A) requires that the State establish a program which provides for an analysis of alternate sites, sizes, production processes and environmental control techniques for any new or modified source prior to issuance of a permit for such source to be located in the nonattainment area.

The state certified that it will not issue any permits for any construction or modification prior to the performance of such analysis. On October 25, 1979 (44 FR 61384) the EPA proposed to conditionally approve the plan as satisfying the requirements of Section 172(b)(11)(A) provided the state certified that no permits would be issued without the analyses specifically required by Section 172(b)(11)(A) for ozone and carbon monoxide nonattainment area.

Because of the reasoning applied in Paragraph (8) above concerning permits required by Sections 172(b)(6) and 173, the EPA believes that conditional approval is not appropriate at this time.

As discussed in Paragraph (8) above, the Missouri Air Conservation Commission on March 7, 1980, adopted regulations to satisfy the requirements of Section 172(b)(11)(A). A notice of proposed rulemaking will be published in the **Federal Register** in the near future.

Action

The EPA is taking no action in this notice on the Missouri plan with respect to the requirements of Section 172(b)(11)(A).

(b) Section 172(b)(11)(B) requires that the plan provisions shall establish a specific schedule for implementation of a vehicle emissions control inspection and maintenance (I/M) program.

I/M refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Enforcement can be accomplished by requiring proof of compliance in order to purchase license plates or to register a vehicle. In certain cases a windshield

sticker system can be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that SIPs for states which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases, Section 172(b)(11)(B) must be satisfied.

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372). Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

(1) *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program. (Section 172(b)(10)).

(2) *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

(3) *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7)).

(4) *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b)). Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

(5) *Program Effectiveness.* As set forth in EPA guidance an I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which requires that the plan provisions shall provide for the implementation of all reasonably available control measures.

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are committed to implement and enforce the appropriate elements of the plan (Section 172[b][10]). Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required (Section 172(b)(11)(B)). The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions by the end of calendar year 1987. The Act mandates "implementation of all reasonably available control as expeditiously as practicable". (Section 172[b][2]). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not previously undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program. Depending on program type (private garage or centralized inspection), a mandatory I/M program may be implemented as late as December 31, 1982, and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982, and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

In its SIP, Missouri included provisions for an I/M program. The SIP stated that the particular I/M program scheduled for implementation would require a 30% stringency factor, mechanic training, and no exemptions for any class of vehicles. Three alternative exhaust emissions reduction demonstrations, based on the above I/M commitment, were prepared by the St. Louis metropolitan planning organization, East-West Gateway Coordinating Council, and included in the SIP. The demonstrations were based on the use of Mobil I Source Emissions Model for carbon monoxide and hydrocarbons and indicated that a 25% reduction in exhaust emissions could be achieved by December 31, 1987, thus complying with EPA's requirement for minimum emission reductions.

The SIP also included a copy of amended Sections 307.360, 307.361 and 307.365 of the Missouri Revised Statutes, the legislation passed by the General Assembly and signed into law by the Governor on August 2, 1979, providing legal authority for I/M in Missouri. The legislation requires the implementation of a mandatory I/M program to begin no later than December 31, 1982, nor earlier than July 6, 1981. Enforcement of the I/M program will be tied to the safety inspection program, which is necessary for registration, annual license plates, and an annual expiration window sticker. The Missouri Air Conservation Commission, with the assistance of the Missouri State Highway Patrol (MSHP) is to conduct an I/M pilot study and, based on results, design a recommended I/M program and report to the General Assembly in December 1980. This report is to include the type of I/M program to be implemented, a starting date, stringency factor, vehicle mix, consumer

costs and protection, administrative costs and procedures, program effectiveness, and cost-benefit analysis.

Two comments were received regarding the I/M program for Missouri. The first commentor expressed the opinion that it is premature for the state to adopt a legally enforceable schedule for mandatory implementation of I/M until after the General Assembly reviews the MACC's report to it in December 1980, and that it is premature for the state to select a final stringency factor and vehicle mix.

The EPA agrees that the state may be unable to provide a definite schedule for implementing a mandatory I/M program. However, the EPA believes that the state has sufficient data upon which to base a series of options for presentation to the General Assembly, any one of which would be capable of providing an approvable mandatory I/M program. Such options were not addressed in the final plan submitted on July 2, 1979. The state did make a commitment to develop an approvable schedule. The absence of a schedule is a plan deficiency which must be corrected if the plan is to be approved. If there had been *no* commitment, EPA could not have proposed conditional approval.

The SIP provided I/M program alternatives which showed that a minimum of 25% reduction of carbon monoxide and VOC emissions could be achieved by December 31, 1987. During the comment period, the state said it could not select a final stringency factor and vehicle test mix within six months of the final rulemaking. The state has not indicated that the condition is unreasonable, nor have they suggested an alternate time limit. The EPA believes the 25% reduction is the minimum necessary to demonstrate reasonable further progress for the I/M program, which is contained in the SIP, and that the state has the necessary legal authority to make such a commitment.

The second commentor, representing a national environmental organization, observed that the Missouri I/M program is qualified by certain ill-defined conditions and does not contain a specific schedule for implementing the I/M program.

The EPA concurs with the commentor regarding the conditions contained in Missouri's enabling legislation and schedule. EPA's response to this comment is the same as that stated above regarding schedules.

The MACC and the Missouri State Highway Patrol are to develop a pilot program leading to mandatory I/M program by December 31, 1982. Citizen participation in the I/M program may not be mandatory prior to the 180th day following the convening of the 81st General Assembly First Session without specific legislative authorization and until the governor certifies that Illinois and/or Kansas have instigated an equally effective mandatory I/M program or that EPA is applying "effective and sufficient sanctions" for failure of these states to have such a mandatory program in the appropriate areas.

The following actions are available to the EPA if a state fails to meet the requirements of Part D of the Clean Air Act:

(1) Denial of clean air grants;

(2) Denial of grants under Title 23, U.S. Code;

(3) Denial of permits for the construction and operation of new or modified stationary sources; or

(4) Federal enforcement action.

The EPA believes that any or all of the above actions would be "effective and sufficient sanctions" as stated in the Missouri legislation. This legislation requires the Governor of Missouri to (1) determine that the imposition of any of the above actions is effective and sufficient, or (2) reasonably determine that Illinois and/or Kansas has implemented an equally effective program. This action is necessary for the state to meet the requirements of Part D of the Clean Air Act.

ACTION: EPA conditionally approves the Missouri SIP as meeting the requirements of Section 172(b)(11)(B) of the Act provided the following deficiencies are corrected:

1. The state must develop a schedule, including alternatives which will be followed to instigate a mandatory I/M program. The schedule shall contain the major milestones the EWGCC, MDNR and/or MSHP will accomplish to implement the alternative I/M programs considered, for which air quality benefit credits have been taken. This schedule shall be submitted as part of the SIP by August 31, 1980.

2. The state shall report to EPA no later than December 1, 1980, the recommended type of I/M program, stringency factor, vehicle test mix, and program resources and justification which General Assembly will review.

(c) Section 172(b)(11)(C) requires the plan to identify other measures necessary for attainment of the air quality standard. This includes transportation control measures as specified in Section 110(a)(3)(D).

The EWGCC is the designated lead planning agency for the St. Louis metropolitan area and has the required legal authority to develop transportation plans. The Missouri SIP includes transportation measures which provide for an estimated 6.45% reduction in emissions by December 31, 1982. These transportation measures were developed by EWGCC for inclusion in the Missouri SIP. They include improved mass transportation, carpooling, van pooling, improving average vehicle speed, and traffic flow improvements. The SIP revision establishes annual goals for achieving emission reductions from each of these five classes of transportation measures. However, the plan does not establish specific strategies for achieving these reductions. The transit Development Plan is cited as the means for increasing ridership by 50%, but no commitments to fund and implement the plan are provided. Similarly, specific strategies and commitments for achieving the other transportation-related emission reductions are not included.

As originally submitted, the Missouri SIP included the Transportation Improvement Program (TIP) for the St. Louis area. Many of the projects included in the TIP are standby measures which are unlikely to be funded in the immediate future. In the proposed rulemaking, the EPA cited this deficiency (44 FR 61395). As a result, the EWGCC submitted to the state a revised list of TIP projects which are likely to have air quality benefits. On January 28, 1980, the state submitted this revised list of currently programmed transportation projects to the EPA with a schedule for completion of an air quality analysis. Upon completion of this analysis, the state must submit for inclusion in the SIP, documentation of emission reductions to be achieved by these projects and implementation schedules and commitments from appropriate implementing agencies.

EWGCC is currently operating under an approved work program funded under Section 175 of the Act. This work program provides a schedule for analysis of alternative transportation strategies, carbon monoxide dispersion modeling, and commits EWGCC to seek commitments to specific transportation measures after the analysis. The work program also commits EWGCC to an assessment of the health, air quality, economic, energy and social impacts of the transportation strategies. This assessment is required by section 172(b)(9).

The Air Quality Advisory Committee (AQAC) of EWGCC has commented on the requirement to obtain commitments to transportation measures. AQAC has noted that EWGCC cannot demonstrate the air quality benefits of projects in the TIP until implementation of the carbon

monoxide dispersion model. However, AQAC does commit EWGCC to seek commitments to specific projects and measures from the responsible jurisdictions. Exception was taken to providing commitments within three months. The State of Missouri concurred in these comments. However, in a letter to U.S. EPA, Region V, in response to the proposed rulemaking for the Illinois SIP, EWGCC agreed to provide commitments to specific transportation measures after the analysis of alternatives, but no later than January 31, 1981.

Another commentor has noted deficiencies in the transportation portion of the SIP. The Natural Resources Defense Council points out that the plan does not include commitments to implement transportation control measures, does not establish schedules nor certify that the responsible agencies have agreed to implement specific measures and does not commit to implement public transportation improvements basic to the needs of the St. Louis area.

EPA believes that the Missouri SIP is deficient in addressing transportation control measures for the St. Louis area. As presently constituted, the transportation measures for which a 6.45% reduction in emissions is being claimed represent goals and not specific strategies and commitments. Some of these goals, such as the 50% increase in ridership, may not be attained. If the alternatives analysis shows that any or all of these measures cannot achieve these emission reductions, substitute measures will have to be produced which will achieve similar reductions.

It is also EPA's opinion that the state, through EWGCC, intends to secure the required commitments. EPA believes that EWGCC's work program, as funded under Section 175, is adequate to produce an analysis of alternative transportation measures and commitments to specific strategies and that this can be accomplished within the time frame agreed upon by EWGCC and EPA Regions V and VII. Such commitments must be secured by EWGCC no later than January 31, 1981. EWGCC and the state have agreed to provide commitments to specific transportation measures within this time frame.

Although EWGCC is committed to an analysis of alternative transportation measures, EWGCC has not provided a commitment to justify any decision not to adopt difficult control measures. Section 108(f) lists measures which EPA believes are reasonably available. EWGCC must provide such a commitment and a decision not to adopt any of these measures must be justified at the time commitments are provided.

Action

EPA conditionally approves the Missouri plan as meeting the requirements of Section 172(b)(11)(C) of the Act provided the following deficiencies are corrected:

(a) EWGCC shall provide the results of requisite carbon monoxide dispersion modeling committed to in the approved Section 175 work plan by January 31, 1981.

(b) EWGCC shall complete the analysis of alternative transportation measures and secure commitments from the responsible agencies to specific strategies which will attain a 6.45% reduction in emissions. If the alternatives analysis shows that the goals outlined in the SIP cannot be attained, substitute measures and commitments which will achieve the emission reduction shortfall are required. These commitments to specific transportation measures shall be provided no later than January 31, 1981.

(c) EWGCC shall provide by August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

C. Other Plan Requirements

This section discusses each requirement, other than those of Part D, that a State Implementation Plan must meet in order to be fully approvable under the Clean Air Act, as amended in 1977.

In the October 25, 1979, **Federal Register** (44 FR 61384), the EPA stated that the Missouri SIP revision had not specifically addressed the non-Part D requirements of the Act, and that EPA proposed to take no action regarding the Part D requirements.

One commenter (NRDC) objected to the no action proposal and stated that EPA could not approve a SIP revision until all deficiencies were corrected. EPA's general response to this comment is included in Section D of this notice. With respect to this specific rulemaking, the Missouri July 2, 1979, submittal addressed the basic Part D plan requirements. The EPA agrees that the other plan requirements of the Act must be satisfied for the plan to be totally approved. The proposed rulemaking acknowledged the non-Part D requirements were deficiencies in the Missouri plan. Since these items were not submitted, the EPA proposed to take no action, because there was nothing to act upon. By stating that no action is taken, the EPA is acknowledging that there are still plan deficiencies which must be corrected. The requirements for a fully approvable plan were briefly reiterated in Section B above.

(1) *Interstate Air Pollution.* Section 110(a)(2)(E)(i) requires to plan for a state to contain provisions prohibiting stationary sources within that state from causing violations of standards interfering with measures relating to prevention of significant deterioration of air quality, or interfering with measures to protect visibility in another state. It also requires the plan to contain provisions insuring the compliance with the requirements of Section 126 relating to interstate pollution abatement.

(2) *State Boards.* Section 128 requires that any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permit or enforcement orders, and requires procedures ensuring that financial interests are adequately disclosed.

(3) *Permit Fees.* Section 110(a)(2)(K) requires a permit fee in connection with any permit required under the Act.

(4) *Consultation.* Section 121 of the Act requires that the state provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials and any federal land managers having authority over land to which the plan applies.

(5) *Stack Heights.* Section 123 of the Act requires that the degree of emission limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding good engineering practice or any other dispersion technique.

(6) *Public Notification.* Section 127 requires that each state plan shall contain measures to notify the public of instances in which health-related standards were exceeded.

(7) *Prevention of Significant Deterioration.* Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the Act.

None of these requirements are expressly addressed in the Missouri SIP revision.

Action

EPA is taking no action on any of the above non-Part D requirements.

D. National Comments

One commentor submitted extensive comments which it requested be considered part of the record for each state plan. Each of the points raised by

the commentor and EPA's response follow. Although some of the issues raised are not relevant to provisions in Missouri's submission, EPA is notifying the public of its response to these comments at this time.

1. The commentor asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979, (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commentor objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commentor noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision in *Alabama Power Co. v. Costle,,* 13 ERC 1224 (D.C. Cir., June 18, 1979). In the commentor's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commentor believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean area.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modifications," and "potential to emit," and the areas in which NSR applies, govern state plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the **Federal Register** on September 5, 1979, (44 FR 51924), EPA explained its view on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979, proposal addressed some of the issues raised by the commentor. To the extent necessary, EPA will respond in greater detail to the commentors' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979, proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, states will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the state to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commentor questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commentor noted, EPA has set forth its proposed bubble policy in a separate **Federal Register** publication (44 FR 3720, January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commentor questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards more expeditously, as well as assure reasonalbe further progress.

The commentor also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commentor found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the CTGs. The CTGs provide recommendations to the states for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commentor suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commentor questioned EPA's authority to require states to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commentor suggested that if a state fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commentor's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a state fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Another commentor, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of state boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commentors argued that EPA must secure a state commitment to satisfy the permit fee and state board requirements before conditionally approving a plan under Part D. In those states that fail to correct the omission within the required time, the commentors urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

To be fully approved under Section 110(a)(2) of the Act, a state plan must satisfy the requirements for state boards and permit fees for all areas, including nonattainment areas. Several states have adopted provisions satisfying these requirements, and EPA is working with other states to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the state board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

E. Changes in the Code of Federal Regulations

The title of § 52.1331 is changed from Requests for two-year extensions to Extensions. This action is taken to provide for extensions requested under the 1977 Clean Air Act and other future extensions as may be required. This is not a significant change and EPA believes no advanced public notice is necessary.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Missouri the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Missouri's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.[1]

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

F. Conclusion

The Administrator's decision to approve or disapprove the proposed SIP revisions is based upon the determination of whether or not the revisions meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plan.

The revisions submitted by the State of Missouri were proposed in the **Federal Register** and public comments were solicited. Eight letters were received which directly addressed issues relating to the Missouri plan. A ninth comment addressed national SIP policy issues. The major issues in the comment letters are addressed in the appropriate section of this notice. The comments on EPA's national policy are addressed in Section D.

All comments on EPA's proposal are addressed in the support document which is available at the addresses shown at the beginning of this notice.

After a careful evaluation of the state submittal, the public comments received and the additional information and commitments submitted by the state, the Administrator has determined that the actions taken in this notice are necessary and proper.

The actions taken today generally approve the Missouri SIP revision as meeting the requirements of Part D of the Act. No action is being taken on a number of non-Part D requirements. The Part D requirements were discussed in Section C above and include requirements for interstate air pollution, Section 110(a)(2)(E)(i), state boards (Section 128), local government consultating (Section 121), stack height considerations (Section 123), public notification when health related air standards are exceeded (Section 127), and prevention of significant deterioration (Section 161). Action on the plan with respect to the permit requirements for new and modified sources seeking to construct or operate in nonattainment areas (Sections 172(b)(6), 172(b)(11)(A), and 173) is delayed pending EPA final action on regulations adopted by the MACC and submitted to the EPA in accordance with the SIP revision requirements of 40 CFR Part 51. The ozone and carbon monoxide plan for the St. Louis metropolitan area is being conditionally approved pending submission of acceptable transportation improvement plan commitments and the required I/M program elements discussed above (Section C, paragraph 13). The deadlines for submitting the corrected deficiencies are stated in the appropriate action statement and in the regulation portion of this notice.

EPA finds that good cause exists for making these amendments effective immediately for the following reasons:

1. The deferred action on the states permit program to regulate construction of new or modified sources contained in today's action clarifies the status of growth restrictions required by Section 110(a)(2)(I) of the ACT in the Missouri nonattainment areas which became effective July 1, 1979; and

2. The immediate effectiveness enables persons seeking judicial review of the amendments to do so without delay.

Under the Executive Order 12044, EPA is required to judge whether or not a regulation is "significant" and therefore, subject to the procedural requirements

[1] *See* General Preamble for Proposed Rulemaking, 44 FR 20373–74 (April 4, 1979).

of that order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation and not subject to the procedural requirements of Executive Order 12044.

This rulemaking is issued under Sections 110, 172, 173, and 301 of the Clean Air act, as amended.

Dated: March 28, 1980.

Barbara Blum,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

40 CFR Part 52 is amended by adding § 52.1320(c)(15) to read as follows:

Subpart AA—Missouri

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(15) On July 2, 1979, the State of Missouri submitted a plan to attain the National Ambient Air Quality Standards for the Kansas City and St. Louis areas of the state designated nonattainment under Section 107 of the Clean Air Act, as amended in 1977. Included in the plan are the following approved regulations:

(A) Rule 10 CSR 10–2.210 and 10 CSR 10–5.330 Control of Emissions from Solvent Metal Cleaning are approved as RACT;

(B) Rule 10 CSR 10–2.220 and 10 CSR 10–5.310 Liquified Cutback Asphalt Paving Restriated are approved as RACT;

(C) Rule 10 CSR 10–5.220 Control of Petroleum Liquid Storage Loading and Transfer (St. Louis) is conditionally approved as RACT;

(D) Rule 10 CSR 10–2.260 Control of Petroleum Liquid Storage Loading and Transfer (Kansas City) is conditionally approved;

(E) Rule 10 CSR 10–5.030 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating is approved as RACT;

(F) Rule 10 CSR 10–5.090 Restriction of Emission of Visible Air Contaminants is approved as RACT;

(G) Rule 10 CSR 10–5.290 More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in South St. Louis is approved as RACT;

(H) Rule 10 CSR 10–2.040 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating is approved as RACT;

(I) Rule 10 CSR 10–2.240 Restriction of Emissions of Volatile Organic Compounds from Petroleum Refinery Sources is approved as RACT;

(J) Rule 10 CSR 10–2.250 Control of Volatile Leaks from Petroleum Refinery Equipment is approved as RACT; and

(K) Rule 10 CSR 10–2.230 and 10 CSR 10–5.330 Control of Emissions from Industrial Surface Coating Operations is approved as RACT.

The following language is added at the end of § 52.1323 to read as follows:

§ 52.1323 Approval status.

* * * * *

* * * Continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980, for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each successive January of Additional RACT requirements for sources covered by CTGs issued the previous January. No action was taken with respect to the new source review requirements found in Sections 172(b)(6), 172(b)(11)(A), and 173 of the Act.

Section 52.1324(c) is added to read as follows:

§ 52.1324 General requirements.

* * * * *

(c) *Conditional Approval.* The following portions of the Missouri SIP developed pursuant to Part D of the 1977 Clean Air Act Amendments contain deficiencies which must be corrected within the time limit indicated:

(1) The Missouri plan for St. Louis does not satisfy the requirements of Section 172(b)(11). Approval of the Missouri plan with regard to commitments needed to completely satisfy the requirements for an extension of the attainment date for the ozone and carbon monoxide standards is subject to the conditions that;

(A) the State of Missouri develops and submits to EPA a schedule which includes the alternatives which will be followed to instigate a mandatory I/M program. This schedule shall contain the major milestones that will be met by the state and responsible local agencies in order to implement the alternative I/M programs for which air quality benefits have been taken. This schedule shall be sumitted to the EPA no later than August 31, 1980.

(B) the state shall report to the EPA no later than December 1, 1980, the recommendations regarding the I/M program, stringency factor, vehicle test mix, and program resources and justification provided to the Missouri general assembly for its review.

(C) Approval of the Missouri SIP with regard to the requirements of Section 172(b)(11)(C) of the Act is subject to the conditions that;

(*1*) The MPO shall complete and submit to the EPA the requisite CO modeling contained in the approved Section 175 work plan no later than January 31, 1981;

(*2*) The MPO shall complete the analysis of alternative transportation measures and secure commitments from the responsible agencies to specific strategies which will attain a 6.45 percent reduction in emissions. If the alternative analysis shows that the goals contained in the SIP cannot be attained, substitute measures and commitments which will achieve the emission reduction shortfall shall be required. These requirements shall be satisfied no later than January 31, 1981; and

(*3*) The designated MPO shall provide no later than August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

(D) Approval of Missouri Rule 10 CSR 10–2.260 for Kansas City is subject to the condition that the state change the regulation to agree with the Control Techniques Guidelines or obtain and submit enforceable compliance orders which assure that the CTG recommended limits are met. These revisions shall be submitted to the EPA as SIP revisions by February 1, 1981.

(E) Approval of Missouri Rule 10 CSR 10–5.220 for St. Louis is subject to the condition that the state change the regulation to agree with the control Technique Guidelines or provide adequate economic justification to show that its rule represents RACT. This revision shall be submitted to the EPA as a SIP revision no later than March 15, 1981.

Section 52.1331 is amended by revising the section heading and adding paragraphs (b), (c), and (d) to read as follows:

§ 52.1331 Extensions.

* * * * *

(b) Missouri's request for an extension until July 1, 1980, to submit plans to attain the secondary TSP and SO_2 standards is approved.

(c) Missouri's request for an extension to attain the ozone standard in the St. Louis metropolitan area to not later than December 31, 1987, is approved.

(d) Missouri's request for an extension to attain the carbon monoxide standard in the St. Louis metropolitan area to not

later than December 31, 1987 is approved.

Section 52.1332 is amended by revising the Table and the Note to read as follows:

§ 52.1332 Attainment dates for national standards

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants [1]
	Primary	Secondary	Primary	Secondary			
Metropolitan Kansas City Interstate	b	e	d	d	d	May 31, 1975	b
Southwest Missouri Intrastate	a	a	d	d	d	d	d
Southeast Missouri Intrastate	d	d	d	d	d	d	d
Northern Missouri Intrastate	a	a	d	d	d	d	d
Metropolitan St. Louis Interstate	b	e	b	e	d	c	c

[1] Hydrocarbons.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52 (1978) § 52.1332.

Only portions of those AQCRs with attainment dates after July, 1975 have new attainment dates under the 1977 Clean Air Act Amendments. The reader is referred to 40 CFR Part 81 for identification of the designated areas under Section 107(d) of the Act.

a. July 1975
b. December 31, 1982
c. December 31, 1987
d. Air quality levels presently below secondary standards
e. Secondary standard attainment date to be determined by secondary attainment plan

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BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[Docket No. 20780; FCC 80-148]

Redefining and Clarifying the Rules Governing Restricted Radiation Devices and Low Power Communication Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule (Order granting in part reconsideration of first Report and Order—Technical Standards for Computing Devices).

SUMMARY: In response to a number of petitions for reconsideration, the FCC, among other things, postponed the effective date of its new rules for personal computers, data processing and similar electronic equipment that use digital techniques. The ORDER also redefines computing devices and exempts several specific types of devices. The new rules are designed to control the interference caused by electronic equipment to radio and TV reception.

EFFECTIVE DATE: May 12, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Art Wall or Herman Garlan, Office of Science and Technology at 202-632-7905.

SUPPLEMENTARY INFORMATION:

Adopted: March 27, 1980.

Released: April 9, 1980 (*See* FR 59530).

By the Commission: Commissioner Lee absent.

1. The First Report and Order in this proceeding adopted new regulations to control the interference caused by digital electronic equipment to radio communications.[1] Adopted on September 18, 1979, the *First Report* (FCC 79-555) was released on October 11, 1979 and published in the **Federal Register** on October 16, 1979 at 44 FR 59530. Thirteen parties filed timely petitions under various titles requesting partial reconsideration of the *First Report*. Eleven parties filed *Oppositions* and comments to the petitions for reconsideration and four parties filed *Replies* to the *Oppositions*. A list of parties filing *Petitions, Oppositions* and *Replies* considered herein is given in Appendix A, attached.

2. The new rules for computing devices were adopted because of the Commission's concern about proliferation of electronic products that interfere with radio and TV reception.[2] Of particular concern in this proceeding are electronic devices that generate and use radio frequency energy for timing and control purposes—defined in § 15.4(m) of the new rules as computing devices. To control the interference potential of these products the Commission established two sets of conducted and radiated limits for computing devices—one set (Class A) for commercial/industrial equipment and a second set (Class B) for electronics products used in the home. The new rules require the manufacturer to insure that each of his products manufactured after July 1, 1980 complies with the appropriate standard.

3. A total of 18 parties filed petitions/comments in the reconsideration phase of this proceeding.[3] Most supported the Commission's concern about the interference potential of electronics devices and the general regulatory approach adopted. Several stated that the new standards are needed and appear reasonable. Most petitioners, however, questioned the Commission's haste in applying the new standards. In particular, 14 of the 18 parties contend that the July 1, 1980 date provides an unreasonably short time to achieve compliance. To insure that compliance can be obtained without placing an unreasonable economic burden on manufacturers, the petitioners stated that up to seven years is needed. Several petitioners claim that they will have to shut down production if July 1, 1980 adherence is required.

4. A number of other concerns were also expressed by the petitioners. Several petitioners argued that the

[1] For convenience, the First Report and Order will be referred herein as *First Report*. The Petitions for Reconsideration, which were filed under various titles (Petition for Reconsideration and Clarification, Petition for Partial Reconsideration, etc.), will be referred herein as *Petitions*. Similarly, Oppositions to the Petitions for Reconsiderations, again filed under various titles, will be referred herein as *Oppositions* and Replies to Oppositions, simply *Replies*.

[2] See paragraphs 10-22 of the *First Report* for a partial discussion of the interference problem.

[3] Five Associations, 12 manufacturers, and one consultant filed a total of 28 pleadings—13 *Petitions*, 11 *Oppositions*, and 4 *Replies*. In addition, the two petitions listed in Section IV of Appendix A, attached, were received late. Since untimely filed petitions cannot be accepted, except under extraordinary circumstances, they are hereby dismissed. *Sonderling Broadcasting Co.*, 64 FCC 2d 731 (1977). As a practical matter, their concerns have already been considered in this *ORDER*.

definitions adopted in the *First Report* were broader than expected and as a result they had not commented in the proceeding. In particular, Atari Corp. and Tandy Corp. provided extensive legal argument why they believe the Notice of Proposed Rule Making in this proceeding did not cover personal computers. Several other petitioners requested exemptions or further rule making action for specific classes of devices. General Electric Co. requested an exemption for electronic equipment operated in an industrial environment. Ford Motor Company (FORD) requested an exemption for electronic equipment in motor vehicles. Hewlett-Packard Company (HP) requested an exemption for test equipment. In addition, a number of petitioners wanted clarifications of the definitions of computing devices. Several petitioners also requested clarifications of labelling requirements and § 2.805 of the marketing rules. Only two petitioners, Atari, Inc. and Association of Maximum Service Telecasters, argue that the adopted standards for consumer products are not adequate to protect radio and TV reception.

5. A discussion of these and other concerns of the petitioners is provided in more detail below. A discussion of the procedural question is provided in paragraphs 22–41, below. Justification for extending the implementation date is given in paragraph 10–21, below. Adequacy of adopted standards is discussed in paragraphs 42–51. Exemptions and applicability of the new standards is discussed in paragraphs 52–65. Changes to the marketing rules is discussed in paragraphs 66–70. Peripherals and subassemblies are discussed in paragraphs 71–77. Finally, a conclusion and summary of the changes to the rules for computing devices is provided in paragraphs 78–80.

Background of Proceeding

6. This proceeding was initiated on April 14, 1976 with the Notice of Proposed Rule Making (*NPRM*) to redefine and clarify the rules in Part 15 governing low power communication devices and the general requirements in § 15.7 for a restricted radiation device.[4] Examples given in the *NPRM*, include: computers, RF power supplies, electronic games, electronic watches, calculators, tape recorders, digital weighting scales, any device incorporating digital techniques, receivers, campus radio systems, carrier current systems, etc. (See chart on page two of the Appendix of the *NPRM*.) All of these devices are considered by the Commission to be subject to the general requirements of § 15.7 for a restricted radiation device. Because of the complex issues and the numerous devices covered by the proposal and because of the immediate need to control the interference from personal computers and other electronic devices, the *First Report* was restricted to computing devices (a specific class of restricted radiation device that generates RF energy and uses digital techniques and may radiate RF energy as an undesired byproduct, leaving other aspects of Docket 20780 for further Commission action. One primary reason for revising § 15.7 is that a number of parties have argued that it doesn't apply to computers and similar electronic equipment.[5] For a more detailed discussion of the reasons for revising § 15.7 see paragraphs 4–9 of the *First Report*.

7. In the *NPRM*, a single limit for all electronic devices was proposed; i.e., for both commercial and consumer devices. In paragraphs 18–20 of the *NPRM*, it was stated that we would consider different standards for commercial equipment. Based on the comments in the record, we relaxed the limits for a computing device used in a commercial environment at the higher frequencies. For a device operated in a residential environment or widely distributed to the general public, the proposed limits were largely retained with a slight relaxation. For discussion of the rationale of these distinctions and limits, see paragraphs 48–55 and paragraphs 63–72 of the *First Report*.

8. Several of the petitioners argued that the *First Report* only addressed the problem of computer interference, especially from personal computers.[6] It was *not* our intent, however, to limit the proposed technical standards and regulations just to computers. The *NPRM* was broader in scope. Interference caused by unintentional emanations from the wide variety of interference producing electronic products that pervade our modern day life are just as much of a concern as interference from computers. In our opinion, the adopted technical standards for computing devices, with certain exceptions, represent a balanced step between a recognized need to control interference from all digital electronic devices and a recognition of the burden placed on manufacturers to comply with the new rules.[7]

9. The *First Report* adopted a set of limits for digital equipment operated in a residential environment or widely marketed to the general public—called Class B computing devices. A second set of limits were adopted for devices utilized in commercial and industrial areas. The radiated limits for the latter are 10 times more liberal than Class B limits. The two classes were defined in a way which recognizes broad differences in the circumstances in which computers are used. The assumption is that commercial equipment is physically located further away from a susceptible receiver and is thereby less likely to cause interference to such receivers than consumer electronic devices. In addition to technical standards, manufacturers of personal computers, electronic games and devices that attach to a TV Interface device are subject to certification by the Commission.[8] All other Class B devices and all Class A computing devices must be verified by the manufacturer or importer (if imported into the USA) as complying with the FCC Rules prior to marketing of the products pursuant to § 2.801 *et seq.*, of the Rules. Because of their increased interference potential, Class A computing devices must also have a conspicuously placed label advising the operator of this interference possibility. With the exception of devices subject to certification, labelling is voluntary for the remaining Class B devices. We expect manufacturers of Class A computers will voluntarily meet the Class B limits so they can advertise that their products meet the tighter interference limit, and thus they would be able, at their option, to forego the label. Information to the user in the operator's manual is required for both classes of computing devices.

Implementation of New Rules

10. In paragraph 23 of the *NPRM*, the Commission proposed that the rules for a restricted radiation device would become effective six months after adoption. Several commenters to the proposal stated that six months was insufficient time to bring all their various product lines into compliance with the new rules. CBEMA requested two years from the date of adoption of the rules for new products and four

[4] Released April 23, 1976, 41 FR 17938, 62 FCC 2d 666, FCC 76-347.

[5] For example, the Computer Business Equipment Manufacturers Association (CBEMA) has consistenly argued that computers are not subject to § 15.7. (See Section II of their comments to the NPRM filed on June 16, 1977.

[6] For discussion of computer interference, see paragraphs 10–19 of the *First Report*.

[7] For a discussion about the benefits and costs of regulation, see paragraphs 63–72 of the *First Report*.

[8] Certification is an equipment authorization procedure where the manufacturer measures his product and sends a copy of the test report along with an application, etc. to the FCC, pursuant to Subpart J of Part 2 of the Rules. If acceptable, the Commission issues a grant of certification.

years for equipment currently in production. After a discussion of the problem in paragraphs 43–47 of the *First Report*, the Commission relaxed the six month implementation period to nine months from the date the rules were adopted. Starting with the date October 1, 1979, this meant that computing devices manufactured after July 1, 1980 would have to comply with the new rules.

11. An overwhelming majority of the petitioners claimed that they could not bring all their product lines of equipment into compliance with the new standards by July 1, 1980.[9] A number of additional parties, who did not file timely petitions for reconsideration have also informally indicated in letters to the Commission that they cannot comply with the July compliance date and that they will have to close down production lines if the date is not postponed. The number of parties petitioning for more time illustrates that it is an industry wide requirement.

12. Most of the petitioners argued that the Commission was mistaken in its assumption that manufacturers would be manufacturing their equipment to meet the limits recommended by CBEMA. Moreover, it was pointed out that a large number of manufacturers are not members of CBEMA. Summarizing some of the concern of the electronics industry, GTE stated:

"In the absence of actual harm, prudent manufacturers competing in the market simply cannot afford to incur these substantial costs until the standards by which they and their competitors will be measured are established. Anticipatory redesign runs the risk both of (i) "under-engineering" and the waste involved in further redesign to comply after promulgation of the standards and (ii) "over-engineering", which can make a products' price non-competitive in the market place. While prudent manufacturers will avoid causing actual harm and will follow proposed new environmental regulations closely, the only effective policy is to avoid extensive testing and redesign, if required, until after the standards are established. In this regard, the Commission should note that the instant proceeding is one of a myriad of similar changing requirements of law with which a manufacturer must comply on a continuing basis." (GTE *Petition*, para. 16)

13. A number of other reasons were also given for postponing the July 1, 1980 date. One was the inability of the Commission to initiate the rule making proceeding to establish the test procedures to determine compliance. The petitioners point to the fact that this rule making has not been released, even though the *First Report* stated the rule making for test procedures would be initiated shortly after the new rules were adopted. While test procedures for measuring radiated and conducted emissions are generally known and a number of test standards have been published, there is still some uncertainty due to the lack of a defined acceptable standard, according to the petitioners.

14. Second, many large manufacturers have literally hundreds of products to test to verify compliance. In most cases, the shear volume of testing will require many more months of testing than we envisioned. Equipment which has been found, after testing, not to comply will require redesign and production line changes, most of which require reordering of parts. According to one manufacturer, testing, redesigning, and reordering for only one production line product will easily consume 18 months. Also parts which are often purchased six to nine months in advance will have to be absorbed if an adequate postponement is not granted. In some cases, the component parts necessary to bring the computing device into compliance are not readily available.

15. Third, it is now becoming apparent that there is a lack of adequately trained test personnel and available instrumentation to test the computing device to determine compliance. With the adoption of the new rules, manufacturers are reportedly experiencing considerable difficulty in acquiring instrumentation and access to test facilities able to do the required testing. Acquisition of a test facility at the manufacturer's plant will also take additional time and money. Several petitioners also claim that additional time will also be necessary to gain approval from Underwriters Laboratories and other government agencies when electrical products are changed.

16. CBEMA, strongly endorsed by TI, H-P, GE, CDC, Honeywell and NTSC, urged the Commission to allow two years for compliance of Class A devices now in the design stage and four years for products already in production or developed to a stage that sales commitments could not be met if redesign is required. Because some products have a production life of longer than four years, CBEMA also asked the Commission to give the Chief Scientist delegated authority to grant waivers for some of the more complex products in this category. Control Data Corp. (CDC) specifically requested a seven year implementation period for existing production line products.

17. Apple and Tandy, both manufacturers of personal computers, petitioned for a minimum of a six and nine month postponement of the new rules, respectively. The delay is needed for many of the same reasons given above, but because the products are self-contained, the time required to achieve compliance is less.

18. AMST was the only party filing an *Opposition* to the extension of time for compliance, urging instead that "demands for more time to comply with the new, relaxed RF emission limits should flatly be rejected." (AMST *Opposition* at 5) This is an unwarranted concern, according to CBEMA, which states:

"But their position appears to be based on a misconception of the types and magnitude and emanations from computing devices which might cause harmful interference, as well as a misunderstanding of the circumstances under which electromagnetic interference (EMI) controls are presently designed into computing devices." (CBEMA, *Reply*, at 2)

19. The Commission acknowledges most of the reasons for a stay given above. We are particularly sympathetic to the need to finalize the test procedures for determining compliance. These procedures will be published as soon as practical. Interested parties will have an adequate opportunity to comment. Considering this delay, and in recognition of the fact that we desire an orderly transition for equipment not now regulated to equipment but that will be required to meet some minimum standards, the Commission is postponing the effective date of the new rules. Three separate dates are being adopted. For products, such as personal computers, where the potential for interference is high, the effective date is postponed to January 1, 1981. Personal computers and other computing devices subject to certification and manufactured after that date will have to meet the new standards for a Class B computing device. For all other computing devices, they must comply with appropriate standards if first manufactured after October 1, 1981. If placed into production before October 1, 1981, compliance will not be required until October 1, 1983 for subsequently produced production line units.

20. The additional time is granted in recognition of the fact that there have been relatively few cases of interference

[9] The following parties requested postponements ranging from six months to seven years: Apple Computer, Inc. (Apple), Control Data Corp. (CDC), General Electric Co. (GE), Northern Telecom Systems Corp. (NTSC), Honeywell, Inc. (Honeywell), Computer and Business Equipment Manufacturers Association (CBEMA), Independent Data Communications Manufacturers Association, Inc. (IDCMA), GTE Service Corp. (GTE), Texas Instruments, Inc. (TI), Hewlett-Packard Co. (HP), Tandy Corp. (Tandy), Communications Division of the Electronic Industries Association (EIA/CD), Northern Telecom, Inc. (NTI), and Northern-Telecom Systems Corp. (NTSC).

actually reported and because of the economic burden the new rules will place on manufacturers of computing devices. Since there are so few documented cases of interference from computing devices, we cannot find, as AMST has requested, that an immediate imposition of the rules is in the public interest, particularly in light of the new information in the *Petitions*. Nor does the request for delegated authority to the Chief Scientist to extend the compliance deadline appear warranted. We intend to adhere to these new dates which have been chosen based on the filings before us, and do not believe there is any need to delegate this authority.

21. The postponement of compliance with technical requirements is longest for Class A and non-certificated Class B equipment. For this equipment we required interim labelling and instructional information from January 1, 1981, until the mandatory effective date for complying with all technical requirements. The required label and information will notify users that the equipment has not been tested for compliance and of the danger of interference to radio communications. Of course, manufacturers of this equipment have the option at any time of verifying that equipment does meet the standards for Class A or Class B and of so labelling the equipment. The interim label and user information serve several purposes. First, they provide users with information on the interference potential of various equipment. Second, they give manufacturers an incentive to bring their equipment into compliance with technical requirements as soon as possible, while allowing them ample time before compliance is mandatory. Third, requiring an interim label on Class A equipment manufactured after January 1, 1981, also the date for requiring compliance and labelling of certificated Class B equipment, removes the incentive for the manufacturer of a computer to attempt classifying the equipment as Class A in order to avoid a labelling requirement.

22. We expect manufacturers to take advantage of this postponement of the new rules and not wait until the 1981 date to begin their implementation. The phasing in of the new rules should offset the initial confusion and costs associated with their adoption. Because of the potential for interference, manufacturers are encouraged to bring their equipment into compliance as soon as practical. Until such equipment complies, the Commission holds manufacturers of both classes of computing devices responsible for correcting any reported cases of harmful interference. The new rules in Appendix B reflect these changes.

Procedural Arguments

23. Atari, Inc. and Tandy Corp. in their petitions for reconsideration questioned the scope of the *NPRM* and whether the procedural safeguards of the Administrative Procedure Act (APA) (5 USC 553) were violated. Atari and Tandy argued that the *NPRM* did not cover personal computers, since personal computers were not in existence in 1976 when the proposal was issued. Both companies provide extensive legal arguments to support their contention that the 1976 proposal did not give them a fair opportunity to comment in the proceeding.

24. The procedural arguments of Atari and Tandy lack merit and are rejected for the reasons given below. Tandy's procedural arguments, as TI noted (TI, *Opposition* at p. 2), appear to be intended to lend support to that company's request for additional time for compliance with the new rules. Atari's arguments, on the other hand, appear to be based on competitive considerations. Even though a number of the arguments presented by both Atari and Tandy have been addressed in the *First Report* and associated Atari pleadings,[10] they are again discussed.

25. Atari's and Tandy's contentions that personal computers were not included in the *NPRM* are clearly at odds with the intent of the proceeding as stated in the *NPRM*. With certain explicitly stated exceptions, the proposed rules applied to a restricted radiation device, which is defined as a "device, system or apparatus which intentionally generates (produces) electromagnetic energy above 10 kHz." (*NPRM*, § 15.4(d)). The definition encompassed virtually all known computers.

Numerous examples of such devices were given in the text and appendix of the proposal to avoid any ambiguity.[11]

26. It is a well settled precedent that a rule making proposal need not contain "every precise proposal which [the agency] may ultimately adopt as a rule." *California Citizens Band Association* v. *U.S.*, 375 F 2d 43, 48–49 (9th Cir. 1967), *cert. denied*, 389 U.S. 844 (1967). Instead, it is sufficient if the notice provides "a description of the subjects and issues involved" in the rulemaking. APA paragraph 4(a), 5 USC § 553(b). The *NPRM* in Docket 20780 met this requirement.

27. Moreover, contrary to Atari's assertion, the Commission never intimated in the *NPRM* that "categories" of computers and consumer products are "mutually exclusive". Indeed, paragraph 17 of the *NPRM* refers only to equipment and provides notice that the Commission would differentiate such equipment by its marketing characteristics. This is precisely what we did in establishing the categories of Class A and Class B computing devices in the *First Report*.

28. Thus, it is clear that the subject of personal computers was encompassed by the *NPRM* as required by the APA. It is not necessary to delineate the specifics of the actual rules as finally adopted. *California Citizens Band Association* v. *U.S. supra, International Harvester Co.* v. *Ruckleshaus*, 478 F. 2d 615 (D.C. Cir. 1973).[12]

29. Atari and Tandy further argue that personal computers could not have been included in the *NPRM* because they did not exist in 1976. This is not supported by the facts. According to a recent article, the personal computer had clearly arrived in 1975 with the introduction of the Altair 8800 computer.[13] Moreover, Apple introduced its personal computer in 1976 and was aware of the relevance of Docket 20780 to personal computers in 1977 (Apple comments to the *NPRM*, April 4, 1979 at 2). Further, it has been estimated that 30,000 personal computers were in place by the end of 1976.[14] That year also saw the staging of several personal computer trade fairs, at least one of which was held prior to the issuance of the *NPRM*.[15] Thus, even though Atari and Tandy may not have introduced their units in 1976, personal computers were being manufactured and sold by others at the time of the *NPRM*.

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[10] See for example: *ORDER DENYING STAY* (FCC 79–754) released November 27, 1979.

[11] Examples given in the *NPRM* (page 2 of the Appendix) included: computers, RF power supplies, electronic games, electronic watches, calculators, tape recorders, digital weighting scale, AM receivers, carrier current systems, and any device incorporating digital techniques.

[12] Tandy argues that the case of *American Frozen Food Institute* v. *Train*, 539 F. 2d 197 (D.C. Cir. 1976), requires a notice to mention particularly all entities subject to a proposed rule. Tandy's reliance on this case is misplaced. *American Frozen Food* involved an *NPRM* which proposed regulations for three named pollutants, not pollutants in general. The court refused to uphold the regulation of a fourth, unidentified pollutant. In contrast, the *NPRM* in Docket 20780 identified all restricted radiation devices as subjects of regulation.

[13] John Craig, Editor, *Creative Computing*, December 1979, at 6. *Creative Computing* magazine was started in 1974. Two other personal computing magazines, *SCCS Interface* (now *Interface Age*) and *Byte Magazine*, began in 1975. *Id.*

[14] Ted Nelson, *The Home Computer Revolution* (1977), at 53.

[15] *Creative Computing*, December 1979.

30. Subsequent to the *NPRM* in 1976, several additional events took place which reaffirmed that the scope of the rulemaking covered personal computers and which gave personal computer manufacturers ample opportunity to supplement the information available to the Commission. Such later events must be considered in evaluating the adequacy of notice. (*Forester* v. *Consumer Product Safety Commission*, 559 F. 2d 774 (D.C. Cir. 1978)). On March 8, 1979, seven months before the regulations were promulgated, the Commission issued a public notice entitled "Six Personal Computers Requested for Testing and Evaluation", mimeo #13224. This notice referenced the Docket 20780 proceeding specifically and announced that the "results of the testing of the six computers * * * will be used as a basis for further action in [Docket 20780]."

31. Further, the public notices of Texas Instruments' petitions for rulemaking and waiver, which referred specifically to Docket 20780, drew extensive comment. In its Petition for Rulemaking, filed February 16, 1979, Texas Instruments noted that Docket No. 20780 referred to computers and stated that Docket 20780 "may result in certification requirements for home computers which include revised RF interference standards * * *" (TI, Petition for Rulemaking, RM 3328 at 9). Texas Instruments filed its petition for a separate rulemaking, however, because it viewed the scope of Docket 20780 as being so broad that the complexity of the proceeding would lead to extended consideration, thus delaying the promulgation of standards, and because the *NPRM* in Docket 20780 did not address stand-alone RF modulators. At the same time, Texas Instruments suggested that the RF limits it proposed could "* * * serve as interim standards pending the resolution of Docket 20780." (*Id.* at 11.) Both Atari and Tandy submitted comments in response to this petition and they did not dispute TI's contention with respect to whether Docket 20780 applied to personal computers. *Cf. Chip Steak Co., Inc.* v. *Hardin*, 332 F. Supp. 1084 (N.D. Cal.), *aff'd* 467 F. 2d 481 (9th Cir. 1972), *cert. denied*, 411 U.S. 916 (1973).

32. The comments in response to the Texas Instruments Petitions were made part of Docket 20780.[16] [17] This extensive record, built in response to public notices issued subsequent to the original *NPRM* and prior to the publication of the final regulations, closely parallels the circumstances held in *Forester* to provide "constructive notice" of the scope of the rulemaking to interested parties.[17a]

33. Atari and Tandy argue that the release of the FCC staff report entitled "Undesired Emissions from Personal Computers," Office of Science and Technology, Project No. 62502, August 1979, at the time of the adoption of the *First Report*, violated their rights to procedural fairness. This staff paper simply reported specific measurements of RF emissions from several computers. The study was referred to in the *First Report*, paragraph 14 merely to confirm the unchallenged fact that personal computers can be a source of interference.

34. There was nothing improper about the timing of the release of this staff report. In considering the release of agency information, the Court of Appeals for the D.C. Circuit recently declared

> "[We] hold only that the agency must * * * disclose the contents of what it relied upon * * * While such disclosure would ideally appear appropriate at the earliest stage of the agency proceeding, at the very least it is clear that it must come in the final decision so that reconsideration may be sought and judicial review meaningfully afforded."[18]

35. Despite petitioner's claim to the contrary, *WNCN Listeners Guild* v. *FCC*, (U.S. App. D.C. Case Nos. 76–1692 and 76–1693, slip. op. (June 29, 1979)) does not support their argument on the staff study. In WNCN, the FCC's failure to release a staff study was not the basis for reversal. Instead, the D.C. Circuit reversed because of "broader defect."[19] Indeed, the passages quoted by petitioners from *WNCN* are no more than dicta which respond to unique facts not present here.[20]

36. It should also be noted that the personal computer study was a report of measurements in corroboration of information publicly submitted to the Commission which allege that emissions from computers were strong enough to cause interference.[21] Neither the study nor the Commission's references to it in the *First Report*, indicate that it was the substantive basis for the standards adopted.

37. In *WNCN*, moreover, the court concluded that the Commission did not adequately make the contested information available to interested parties, even on reconsideration. *WNCN, supra*, slip. op. at 18–19. Herein, unlike *WNCN*, the Commission has released the entire document for analysis and comment and petitioners have had a full opportunity to make substantive comments on the report. Atari and Tandy have not done so.

38. Atari additionally argues that the visual demonstration of computer-caused interference given to the Commissioners at their meeting of September 18, 1979, created a prejudicial effect. There was nothing improper whatsoever in conducting the demonstration for the benefit of the Commission. The Commission's staff did not fail to disclose any information relevant to the demonstration. The demonstration was conducted at a public meeting, its purpose was explained, its methodology and underlying assumptions were expressly delineated, and its "results" were self-evident.[22] Moreover, there is no evidence that the demonstration had an undue effect upon the Commissioners or that it in some nebulous way influenced or "tainted" their votes. The apparent premise behind the assertion is that the Commissioners failed to consider the

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[16] Texas Instruments filed two petitions in 1979—petition for rule making, RM–3328, public notice released March 2, 1979 and petition for waiver of §§ 15.4(m) and 15.7 of FCC Rules, public notice released March 3, 1979. Thirteen parties filed comments regarding personal computers in reply to TI's petition. These comments were taken into consideration in adoption standards for personal computers in Docket 20780.

[17] Atari argues that the comments received in response to Texas Instruments' petitions could not properly be considered in the context of Docket 20780. However, it has been explicitly held that an agency may consider data available from other proceedings before it. *Moss* v. *FPC*, 502 F. 2d 461 (D.C. Cir. 1974), *cert. denied*, 442 U.S. 1020, *reversed in part on other grounds*, 424 U.S. 494 (1976).

[17a] For the reasons given in Footnote 17(a) of the *First Report*, we still claim an exemption from the advance notice requirement of the Administrative Procedure Act based on public interest considerations as allowed by the Act (5 U.S.C. 553(b)(3)).

[18] *U.S. Lines* v. *Federal Maritime Comm'n*, 584 F. 2d 519, 534–35 (D.C. Cir. 1978) (emphasis added, footnote omitted). Other court decisions supporting this conclusion include *Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375, 394 (D.C. Cir. 1973), *cert. denied*, 417 U.S. 921 (1974); *International Harvester Company* v. *Ruckelshaus*, 478 F. 2d 615, 632 (D.C. Cir. 1973).

[19] Slip. op. at 19 n. 24. Judge McGowan, who wrote for the court on *WNCN*, concurred without reservation in the *U.S. Lines* opinion.

[20] Tandy also cites *Portland Cement Ass'n* v. *Ruckleshaus*, 486 F. 2d 375 (D.C. Cir. 1973), and *United States* v. *Nova Scotia Food Products Corp.* 568 F. 2d 240 (2d Cir. 1977). Both of these cases involved a total failure to reveal the basis for the agencies' decision even in the final orders. Neither is relevant to the present case. Tandy further complains about the Commission's reference in the *First Report* to the personal experiences of its staff. Such experience merely "substantiated" the consumer complaints received by the Commission, *First Report* at 7; therefore any reliance was at most *de minimis*. Moreover, it is well settled that an agency may apply its own expertise in the course of a rulemaking proceeding. City of *Chicago* v. *FPC*, 458 F. 2d 731 (D.C. Cir.) *cert. denied*, 405 U.S. 1074 (1971).

[21] See Footnote 15 of *First Report*.

[22] Following the principle of *U.S. Lines, supra*, petitioners have had full opportunity to evaluate the demonstration as part of their petitions for reconsideration.

extensive documentation provided in the proceeding. Moreover, the demonstration was intended merely to show the need for regulation and to provide the Commissioners with a better insight into the text of the *First Report*—not as proof of the standards recommended by the staff.

39. Atari alleges that the *First Report* repeals the present Class I TV device rules and prejudges the outcome of the recently initiated rulemaking proceeding in General Docket No. 79–244 to adopt standards to govern stand-alone RF modulators (44 FR 59570, October 16, 1979). To the contrary, the Class I TV device rules remain firmly in effect.

40. The Class I rules are not applicable to computing equipment unless it is designed to utilize the home television receiver as a video display. Computing equipment which uses a television set is still subject to the Class I TV device rules, unless they are waived subject to the conditions stated in its *Order Granting Waiver in Part*, FCC 79–557 (released October 23, 1979). Second, insofar as the emission limitations applicable to RF modulators are concerned, different standards from those promulgated in Docket 20780 for computers may be adopted, if we should subsequently determine that other limits are appropriate in the rulemaking in Gen. Docket No. 79–244.

41. In consideration of the above discussion, we conclude that Atari's and Tandy's procedural arguments lack sufficient merit to warrant overturning the *First Report & Order*.

Adequacy of Adopted Standards

42. Atari and Association of Maximum Service Telecasters (AMST), representing 225 broadcast stations both objected to the emission standard for consumer products, including personal computers, each claiming that the Commission did not explain its rationale. This claim has no basis. The technical rationale for the limits for Class B devices is explained in paragraphs 52–55 and Appendix C of the *First Report*. The principal contention of Atari and AMST is that the Commission relaxed the standards now applicable to class I TV devices. Each challenger argues that the radiation limit (§ 15.419) for Class I TV devices is achievable and necessary for all home computers. This claim is misleading, since it is clear from an examination of the record that only a few personal computers have been type approved as a Class I TV device. Those that have been approved have limited capabilities. Atari has made this same argument in a number of pleadings and each time it has been rebutted. [23] More importantly this argument overlooks the fact that in adopting the *First Report*, the Commission imposed, for the first time, standards on all personal computers marketed for use in the home. Previously, there had been no clear standards applicable to personal computers unless specifically designed to use the home TV receiver as a video display. [24] The new standards impose needed regulations, where none had existed, on non-Class I TV device computers sold for home use. Many of which are now on the market.

43. AMST's assertion that Atari's approved computer shows it is "feasible" to manufacture and market a computer complying with the Class I TV device rules sidesteps the question of whether the present Class I TV device rules inhibit technology. A device meeting the Class I rules is restricted in system architecture as pointed out by Texas Instruments (TI *Opposition* at 20). Staff experience with personal computers substantiates this fact. The new rules are intended to allow for a variety of system architecture and greater flexibility in the use of peripheral devices, while at the same time providing adequate protection of radio and TV reception. For example, the present radiation limit of a Class I TV device is considered too severe to allow the connection of terminals to the basic Class I TV device. The real question then is whether we should restrict the use of all personal computers with what is recognized to be overly severe limits, or should we adopt a more flexible approach to allow advances in new technology. The Commission answered this question when it adopted the *First Report*.

44. Atari and AMST contend that the adopted standards provide inadequate protection to television viewers who live in multiple unit dwellings and attempt to receive signals within the Grade B coverage area of a television station. Atari cites the Baltimore/Washington market as an example of a metropolitan area in which viewers may well want to watch television signals of Grade B strength. As part of its contention, Atari points to the Commission's decision in *Arlington Telecommunications Corporation d/b/a ARTEC*, 69 F.C.C. 2d 1923, (1978). Atari claims that, in *ARTEC*, the Commission recognized that highrise multiple unit buildings in the Washington suburbs were encompassed by Grade B contours of various Baltimore television stations.

45. Where master antenna television (MATV) systems are used, the television receiver is generally supplied with a signal picked up by an outdoor antenna atop the building and amplified so that the signal strength is greater than would normally be expected from an indoor antenna attached to a television set. Thus, the stronger desired signal would more likely overcome any effects of undesired emissions from the computer. By the same token, greater separation could be expected because of the distant location of the television antenna. In addition, MATV systems typically utilize shielded coaxial cables for distributing the television signal and, thereby, afford further protection from harmful interference.

46. The radiation limit for a Class B computing device is developed in Appendix C of the *First Report*. It is designed to provide a reasonable degree of protection for a TV receiver in a residential area receiving at least a Grade A TV signal and located 10 meters (33 feet) or more from Class B computers with one or more walls between the computer and TV receiver. Atari and AMST argue that a limit based on a separation distance of 10 meters is inadequate to protect TV reception, since there may be instances when the actual distance a TV receiver and Class B computing device will be less than 10 meters.

47. In arguing this point, both Atari and AMST fail to acknowledge the large number of variables in developing such a limit. The likelihood of worst case factors occuring at the same time is very small. In addition to the dimensions of time, space and frequency, paragraph 55 of the *First Report* discuses additional factors such as: greater attenuation due to walls and orientation of both the TV antenna and home computers could substantially reduce emanations of computers located closer than 10 meters. Emanations from most computing devices are directional so that a slight disorientation of the maximum lobe will result in a substantially reduced level of emission and thus reduce its interference potential. Moreover, the population density in areas lying outside of Grade A service contours (another parameter in determining the limit) of TV stations there is usually a reduction in population density and viewers are more likely to utilize outdoor antennas. Thus, there should be a low incident of interference because of reduced

[23] Order denying stay (FCC 79–754 released October 23, 1979).

[24] AMST argues that the technical limit in § 15.7 now applies to all computing devices. As discussed in paragraphs 4–9 of the *First Report*, this limit is unnecessarily stringent for most computers and its applicability has been questioned because of the confusion of the language in the introductory paragraph of § 15.7.

population density and the distance separating computers located in homes and outdoor television receiving antennas.

48. On a related issue, AMST argues that the equipment authorization program adopted by the Commission for computing devices is inadequate to insure compliance. The broadcasters, therefore, urge the Commission to adopt certification instead of verification for Class A computing devices and type approval in lieu of certification for Class B computing devices.[24] Arguing against verification, AMST asserts "* * * most manufacturers of electronic computing devices will have no real incentive to comply with the RF emission limits designed to protect television broadcasting and other radio services." (AMST *Petition* at 10).

49. TI, Apple, H–P, Control Data Corporation (CDC), General Electric and the Computer and Business Equipment Manufacturers Association (CBEMA) all opposed AMST's proposal for tighter standards. Manufacturers, according to CBEMA, have a very real incentive to comply with the radio frequency (RF) emanation limitations. Failure to comply with these limits and accompanying verification/certification procedures, according to these parties, would bring about enforcement action directed against the violators and, if large scale noncompliance were prevalent, lead to more rigorous standards and more onerous equipment authorization procedures on the entire industry. Moreover, manufacturers and marketers of consumer electronic equipment could ill afford to develop a reputation for selling consumers equipment which resulted in widespread interference.

50. AMST also claims that type approval is needed because the Commission and the manufacturer lack control over the device once it is in the hands of the consumer. The nexus between this premise and the conclusion, however, is missing. AMST's underlying assumption appears to be that there will be extensive alteration of equipment by manufacturers. As with any regulatory program, the best guarantee against such abuse is the implementation of reasonable standards coupled with an effective enforcement program. For this purpose, we now conduct routine random audits designed to require manufacturers to submit equipment for actual testing at the Commission's laboratory. The random audit program permits the retention of effective control while not unduly burdening either the Commission staff or manufacturers.

51. In consideration of the above discussion, we conclude that Atari's and AMST's concerns about adequate protection of TV reception do not warrant tightening the standards for Class B computing devices. We assure both Atari and AMST, however, that the Commission will be closely watching the development of new home electronic products and will conduct surveys to make sure that the FCC standards provide satisfactory protection of TV reception from computing devices operated in adjacent homes. We will also perform routine testing to ensure that the products on the market in fact meet the new standards and provide the required protection of radio communications. If tighter control is needed a new proceeding will be instituted for that purpose.

Requests for Exemptions

52. Three manufacturers, Hewlett-Packard Co., General Electric Co. (GE), and Ford Motor Co. (Ford) express concern about the applicability of the definition to test equipment, large industrial control systems that use digital techniques and digital electronics used in motor vehicles, respectively. Ford argues that the record did not mention electronic devices used in automobiles, and therefore, these devices should *not* be subject to the new rules. Ford requested confirmation of this viewpoint and amendment of the rules to indicate clearly that automotive electronics are not covered by the rules. (Ford *Petition* at 2). GE argues that the new rules greatly affect digital control systems used in industrial plants to control machinery and that they are unable to analyze the impact of the rules at this time. It is also apparent, GE states, that there is a measurement problem in an industrial environment, since the ambient RF noise in such an environment could very likely be higher than the adopted limits.

53. Similarly, H–P, who has participated in the proceeding through CBEMA, claims that the definitions were unexpectedly broad and that they were unaware that the Commission would adopt rules covering non-computers. (Honeywell and several other manufacturers and manufacturer associations made the same claim.) The firm goes on to argue that the *NPRM* did not provide adequate notice that scientific and industrial measuring devices would be encompassed by the rules and the record does not support their inclusion. (HP *Opposition* at 16–18)

54. While we believe the *NPRM* provided adequate notice, as required by the Administrative Procedure Act (APA), for all digital electronic equipment, we do see advantages in postponing the new rules for specific devices. Therefore, on reconsideration, we find that additional information may be useful to further assess the impact of the new rules on electronics in automobiles, industrial control systems, and microprocessors and other digital devices used in home appliances.

55. Home appliances are included in the above list for serveral reasons, even though a specific exemption was not requested. First, regulations to control interference from home appliances to radio communications is a massive undertaking. Moreover, it should include all home appliances—not only those appliances that incorporate digital components for control purposes. We see no reason to treat appliances that simply use digital circuitry in lieu of more traditional electromechanical circuitry differently. Second, emissions from home appliances have some unique characteristics that may require special test procedures requiring additional investigations. Third, the cost benefit of such regulation will need futher assessment, due to the vastness of the appliance market. The same considerations also apply to the automotive electronics and industrial control systems.

56. Test equipment is exempt from compliance with the new rules for a different reason. Under the note in § 15.13 of the *NPRM*, we proposed an exemption for test equipment.[25] At the time the exemption was proposed, it was believed that individuals using test equipment would be capable of correcting any interference that may have occured because of use of the equipment. Further investigations of the uses of test equipment now shows that this premise is no longer correct.

Manufacturers of such equipment will have another opportunity to comment on an appropriate standard in a subsequent proceeding.

[24] Certification is an equipment authorization where the manufacturer tests his equipment, or has his equipment tested for compliance with FCC rules and sends the test information along with information required in Subpart J of Part 2 to the FCC for review. If acceptable, a grant of certification is issued for the equipment. Type approval is a procedure where the Commission does the required testing to determine compliance. Verification is a procedure where the manufacturer takes the necessary steps to satisfy himself that the equipment complies with the FCC standards and imposes no notifying requirement on the manufacturer. Certification, type approval, and verification are a prerequisite for marketing, pursuant to § 2.801, *et seq.*

[25] The test of the note under proposed § 15.13 reads as follows:

"Until further notice, carrier current systems operated by a public utility company and test equipment are exempt from complying with the radiation limits."

57. The exemptions for these four classes of equipment are temporary. Each is exempt from the technical specifications for computing devices, but not from the non-interference requirement of § 15.803.

58. An exemption was also requested by the American Telephone and Telegraph Company (AT&T) for telephone equipment provided as a service to its customers. Specifically, the telephone company petitioned the Commission to make a distinction between users who own and maintain their equipment and companies who provide equipment as part of a service offering. The adopted rules, according to AT&T, ". . . do not appear applicable to users who are provided a service . . ." (AT&T *Petition* at 2).[25a] In addition to petitioning for what amounts to exemption of the technical standards for service provided equipment, the company also requests changes in the labeling requirements of § 15.816, § 15.818, and § 15.838.

59. Honeywell, Inc., the Independent Data Communications Manufacturers Association, Inc. (IDCMA), CBEMA and the Association of Maximum Service Telecasters (AMST) filed comments opposing the AT&T proposal to establish less stringent requirements for equipments marketed as part of a service offering. AMST argues that

* * *

"Because TV viewers cannot be expected to identify the source of the interference accurately, AT&T is wrong in suggesting that providers of services that utilize electronic computing devices should be permitted to decide whether to remedy interference problems on an *ad hoc* basis or to utilize devices that comply with appropriate r.f. emission limits. *See* AT&T pet., pp. 6–7. In order for service providers to remedy interference complaints on an *ad hoc* basis, the TV viewer must notify the entrepreneur that supplies the device and thus must know which device is the source of the interference. This, however, is a completely unrealistic expectation when the device is place in the TV viewer's home, let alone when the spurious r.f. emissions are from a device located in a neighbor's home."

60. The manufacturers argued against the AT&T proposal for a different reason, i.e. namely unfair competitive practices. For example, CBEMA argues that

"* * * AT&T has not provided any basis for such distinction. AT&T's distinction could provide significant (and unwarranted) competitive advantages to a manufacturer who markets equipment solely to a service company over the manufacturer who directly leases equipment to the subscriber, for use in conjunction with a service-company provided application, without any technical basis, CBEMA therefore opposes adoption of this classification." (CBEMA *Opposition* at 16)

61. Honeywell amplifies the argument by stating that:

"This AT&T proposal appears to be another version of AT&T's request for special regulatory treatment for equipment provided as part of a service which has been repeatedly rejected by the Commission in its efforts to created a competitive environment for terminal equipment. For instance, in the development of the Registration Program, which permits direct connection of qualified equipment to the telephone network, the Commission confronted and rejected the contention that telephone company-provided equipment is inherently superior or entitled to special regulatory treatment. Similarly, the Commission's rejection of the so-called Primary Instrument Concept, the proposal that at least one telephone company-provided telephone be required per telephone line, reflects a rejection of the AT&T assertion that the presence of their equipment as part of a service is somehow different from the provision of other equipment.

The substance of the AT&T proposal, stripped of its service characterization, is to afford AT&T a unique competitive advantage in the provision of equipment, in direct contradiction of previous Commission findings and without any supporting basis.

For the foregoing reasons, Honeywell urges the Commission to deny, in relevant part, the *Petitions for Reconsideration* of AMST and AT&T." (Honeywell *Opposition*, pages 8–9, footnotes omitted)[26]

62. IDCMA echoed similar sentiments by stating that:

No favored treatment should be granted to carriers. All terminal equipment should be treated equally, regardless of who provides it. This is not to suggest that IDCMA endorses the rules as drafted but only that exemptions should *not* hinge on which entity provides the device. (IDCMA *Opposition* at 5)

63. Along the same lines IDCMA and the Communication Division of the Electronic Industries Association (EIA/CD) request the Commission to clarify the meaning of the exemption in the definition for computing devices, § 15.4(n) of the *Order*, which states "* * * a transmitter or other device which is specifically covered elsewhere in this Chapter." EIA/CD suggests that "it would help for the Commission to explain whether it means covered for *any* purpose or covered for the purpose of controlling radio frequency interference." (EIA *Petition* at page 2)

64. Part 68 of FCC Rules contains standards to insure that equipment connected to the telephone network will operate properly and at the same time will not adversely affect the telephone network. Part 68, however, does not contain emission standards and consequently there is no assurances that such equipment will not cause interference to radio and television reception. Since there are many electronic telephone equipments used in homes and businesses (some of which are not service provided) there is a need to have some minimum emission standards for such equipment. As a practical matter, the limits adopted by the Commission for Class A computing devices are less stringent than the 300 μV/m at a 3 meter limit suggested by AT&T in their comments to the *NPRM*. (Paragraph 49 of the *First Report* discusses this in more detail.) The limits for Class B devices is approximately 3 times more stringent than the AT&T recommendation. Consequently, we believe the adopted limits are achievable and reasonable for telephone equipment.

65. Considering that emission standards are desirable and necessary, which was acknowledged by AT&T on page 2 of the *Petition;* considering that the adopted standards are within the bounds of AT&T's own internal emission standards; and considering that it would provide an unfair competitive advantage to exempt only service provided equipment; the Commission finds that such an exemption is not in the public interest. The definition in § 15.4(m) for a computing device is amended to clarify this situation.

Marketing Rules

66. Equipment subject to FCC Rules, must first comply with those Rules and have the necessary grant of equipment authorization (if required) before it can legally be marketed (shipped, sold, offered for sale, imported, etc.) in the USA pursuant to 47 CFR 2.801 et seq. In response to the *NPRM*, several parties, namely CBEMA, EIA/CD, AT&T, commented that the numerous advantages of present marketing practices would be lost, and the computer industry severely disrupted, if preconditions to marketing based on compliance with the limits in the *First Report* were imposed. The Commission in paragraphs 32 and 33 of the *First Report* stated that the Rules were not intended to disrupt present marketing practices of the industry such as orders taken for equipment not yet constructed,

[25a] To the extent that this statement by AT&T asserts that the *NPRM* gave an adequate notice of the inclusion of service provided telephone equipment, we repeat that the *NPRM* provided adequate notice, as required by APA, that all digital electronic equipment would be examined in this proceeding. *See* paragraphs 24–27 and 54, *supra*.

[26] The Registration Program mentioned by Honeywell is set out in Part 68 of our Rules. It sets out technical standards and an approval procedure requirement to be connected directly to the telephone network. (See 47 CFR Part 68) Part 68, however, does not include emission control standards.

provided that there are assurances the equipment will comply before being placed into operation. For this purpose, the Commission added a new paragraph (b) to § 2.805 to read as follows:

In the special case where it is impractical to determine compliance of a radio frequency device with the applicable technical specifications in this Chapter prior to sale or lease or offer for sale, or import, shipment, or distribution for the purpose of selling or leasing or offer for sale or lease, because the installation of the device is a determining factor for compliance, the manufacturer may insure compliance at the end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance will be made. (*First Report* Appendix B, § 2.805(b))

67. CBEMA, EIA/CD and Control Data Corporation (CDC) argue that the new language in § 2.805 is not sufficiently clear to avoid market place disruptions, although they point to the fact that paragraphs 32 and 33 of the *First Report* said this was the Commission's intent. In particular, the manufacturers are concerned that § 2.805(b) does not make it clear that the marketing rules would permit the announcement and contracting for sale of Data Processing Equipment (DPE) which is still in the conceptual, development, design or production stages prior to verification of compliance, as long as such equipment complies with the technical restrictions prior to being used by the customer or sent to the centers of distribution.

68. Mr. King, an engineering consultant, expressed a concern that the new wording in § 2.805 is sufficiently broad to include peripheral machines of a system.[27]

He states that a peripheral manufacturer could validly cite the "* * * impractical to determine * * *." language of § 2.805 as a means of avoiding compliance of his product, thereby leaving the system manufacturer or end user with a potentially impossible situation for insuring compliance. Mr. King provides the following example:

"For example, a manufacturer of a dual-floppy disc drive-controller package could claim an exemption [* * * impractical to determine * * *] based on § 2.805, since his product will not operate without a CPU that he may not manufacture himself. Sold through a retail outlet, this product could become interconnected to a Class B licensed CPU with the result of non-compliance for the system to the Class B requirements. Another conflict could arise when two "Class B" licensed products from different manufacturers are interconnected together with non-compliance resulting, in that compliance founded on the manufacturer's suppression design technique can conflict with the design technique of another manufacturer's approach to gain systems compliance. (Mr. King, *Petition* at 2)

Mr. King goes on to suggest the creation of a new class of computing devices for peripheral and subassembly components of a complete system.

69. CDC disagrees with Mr. King's interpretation of § 2.805(b). CDC stated on page 1 of its *Opposition:*

We [CDC] have not interpreted this section as applying to component devices or subassemblies which are marketed to other manufacturers for installation in other end-use products, nor to the peripheral product category. Thus, we do not agree with Mr. King's interpretation of the Commission's intended application to dispel questions regarding application of § 2.805(b), the Commission should clarify its intent.

70. The problems stated above concerning the relaxation of the marketing rules appear to be a matter of interpreting the text in § 2.805(b) and not a matter of substance. That is, no one has a problem with the Commission's stated intent. The objections are directed to the wording of the adopted rules. To avoid these problems of interpreting the rules, we are deleting § 2.805(b) and replacing it with a new section, § 2.806 with a revised text. The new § 2.806 is in Appendix B attached. With respect to Mr. King's concern about peripherals, he did raise an interesting problem which is discussed in more detail below.

Peripherals and Subassemblies

71. Several petitioners requested clarification of the rules, as they apply to terminals, printers, floppy disc drives and other peripherals and components which are connected to computers by cables. Part of the concern is due to the many variations and combinations of peripherals which are connected to computers. An example of this would be the automatic check out systems found in a number of grocery stores. Such systems have anywhere from 3 to 15 cash registers and are increasingly complex as the number of registers increase. Many peripherals, such as printers, are optional depending on the needs of the user. Printers may be purchased at the time the computer is bought or may be added on at a later time when the needs of the user change. To complicate matters further, the peripheral and computer manufacturers are frequently different entities. Peripherals are frequently purchased by the computer manufacturer from an Original Equipment Manufacturer (OEM) to complement his complete system. Some peripheral manufacturers only produce peripherals and nothing else. In other words, there can be a mix and match of equipment to form a particular computer system. Subassemblies represent a similar problem.[28]

72. As stated in paragraph 68 above, Mr. King expresses a concern that a manufacturer of only peripheral equipment could conceivably use the language in § 2.805 to exempt his equipment from complying with the new rules. This, he claims, would cause a problem for the retailer and end user, who would not be in a position to insure compliance. He suggested controlling the sale of peripherals by adding a new classification of computing devices along with special labelling requirements for peripherals. CDC objected to Mr. King's recommended solutions, but agreed that the Commission should clarify the rules with respect to peripherals and OEM equipment. In addition, the firm submits that:

"* * * the Commission's rules should be applied only at the end of 'packaged product' level and that it is not, or should not, be the intent of the Commission that the full technical standards apply to unpackaged component devices. This is particularly true where it can be expected that the end product can more economically provide the emission containment features. It is our understanding that compliance to FCC rules will be required only on the final equipment incorporating these subassemblies, and that the assemblies themselves will not be subject to the labelling requirements and technical standards." (CDC, *Petition* at 4).

73. In their *Opposition,* CDC goes on to state:

"* * * the interests of all parties would be best served by clearly stating in the rules, and only requiring

1) that the rules (technical standards, labelling, user information) of Part 15, Subpart J do not apply to unpackaged OEM products.

2) that end-use product incorporating unpackaged component or subassembly computing devices are subject to the rules of Part 15, Subpart J, with the unpackaged device installed in the end-use product. (CDC, *Opposition* at 3.0

74. We agree that clarification of the rules is needed for subassemblies and peripherals. The new rules for computing devices apply to the end product, with the exception of peripherals. Components and

[27] The term peripheral refers to self-contained input/output devices that feed data into a computer and/or receive data from a computer. Examples of peripherals include: terminals, printers, floppy disc drives, video monitors, keyboards as well as other input/output devices that may or may not include digital circuitry.

[28] The term subassemblies refers to components or parts that cannot stand alone and are incorporated into a complete system, e.g. memory boards, power supplies, etc.

subassemblies are, therefore, not subject to the new rules. Only the end product is required to comply as a precondition for marketing. However, the manufacturer of the complete system must take the necessary steps to insure compliance. This means, that he will have to place requirements on his component and subassembly suppliers to insure that the complete system complies with the appropriate limits.

75. We are treating self-contained peripherals different from subassemblies for two major reasons. First, the emission characteristics and, thus interference potential of a computer system is greatly affected by the number of peripherals, the interconnecting cables and handshaking that takes place between the computer and peripheral. Second, the peripheral manufacturer should share some responsibility for compliance, since it is his device that is a determining factor whether the complete system complies with the appropriate limit.

76. For the above reasons, we are requiring peripherals which are marketed as part of personal computer systems to be certificated by the Commission. Tests shall be made on the complete system to insure compliance. Peripherals which are capable of being used with a personal computer and are sold separately shall also be certificated. In this case, tests for compliance shall be made with the peripheral attached to at least one computer system in a typical configuration or an acceptable simulator. Peripherals which are sold separately must be certificated and labelled to demonstrate that they have been tested with at least one computer system and found to comply with the standards for a Class B computing device. Peripherals which are certificated as part of a personal computer system need not be individually labelled, provided the computer of the system it was tested with has a label identifying acceptable peripherals. If this treatment of peripherals is to be effective, the purchaser and user of a peripheral sold separately should be able to identify positively whether it is a Class A or Class B device. For this reason, we now require that both Class A and certificated Class B devices be labelled that they comply with technical requirements.

76(a). We have also added a definition for personal computers to circumvent possible controversy over which computers are subject to certification by the Commission. The new definition in § 15.4(q) includes most computers advertised in current hobbyist magazines that retail for less than $5000 for a single system in terms of 1980 prices. Such computers are likely to be operated in a substantial number of homes even though they may have some small business applications. Consequently, the interference potential of such a computer is high and we conclude that certification is necessary to maintain effective control.

77. Summarizing the above, the new rules do not apply to components and subassemblies. Peripherals which are designed to be part of Class A computing systems shall be labelled pursuant to § 15.816. Peripherals which are part of Class B computing systems shall be certificated and labelled pursuant to § 15.834 and § 15.836, respectively. A label will not be required for peripherals which are identified on the control unit of a complete computer system. These changes are reflected in the revised rules in Appendix B attached.

Conclusion and Summary

78. The rules adopted in this proceeding for computing devices are in Subpart J of Part 15, along with definitions in § 15.4 and marketing relaxation in § 2.805 of FCC Rules. In view of the foregoing, Subpart J of Part 15, § 15.4 and § 2.805 are revised as given in Appendix B attached. The new rules, as amended herein, should provide reasonable control of the interference potential of computing devices to radio communications, while at the same time not be unreasonably burdensome on electronic equipment manufacturers. The additional time for implementing compliance with the new rules should alleviate the manufacturers concern about a smooth and reasonable transition period. It will also allow time for the Commission to finalize the test procedures.

79. The following is a summary of the changes to Part 15 adopted herein:

(a) For the reasons given in paragraphs 10–21, the dates for complying have been rescheduled as follows:

—Electronic games and personal computers, including peripherals that attach to personal computers manufactured after January 1, 1981 shall be certificated by the Commission.

—All other computing devices first manufactured after October 1, 1981 shall be verified by the manufacturer.

—All other computing devices in production before October 1, 1981 shall comply by October 1, 1983.

(b) In the interim between January 1, 1981 and compliance with technical requirements, we are requiring labeling that will inform users of the interference potential of equipment.

(c) The definitions for computing devices and Class A and B computing devices have been revised to clarify which devices are covered by the rules and at the same time takes care of the concerns about whether a device is classified a Class A or Class B computing device. A definition for personal computers was added to clarify which computers are subject to clarification. A definition for verification by the manufacturer was also added.

(d) For the reasons given in paragraphs 52–56, test equipment, home appliances, automotive electronics and industrial control systems are encouraged to comply with the standards in Subpart J of Part 15 of FCC Rules, but it is not mandatory.

(e) A new § 2.806 replaces § 2.805(b) to permit the continuation of present marketing practices of computing devices while at the same time provide assurances that the equipment complies before it is placed in operation or the channels of distribution. A discussion of the marketing rules is provided in paragraphs 66–70, above.

80. For the reasons given in paragraphs 22–51, the Commission cannot agree with the procedural arguments presented by Atari, Inc. and Tandy Corporation. Accordingly, their requests for a new rule making for personal computers *is hereby denied.* Similarly, the Commission does not agree with Atari and AMST that the adopted standards are inadequate to protect home TV reception against interference from computers. Accordingly, for the reasons given in paragraphs 42–51, AMST's and Atari's requests to tighten the standards for Class B devices *are hereby denied.*

81. Pursuant to the authority contained in Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, it is ordered that effective May 12, 1980, Parts 2 and 15 are amended as set out in Appendix B, attached.

82. *It is further ordered,* That to the extent indicated above, the subject petitions are granted and in all other respects, denied.

83. For further information about this Order contact Art Wall, Office of Science and Technology, FCC, Washington, DC 20554, phone 202–632–7095.

(Sec. 4, 303, 48 Stat., as amended, 1066, 1082, Sec. 302, 82 Stat., 290, 47 U.S.C. 154, 302, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

I. The following parties filed Petitions for Reconsideration in Docket 20780:

Name/organization	Acronym
Ford Motor Co	Ford.
Communications Division of the Electronic Industries Association	EIA/CD
GTE Service Corp	GTE.
Control Data Corp	CDC.
Honeywell, Inc	Honeywell.
Computer and Business Equipment Manufacturers Association	CBEMA.
Apple Computer, Inc	Apple.
Tandy Corp	Tandy.
General Electric Co	GE.
Association of Maximum Service Telecasters, Inc	AMST.
Michael King	
Atari, Inc	Atari.
American Telephone and Telegraph Co	AT & T.

II. The following parties filed timely comments and/or oppositions to Petitions for Reconsideration in Docket 20780:

Name/organization	Acronym
Association of Maximum Service Telecasters, Inc	AMST.
The Computer and Business Equipment Manufacturers Association	CBEMA.
Apple Computer, Inc	Apple.
General Electric Co	GE.
Control Data Corp	CDC.
Independent Data Communications Manufacturers Association, Inc	IDCMNA.
Hewlett-Packard Co	HP.
Texas Instruments, Inc	TI.
Northern Telecom, Inc	NTI.
Honeywell, Inc	Honeywell.
Northern Telecom Systems Corp	NTSC.

III. The following parties filed Replies to Oppositions in Docket 20780:

Name/organization	Acronym
Computer and Business Equipment Manufacturers Association	CBEMA.
Apple Computer, Inc	Apple.
Association of Maximum Service Telecasters, Inc	AMST.
Ford Motor Co	Ford.

IV. The following petitions were received after the statutory 30 day filing period prescribed in 47 CFR 1.429(d) and 47 USC 405.

Name	Date received
Datapoint Corp	Jan. 8, 1980.
Toy Manufacturers of America	Feb. 27, 1980.

Appendix B

§ 2.805 [Amended]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.805(b) is deleted in its entirety and paragraph (a) is left undesignated.

2. A new § 2.806 is added to read as follows:

§ 2.806 Exemption for a computing device.

(a) Notwithstanding the provisions in § 2.805, the announcement and offer for sale of a computing device subject to the provisions in Part 15 of this Chapter which is in the conceptual developmental, design or preproduction stage is permitted prior to verification of compliance, provided the prospective buyer is advised in writing at the time of announcement or offer for sale that said equipment is subject to FCC Rules and that said equipment shall comply with the appropriate FCC Rules prior to final delivery to the buyer or to the centers of distribution.

(b) Manufacturers of Class A computing devices as defined in Part 15 of this Chapter shall have the option of insuring compliance with applicable technical specifications of this Chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the manufacturer of the equipment.

(c) Until compliance has been determined, a computing device subject to provisions in Part 15 of this Chapter may be activated or operated only for the purpose of compliance testing.

PART 15—RADIO FREQUENCY

3. Section 15.4 is amended by revising the texts of subparagraphs (n), (o), and (p) and by adding two new subparagraphs (q) and (r) to read as follows:

§ 15.4 General definitions.

* * * * *

(n) *Computing Device.* Any electronic device or system that generates and uses timing signals or pulses at a rate in excess of 10,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that utilizes digital techniques or any device or system that generates and utilizes radio frequency energy for the purpose of performing data processing functions, such as electronic computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer. Radio transmitters, receivers, industrial, scientific and medical equipment and any other radio frequency device which are specifically subject to an emanation requirement elsewhere in this Chapter are excluded from this definition.

Note.—Computer terminals and peripherals (i.e., Input/Output devices for computers) which are intended to be connected to a computer are considered computing devices. All other components or subassemblies (e.g., switching power supplies) of a computing device are not included in this definition.

(o) *Class A computing device.* A computing device that is marketed for use in a commercial, industrial or business environment; exclusive of a device which is marketed for use by the general public, or which is intended to be used in the home.

(p) *Class B computing device.* A computing device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environment. Examples of such devices include, but are not limited to, electronic games, personal computers, calculators, and similar electronic devices that are marketed for use by the general public.

Note.—A manufacturer may also qualify a device intended to be marketed in a commercial, business or industrial environment as a Class B computing device, and in fact is encouraged to do so, provided the device complies with the technical specifications for a Class B computing device. In the event that a particular type of device has been found to repeatedly cause harmful interference to radio communications, the Commission may classify such a computing device as a Class B computing device, regardless of its intended use.

(q) *Personal computer.* An electronic computer that is marketed for use in the home, notwithstanding business applications. Such computers are considered Class B computing devices. Computers which use a standard TV receiver as a display device or meet all of the following conditions are considered examples of personal computers:

—Marketed through a retail outlet or direct mail order catalog

—Notices of sale or advertisements are distributed or directed to general public or hobbyist users rather than restricted to commercial users

—Operates on a battery or 120 volt electrical supply.

If the manufacturer can demonstrate that because of price or performance the computer is not suitable for residential or hobbyist use, he may request that the computer be considered to fall outside the scope of this definition for personal computers.

(r) *Verification.* An approval procedure where the manufacturer or importer takes the necessary steps (including testing) to insure that the equipment complies with the technical provisions of this Part. The unit verified by the manufacturer or importer shall be representative of all future production units. The manufacturer or importer shall be responsible for maintaining records to show what steps were taken to insure that each device sold complies with the provisions of this Part.

4. Section 15.801 is amended by adding a new subparagraph (c) to read as follows:

§ 15.801 Scope of this subpart.

* * * * *

(c) Pending resolution of the proceeding in FCC Docket No. 20780 and related proceedings dealing with restricted radiation and computing devices, the following computing devices remain subject to § 15.803 but are exempt from complying with other requirements of this subpart.

(1) A computing device utilized in any transportation vehicle including motor vehicles and aircraft.

(2) An electronic control or power system utilized by a public utility or in an industrial plant.

(3) Industrial, commercial, and medical test equipment.

(4) Computing device utilized in an appliance, e.g. microwave oven, dishwasher, clothes dryer, etc.

Although not mandatory, it is strongly recommended that manufacturers of these devices endeavor to have such devices meet the limits herein.

5. A new § 15.805 is added to read as follows:

§ 15.805 Interim labeling and information requirements for non-complying devices.

(a) A Class A or Class B computing device manufactured after January 1, 1981, which has not been verified by the manufacturer as complying with the specifications of this Subpart shall:

(1) have permanently attached in a conspicuous location on the device for the user to observe a label with the following statements:

"This equipment has not been tested to show compliance with new FCC Rules (47 CFR Part 15) designed to limit interference to radio and TV reception. Operation of this equipment in a residential area is likely to cause unacceptable interference to radio communication requiring the operator to take whatever steps are necessary to correct the interference."

(2) have in the instruction manual for the device the following information for the user:

Warning: This equipment generates, uses, and can radiate radio frequency energy and if not installed and used in accordance with the instructions manual, may cause interference to radio communications. As temporarily permitted by regulation it has not been tested for compliance with the limits for Class A computing devices pursuant to Subpart J of Part 15 of FCC Rules, which are designed to provide reasonable protection against such interference. Operation of this equipment in a residential area is likely to cause interference in which case the user at his own expense will be required to take whatever measures may be required to correct the interference.

(b) Prior to the mandatory effective dates for complying with technical requirements, a manufacturer has the option of verifying a computing device as complying with requirements for Class A equipment and attaching the label specified in Section 15.816(a) and providing with instruction materials the information specified in 15.818, or of verifying a computing device as complying with requirements for Class B equipment and attaching the label specified in Section 15.836(c). Prior to the mandatory effective date for complying with technical requirements a manufacturer of Class B equipment may verify and label that equipment as complying with Class A requirements.

6. Section 15.812 is revised to read as follows:

§ 15.812 Class A computing device: conduction limit.

A Class A computing device which is designed to be connected to a low voltage public utility power line shall limit radio frequency voltage conducted back into the power lines to values below the levels specified in the following table when measured pursuant to the test procedures in Subpart I of this Part.

Note.—The test procedures are being proposed in a new rule making proceeding. Pending their adoption, the proposed test procedures may be used for determining compliance.

Frequency (MHz)	Maximum RF line voltage (μV)
0.45 to 1.6	1000
1.6 to 30	3000

Note.—The tighter limit shall apply at the edge between the two frequency bands. Conducted limits in the frequency range of 10 to 450 kHz are under consideration.

7. Section 15.814 is revised to read as follows:

§ 15.814 Class A computing device: verification requirement.

(a) A Class A computing device first placed in production after October 1, 1981 shall be verified for compliance with the requirements for a Class A computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter.

(b) All Class A computing devices manufactured after October 1, 1983, shall be verified for compliance with the requirements for a Class A computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter.

(c) Certification by the Commission is not required; however, the Commission reserves the right to require additional testing to verify compliance and, if necessary, to require certification by the Commission.

(d) Notwithstanding the above, in the event harmful interference is caused to radio communications, subsequently produced offending units may be required to comply with the technical specifications herein prior to the mandatory effective date.

8. Section 15.816 is revised to read as follows:

§ 15.816 Class A computing device: labelling requirement.

(a) Each computing device which has been verified as complying with the Class A limits shall have permanently attached in a conspicuous location for the user to observe a label with the following statement:

"This equipment complies with the requirements in Part 15 of FCC Rules for a Class A computing device. Operation of this equipment in a residential area may cause unacceptable interference to radio and TV reception requiring the operator to take whatever steps are necessary to correct the interference."

(b) For systems incorporating several peripherals (computer input/output devices, terminals, etc.) or computing devices, only one label on the main control unit is necessary. For a peripheral marketed separately, and verified for complying with the limits for a Class A computing device, a label with the following information shall be conspicuously located on the equipment:

"This equipment has been tested with a Class A computing device and has been found to comply with Part 15 of FCC Rules. See instruction manual. Operation in a residential area may cause unacceptable interference to radio and TV reception requiring the operator to take whatever steps are necessary to correct the interference."

9. Section 15.818 is revised to read as follows:

§ 15.818 Class A computing device: information to user.

(a) The following warning or similar statement shall be provided in a conspicuous location in the operator's manual so that the user of a Class A computing device is aware of its interference potential. Additional information about corrective measures may also be provided to the user at the manufacturer's option.

Warning.—This equipment generates, uses, and can radiate radio frequency energy and if not installed and used in accordance with the instructions manual, may cause interference to radio communications. It has been tested and found to comply with the limits for a Class A computing device pursuant to Subpart J of Part 15 of FCC Rules, which are designed to provide reasonable protection against such interference when operated in a commercial environment. Operation of this equipment in a residential area is likely to cause interference in which case the user at his own expense will be required to take whatever measures may be required to correct the interference.

(b) The instruction manual for a Class A computer peripheral which is separately marketed shall also include sufficient information to insure that the complete system is capable of complying with the requirements for a Class A computing device.

10. Section 15.832 is revised to read as follows:

§ 15.832 Class B computing device: conduction limit.

A Class B computing device that is designed to be connected to a low voltage public utility power line which is intended to feed electrical power to residential dwellings shall limit radio frequency voltage conducted back into the power lines to not more than 250 microvolts over the frequency range of 450 to 30,000 kHz, when measured pursuant to the test procedures in Subpart I of this Part.

Note.—The test procedures are under consideration in a separate proceeding. Pending their adoption, the proposed test procedure may be used.

11. The text and title of § 15.834 is revised to read as follows:

§ 15.834 Class B computing device: compliance requirement.

(a) The following Class B computing devices which are manufactured after January 1, 1981 shall be certificated by the Commission pursuant to Subpart J of Part 2 of this Chapter.

(1) Electronic games, including video coin operated games, but excluding self-contained, hand held games that do not use a TV receiver for display.

(2) Personal computers as defined in § 15.4(q) of this Part, excluding desk top and hand held calculators and digital clocks and watches.

(3) Peripherals, terminals, etc. that are capable of being attached to a personal computer.

(b) A Class B computing device, not listed in paragraph (a) of this Section and first placed into production after October 1, 1981 shall be verified for compliance with the requirements for a Class B computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter.

(c) All Class B computing devices not listed in paragraph (a) of this Section and manufactured after October 1, 1983, regardless of date of first production, shall be verified for compliance with the requirements for a Class B computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter.

(d) Notwithstanding the above, in the event harmful interference is caused to radio communications, subsequently produced offending units may be required to comply with the technical specifications herein prior to the mandatory effective date.

(e) For a Class B computing device subject only to verification, the Commission may require that manufacturer to perform additional testing and may require certification by the Commission pursuant to Subpart J of Part 2 of this Chapter, if the device has been found to cause harmful interference.

12. In Section 15.836, paragraphs (a) and (b) are amended and (c) and (d) are added to read as follows:

§ 15.836 Class B computing device: labeling requirements.

(a) A Class B computing device subject to certification by the Commission shall be identified pursuant to § 2.925 et seq of this Chapter. In addition, the label shall include the following statement:

"Certified to comply with Class B limits, Part 15 of FCC Rules. See instructions if interference to radio reception is suspected."

(b) For personal computer systems incorporating several peripherals (computer input/output devices, terminals, etc.) or other computing devices, only one label on the main control unit is required. For a peripheral certificated as complying with the Class B limits and marketed separately, a label with the following information shall be permanently attached and conspicuously located on the equipment:

"Certified to comply with the limits for a Class B computing device pursuant to Subpart J of Part 15 of FCC Rules. See instructions if interference to radio reception is suspected."

(c) For Class B computing devices subject only to verification of compliance by the manufacturer, the following or similar statement is optional:

"Complies with the limits for a Class B computing device pursuant to Subpart J of Part 15 of FCC Rules."

13. Section 15.838 is amended by adding a new paragraph (c) to read as follows:

§ 15.838 Class B computing device: information to user.

* * * * *

(c) For personal computers the following warning statement shall be conspicuously located in bold letters in the instruction manual:

"**Warning.**—This equipment has been certified to comply with the limits for a Class B computing device, pursuant to Subpart J of Part 15 of FCC Rules. Only peripherals (computer input/output devices, terminals, printers, etc.) certified to comply with the Class B limits may be attached to this computer. Operation with non-certified peripherals is likely to result in interference to radio and TV reception."

[FR Doc. 80-10689 Filed 4-8-80; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 70
Wednesday, April 9, 1980

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

Filbert Imports; Amendment to Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed amendment.

SUMMARY: This proposed amendment would make conforming changes in provisions which require that all filberts imported into the U.S. meet the same or comparable grade and size standards required of filberts grown in Oregon and Washington. The standards applicable to such domestic filberts were amended recently.

DATES: Written comments to this proposal must be received by June 16, 1980.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposal would revise the grade requirements for shelled filberts (Exhibit A § 999.400) as required by section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Section 8e of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture, pursuant to section 8c of the act (7 U.S.C. 608c), contains any terms or conditions regulating the grade, size, quality, or maturity of filberts produced in the United States, the importation of filberts into the United States shall be prohibited unless the commodity complies with the grade, size, quality and maturity provisions of the order or comparable restrictions promulgated under section 8e. Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington (hereinafter referred to as the "order"), contains terms and conditions regulating the grade and size of filberts.

Pursuant to the order, domestic shelled filberts must meet the requirements of Oregon Grade Standards for Filbert (Hazelnut) Kernels. Thus, pursuant to section 8e, these requirements also apply to imported filberts. On December 13, 1979, the Oregon standards were amended so that the total tolerance for kernels or portions of kernels which are moldy, rncid, decayed or insect injured, is one percent. Previously, that tolerance applied only to kernels or portions of kernels which were moldy, rancid, or insect injured. Decay—meaning that any portion of the kernel is decomposed—was considered one of a number of named or, in the case of decay, unnamed, defects for which there was a total tolerance of five percent. The proposal contained herein to amend the 8e requirements for imported filberts adopts the change in the standards applicable to filberts regulated under the marketing order.

This action has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant" under the Department's criteria for implementing the Executive Order. An impact analysis is available from J. S. Miller (202) 447–5053.

The proposal is to amend Exhibit A of § 999.400 as follows:

§ 999.400 [Amended]

1. In Grade Requirements for Shelled Filberts, after 3(iv) an additional reqirement is added to read as follows: "(v) Decay".

2. In (2) of Tolerances, the word "decay" is added after the word "rancidity".

3. In Definitions under heading "Serious Damage" paragraph "(d)" is relettered as "(e)" and a new paragraph "(d)" is added to read as follows:

(d) "Decay" means that any portion of the kernel is decomposed.

Dated: April 4, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80–10705 Filed 4–8–80; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1036

[Docket No. AO–179—A44]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the date for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. A handler in this market requested additional time to complete an analysis of the decision.

DATES: Exceptions are now due on or before April 18, 1980.

ADDRESS: Exceptions should be filed with Hearing Clerk, room 1077, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued July 20, 1979; published July 26, 1979 (44 FR 43735). Recommended Decision issued March 14, 1980; published March 20, 1980 (45 FR 18013).

Notice is hereby given that the time for filing exceptions to the above listed recommended decison concerning proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania

marketing area is hereby extended to April 18, 1980.

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

Signed at Washington, DC, on April 4, 1980.

Irving W. Thomas,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-10765 Filed 4-8-80; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

Licensing and Regulatory Policy and Procedures for Environmental Protection; Alternative Site Reviews

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulation in 10 CFR Part 51 to provide procedures and performance criteria for the review of alternative sites for nuclear power plants under the National Environmental Policy Act of 1969 (NEPA). The proposed rule provides for (a) information requirements for applying for an alternative site review by the Commission, (b) timing of Commission review, (c) region of interest to be considered in selecting sites, (d) criteria for the selection of sites, (e) criteria for comparing a proposed site with alternative sites, and (f) requirements for reopening an alternative site decision. It is also proposed that minor amendments be made to 10 CFR Part 2 and 10 CFR Part 50 to reflect the provisions of the proposed rule. Public comment is requested on the proposed rule, on whether safety matters including emergency response capability should be admitted as issues in alternative site reviews, and on the value/impact statement supporting the proposed rule.

DATES: Comments are due on or before June 9, 1980.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Single copies of the value/impact statement may be obtained on request from the Director, Division of Technical Information and Document Control. Copies of the value/impact statement may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry R. Kline, Environmental Engineering Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-8251.

SUPPLEMENTARY INFORMATION:

I. Foreword

NEPA and NRC's environmental regulations in 10 CFR Part 51 have many provisions that shape the NRC's environmental reviews for nuclear power plants, but the basic underlying aspect is the consideration of alternatives. There are four distinct and different areas of NRC decisionmaking that involve alternatives, as described below:

1. One decision that must be made is whether additional baseload generating capacity need be provided. In other words, NRC considered the "no action" alternative, which includes consideration of conservation of energy.

2. A second decision that must be made by the NRC is whether nuclear fueled generation is an acceptable choice or whether other types of energy sources, e.g., coal, are superior.

3. A third NRC decision is whether the proposed site is acceptable. This particular decision involves the consideration of alternative sites; consideration of reasonable major mitigation measures that might be employed to make environmental impact acceptable at the candidate sites, such as the type of cooling system that should be employed at a particular site; and consideration of the costs of such major mitigation measures, as well as any major costs that might be required to make the site acceptable from a safety standpoint.

4. A fourth type of decision that is made involves whether other types of mitigation measures are warranted that normally would be of little importance to site selection, but may still be important from the standpoint of minimizing, to the extent reasonable, any residual adverse environmental impact that likely might be incurred during the construction or operation of the plant.

The proposed rulemaking focuses on the third type of NRC's environmental decisions—i.e., the question of alternative sites.

The NRC has considered the question of alternative sites in all of its NEPA reviews of applications to construct and operate nuclear power plants. As in most situations, however, the type and nature of the review has evolved over the years. Until recently, the NRC's review of the alternative site question has focused primarily on the qualities of the proposed site; i.e., a review that focuses on the "products" of an applicant's site selection process. The NRC typically did not initiate an extensive review of the applicant's site selection process and alternative site unless substantial inferior qualities were identified at the applicant's proposed site. However, the NRC has recently and dramatically expanded its review of the applicant's site selection process and procedures, as well as its review of the scope and depth of the detailed investigation of alternative sites.

The NRC believes that the experience gained in past and recent reviews of nuclear power plant sites should permit codification of the lessons learned into an intelligible, intelligent, and environmentally sensitive rule that governs the NRC review of alternative sites. While it is true that many of the issues that would be addressed by a rule on alternative site reviews could also be addressed more informally by issuance of regulatory guides and standard review plans and litigated in individual cases, some issues, particularly issues relating to notice and timing of public participation, can only be adequately addressed by rule. In addition, a comprehensive rule addressing review of alternative sites will promote public understanding of and participation in the NRC review of alternative sites. The proposed rule would:

1. Provide for more effective public participation by implementing procedural changes that: (a) require early notification of the public of an applicant's choice of a proposed site and its alternatives; (b) permit an early review of the alternative site question apart from other early site review issues; and (c) provide explicitly for consideration of candidate sites proposed by other parties that meet certain criteria and are proposed in a timely fashion.

2. Provide for greater predictability in the licensing process by (a) prescribing criteria for determining when a region of interest of sufficient size has been considered; (b) prescribing criteria for judging whether candidate sites are among the best that could reasonably be found; (c) prescribing the basic standards for comparing the proposed site to the alternative cites; and (d)

providing criteria for reopening the alternative site question after a previous NRC decision has been rendered on this subject.

The basic forces motivating the development of the proposed rulemaking are:

1. The necessity to protect the environment from unduly adverse environmental impacts, recognizing that the siting of a large, nuclear generating facility will result in some adverse impact regardless of where it is sited. Unduly adverse environmental impacts are an undersirable cost to society.

2. The realization that (a) reasonable bounds may be placed on the search for alternative sites without compromising environmental protection, and (b) the NRC's informational needs require the applicant to make a significant commitment of resources at the proposed site. As a general matter these costs are ultimately borne by the ratepayer and the taxpayer.

3. The fact that it is in the public interest to attempt to develop written, understandable NRC review and decisional criteria that provide for the necessary protection of important environmental qualities; i.e., criteria that are sensitive to the factors that would significantly and adversely impact the environment, yet still reasonably bound the consideration of alternatives to permit a rational and timely decision about the sufficiency of analysis.

Considering the above points, it should be noted that the proposed rule is environmentally based, but it does provide for other considerations (such as cost) to bound in a reasonable manner the search for candidate sites. The NRC fully realizes that an applicant does consider other factors in its site selection process. These factors are important to the applicant because they affect the economics and technical merits of the project and because many of these parameters affect reactor safety and thus must be reviewed and found acceptable by the NRC during the safety review process. The NRC sees no basic incompatibility between the environmentally-based rule proposed here and the fact that the applicant must realistically consider other, equally important, parameters in its formulation of a reasonable and effective site selection process. Also, it should be noted that the proposed rule (Section VI.2.b.(7)) includes threshold population criteria that are the same as the numerical values for population density contained in Regulatory Guide 4.7, "General Site Suitability Criteria for Nuclear Power Stations." This is reflective of past staff practice. However, these criteria may be changed in accordance with an ongoing Commission review of siting policy which will be the subject of an advance notice of rulemaking in the immediate future.

To assist in the Commission's consideration of this question on population and related questions and as part of this proposed rulemaking on alternative sites, public comment is requested at this time on whether safety issues, including emergency response capability, should be admitted in the review and decisionmaking on alternative sites; and if so, how. At least two alternatives exist with regard to this question:

1. Establish, in a public rulemaking, exclusionary safety standards that must be met in order to have an acceptable site. Safety issues would not be considered in subsequent review of alternative sites, since such standards would be set sufficiently conservative that the residual radiological risk to the environment would be small and would be sufficiently similar to the residual risk at other reasonable sites in the region that an obviously superior alternative would likely not exist; i.e., these differences in residual radiological impacts would not weigh heavily in a NEPA-type cost-benefit balance. Such acceptance standards might include, for example, reasonable limits on population density, distances to towns and cities, distances to airports and other manmade hazards, and distances to capable faults.

2. Establish, in a public rulemaking, exclusionary safety standards that must be met, but also provide for inclusion of these safety issues in the consideration of alternative sites even when the sites meet these criteria. Such criteria may or may not be the same numerically as those addressed in 1 above. The rationale of this alternative rests on the view that even when a safety-related characteristic (e.g., population density) does not render a site unacceptable in any absolute sense, it may nevertheless involve sufficient residual risk to justify attempts to do better. The alternative sites evaluation process is suited to a determination of how well one can reasonably do in the particular area under consideration, since the process would illuminate specific alternatives. As an option, a second set of more conservative criteria might also be established which, if met, would not require that safety issue to be included in the consideration of alternative sites.

With respect to population density, alternative 1 above would seek to obtain a similar result as alternative 2, i.e., acceptance thresholds, set in light of population density and distribution.

The NRC realizes that implementation will not, and should not, remove the controversy over the question of alternative sites. The question rightfully is a controversial one that elicits high public interest. The purpose of the rule is not to eliminate this controversy, but to focus it on factors of critical importance to the protection of the environment.

II. Background

NEPA requires the study and development of alternatives to any major Federal action that would significantly affect the quality of the human environment. The procedure for doing this must be an integral part of the planning and decisionmaking processes of Federal agencies. 10 CFR Part 51 establishes the NRC's licensing and regulatory policy and procedures under NEPA and requires that each applicant for a permit to construct a nuclear power plant discuss in an Environmental Report "Appropriate Alternatives" to the proposed facility. Among the primary alternatives to be considered, once the need for a nuclear facility has been established, are alternative sites for the facility.

The assessment of alternative sites for proposed nuclear power plants is a complex and difficult task, for the applicant, the NRC staff, and all parties in the process. Issues related to alternative siting have been a major source of controversy in a number of cases involving construction permits for nuclear power plants. The NRC has observed that there are some recurring issues at the heart of the controversy. The Commission believes that these recurring issues can and should be resolved on a generic basis.

An NRC study group seeking to identify ways to improve the effectiveness of NRC nuclear power plant licensing procedures recommended in June 1977 (see NUREG–0292, "Nuclear Power Plant Licensing: Opportunities for Improvement") that, among other measures, rulemaking should be considered for the generic resolution of certain issues presently litigated in individual licensing proceedings. An interim policy statement on generic rulemaking was published in the Federal Register on December 14, 1978, with a 90-day period for public comment ending on March 12, 1979. Additional technical detail on the ten issues identified by the staff for possible rulemaking was provided in NUREG–0499, "Preliminary Statement on General Policy for Rulemaking to Improve Nuclear Power Plant Licensing."

One of the ten issues proposed by the staff for consideration in generic rulemaking was alternative siting methodology and information requirements. Recognizing the need for further clarification of this issue, the staff issued Supplement No. 1 to NUREG–0499, a staff report entitled "General Considerations and Issues of Significance on the Evaluation of Alternative Sites for Nuclear Generating Stations Under NEPA." The major purpose of the report was to provide additional information to members of the public, industry, and other governmental agencies who intended to comment by March 12, 1979, on issues of alternative siting.

In addition, the NRC conducted a workshop to actively seek out comments on the alternative sites issue. This workshop provided invited representatives from industry, State and Federal government, public interest groups, and others the opportunity to scrutinize and comment on the NRC staff's most recent thinking on the issue of alternative sites.

Comments and feedback received from the workshop participants and observers, and those received from the public review of Supplement 1 to NUREG–0499, have been considered in the development of the proposed rule on alternative sites.

This proposed rule sets forth the resultant NRC policy regarding the evaluation of alternative sites for nuclear power plants under NEPA. The proposed rule is intended to (1) fulfill the NEPA objectives of ensuring that environmental factors have been fully considered in NRC decisionmaking; (2) reduce uncertainty and delay in the decisionmaking process; (3) reduce Federal paperwork in NEPA statements; and (4) limit alternative site review to relevant and material issues. The basic objective of this rule is to provide for a meaningful, rationale, understandable, and stable NRC review and decisionmaking process that will both reasonably protect environmental values and yield a timely decision.

The intent of this proposed rule is to establish procedural and performance criteria for the identification and evaluation of alternative sites for nuclear power plants. Controversy with regard to the issue of alternative sites will not and should not be eliminated. This proposed rule will, however, focus the controversy on whether criteria important to environmental protection have indeed been met.

The NRC has considered the values and impacts of rulemaking and of alternative actions. These considerations have been put forth by the Commission's staff in a value/impact statement.

III. The Role of NRC and Others in the Considerations of Alternative Sites

The NRC has the statutory responsibility to review applications for the construction and operation of nuclear power plants. It must assure the accuracy and relevance of environmental information, perform the environmental analyses, and make the decision to accept or reject a site. In carrying out its responsibilities, the NRC does not select sites or participate with the applicant in selecting a proposed site. However, the NRC is the lead Federal agency under NEPA for carrying out the NEPA mandate that alternative sites be considered in connection with nuclear power plant licensing.

The NRC may give appropriate deference to other Federal agency expertise in the assessment of certain impact, e.g., U.S. Environmental Protection Agency expertise in evaluating aquatic impacts. The Commission has also stated that "the fact that competent and responsible State authority has approved the environmental acceptability of a site or project after extensive and thorough environmentally sensitive hearings is properly entitled to 'substantial weight' in the conduct of our own NEPA analysis." Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 & 2), 5 NRC 503 at 527 (1977). Additionally, consideration is given to other information developed by State, regional, and local agencies (such as land or water use plans).

The proposed rulemaking represents no change in the above stated present practice.

IV. The Proposed Rule

A rule must address those elements of the alternative siting process that are generic in nature and likely to recur in all or many of the cases likely to be encountered. In formulating the proposed rule, the staff identified six major issues associated with alternative site consideration. These are (1) information requirements, (2) timing, (3) region of interest, (4) selection of candidate sites, (5) comparison of the proposed site with the alternative sites, and (6) reopening of the alternative sites decision.

The following sections provide a statement of each element of the proposed rule, describe its relation to present practice, and discuss the need for the rule and rationale for each element of the rule. The elements of the rule are organized to reflect the logic and chronology of a normal NRC review of alternative sites in response to an actual submittal for such a review.

A. Information Requirements

A–1. Notice of Intent

1. *Statement of Rule.* An applicant is to provide the NRC staff with a notice of intent to tender an application for a construction permit (CP) for a nuclear power plant either at least three months before tendering of a CP application requesting an early review of the alternative sites issue (pursuant to § 2.101 and subpart F of 10 CFR Part 2) or 3 months prior to beginning the detailed studies on the proposed site, whichever comes first. The notice of intent will identify the location, cooling water sources, and physiographic unit of the proposed and alternative sites, as well as describe the anticipated generating capacity, the number of generating units, and the types of condenser cooling systems that would be used.

2. *Relationship to Present Practice.* Present NRC rules do not require submittal of such a notice, and present practice does not yield the information on cooling systems or alternative sites at the times specified.

3. *Need for Action.* Early public notification is needed to allow the public to become aware of the project, to identify their concerns and to express those concerns in advance of significant financial commitments by the applicant and at a time when due consideration of their concerns would not result in unacceptable schedule delays.

4. *Rationale and Discussion.* After receiving a notice of intent as required by the rule, NRC would publish the information received in the Federal Register and in newspapers local to the sites identified. This would assure that potential public participants have sufficient time prior to the NRC review to prepare meaningful information to be considered early in the licensing process. This provision is in direct response to a recommendation from several workshop participants.

For situations where, on the effective date of this rule, a future applicant has already begun or is about to begin detailed, long-term investigations on a site likely to be proposed subsequently to the NRC as a site for a nuclear power plant, such a future applicant must provide a notice of intent within three months following the effective date of this rule.

A.2. Reconnaissance Level Information

1. *Statement of Rule.* Reconnaissance level information, i.e., information or analyses that can be retrieved or

generated without the performance of new, comprehensive site-specific investigations, is normally adequate as a basis for identifying candidate sites and for selecting a proposed site.

Analysis of the slate of candidate sites may address other aspects of siting that are important to the applicant's decision, but must address the following subjects that are important to the NEPA reviews: hydrology, water quality and availability, aquatic and terrestrial biological resources, land use, transmission requirements, socioeconomics, population distribution and density, facility costs, institutional constraints, and public concerns where such have been provided to the applicant or NRC in writing.

2. *Relationship to Present Practice.* Present practice is that the analysis of alternative sites is normally based upon readily available, reconnaissance level information such as provided by scientific literature, reports of government and private research agencies, consultation with experts, and brief field investigations. The scope of depth of the data and analysis required are matched to the importance of possible impacts and the degree of certainty regarding their magnitude. In some cases, detailed investigations related to specific issues may be required.

While detailed site-specific baseline studies on the proposed site are required to support the remainder of the NRC's environmental review, these data normally add little to NRC's determinations regarding alternative sites. These detailed studies principally serve as a basis for decision-making regarding mitigative measures to reduce (on a practicable basis) any residual adverse environmental impacts. However, they also serve a secondary purpose in that they confirm judgments on likely adverse environmental impacts that are made using reconnaissance level data. On occasion these studies may not confirm such judgments, but may lead to a finding that the proposed site is unacceptable.

The proposed rule on reconnaissance level information represents no change in the above stated practice.

3. *Need for Action.* Present practice is sufficiently well established through licensing experience to permit rulemaking on information requirements for alternative site analysis.

4. *Rationale and Discussion.* The rationale for the rule on reconnaissance level information proceeds from the premise that major adverse environmental impacts can normally be identified using this type of information. Therefore, the added costs of requiring detailed site-specific investigations and analyses on all candidate sites normally would not be justified with respect to any marginal improvement in environmental protection. There was substantial discussion during the workshop on the applicability of reconnaissance level information to alternative site analyses. Many workshop participants emphasized that the term "reconnaissance level information" should not be interpreted to mean the reliance on limited data and subsequent superficial analyses. Such an interpretation is not intended, thus the proposed rule has been drafted to ensure that this misinterpretation will not occur.

B. Timing

1. *Statement of Rule.* Under the proposed rule an applicant may submit the proposed and alternative sites for NRC evaluation as part of a full construction permit review either early and separate from the review of plant design (an early site review) or in conjunction with the review of plant design. An early site review (ESR) of alternative sites may be in conjunction with or separate from consideration of other ESR issues. The applicant may later submit other siting issues for an early site review during the effective period of the early alternative sites partial decision.

2. *Relationship to Present Practice.* In the past, the NRC's review of alternative sites has generally occurred concurrently with the review of all other environmental issues and at the same time as the CP safety review of facility design. However, NRC regulations do provide for a single optional early site review, which may include any issues involving environmental impact or site safety that the applicant desires to address at a proposed site. While the applicant must describe the site selection process in an early site review, the review of specific alternative sites need not be addressed unless it is believed by the NRC that the consideration of other issues could prejudice the full consideration of alternative sites at a later time.

The proposed rule on timing represents a change in the above stated practice in that early review of the full question of alternative sites would be permitted in advance of the other early site review issues, and a subsequent early review would be allowed to consider the detailed baseline studies at the proposed site.

3. *Need for Action.* The option for early review of alternative sites is needed to permit a full consideration before the applicant commits substantial resources to the proposed site. If a favorable decision is made on the alternative site question, the applicant could then commit the funds necessary to perform early site-specific studies of environmental and safety matters with a greater degree of confidence that the proposed site will not subsequently be rejected in favor of an alternative.

4. *Rationale and Discussion.* A two-stage early site review process is permitted to provide incentive for an early review of the alternative site question. In this way an early decision could be arrived at on alternative sites, after which the applicant could expend the necessary resources for detailed site-specific studies and apply at a later date for the remainder of a full early site review. Thus, less of the applicant's resources would be placed at risk prior to an NRC decision on alternative sites, and yet the applicant and the public would ultimately be able to achieve all of the ultimate benefits of an early site review.

All reviews and decisions would still be performed within the effective period for the early site review decision. All that would be added would be the opportunity to receive a regulatory decision on the question of alternative sites shortly after the applicant has decided upon the proposed site, but prior to the commitment of substantial funds at that proposed site.

C. Region of Interest

1. *Statement of Rule.* The initial geographic area for determining the region of interest for NRC regulatory review purposes may be either the State in which the proposed site is located or the service areas of the applicant. The actual region of interest must be larger in accordance with Section V.3 of the rule, or may be smaller in accordance with Section V.2 of the rule, depending on the environmental diversity, institutional factors, and cost considerations set forth in those sections.

For the purpose of determining the region of interest, environmental diversity refers to the types of water bodies available within the region (upper or lower reaches of large rivers, small rivers, lakes, bays, and oceans) and the associated physiographic units.

2. *Relationship to Present Practice.* Past practice has normally been to accept the applicant's proposed region of interest which commonly is the applicant's service areas. However, the region of interest has been smaller in some situations, and in other situations an expansion of the proposed region of interest has been required. This rule preserves that practice, but it adds

specific criteria for expansion or contraction of the initial geographic area in determining the region of interest.

3. *Need for Action.* The basic forces motivating the development of this rule are:

a. The necessity to protect the environment from unduly adverse environmental impacts by providing an adequate choice of candidate sites representing reasonable environmental alternatives, and

b. The realization that reasonable bounds may be placed on the search for alternative sites without compromising environmental protection.

4. *Rationale and Discussion.* The use of service areas coupled with performance criteria for expansion or contraction is judged to be sufficient to provide a substantial range of environmental alternatives from which to choose in making the final siting decision. Unlimited expansion of the areas to be searched likely would not yield significant additional new alternatives for limiting of environmental impacts that would already be present in a reasonably bounded area. As a practical matter, utilities may initiate their searches within their service areas. In many cases this will lead to the identification of the required diversity of resources. Where service areas are small, the requirement could cause an expansion that would extend the region of interest beyond the service area boundaries. However, in very large service areas, the required diversity might be found without exploring the entire service area.

The requirements may impose a need for large regions of interest in water limited areas, particularly in the western regions of the nation. The rule is intended to ensure in all cases that all reasonable alternatives have been considered. The analysis of remote alternatives need be carried only as far as necessary to demonstrate the reasons (which include costs) for not considering them further.

The rule is intended to apply to utilities having well defined service areas as well as those that do not. In situations where the State is asking the review of the alternative sites issue or where the service areas of the applicant are not defined, the State in which the proposed site is located would be the starting point for determining the region of interest.

When considering water sources that would provide adequate water availability, the staff intends that the characteristics of the terrestrial watershed (i.e., the physiographic characteristics) also be included and considered. Under this concept, a river having adequate water for a nuclear power plant but that flows through a dedicated terrestrial area such as a national park or national forest might not qualify as an acceptable resource. It is permissible, however, to designate portions of a watershed for possible siting while excluding other portions of the same watershed.

Different portions of a watershed or coastal zone may be considered to be different physiographic units, if the environmental impacts of siting in these areas would be clearly different from one another. For example, the "head waters" region of a river watershed would be designated as a physiographic unit separate from the estuarine region of the same watershed, since the impacts on fisheries and other aspects of the environment would be clearly different in the two areas. The rule is not intended to compel the consideration of water bodies that are in similar physiographic settings, since that would not add significantly to the range of environmental choice.

In emphasizing the terrestrial components the staff intends that the search for sites should not be confined to land areas immediately adjacent to water bodies but should be expanded to include a reasonable corridor of search around the water body. Siting up to several miles from a suitable water body may be desirable to avoid land use conflicts that are often found adjacent to water bodies.

The workshop participants unanimously supported the concepts of (1) environmental diversity as a determinant in bounding the region of interest, and (2) water being the principal regional determinant of environmental diversity.

D. Selection of Candidate Sites

1. *Statement of Rule.* An applicant may submit a slate of candidate sites based on either (1) a demonstration (according to criteria for site selection procedures set forth in the rule) that the site selection methodology is a reasonable, environmentally sensitive site screening process that provides a diligent search for sites that are among the best that could reasonably be found, or (2) a demonstration that the slate of candidate sites meets the prescribed environmentally sensitive threshold criteria (set forth in the rule) and are therefore among the best that could reasonably be found. The rule states that a slate of candidate sites should contain at least four sites. The rule also provides criteria for acceptance of candidate sites proposed by any party to the proceeding.

2. *Relationship to Present Practice.* Present practice is to make a determination that candidate sites identified by the applicant are "among the best that reasonably could have been found." Until recently, the NRC's review has focused primarily on the qualities of the proposed site (a product-oriented review). However, recently the NRC has expanded its review and the staff presently reviews the demonstration of this "among the best" standard by focusing on the adequacy of the applicant's site selection procedure (a process-oriented review). The rule preserves the advantages of both the process-oriented and product-oriented approaches. The rule adds criteria for implementing an adequate site selection process demonstration and evaluation, and provides the option for a product-oriented review by specifying threshold criteria for evaluating the slate of candidate sites. Most of the workshop participants believed that the applicants should be given the option to seek either a process-oriented or a product-oriented review of the slate of candidate sites.

3. *Need for Action.* The process-oriented approach codifies the elements that govern NRC reviews of the site selection process and provides guidance for the applicant's management of that site selection process. The product-oriented approach emphasizes the environmental merits of the candidate sites rather than the process that yielded these sites, and will likely be a more environmentally sensitive approach.

4. *Rationale and discussion.* The rationale for codifying the process-oriented approach is to provide guidance to all parties regarding the elements that govern NRC reviews of that process. The general rationale for the product-oriented approach is that candidate sites that pass all of the proposed threshold standards would be unlikely to have substantial, unidentified, adverse environmental impacts. Therefore, the resulting slate of candidate sites likely would be of comparable environmental quality and should be environmentally acceptable to the NRC. While there could be a situation where the proposed site could be marginal with respect to several of the thresholds and thus might be inferior on a cumlative impact basis, it would be unlikely that all the candidate sites would be similarly inferior. Thus the proposed site's inferiority would be clearly displayed in the subsequent detailed comparison with the other candidate sites.

The rule provides that the slate of candidates sites should contain at least four sites. The reason for this is to

ensure that even in regions of little diversity, there is some choice among the sites in the slate. For more diverse regions the criteria controlling how many sites would be necessary are oriented towards the diversity of environmental qualities presented, so as to give a meaningful environmental comparison of alternatives. The candidate sites would be required to be reasonably representative of all of the major diverse environmental qualities present in the region of interest, as follows:

a. Major types of water sources.

b. Major physiographic units.

c. Consideration of sites of existing electric generating facilities as well as new sites.

As an example of acceptable diversity, if a new site on a lake in a woodland area was already identified as a candidate site, a woodland site on another lake within the region of interest would not be required, unless that site also hosts an existing electric generating facility.

One of the positions adopted by the public workshop on alternative sites is that public participation in the siting process would be enhanced if parties other than the applicant were permitted to propose additional candidate sites for consideration, but that the criteria proposed for acceptance of such sites should be no more stringent than those which the applicant's sites must meet. Criteria are proposed for the acceptance of such a site that are essentially the same criteria that the applicant's sites must meet in establishing the original slate of candiates.

In addition, the proposed rule imposes time limits for proposing additional candidate sites. The time limits are a key element in achieving a timely evaluation of the alternative sites issue and, except upon a substantial showing of good cause, will not be extended.

E. Comparison of the Proposed Site With Alternative Sites

1. *Statement of Rule.* A proposed site that comes from a slate of candidate sites that are among the best that could reasonably be found will not be rejected by the NRC on the basis of the alternative site review unless a comparison with the alternative sites results in a determination that an obviously superior alternative exists. There will be a two-part, sequential test for obvious superiority. The first stage of the test will be to determine whether there is an environmentally preferred site. The second stage of the test will consider economics, technology, and institutional factors to determine whether any environmentally preferred site is obviously superior to the proposed site.

2. *Relationship to Present Practice.* Present staff practice does consider the range of factors that would be addressed by the proposed rule.

3. *Need for Action.* This proposed element of the rule will provide a more stable structure for the procedural aspects of how environmental factors should receive consideration and how these factors should be balanced with non-environmental factors to determine obvious superiority.

4. *Rationale and Discussion.* The criteria for testing the proposed site against the alternative sites comes from past practice, as reflected in individual nuclear power plant licensing reviews.

F. Reopening of the Alternative Site Decision

1. *Statement of Rule.* a. A reopening and reconsideration of the alternative site decision after a final limited work authorization or construction permit decision will be permitted only upon a reasonable showing that there exists significant new information that could substantially affect the earlier decision. Any decision to reconsider the alternative sites decision or not in these instances will consider the reasonable costs of delay and of moving to another site compared with the adverse environmental impacts that might be avoided by moving to another site.

b. For cases where the portion of the construction permit application containing facility design is filed three years or more after the effective date of this rule and where an application for an early review of alternative sites was tendered at least two and a half years prior to filing the portion of the CP application containing detailed facility design information, any reconsideration of the alternative site decision will be permitted only upon a reasonable showing that there exists significant new information that could substantially affect the earlier decision, even when allowance is made for reasonable costs of delay and of moving to another site. If such an application was not made at least two and a half years prior to filing such portion of the CP application, costs of delay and of moving to another site will not be considered in any decision to reconsider the alternative site decision or not, or in any resulting decision that there is or is not an obviously superior site.

c. If two sites are reasonably within a region of interest for a nuclear power plant site and both sites have received an affirmative NRC partial decision in an early review of alternative sites, an applicant may choose either site for an application to construct a specific nuclear power plant without reviewing the alternative site question, except on the basis of new information, as provided above.

2. *Relationship to Present Practice.* The proposed rule is generally consistent with present criteria regarding treatment of new information under the early-site-review rule, and would result in consistent criteria for the treatment of new information regarding alternative sites at the construction permit and operating license stages.

The treatment of forward costs associated with moving to another site (including costs of delay) prescribed in this element of the proposed rule would generally codify a practice that has evolved, except that it would preclude the consideration of costs of moving to another site if the applicant did not seek an early resolution of the alternative site question.

3. *Need for Action.* This proposed element of the rule will provide for consistent treatment of new information regarding alternative sites througout the licensing process.

4. *Rationale and Discussion.* The rationale for this element of the proposed rule is that after a decision has been reached regarding the alternative site question, during either an early site review or a CP review, the applicant (or licensee) will logically begin committing greater resources to that site. While such commitments are clearly at the applicant's risk, it is logical to allow the inclusion of such costs in any subsequent cost-benefit analyses, since such investments would have been made by the applicant in good faith.

Therefore, while it is possible that a reversal of the previous decision could be made based on new information (which is a risk the applicant or licensee must run), any reconsideration of the question of alternative sites and the cost-benefit analysis supporting any reversed decision should normally permit the full accounting of all reasonable forward costs to develop the new site (including costs of delay) compared to the reasonable forward costs of completing the project at the previously approved site.

At some point after issuance of the CP, the alternative of siting the nuclear power plant elsewhere likely will no longer be a reasonable alternative for the purposes of NEPA. That is, there is a point where comparative forward costs and the temporal proximity to the provision of needed (or desirably substitutable) power so favor the partially constructed site that, there likely is no real possibility that the nonsafety-related considerations at an

alternative site would be obviously superior to the proposed site. At that point, the reconsideration of alternative sites likely would not be required, unless the proposed site has been judged unsuitable for some safety or environmental reason.

Forward costs also could become substantial after an early site review decision, particularly as the time for a CP decision approaches. This means that a reevaluation of alternative sites after an early site review decision likely would not be justified on the basis of a full cost-benefit analysis unless there is, for example, a determination that the actual use of the site (rating and number of units) would be greater than had been evaluated earlier, or that firm and major changes in land or water use or changes in legal requirements involving the protection of species or resources have occurred since the previous evaluation. It is unlikely that changes in the prediction of environmental impacts would be so great as to warrant a re-review of the alternative sites decision on that basis alone.

The rationale for the third criterion of this portion of the proposed rule is that if two sites in the same general region of interest had been evaluated in separate reviews and neither had been found to have an obviously superior alternative, than it is likely that neither would be obviously superior to the other.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 2, 10 CFR Part 50, and 10 CFR Part 51 is comtemplated. All interested persons who desire to submit written comments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, Washington, D.C. 20555 by June 9, 1980. Copies of comments received will be available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

§ 2.603 [Amended]

1. It is proposed that § 2.603(a) be amended by adding at the end thereof the following:

(a) * * * Where an applicant has failed to file the notice of intent required by Appendix A of 10 CFR Part 51, the application shall be docketed in accordance with the provisions of that appendix.

§ 2.605 [Amended]

2. It is proposed that § 2.605(a) be amended by adding at the end thereof the following:

(a) * * * Where an application has been filed pursuant to Appendix A of 10 CFR Part 51 for an early alternative site evaluation separate from other early site review issues, the alternative site evaluation shall not be considered a review for purposes of this one review limitation.

Appendix Q [Amended]

3. It is proposed that the numbered paragraph 1. of Appendix Q of 10 CFR Part 50 be amended by inserting between the first and second sentence thereof the following:

"As a part of an early site review, either in conjunction with or separate from the consideration of other early site review issues, a person may submit a request for a review of the alternative site issue and for issuance of a Staff Site Report concluding that there is no obviously superior alternative to the proposed site. If the person requests an early alternative site review separate from the consideration of other early site review issues, the person may later submit other siting issues for an early site review during the effective period of the Staff Site Report on the alternative site issue, provided that any later early site review of other issues shall remain in effect only so long as the initial Staff Site Report on alternative sites remains effective."

4. It is proposed that the numbered paragraph 3. of Appendix Q of 10 CFR Part 50 be amended by adding at the end thereof the following:

"Where a person has failed to file the notice of intent required by Appendix A of 10 CFR Part 51, the request for review shall be acted upon in accordance with the provisions of that appendix."

5. It is proposed that the numbered paragraph 5 of Appendix Q of 10 CFR Part 50 be amended by deleting the last sentence thereof and substituting the following:

"The conclusions of the Staff Site Report will be reexamined by the staff where five years or more have elapsed between the issuance of the first Staff Site Report and its incorporation by reference in a construction permit application."

6. It is proposed that the first sentence of the numbered paragraph 7. of Appendix Q of 10 CFR Part 50 be amended by adding at the end thereof the following:

"However, if a person, pursuant to Appendix A of 10 CFR Part 51, has submitted a request for an early alternative site review separate from other early site review issues, the alternative site review shall not be considered a review for purposes of this one review limitation."

7. It is proposed that a new Appendix A be added to 10 CFR Part 51 to read as follows:

Appendix A.—Evaluation of Alternative Sites for Nuclear Power Plants

I. Introduction and Scope

This appendix sets forth procedures and performance criteria for the review of alternative sites for nuclear power plants under NEPA. Specifically, this appendix provides for (a) information requirements for applying for an alternative site review by the Commission, (b) timing of Commission review, (c) region of interest to be considered in selecting sites, (d) criteria for the selection of sites, (e) criteria for comparing a proposed site with alternative sites, and (f) requirements for reopening an alternative site decision.

The basic objectives of this appendix are:

1. To provide for more effective public participation by implementing procedural changes that (a) require early notification of the public as to an applicant's choice of a proposed site and its alternatives, (b) permit an early review of the alternative site question apart from other early site review issues, and (c) provide explicitly for consideration of candidate sites proposed by other parties that meet certain criteria and are proposed in a timely fashion; and

2. To provide for greater predictability in the licensing process by codification of present practice that (a) prescribes criteria for determining when a region of interest of sufficient size has been considered, (b) prescribes criteria for judging whether candidate sites are among the best that could reasonably be found, (c) prescribes the basic standards for comparing the proposed site to the alternatives sites, and (d) provides criteria for reopening the alternative site question after a previous NRC decision has been rendered on this subject.

The nuclear power plants referred to in this appendix are those facilities which are subject to § 51.5(a) of this chapter and are of the type specified in § 50.21(b)(2) or (3) or § 50.22 or are testing facilities. The submittal for review and evaluation of alternative sites shall be made in the same manner and in the same number of copies as provided in § 50.30(a), (c)(1), and (c)(3) for license applications.

II. Definitions

As used in this appendix,

1. "Region of interest" means the geographic areas considered in searching for candidate sites.

2. "Candidate sites" means those sites that are within the region of interest and are considered in the comparative evaluation of sites for a nuclear power plant and are judged to be among the best that can reasonably be found for the siting of a nuclear power plant.

3. "Proposed site" means the candidate site submitted to the NRC by the applicant, or a person requesting an early review pursuant to Appendix Q of 10 CFR Part 50, as the proposed location for a nuclear power plant.

4. "Alternative sites" means those candidate sites which are specifically compared to the proposed site to determine

whether there is an obviously superior alternative site.

5. "Slate of candidate sites" means the group of candidate sites comprised of the proposed site and all alternative sites.

6. "Environmentally preferred alternative site" means an alternative site for which the environmental impacts are sufficiently less adverse than for the proposed site that environmental preference for the alternative site can be established.

7. "Site" means the geographic area needed for the construction and operation of a nuclear power plant, including the associated transmission corridors to the first intertie.

8. "Reconnaissance level information" means any information or analyses that can be retrieved or generated without the performance of new, comprehensive site-specific investigations. Reconnaissance level information includes relevant scientific literature, reports of government or private research agencies, consultation with experts, short-term field investigations, and analyses performed using such information. The amount of reconnaissance level information and the extent of analyses conducted depend on (1) the importance and magnitude of the potential impact under evaluation and (2) whether the decision is one of identifying a region of interest, identifying candidate sites, or selecting a proposed site.

9. "Partial decision on alternative sites" means a partial decision pursuant to § 2.101 and Subpart F of 10 CFR part 2 that includes a finding that there is or is not an obviously superior alternative to the proposed site.

10. "Applicant" means a person who intends to apply, or who has applied, for a permit to construct a nuclear power plant.

11. "Notice of intent" means a notice that an application will be tendered for a construction permit for a nuclear power plant.

12. "NRC" means the Nuclear Regulatory Commission, the agency established by Title II of the Energy Reorganization Act of 1974, as amended.

13. "NRC staff" means any NRC officer or employee or his/her authorized representative, except a Commissioner, a member of a Commissioner's immediate staff, an Atomic Safety and Licensing Board, an Atomic Safety and Licensing Appeal Board, a presiding officer, or an administrative law judge.

III. Information Requirements

1.a. An applicant shall provide the NRC staff with a notice of intent to tender an application for a construction permit (CP) for a nuclear power plant either at least 3 months before tendering of a CP application requesting an early review (pursuant to § 2.101 and Subpart F of 10 CFR Part 2) of the alternative sites issue or at least 3 months before beginning detailed studies on environmental impact and site safety at the proposed site, whichever occurs earlier. The notice of intent shall identify the location, cooling water sources, and physiographic unit of the proposed and alternative sites, and shall describe the anticipated generating capacity and number and type of generating units for which a CP application will be tendered, and types of condenser cooling systems that would be used.[1]

Upon receipt of the notice of intent, the NRC will publish the information received in the **Federal Register** and in the newspapers local to the sites identified.

If an applicant fails to provide a notice of intent within the time specified, the NRC will not docket the tendered application for 3 months where no detailed studies of the proposed site have been performed or for 12 months where such studies have been performed. As soon as practicable after tendering, the NRC will publish the above specified information in the **Federal Register** and in the newspapers local to the sites identified.

b. A person requesting an early review of the alternative sites issue pursuant to Appendix Q of 10 CFR Part 50 shall provide the NRC staff with a notice of intent to submit such request at least 3 months before submitting the request for review or at least 3 months before beginning detailed studies of the proposed site, whichever occurs earlier. The notice of intent shall identify the location, cooling water sources, and physiographic unit of the proposed and alternative sites, and shall describe the generating capacity, number and type of generating units, and types of condenser cooling systems anticipated or assumed to be used.

Upon receipt of the notice of intent, the NRC will publish the information received in the **Federal Register** and in the newspapers local to the sites identified.

If the person requesting the review pursuant to Appendix Q to 10 CFR Part 50 fails to provide a notice of intent within the time specified, the NRC will not initiate the review for 3 months where no detailed studies of the proposed site have been performed or for 12 months where such studies have been performed. As soon as practicable after receiving the request for review, the NRC will publish the above specified information in the **Federal Register** and in newspapers local to the sites identified.

2. Reconnaissance level information shall normally be adequate to identify candidate sites and to select a proposed site in an alternative site analysis. In the identification of candidate sites or selection of the proposed site, the amount of data required and the extent of analyses conducted shall be appropriate to support a reasoned decision.

In some cases, reconnaissance level information may not be sufficient to support the analyses necessary to reach a reasoned decision. In these situations, new comprehensive site-specific investigations must be considered. For example, if substantial questions exist regarding the likely acceptability of a site from a geologic standpoint, substantial geotechnical investigations might be required. Also, if substantial questions exist regarding whether a large adverse impact will occur to an important aquatic species, long-term baseline studies will be considered. The NRC staff will advise the applicant of any additional information requirements as early as practicable.

3. Where a party to a proceeding proposes for consideration (according to Section VI.4.a of this appendix) a candidate site not included in the applicant's slate of candidate sites, it is the responsibility of that party to provide adequate information to support a decision to accept the site or not. If the site is accepted as a candidate site, it is the responsibility of the applicant in the proceeding to provide the information necessary to make the final comparison of that site with the proposed site.

4. Alternative site analyses of both the identification of the slate of candidate sites and the selection of the proposed site shall, at a minimum, address the following subjects:

a. hydrology, water quality, and water availability

b. aquatic biological resources, including endangered species

c. terrestrial resources and land uses, including endangered species

d. transmission corridors (approximate length and general location) and resources affected

e. socioeconomics, including aesthetics, and archeological and historic preservation

f. population distribution and density [2]

g. facility costs

h. institutional constraints, as they affect site availability

i. public concerns in the above subject areas, where such have been provided to the applicant or NRC in writing.

IV. Timing of NRC Review

1. An applicant may submit the proposed and alternative sites for NRC evaluation as part of a full CP review either prior to and separate from the review of plant design (an early site review) or in conjunction with the review of plant design.

2. As part of an early site review, an applicant that tenders an application for an alternative site review and requests a finding that there is not obviously superior alternative to the proposed site may do so either in conjunction with or separate from the consideration of other early site review issues. If the applicant applies for an early alternative site evaluation separate from the consideration of other early site review issues, the applicant may later submit other siting issues for an early site review during the effective period of the early alternative site partial decision, provided that any later early site review of other issues shall remain in effect only so long as the initial early site review of alternative sites remains effective.

V. Region of Interest

1. The initial geographic area for determining the region of interest for NRC regulatory review purposes shall be (a) the State in which the proposed site is located or (b) the service areas of the applicant. The

[1] For situations where, on the effective date of this rule, a future applicant has already begun or is about to begin detailed, long-term investigations on a site likely to be proposed subsequently to the NRC as a site for a nuclear power plant, such a future applicant must provide a notice of intent within three months following the effective date of this rule.

[2] This requirement will be modified as appropriate to conform to revisions to 10 CFR Part 100.

actual region of interest must be larger than the initial geographic area according to 3. below, or may be smaller than the initial geographic area according to 2. below.

2. The region of interest may be smaller than the initial geographic area, if (a) environmental diversity is not substantially reduced and candidate sites within the region of interest meet threshold criteria described in Section VI.2.b. of this appendix, or (b) costs of generating electricity would be exorbitant for sites located in those areas not included, or (c) siting in those areas not included would be in violation of State laws governing nonradiological health and safety aspects of utility siting, or (d) the costs would be exorbitant of developing information to demonstrate whether sites within those areas not included would likely be acceptable from the standpoint of safety.

3. The region of interest must be greater than the initial geographic area if environmental diversity would likely be substantially increased and if (a) candidate sites within the initial geographic area meet the threshold criteria in Section VI.2.b. of this appendix, and the development of sites in the added geographic areas would likely not substantially increase costs, or (b) candidate sites within the initial geographic areas do not meet threshold criteria in Section VI.2.b., and the development of sites in the added geographic areas would not require exorbitant costs.

4. For the purpose of determining the region of interest, environmental diversity refers to the types of water bodies available within the region (upper or lower reaches of large rivers, small rivers, lakes, bays, and oceans) and the asociated physiographic units. A substantial increase or decrease in diversity would occur whether the region of interest includes or excludes such a water body. In areas of critical water supply, ground water and waste water are also appropriate water sources for diversity considerations.

VI. Selection of Candidate Sites

1. The candidate sites used in the subsequent site-specific comparison of alternatives must be one of the following:

a. Be identified through the use of a site selection methodology that (1) includes an environmentally sensitive site screening process (i.e., considers the same environmental parameters that are addressed by the criteria in VI.2.b., although not necessarily in the same way) resulting in a slate of candidate sites that are among the best that could reasonably be found and (2) meets the criteria presented in VI.3. below; or

b. Meet the criteria presented in VI.2. below, in which case there shall be no further review of the site selection process.

2. a. A sufficient number of candidate sites, which should include at least four sites, shall be selected from the region of interest to provide reasonable representation of the diversity of land and water resources within the region of interest. One or more of these sites should be associated with each type of water source and physiographic unit reasonably available within the defined region of interest, and one alternative site must have the same water source as the proposed site.

b. Except as noted in 2.c.(1), a site must meet the following criteria to be accepted as a candidate site without further review of the site selection process. (Technically appropriate and economically reasonable cooling system mitigative measures may be assumed for each candidate site.)

(1) Consumptive use of water would not cause significant adverse effects on other water users.

(2) There would not likely be any further endangerment of a State or Federally listed threatened or endangered plant or animal species.

(3) There would not likely be any significant impacts to spawning grounds or nursery areas of significance in the maintenance of populations of important aquatic species.

(4) Discharges of effluents into waterways would likely be in accordance with State or Federal regulations (e.g., avoidance of discharges to waters of the highest State quality designation) and would not likely adversely affect efforts of State or Federal agencies to implement water quality objectives (e.g., additional discharges to waters of currently unacceptable quality as determined by a State).

(5) There would be no preemption or likely adverse impacts on land uses specially designated for environmental or recreational purposes such as parks, wildlife preserves, State and National forests, wilderness areas, flood plains, Wild and Scenic rivers, or areas on the National Register of Historic Places.

(6) There would not likely be any significant impact on terrestrial and aquatic ecosystems, including wetlands, which are unique to the resource area.

(7) The population density, including weighted transient population, projected at the time of initial operation of a nuclear power plant, would not exceed 500 persons per square mile averaged over any radial distance out to 30 miles from the site (cumulative population at a distance divided by the area at that distance), and the projected population density over the lifetime of the nuclear power plant would not exceed 1,000 persons per square mile (simularly weighted and measured).[3]

(8) The site is not in an area where additional safety considerations (geology; seismology; hydrology; meteorology; and industrial, military, and transportation facilities) or environmental considerations for one site compared to other reasonable sites within the region of interest would result in the reasonable likelihood of having to expend substantial additional sums of money (cumulative expenditures in excess of about 5% of total project capital costs) to make the project licensable from a safety standpoint or to mitigate unduly adverse environmental impacts.

c. (1) If a site does not meet one or more of the threshold criteria provided in VI.2.b., the site may be acceptable as a candidate if it can be reasonably shown that further examination of that particular type of water source and physiographic unit would not likely identify a site that would meet those same threshold criteria.

(2) If any candidate site does not meet one or more of the threshold criteria provided in VI.2.b. to such an extent that serious adverse environmental impacts would result from its use, that site should be rejected as a candidate site.

3. If the approach of VI.1.a. above is relied upon, demonstration must be made that the site selection process incorporated the following criteria:

a. The overall objectives of the siting study and all initial constraints and limitations (including the geographic area, i.e., region of interest, which is the subject of the study) shall be explicitly stated giving the basis and rationale for all choices.

b. The proposed ways of meeting the stated objectives shall be described, including the general approach to the site selection process.

c. The study shall explicitly state factors (e.g., aquatic biology) under consideration, parameters (e.g., spawning grounds and nursery areas) by which these factors were measured, and criteria (e.g., no significant impact) that define levels of achievement.

d. The site selection study shall be interdisciplinary and shall include natural, social, and environmental sciences. The range of the responsibilities of the study team shall be clearly defined and the methods employed in resolving differences within the group or of arriving at the consensus shall be explicitly stated.

e. The process that led to the identification of candidate sites including all specific methodologies shall be explicitly stated in detail.

(1) Where preemptive screening is used, all limiting or exclusionary criteria employed shall be explicitly stated, the bases for each criterion given, and the ways in which they are applied explained.

(2) Where comparative analysis is used, all methodologies used involving importance factors, preference functions, utility functions, weighting factors, ranking scales, scoring schemes, and rating systems shall be explictily described; the basis for the selection of each methodology given; and the ways in which each is applied explained.

f. The study shall contain detailed description of administrative means used to support the site selection study, including any quality assurance program commensurate with the objectives of the study and a data management system for handling technical files, maps, and other information.

g. Definitions of terms used in the study shall be included.

4. Any intervening party and the NRC staff may propose one or more additional sites for consideration as candidate sites provided that the following conditions are met:

a. The additional sites are proposed for review within 30 days after the first special prehearing conference (i.e., the conference held pursuant to § 2.751a of 10 CFR Part 2.).

b. The proposal contains a reasonable showing that the additional sites are comparable to the applicant's slate of candidate sites in their ability to meet the criteria specified in VI.2.b. and VI.2.c. and would add to the diversity which is exhibited

[3] This requirement will be modified as appropriate to conform to revisions to 10 CFR Part 100.

by the applicant's slate of candidate sites; or where the applicant's candidate sites do not meet all the criteria specified in VI.2.b. and VI.2.c., the proposal contains a reasonable showing that the additional sites will meet these criteria.

c. Where a party identifies more than one additional site, each additional site must meet one of the tests specified in VI.4.b. above.

d. The additional sites have no physical features that would likely create substantial increases in the cost of constructing and operating nuclear power plants at the additional sites compared with the applicant's proposed site, unless there is a reasonable showing that the additional sites meet a criterion specified in VI.2.b. that is not met by the applicant's proposed site.

e. Multiple parties to NRC proceedings should consult with one another prior to proposing additional sites for consideration as candidate sites in order to reasonably limit the total number submitted.

5. A presiding Atomic Safety and Licensing Board (ASLB) may on its own initiative proposed one or more additional sites for consideration as candidate sites up to 30 days after the issuance of the Draft Environmental Statement (DES). On or after the issuance of the DES, additional sites may be introduced by the ASLB, only after a balancing of the cost of delaying the proceeding against the likelihood that utilization of the additional site would avoid significant environmental harm.

6. The 30-day time limits in VI.4.a. and VI.5. above shall not be extended except upon a substantial showing of good cause.

VII. Comparison of Proposed Site With Alternative Sites

1. After it is determined by either of the above approaches that the proposed site comes from a slate of candidate sites that are among the best that could reasonably be found, the NRC will not reject the proposed site solely based on its review of the alternative sites unless a comparision with the remaining candidate sites results in a determination that an abviously superior alternative exists. The NRC will determine obvious superiority among the candidate sites by a sequential two-part analytical test. The first part gives primary consideration to hydrology, water quality, aquatic biological resources, terrestrial resouces, water and land use, socioeconomics, and population [4] to determine whether any alternative sites are environmentally preferred to the proposed site. The second part overlays consideration of project economics, technology, and institutional factors to determine whether, if such a environmentally preferred site exists, such a site is, in fact, an obvioulsy superior site.[5] The following factors are considered in this second part of the test:

a. The environmental and safety [6] considerations in terms of technology and costs of construction and operation of nuclear power plants at the sites.

b. The forward costs[7] at the proposed site compared to the alternative sites.

c. Other considerations, such as possible institutional barriers. The applicant's proposed site will be rejected solely based on NRC review of alternative sites only when the NRC determines that, considering both parts of the test, there is an environmentally preferable alternative which also is obviously superior, i.e., the NRC is confident that the applicant's proposed site should be rejected.

2.a. If an obviously superior alternative site is identified and the proposed site is rejected by the NRC, and if the applicant submits a new application naming the identified obviously superior site as the newly proposed site, the NRC will not require review of the alternative site question for the newly proposed site, provided that the previous slate of candidate sites had been determined to be acceptable by the criteria established in this rule.

b. If more than one obviously superior alternative site is identified and the proposed site is rejected by the NRC, the applicant may request that a further finding be made in that proceeding to determine whether one of those sites is obviously superior to the others. If that finding is made and one of those sites is obviously superior to the others and the applicant submits the obviously superior site as the new proposed site, the NRC will not require review of the alternative sites question for the newly proposed site, provided that the previous slate of candidate sites had been determined to be acceptable by the criteria established in this rule. If that finding is made and none of those sites is obviously superior to the others, the applicant may propose any of the obviously superior alternative sites for review as permitted according to 2.a. above.

c. If one or more obviously superior sites are identified and the proposed site is rejected by the NRC, the applicant may submit a new proposed site that is comparable to the obviously superior sites in its ability to meet the criteria specified in Section VI.2.b. Where a new site is proposed, appropriate public notice of intent is provided, and a showing of comparability in meeting the criteria is made, the NRC will only require that the sequential two-part analytical test for obvious superiority be performed on the new proposed site and on the sites found obviously superior in the earlier proceeding.

VIII. Reopening of the Alternative Site Decision

1. A reopening and reconsideration of the alternative site decision after a final limited work authorization or construction permit decision will be permitted only upon a reasonable showing that there exists significant new information that could substantially affect the earlier decision. Any decision to reconsider the alternative site decision or not in these instances will take into account preliminary estimates of the reasonable costs of delay and of moving to another site compared with the adverse environmental impacts that might be avoided by moving to another site.

2. For cases where the portion of the construction permit containing facility design is filed three years or more after the effective date of this rule and where an applicant submits the proposed and alternative sites for NRC evaluation as part of a full construction permit review at least 2½ years prior to filing the portion of the construction permit application containing detailed plant design, any reconsideration of the alternative site decision will be permitted only upon a reasonable showing that there exists significant new information that could substantially affect the earlier decision, as described in VIII.1. above. If the proposed and alternative sites were not submitted for NRC evaluation as part of a full construction permit review at leat 2½ years prior to filing the portion of the construction permit application containing the plant design, costs of delay and of moving to another site will not be considered in any decision to reconsider the alternative site decision or not or in any resulting decision that there is or is not an obviously superior site.

3. If two sites are reasonably within a region of interest for a nuclear power plant site and both sites have received an affirmative NRC partial decision on an early review of alternative sites, an applicant may choose either site for an application to construct a specific nuclear power plant without reviewing the alternative site question, except on the basis of new information as provided in VIII.2. above.

(Sec. 161 h., i., o., Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201 (h), (i), and (o)); Sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242; Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841))

Dated at Washington, D.C., this 4th day of April 1980.

[4] This requirement will be modified as appropriate to conform to revisions to 10 CFR Part 100.

[5] In applying both parts of the test, the NRC will give consideration to the inherent uncertainties of cost-benefit analysis techniques and, where applicable, to the disparity in the data base between the proposed and alternative sites.

[6] There are some site safety issues for which a cost-effective means for successful mitigation is not state-of-the-art engineering. For the purposes of alternative site analysis, these site safety issues are considered in terms of site acceptability, i.e., where successful mitigation is considered outside the state of the art, the site would be considered unacceptable. However, where the mitigation of the safety issues are considered to be within the state of the art, the site would be considered acceptable but still must undergo the comparative test, which includes the impact of the mitigation on overall project cost, to determine whether there is an obviously superior alternative. Even though the proposed site successfully passes the early evaluation of alternative sites, it could still be found unacceptable in the later detailed safety review of that site.

[7] For cases where the portion of the construction permit application containing facility design is filed 3 years or more after the effective date of this rule, and an early site review application for the review of alternative sites had not been filed at least 2½ years earlier, the costs of moving to another site, including costs of delay, will be given no weight in any consideration of alternative sites or in any decision whether to reopen a previous decision on this subject.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-10697 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80-233]

Federal Savings and Loan System; Proposed Amendments Regarding Investments in Service Corporations

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Pursuant to title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Board is proposing to amend its regulations to provide Federally-chartered savings and loan associations the authority to invest up to three percent of the association's assets in service corporations. The Act requires that not less than one-half of investments in excess of 1 percent be used primarily for "community, inner-city, and community development purposes." The Board is, therefore, requesting public comment, for a period of 30 days, concerning the types of investments that should qualify as community development investment activities.

DATE: Comments must be received by: May 9, 1980.

ADDRESSES: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Topelius, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., WAshington, D.C. 20552. Telephone number: (202) 377-6444

SUPPLEMENTARY INFORMATION: Section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)), as implemented by § 545.9-1(d)(1) of the rules and regulations for the Federal Savings and Loan System, limits a Federally-chartered savings and loan association's investments in service corporations to one percent of the association's assets.

Section 401 of title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, 94 Stat. 132), amends section 5(c)(4)(B) to provide Federal associations with authority to invest up to three percent of assets in capital stock, obligations, or other securities of service corporations. If an association's aggregate investments in service corporations will exceed the currently permissible one percent limitation, section 401 requires the association to allocate not less than one-half of any additional investments to "primarily * * * community, inner-city, and community development purposes." Thus, a Federal association that intends to invest two percent of its assets in service corporations must allocate one-half of one percent of assets to community investment activities. A Federal association that invests in service corporations to the full extent permitted must allocate one percent of assets to community investment activities.

The Board believes investments that would qualify as primarily related to "community, inner city, and community development purposes" would be substantially directed at programs for development preservation, and revitalization of low- and moderate-income areas, as, both urban and rural. Qualifying investments would include investments similar to those approved for Community Investment Fund (CIF) advances or which meet any one of the factors enumerated in the Board's CRA Regulations (12 CFR 563e.7), used to assess the performance of each institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighorhoods. In determining if an investment qualifies as primarily related to "community, inner-city, and community development purposes," the Board would consider:

1. Whether the investment demonstrates substantial involvement in innovative loans which contribute to the development, preservation, or revitalization of either urban or rural communities; or

2. Whether the investment meets community development and housing needs and priorities, principally for low- and moderate-income areas, or contributes to the elimination of slums or blight; or

3. Whether the investment demonstrates commitment to participate in government- or privately-sponsored programs aimed at community development, preservation, or revitalization; or

4. Whether the investment involves a local partnership aimed at assisting residents in neighborhoods that are experiencing reinvestment.

The Board is specifically soliciting comment regarding what types of investments should qualify, or, in the alternative, what standards should be applied to determine investments that qualify, as primarily related to community development purposes.

PART 545—OPERATIONS

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend § 545.9-1(d)(1) of the Rules and Regulations for the Federal Savings and Loan System to read as follows:

§ 545.9-1 Service corporations.

* * * * *

(d) *Amount of investment.* (1) In addition to the provisions of paragraphs (d)(2) and (d)(3), an association may invest under this section in the capital stock, obligations, or other securities of service corporations: *Provided,* That (i) its aggregated outstanding investment does not thereupon exceed 3 percent of assets, and (ii) not less than one-half of any investment in excess of 1 percent of assets is allocated to programs that serve community, inner-city, and community development purposes. The 3 percent investment limitation shall include all loans, secured and unsecured, and all guarantees or takeout commitments of such loans, to service corporations, or any subsidiaries thereof, and to joint ventures of such service corporations or subsidiaries, whether or not the association is a stockholder therein.

* * * * *

(Sec. 401, Pub. L. No. 96-221; 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. 1971)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-10764 Filed 4-8-80; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Docket 37982; PSDR-66]

Statements of General Policy

Dated: April 3, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing in the alternative several possible changes to make its domestic passenger fare policies more flexible. Among them are: full downward fare flexibility, full or expanded upward flexibility, and expanded flexibility in short-haul markets or on a portion of each airline's available capacity. A primary goal of this proposal is to set out options for the remaining transition period before the full pricing deregulation mandated by the Airline Deregulation Act becomes

effective. This proposal is at the CAB's initiative.

DATES: Comments by: May 12, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: April 21, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 37982, 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: Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION:

Background

The current CAB fare policy was established in PS–80 (43 FR 39522, September 5, 1978), as modified by the Airline Deregulation Act of 1978, Pub. L. 95–504, (the ADA) and PS–92, also adopted today. The policy is set forth in 14 CFR Part 399, Subpart C. It permits certificated carriers, without providing justification to the Board, to establish fares ranging up to 5 percent, 10 percent, or more above the Standard Industry Fare Level (SIFL), as computed by us periodically.[1] Five percent upward flexibility is available to virtually all carriers in virtually all markets. Ten percent upward flexibility is permitted in markets where four or more air carriers have been authorized to serve. Local service carriers retain the 30 percent upward flexibility they have had historically.[2] Fare flexibility down to 50 percent below the SIFL generally, and 70 percent with respect to 40 percent of a carrier's weekly available seat-miles (ASM's), is also permitted.

PS–80 was not intended to be a straight jacket, precluding fares outside the suspend-free zones. Under its policy, such fares merely require adequate "justification". Likewise, the ADA did not impair in any way the Board's ability to permit establishment of reasonable fares outside the suspend-free zones. Indeed, the courts have uniformly construed suspension powers in statutes virtually identical to the Federal Aviation Act as totally discretionary and not subject to judicial review.[3] Few carriers, however, have accepted PS–80's invitation to justify fares outside of the zones.

PS–80 was also not intended to be permanent. It was issued before the Airline Deregulation Act was passed, and while our present multiple permissive entry policies were in their infancy. We explicitly stated that as our entry policies evolved for new and existing carriers, we would begin a graduated easing of pricing constraints. PSDR–58 (44 FR 21816; April 12, 1979), our policy statement on price discrimination, likewise gave notice that the intrusiveness of Board intervention into pricing matters would be dependent on the degree of actual and potential competition in the situation involved. The mere presence of residual market power, we observed, did not warrant regulatory intervention if competition could be expected to temper its abuse over time.

In the last 18 months, a very substantial number of new carrier authorizations have been made to serve existing markets. Virtually all of the significant legal barriers to new entrants in domestic markets have been removed. Our use of show-cause procedures, as well as the automatic entry and dormant authority provisions in the ADA, have led to a widespread recognition that free entry is the rule domestically, with exceptions only for specific environmental, safety, and local factors. Our route regulation will terminate, except for fitness determinations, on December 31, 1981. It can be plausibly argued that the domestic airline system is now almost as competitive as it will be after route sunset.

Our analysis of the price competition that has followed open entry suggests that it is subject to some distortion from our fare policies. A widespread shift toward longer-haul service is underway. Commuters are replacing certificated carriers in many short-haul markets. To a large extent, this shift may reflect inherent characteristics of the airline industry masked by regulation. To some extent, though, it may be due to the fact that the SIFL formula on which our present fare policy is based had been deliberately designed to make long-haul service relatively more remunerative than short hauls.

Even if our present policies were wholly uncontroversial, however, reevaluation would be necessary. It has now been over 16 months since the passage of the ADA and the adoption of PS–80. Our domestic passenger fare and rate jurisdiction expires on January 1, 1983. The ADA requires that we manage the deregulation process during the transition period. As we said in PSDR–58, "our goal is a smooth transition, not the promulgation of rigid standards which are in full force one day and gone the next." It is important that we consider and adopt a plan for the phased elimination of regulatory constraints on pricing. By our actions today, we continue the ongoing process of increasing carriers' latitude to implement their decisions in the marketplace, and bring consumers closer to the benefits we think available under full deregulation.

Alternative Proposals

We are considering several options, all of which would substantially increase air carriers' fare flexibility and reduce our intervention in the marketplace. In addition, continuing our existing policies remains an option. We propose each option in the alternative. The various options are not mutually exclusive. Some of them overlap, and some choices will have to be made. We discuss each option below.

Applicability: Although the statutory zone of reasonableness (50 percent below SIFL to 0 or 5 percent above) applies to all interstate and overseas transportation, the PS–8 zone (as much as 70 percent below to as much as 10 percent above) that we adopted before the ADA covers only markets within the contiguous 48 states and the District of Columbia. Separate rulemaking

[1] The PS–80 ceiling fares were based on the fare formula established by the Board in Phase 9 of the *Domestic Passenger-Fare Investigation*, Docket 21866–9, as adjusted by the Board's fare level standards and for cost increases. In October 1978, the ADA ratified PS–80's zone of reasonableness concept but prescribed a slightly different method for determining and updating the ceiling fare. Under section 1002(d)(6) of the Federal Aviation Act, we are required to compute a "Standard Industry Fare Level (SIFL)" for each interstate and overseas pair of points and for each class of service, using the fare level in effect on July 1, 1977—in most cases the Phase 9 ceiling—updated by the percentage change in operating costs per available seat-mile for interstate and overseas air transportation combined. In determining this change, we are not permitted to make any adjustment to carrier costs actually incurred.

[2] *See* 14 CFR 399.33(c). Since this flexibility is based on the Phase 9 ceiling rather than the SIFL, it extends to 30 percent above the *SIFL* only in markets where the predominant fare in effect on July 1, 1977, was equal to the Phase 9 ceiling. Where the predominant fare on that date was already above that ceiling, local service carrier flexibility as measured upwards from the SIFL is generally less than 30 percent.

[3] *Southern Railway, Co.* v. *Seaboard Allied Milling Corp.*, 442 U.S. 444 (1979); *Aberdeen & Rockfish Railway Co.* v. *SCRAP*, 422 U.S. 289 (1975); *United States* v. *SCRAP*, 412 U.S. 669 (1973); *Arrow Transportation, Co.* v. *Southern Railway Co.*, 372 U.S. 658 (1963).

proceedings to extend the PS–80 zone with slight variations to Puerto Rico/Virgin Islands, Hawaii, and Alaska markets are currently in progress. (Citations appear below.) It no longer appears necessary to treat those or other overseas U.S. markets differently from the continental United States, especially in light of the substantially broader flexibility that we are proposing. Any flexibility that we adopt as part of this proceeding, therefore, would apply to all interstate and overseas transportation. However, it would not preclude any greater flexibility that is already allowed outside the continental U.S., or that we may adopt in the other three rulemaking proceedings before adopting a final rule in this one.

Option I: Full Downward Flexibility in All Markets

The PS–80 zone now goes to 50 percent of the SIFL, and also down to 70 percent below on part of each carrier's weekly available seat—miles. Option I is to provide full, 100 percent downward fare flexibility. The argument for this option is founded on the assumption that if carriers wish to reduce fares, our paramount duty is to get our of the way. We have not suspended or investigated any fare reduction since passage of the ADA. Claims of predation have rarely been made, and never sustained. An example, is discussed in Order 79–6–195, June 28, 1979. In any event, we would continue to recognize predation as a basis for suspension at any fare level.

We would combine this option with any upward fare flexibility that we may adopt.

Option II: 10 Percent Upward Flexibility for More Markets

This option is the least additional upward flexibility that we propose. The current limit is 5 percent above the SIFL for one-, two-, and three-carrier markets, and 10 percent for markets with four or more carriers authorized to provide roundtrip nonstop service. Under this option, we would extend the coverage of the 10 percent limit to markets with two and three carriers, retaining the 5 percent limit only for monopoly markets.

Option III: Full or Full/Partial Upward Flexibility in Short-Haul Markets (No Change in Long Haul)

There are several variations on this option. They all include unlimited upward flexibility[4] for markets up to 200 miles and additional flexibility for markets between 200 and 400 miles. We would not use our suspension powers to block price changes within these revised zones except upon a clear showing of abuse of market power that we do not expect to be corrected through marketplace forces. Generally, we would act only upon complaint. Special tariff permission for effectiveness on less than statutory notice would be granted liberally as at present, with some additional review in cases of very substantial increases outside the present zone. We emphasize that no changes in the workings of the tariff mechanism are intended, and we do not propose to abdicate any of our existing legal authority. The proposed change in policy lies in the manner in which we would exercise our discretionary powers, not in their scope.

This option seems a logical important step. By any standard, air service in the 1–200 mile block is competitive. This segment of the industry is being served in substantial and growning measure by commuter carriers which have both freedom of entry and exit and freedom of pricing. While precise data are not available, preliminary studies indicate the commuter carriers are participating in between one-fourth and one-third of online traffic moving in city-pair markets in the 1–200 mileage range. A ranking of commuter prices in monopoly markets (markets in which only commuters were providing nonstop service) indicates a wider dispersion of fares than is true of the certificated carriers with a greater proportion of their fares at or below the Standard Industry Fare Level. (See Appendix A) This suggests that whatever market power exists in these markets is either not being abused or is being abused in a way that continued fare regulation cannot mitigate.

Further, pricing in short-haul markets is heavily constrained by the bus, train and automobile. These provide a competitively priced substitute to air transportation even considering the perceived value of the passenger's time (See Appendix B). Commuter pricing policies appear to be effectively related to costs incurred under individual market conditions in a basically unregulated free market system. There is no reason to believe the certificated segment of the industry would not follow the same competitive pricing pattern.

It is also in the lower mileage blocks where, as noted, SIFL fare regulation may be most harmful from a competitive and service standpoint. Capacity offered by certificated carriers in the 1–200 mile range is declining. Available seat miles for the third quarter of 1979 declined more than 10 percent below the same period the previous year. Part of the explanation appears to be in the makeup of the SIFL, which is largely based on Phase 9 of the DPFL. There, the Board constructed a fare formula that substantially underpriced short-haul service and overpriced long-haul service. The "cross-over" point, as of July 1, 1977, was about 400 miles.[5] Short-haul carriage was compensated by the 30 percent upward flexibility for local service carriers and the cost-prorate method of dividing joint fares that was mandated in Phase 4 of the DPFL. Nonetheless within the present ability of carriers to enter and exit markets quite freely, it is only natural that capacity would move to routes where upward price freedom was greatest.

A review of recent trunk and local service carrier pricing decisions also demonstrates the effect of the skewed fare formula. Looking only at monopoly nonstop markets, we have found an overwhelming percentage, almost 80 percent, in the 1–200 mileage block priced at more than the 5 percent upward flexibility permitted trunk carriers. The percentage is somewhat lower, about 65 percent, in the 201–400 mileage block, but declines drastically to under 20 percent in the 401–600 mile block. These data are perfectly consistent with the proposition that the SIFL formula understates carrier costs in the short-haul markets at least well into the 201–400 mileage block; all markets involved are "monopoly" markets, with roughly similar opportunities to garner monopoly profits. Under such circumstances, the decline in short-haul certificated carrier service, particularly by the trunks, who are limited to 105 percent of the SIFL in monopoly markets, seems at least in part a result of the present fare ceilings. By raising or eliminating the ceiling, we can encourage new service and competition by ensuring new entrants an opportunity to earn a compensatory return. It makes no sense to perpetuate fare ceilings that drive out certificated carriers in favor of unregulated commuters who charge more. It is just as nonsensical to immunize commuters from competition from carriers who might charge less than they do, or provide better service, but who cannot do so at prices within the present zones of reasonableness.

[4] This option should be read in conjunction with our discussion below of option V with respect to the possible need to increase flexibility in the 0–200 mileage block to 50% to accommodate the existing SIFL bias against short-haul markets, as also described below, and the desirability of peak-off-peak pricing.

[5] See Appendix C, and *Domestic Passenger-Fare Investigation, January 1970 to December 1974*, CAB, p. 799, fn. 124.

Because the case for unrestricted prices in the 1–200 mileage block is so persuasive, we propose removing all ceilings. As stage length increases, the automobile becomes less useful as an economic substitute to air transportation. For this reason, in the 200–400 mileage block we are inclined to merely increase fare flexibility to 30 percent above the SIFL for all certificated carriers. Variations on this option, which we propose in the alternative and specifically seek comments on, include (a) greater upward flexibility, such as 50 percent, in the 200–400 mileage block, and (b) unlimited upward flexibility for that mileage block, as with 0–200-mile markets.

Option IV: Full Upward Flexibility for a Portion of Each Carrier's Available Seat-Miles

Under this option, carriers could sell seats at any price for up to 25 percent of their available seat-miles in each market. The percentage would increase by 25 every 6 months after adoption. Fares not based on this new flexibility would either have to be within the zones or specifically justified, as at present. When a carrier did use this flexibility, it would include in its tariff filing a certification that the seats sold at that fare, measured by ASM's, would not exceed the specified portion of the total ASM's. Total ASM's would not include seating in first class or on small aircraft, or any other capacity not subject to the zones. Actual compliance with the percentage limitation would be verifiable after the fact.

In a market that is served by a multi-stop flight, the actual ASM's would depend on how the carrier allocated its capacity among the various legs of the flight. For example, on a flight from A to D via B and C, it might initially allocate seats on the A–B leg as follows, on the basis of historical reservation patterns: 25 percent of the seats for local traffic, 35 percent for A–C traffic, and 40 percent for passengers going all the way from A to D. As actual reservations departed from this historical pattern, the carrier would reallocate its capacity, perhaps as often as daily. A carrier with a good system of fine-tuning these allocations could gain a distinct competitive advantage from high efficiency. We would not substitute our judgment for that of carrier management. In determining compliance with the capacity limitation on unrestricted fares, we would rely on carriers' good faith allocations.

A primary goal of this option is to encourage peak-off peak pricing. Though PS–80's upward flexibility provisions were in large part premised on the Board's desire to encourage such pricing, few carriers have innovated with the normal coach fare. There have been some exceptions, particularly Air Florida, Southwest, Pacific Southwest, and to a lesser extent Continental, Texas International, and Western. But by and large, coach passengers pay the same whether they fly on a fully occupied airplane Friday evening or on an empty one Saturday afternoon. This option would be a substantial move in the transition toward unregulated pricing nationwide, in all markets, without permitting a carrier to concentrate merely on exploiting those individual markets where very significant monopoly power remains. Assuming an implementation date of June 30, 1980, complete flexibility would occur on December 31, 1981—which corresponds with the sunset of most of our route authority. By the same token, any unanticipated difficulties with the new policy could be dealt with before its full implementation.

This option, then, is intended not only as an immediate stimulus to more innovative pricing schemes—and we believe there must be ways to increase carriers' yield other than coordinated national price increases in virtually *all* fares—but also as a blueprint for the orderly dissolution of domestic fare ceilings. These two aims are interconnected in any event. We do not see peak pricing as and end in itself. Only the marketplace will determine the feasibility and marketability of time-differentiated fares. We fear, however, that current price ceilings are perceived as an obstacle to such fares by management who may fear that the Board will not permit sufficient peak price increases to offset off-peak price decreases.[6]

We recognize also that there may be difficulties in administering a pricing system based on application of complete fare flexibility to a discrete percentage of ASM's. Carriers do not have infinite flexibility in their reservation and marketing systems, and there is potential confusion to travel agents and the public to consider. The initial 25 percent figure has, moreover, not been chosen scientifically, but is merely an estimate of the amount of fare flexibility necessary to cover the major peak periods of the week in most markets. We welcome comments on these difficulties and any solutions to them, so that if we adopt this option the policy will have a reasonable chance to attain its objectives.

One variation on this option is to use increments other than 25 percent, or intervals other than 6 months, in order to move at a different pace toward complete flexibility. The sunset of our route authority on December 31, 1981, appears to be a good target, although we would also consider others, such as the sunset of our rate authority on January 1, 1983.

The time interval for counting sales under this option is another important factor. We propose in the alternative to allow sales at unrestricted prices on the applicable fraction of each carrier's weekly, monthly, quarterly, or semiannually available seat-miles. The shorter intervals would give us more opportunities to verify carrier compliance. We are inclined toward the longer ones, however, which would give carriers more incentive to experiment with truly innovative pricing that would better harmonize the supply and demand for air transportation.

Another variation on which we also solicit comments is to apply the percentage limitation on unrestricted fares on a system-wide rather than on a market-by-market basis. In some markets, even markets above 400 miles, fare ceilings may not be remunerative. Given airlines increased flexibility on a system-wide basis would allow them to tailor fares to the costs of serving particular markets. However, such flexibility might give airlines the ability to raise prices in markets where they fare little actual competition, though there is some evidence that indicates potential competition effectively constrains fares in such situations. (See Appendix D) To summarize, we would be favorably disposed to grant the additional flexibility stemming from such a modification if we were persuaded that the carriers would not utilize it to the detriment of arguably non-competitive markets rather than as a stimulus to more competitive pricing.

Option V: Increased Upward Flexibility in All Markets

To effect a gradual transition to total price deregulation and to balance our concern for dislocation in pricing in short haul markets with the desirability of maintaining in place some pricing standard, we are also prepared to consider a policy allowing fare

[6] An erroneous impression: any attempt by an individual carrier to price coach fares innovatively would be sympathetically considered by us under our current fare policy, even though some fares were above PS–80 guidelines. Our action in Order 79–11–71, November 8, 1979, suspending Eastern Airlines "Caribbean Holiday Surcharges" should not be considered as precedent to the contrary. Our action there rested on the particular characteristics of the Puerto-Rican market, Eastern's timing, and its failure to offer any off-peak price reduction, or any other benefits for that matter, to balance the peak increases.

flexibility up to 30 percent above the Standard Industry Fare Level in all domestic markets for all certificated carriers. If we adopt this option, we would adjust the SIFL twice a year, as set forth in section 1002(d)(6)(B), instead of more often as we have been doing recently under the pressure of rapidly escalating fuel costs.

A 30 percent standard would provide greater fare flexibility than now exists, and would constitute a phased step toward complete pricing freedom within the context of the Deregulation Act. The industry's pricing response to this greater flexibility would also provide a basis for evaluating the impact of pricing freedom in the market.

We are especially concerned with the general trend by certificated carriers away from providing service in short-haul markets, however, and particularly invite comments as to whether the 30 percent upward flexibility would be sufficient to encourage peak-off peak pricing in short haul markets.

Variations on this option would be to increase the zone of upper flexibility to 50 percent rather than 30 percent for markets up to 200–400 miles. The basis for these variations is to ensure that there would be sufficent margin to establish a peak-off peak pricing structure in shorter haul markets in the mileage range where the historic DPFI fare level was established below cost. Greater pricing flexibility in these mileage blocks would ensure that there would be minimal bias in the pricing structure and that opportunity costs would be balanced as between short and long haul options. The reasoning for these variations is the same as that set forth above under Option III.

Option VI: Full Upward Flexibility in All Markets

Because we believe our entry policies are already allowing the airline industry to become highly competitive, we are prepared to consider an even more far-reaching proposal than those already outlined. Indeed, the range of alternatives we are prepared to consider is limited only by our sense of fidelity to Congress' desire that we manage a transition.

A strong case can be made that SIFL regulation does not benfit the public. We are concerned, first and foremost, with the bias against short hauls already discussed; it is too late to tinker with the formula and we would prefer, all things equal, to remove the distortion entirely rather than attempt to compensate for it with administrative contrivances. Second, we are concerned that in many markets the SIFL facilities tacit price coordination. No other competitive industry has a regulatory agency prescribing a formula for ceiling prices six times a year. Third, the mere existence of a zone in which carriers may price freely can serve as a practical disincentive to innovative pricing; some managements in this industry, which has been regulated so pervasively in the past, may still not perceive the substantial pricing freedom available to them.

These considerations must be weighed against the SIFL's benefits in warding off abuses of monopoly power. Some monopoly power may remain in the airline industry, though we have substantial reason to believe that the prospect of potential competition is effective as a means of price control (See Appendix D). We do know that many, if not most, domestic coach fares are at or close to the no-suspend ceiling. (See Appendix E.) The principal exceptions are the fares offered by new entrants such as Air Florida, World, Capitol, and Midway Airlines in some relatively dense markets. Even in the markets where there has been new entry, the traditional carriers have not responded with matching low fares, but have maintained high coach fares at near ceiling levels, competing for discretionary traffic with low, capacity-controlled, discount fares. Whether this represents the competitive equilibrium or reflects the exercise of excessive market power cannot be known with certainty, and the answer may well differ substantially from market to market. We cannot exclude a significant possibility that fares in many markets will rise substantially if price ceilings are removed. But the argument is strong that we should err, if at all, on the side of laissez-faire.

The industry, as a whole, is not highly profitable at this time. For the 12 months ended September 30, 1979, the latest period available in official reports, certificated carriers earned an 8.1 percent corporate return on investment, as opposed to 14.5 percent in the corresponding period ended September 30, 1978. A comparison of calendar year 1979 with 1978 would show an even more precipitate drop. Traffic is also down. Monthly load factors, which have tended to rise since 1977, are beginning to decline (See Appendix F), even though the oft-predicted recession has not yet generally materialized. Price elasticity is surely a factor in reducing traffic: the SIFL has increased over 40 percent since November 1978. The market will not allow carriers unlimited upward flexibility, no matter what we do. Lastly, though traffic is decreasing, carriers continue to acquire more fuel-efficient equipment on an ongoing basis; while, in the recent past, the relationship of efficient capacity to demand was quite tight, the new acquisitions should bring capacity and demand into better balance. All these considerations suggest that marketplace forces will discipline any excessive price increases, and that we should consider an immediate withdrawal from active regulation of domestic fare levels.

Even were this option to be selected, the Board would not withdraw from the field entirely. Changes in Board jurisdiction, or in the broad timetable for deregulation, are matters for Congress. Absent Congressional action, our suspension powers would remain intact, and would be used in any instances where the heavy burden of justifying regulatory intervention was met. Our staff would actively monitor prices in markets with special barriers to entry, such as airport restrictions.[7] Extreme fare increases in single-carrier markets would likewise be carefully scrutinized. In particular, firm returns on investment would be continously analyzed to ensure that large monopoly profits did not occur without our being in a position to consider corrective action. We would suspend a fare upon a clear showing of abuse of market power that we did not expect to be corrected through marketplace forces.

To summarize, the dangers from more passive fare regulation may well be compensated for by the advantages of removing current rigidites. We solicit comments on the likely impact of such a move on consumers and the industry. In general, commenters should focus on remaining barriers to entry in the domestic system as a whole and in particular markets. Are the barriers significant and are large price increases likely? If excessive monopoly profits are to be earned in some markets, will we be able to take corrective action effectively on a case-by-case basis? Are there legal impediments to full fare flexibility at this time, and is it consistent with the Congressional intent? Are there specific actions that we should take besides the more limited alternatives proposed, to prepare for full fare flexibility?

[7] Some concern has been expressed that excessive price increases might be experienced at slot-controlled airports. Our studies indicate however, that the slot limitations tend to occur at high traffic points and large volume markets, where the lower passenger unit costs associated with higher density would keep prices in equilibrium. We would continue to monitor pricing activity at slot-controlled airports intensively under any of the liberal options proposed in this notice to ensure that these studies are correct. We especially invite comments on this issue.

Summary

The alternatives for domestic fare flexibility that we propose are:

I: Full downward flexibility in all markets.

II: 10 percent upward flexibility in two- and three-carrier markets as now allowed in four-carrier markets.

III: Full upward flexibility for markets up to 200 miles, coupled with 30 percent upward for 200-400-mile markets. VARIATIONS: A higher percentage or unlimited flexibility for 200-400-mile markets.

IV: Full upward flexibility for a portion of each carrier's capacity each week in each market. VARIATIONS: Measure by month, quarter, or 6-month period; apply to system instead of each market.

V: 30 percent upward flexibility in all markets. VARIATIONS: 50 percent upward for 0-200- or 0-400-mile markets.

VI: Full upward flexibility in all markets.

We would also make conforming amendments to our rules on tariff filing and Special Tariff Permission.

In view of the urgent need to provide additional pricing flexibility to carriers faced with rapidly escalating costs, particularly in short-haul markets where our current fare policies may discourage service by certificated carriers, we have decided to allow 30 days for comments, instead of the usual 60.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 399, *Statements of General Policy*, in one or more of the following ways, and as set forth below under "All Options":

Option I: Full Downward Flexibility in All Markets

In § 399.32, paragraph (b), *Bottom of zone*, would be retitled and amended, and paragraph (c), *Fares below the zone*, would be revoked and reserved, so that the section would read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

* * * * *

(b) *Downward flexibility.* Each carrier may set fares in each market at any amount below the SIFL. The Board will not suspend such a fare on the ground that its level is unreasonable, except in the following extraordinary circumstances:

(1) There is a high probability that the fare would be found to be unlawful after investigation;

(2) There is a substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if the fare were allowed to go into effect;

(3) The harm to competition is greater than the injury to the traveling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest.

(c) [Reserved]

* * * * *

Option II: 10 Percent Upward Flexibility for More Markets

In § 399.32(d)(1), "four" would be replaced by "two", so that the section would read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

* * * * *

(d) *Top of zone.* Each carrier may set fares above the SIFL as follows * * *

* * * * *

(1) Up to 10 percent above the SIFL, in markets where two or more carriers are authorized * * *

(2) Up to 5 percent above the SIFL in all other markets.

* * * * *

Option III: Full or Full/Partial Upward Flexibility in Short-Haul Markets (No Change in Long Haul)

In § 399,33, a new paragraph (d) would be added, to read:

§ 899.33 Additional fare flexibility.

* * * * *

(d) *Short-haul markets.* In short-haul markets, each carrier may set fares above the SIFL as follows, and the Board will not suspend the fares on the ground that their level is unreasonable except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces:

(1) At any level, for markets whose shortest authorized airport-to-airport mileage is less than or equal to 200 miles; and

(2) Up to 30 percent above the SIFL, for markets whose shortest authorized airport-to-airport mileage is more than 200 miles but not more than 400 miles.

Alternative Proposals: A: Greater upward flexibility, such as 50 percent for 200-400-mile markets, B: Unlimited upward flexibility for 200-400-mile markets, as with 0-200-mile markets.

Option IV: Full Upward Flexibility for a Portion of Each Carrier's Available Seat-Miles

A new § 399.34 would be added, to read:

§ 399.34 Full fare flexibility for a portion of available seat-miles.

(a) Each week in each market, an air carrier may sell seats at any price for up to 25 percent of its capacity. "Capacity" means available seat-miles that are subject to the zone set forth in § 399.32. It does not include seating in first class or one small aircraft, or any other capacity for which complete fare flexibility is already set forth in § 399.33.

Alternative Proposals: A: apply the percentage by month, quarter, or 6-month period instead of by week. B: Apply the percentage to each carrier's certificated route system, instead of to each market of each carrier.

(b) The Board will not suspend a fare that is based on the pricing flexibility set forth in this section on the ground that its level is unreasonable, except upon a clear showing of abuse of market power that the board does not expect to be corrected through marketplace forces.

(c) The percentage set forth in paragraph (a) of this section will increase to 50, 75, and then 100 percent at 6-month intervals after adoption of this secton.

Alternative Proposals: Approach complete fare flexibility more quickly or more slowly by using different percentages or different intervals, or both.

Option V: Increased Upward Flexibility in All Markets

1. In § 399.32, paragraph (d) would be amended to read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

* * * * *

(d) *Top of zone.* Each carrier may set fares up to 30 percent above the SIFL. The Board will not suspend such fares on the ground that their level is unreasonable except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces.

Alternative Proposals: A: 50 percent above SIFL for 0-200-mile markets. B: 50 percent above SIFL for 0-400-mile markets.

* * * * *

2. In § 399.33, *Additional fare flexibility*, paragraph (c), *Local service carriers*, would be revoked and reserved.

Option VI: Full Upward Flexibility in All Markets

1. Section 399.32, *Zone of limited suspension for domestic passenger fares*, would be retitled, paragraph (d), *Top of zone*, would be retitled and amended, and paragraph (e), *Fares above the zone*, would be revoked, to read:

§ 399.32 Suspension of domestic passenger fares.

* * * * *

(d) *Upward flexibility.* Each carrier may set fares in each market at any amount above the SIFL. The Board will

not suspend such a fare on the ground that its level is unreasonable, except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces.

§ 399.33 [Reserved]

2. Section 399.33, *Additional fare flexibility*, would be revoked and reserved.

All Options:

1. In § 399.32, paragraph (a) would be amended to read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

(a) *Applicability.* This section sets forth the Board's policy on passenger fares for scheduled service by certificated carriers in interstate and overseas air transportation, except to the extent that greater flexibility is set forth in § 399.33.

* * * * *

Note.—The final rule would not preclude any greater fare flexibility that is allowed under (a) existing Board policy, or (b) any policies that the Board may adopt in the pending rulemaking proceedings on Puerto Rico and Virgin Islands Markets (Docket 33836; EDR–366/PDR–58/PSDR–52; 43 FR 51641; November 6, 1978), Hawaii markets (Docket 35119; EDR–373/PDR–64/PSDR–57; 44 FR 18688; March 29, 1979, revised proposal in EDR–373A/PDR–64A/PSDR–57A; 44 FR 28826; May 17, 1979), or Alaska markets (EDR–388/PSDR–63; 44 FR 52847; September 11, 1979).

2. The opening sentence of § 399.33 would be amended to read:

§ 399.33 Additional fare flexibility.

For scheduled service in interstate and overseas air transportation, certificated air carriers have the following fare flexibility in addition to that set forth in § 399.32:

* * * * *

3. Conforming amendments would be made in 14 CFR Part 221, *Tariffs*.

(Secs. 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.

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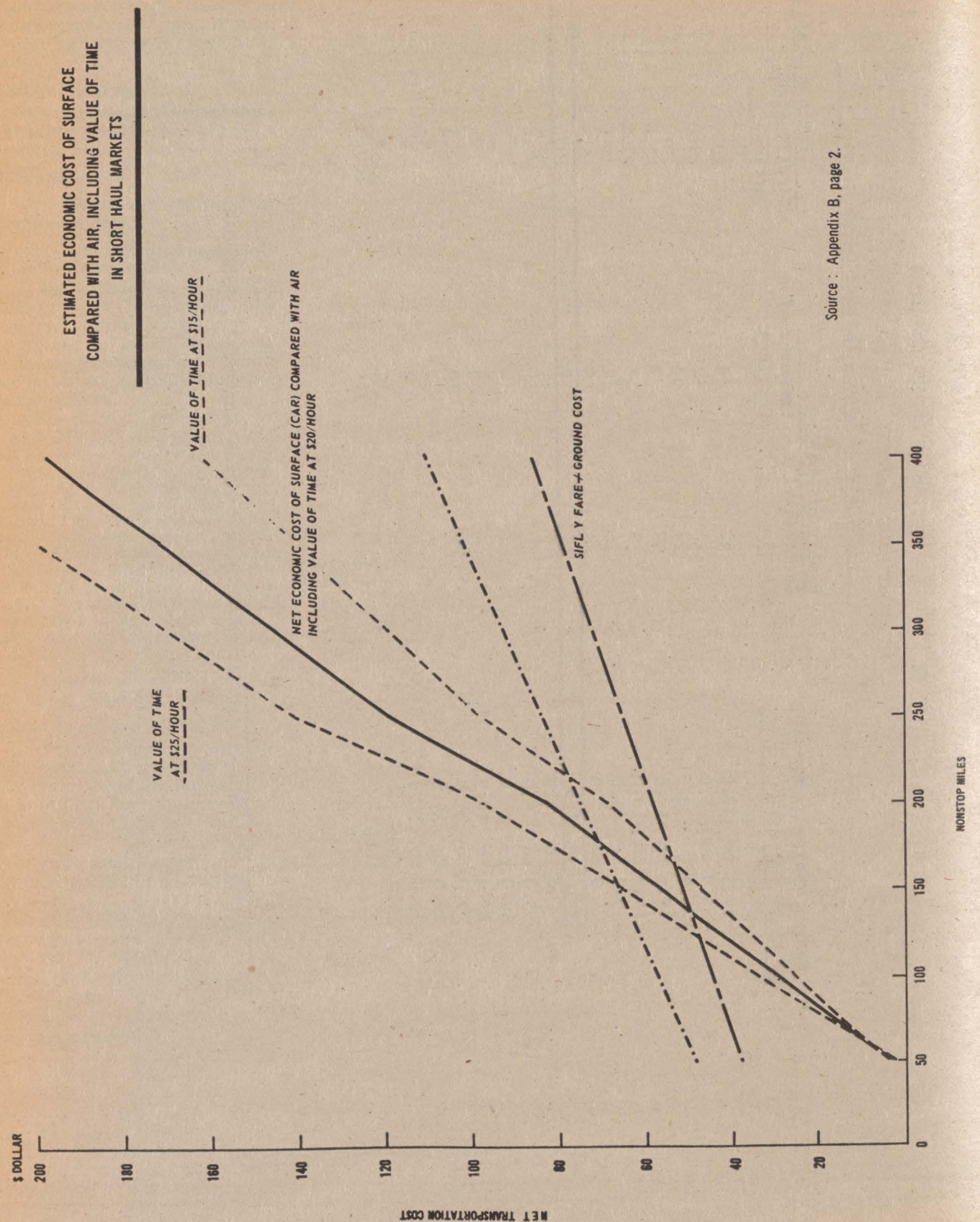
APPENDIX A - COMPARISON OF SIFL AND TARIFF FARES JAN. 1, 1980

OF CERTIFICATED AND COMMUTER CARRIERS

	Nonstop Monopoly Markets 0-200 Miles		
	Number of Markets		Percent Distribut
PERCENT TARIFF ABOVE (-) OR BELOW (+) SIFL	Certificated Carriers	Commuter 1/ Carriers	Certificated Carriers
-35.0 plus	2	5	0.5
-34.9 to -30.0	87	8	20.4
-29.9 to -29.0	124	12	29.0
-24.9 to -20.0	27	20	6.3
-19.9 to -19.0	58	7	13.6
-14.9 to -10.0	13	17	3.0
- 9.9 to - 5.0	26	12	6.1
- 4.9 to 0	28	8	6.6
Tariff = SIFL	45	9	10.5
0 to 4.9	2	11	0.5
5.0 to 9.9	-	9	-
10.0 to 14.9	-	3	-
19.0 to 19.9	-	3	-
20.0 to 24.9	15	10	3.5
29.0 to 29.9	-	5	-
30.0 to 34.9	-	7	-
35.0 plus	-	11	-
Total	427	157	100.0

1/ Sample of Commuter Carrier markets taken from January 15, 1980 OAG.

ESTIMATED ECONOMIC COST OF SURFACE COMPARED WITH AIR, INCLUDING VALUE OF TIME IN SHORT HAUL MARKETS



Source : Appendix B, page 2.

APPENDIX B - ESTIMATED ECONOMIC COST OF SURFACE COMPARED WITH AIR

INCLUDING VALUE OF TIME AT $20 PER HOUR

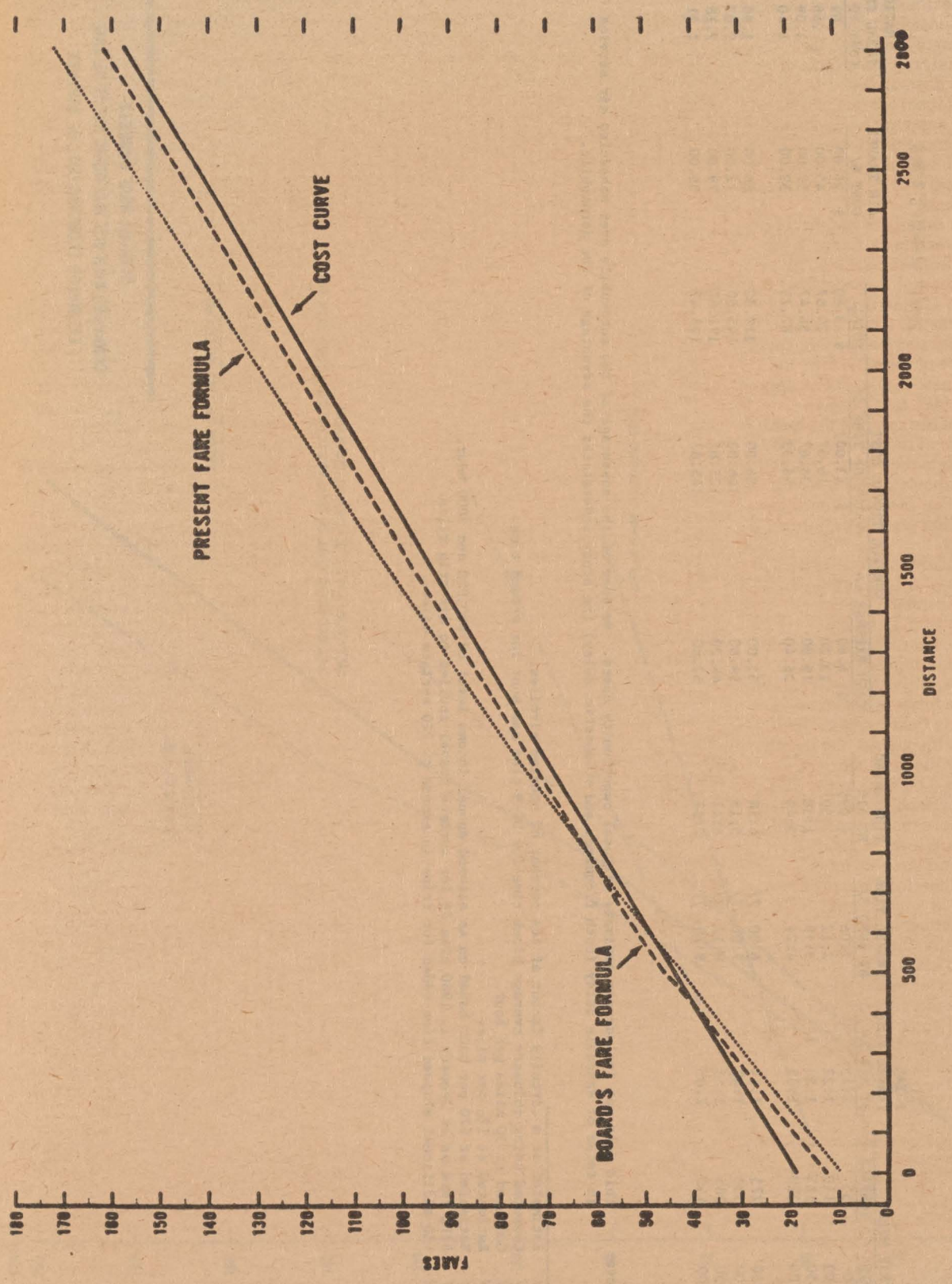
IN SHORT HAUL MARKETS

TRIP MILES		TOTAL TRAVEL TIME	TRAVEL TIME	TIME SAVED	SURFACE TRAVEL COST			AIR TRAVEL	RATIO TOTAL SERVICE
AIR	SURFACE 1/	BY AIR 2/	BY AUTO 3/	BY AIR	CASH EXPENSE 4/	VALUE OF TIME 5/	TOTAL	COST 6/	COST TO AIR
50	55	1:15	1:06	(.09)	$ 6.60	$ (3.00)	$ 3.60	$ 38.00	.09
100	110	1:22	2:12	:50	13.20	16.67	29.87	45.00	.66
150	165	1:28	3:18	1:50	19.80	36.67	56.47	52.00	1.09
200	220	1:35	4:24	2:49	26.40	56.33	82.73	59.00	1.40
250	275	1:42	6:00 7/	4:18	33.00	86.00	119.00	66.00	1.80
300	330	1:48	7:06 7/	5:18	39.60	106.00	145.60	72.00	2.02
350	385	1:55	8:12 7/	6:17	46.20	125.67	171.87	79.00	2.18
400	440	2:01	9:18 7/	7:17	52.80	145.67	198.47	86.00	2.31

Note: This does not include any estimate of total opportunity costs. Because of the advantage of the automobile over scheduled air service in terms of schedule delay (both frequency and stochastic delay) the study understates the advantage of the automobile.

1/ Estimated at a circuity factor of ten percent of nonstop airmiles.
2/ Computed using industry average block time for DC-9 plus one hour for ground time.
3/ Computed at 50 miles per hour.
4/ Estimated at 12¢ per mile.
5/ Estimated at $20 per hour based on an assumed annual income level of $40,000 and 2000 hour.
6/ SIFL fare as of January 1, 1980 plus $6 for surface travel applied to air trip miles.
7/ :30 additional elapsed time added for trips in excess of 220 surface miles.

APPENDIX C



SOURCE: Docket 21866
Order 74-12-109

BILLING CODE 6320-01-C

Appendix D.—Local Carrier Fares: The Effects of Fare Flexibility

Local service carriers have a greater degree of fare flexibility than the trunks. To consider the possibility effects of giving trunk carriers increased fare flexibility we analyzed the effects of competition and costs in the establishment of local service carrier fares. The study supports a conclusion that potential competition is an effective force in the establishment of fares and consequently local service carrier fares tend to reflect costs.

We selected a sample of 43 markets served by local service carriers. These markets ranged from 85 miles to 778 miles. For each market we compared the local carrier's fare in the December 15, 1979 OAG with the SIFL fare at that time. Though local service carriers could charge up to 130% of the SIFL fare, the average fare in these markets was only 12.5% above the SIFL fare.[1] In five markets (11.6% of the sample) the local carrier fares were at the ceiling, while in another six markets the carrier charged as much as 20% above the SIFL fare, a clear indication that factors other than CAB fare regulation are constraining local carrier fares.

Using a statistical technique known as regression analysis, we attempted to explain the local carrier's fare as a percentage of the SIFL fare. We expected that market distance would be important in explaining differences in local carrier fares, since it is well known that the SIFL fare formula sets fares in short-haul markets below costs. Thus, we expected that the greater the length of haul, the lower the local carriers' fares would be as a percent of the SIFL fare. Trunk fares are constrained by the Board to be no more than five per cent above the SIFL fare level in 2 and 3 carrier markets and ten percent in 4 carrier markets, therefore, the presence of a trunk carrier in a market should have a negative influence on local carrier fares. Finally, the effect on fares of the presence of another local carrier or a commuter carrier in a market should help settle the question of whether potential competition is as effective as actual competition in keeping fares close to cost.[2]

We found that the relationship between the local fare as a percentage of the SIFL fare and distance was as predicted. Additionally, the presence of a trunk carrier in markets below 400 miles did indeed have a strong negative effect on local carrier fares. However, neither local service carrier competition, commuter competition, nor, in those markets above 400 miles, trunk competition had a significant impact on local service fares.

Our estimates of local fares as a percentage of the SIFL fare, controlling for the existing competition, were as follows:

Mileage block:	Estimated local fare as a percentage of the DPFI fare
0 to 100	1.212
101 to 200	1.186
201 to 300	1.183
301 to 400	1.203
401 to 500	1.046
501 to 600	1.060
601 to 700	1.011
701	0.988

Though the estimate of fares in the various mileage blocks differ, we are only able to distinguish statistically between fares in the mileage blocks above 400 miles and those below 400 miles. For example, we cannot say with any confidence that fares in 0–100 mile markets differ from fares in 201–300 mile markets. Similarly we cannot say that fares in different mile blocks above 400 miles differ. However, we can say that fares in markets less than 400 miles are significantly greater than fares in markets greater than 400 miles.

The estimates above control for the existence of competition. In markets below 400 miles that presence of a trunk carrier meant fares were 15.9 percentage points lower than the estimates given above. *The other competition variables i.e.,* those indicating the presentce of a commuter or other locals—*did not have a significant effect on fares.* Thus, for our sample, fares in monopoly markets were no more likely to be at the fare ceiling than were fares in markets served by commuters or other locals. This finding is consistent with the view that the threat of competition is as effective as the presence of an actual competitor in holding fares in line with costs.

An additional interpretation of our extimates is that if trunk carriers were given increased fare flexibility, fares in trunk markets less than 400 miles would increase by 16%. However, a less disturbing alternative interpretation appears plausible. Many factors determine fares in a market. We have omitted all but a few. For example, the number of passengers in the market, the amount of connecting traffic at the end points of the market, and passenger demand for frequent service all should affect fares. In our analysis we included only distance and competition as factors to explain differences in fare levels. Our observation that trunk competition is important in restraining fare levels in less than 400 mile markets may be the result of excluding these other variables from our analysis. The passage of the Airline Deregulation Act gave carriers substantially increased flexibility to withdraw service from markets.

This is especially true of markets where there are two or more carriers. In this sample, all markets have a local service carrier and therefore a trunk carrier has ony to file a 401(J) notice to withdraw service. A trunk carrier would serve these markets only if the carrier could not use its equipment more profitably in another market. This suggests the alternative interpretation of our estimate of the effect on fares of the presence of a trunk competitor: Trunk carriers are serving most of these markets because they are earning profits at the Board imposed fare levels. This interpretation implies that if we were able to include all factors determining fares in markets the existence of a trunk competitor would be much less important in explaining local service carrier fares. Therefore, relaxing Board fare regulations in these markets might not lead to significant fare increases. In those markets trunks have decided not to abandon, the local carrier and the trunk carrier are apparently covering their relevant costs, and competition should limit fare increases in these markets even in the absence of Board fare ceilings.

There is additional support for a conclusion that fares are cost-based. In markets above 400 miles, local carriers' coach fares are not significantly different from fares allowed under Board regulation of the trunks. Even though the locals are able to charge 130% above the SIFL, they do not. In the Domestic Passenger Fare Investigation, the Board set fares in markets less than 400 miles at below costs. The result that local service carriers' fares are substantially above SIFL levels only in markets below 400 miles thus provides striking support for the claim that trunk fare ceilings preclude profitable operation in many short-haul markets.

[1] Because of rounding, some fares were actually above the theoretical maximum.

[2] In those cases where there was more than one local service carrier, we used the fare of the carrier with the most departures.

Appendix E.—*Comparison of SIFL and Tariff Fares Jan. 1, 1980, Domestic Trunk and Local Service, Nonstop Monopoly Markets*

Percent tariff above (−) or below (+) SIFL	0–200 miles		201–400 miles		401–600 miles		601 plus miles		All markets	
	Number of markets	Percent distribution	Number of markets	Percent distribution	Number of markets	Percent distribution	Number of markets	Percent distribu-tion	Number of markets	Percent distribution
−35.0 plus	2	0.5	4	1.3					6	0.5
−34.9 to −30.0	87	20.4	20	6.6					107	9.2
−29.9 to −25.0	124	29.0	49	16.2	1	0.8	1	0.03	175	15.0
−24.9 to −20.0	27	6.3	22	7.3	2	1.4	3	1.0	54 I374.6	
−19.9 to −15.0	58	13.6	31	10.3	3	2.2	6	2.0	98	8.4
−14.9 to −10.0	13	3.0	17	5.8	5	3.6	41	13.7	76	6.5
−9.9 to −5.0	26	6.1	51	16.9	15	10.9	134	44.7	226	19.4
−4.9 to 0	28	6.8	50	16.6	71	51.4	25	8.3	174	14.9
Tariff=SIFL	45	10.5	49	16.2	37	26.8	61	20.3	192	16.4
0.0 to 4.9	2	0.5	6	2.0	4	2.9	21	7.0	33	2.8
5.0 to 9.9			3	1.0					3	0.3
10.0 to 14.9							1	0.03	1	0.1
15.0 to 19.9										
20.0 to 24.9	15	3.5							1.5	1.3
25.0 to 29.9										
30.0 to 34.9							1	0.03	1	0.1
35.0 plus							6	2.0	6	0.5
Total	427	100.0	302	100.0	138	100.0	300	100.0	1,167	100.0

Source: Computer run of domestic fares for all monopoly markets.

Appendix F.—*Revenue Passenger Load Factor*
Total Scheduled Domestic Service

Year	Month	Monthly		12 months to date
		Load factor	Point change from prior year	
1977	Jan	53.4		55.6
	Feb	51.4		55.4
	Mar	55.3		55.5
	Apr	55.9		55.3
	May	54.0		55.2
	June	57.6		55.1
	July	59.7		55.2
	Aug	61.4		55.3
	Sept	53.4		55.4
	Oct	54.9		55.5
	Nov	53.9		55.6
	Dec	57.3		55.8
1978	Jan	55.8	+2.4	56.0
	Feb	55.2	+3.8	56.3
	Mar	61.1	+5.8	56.8
	Apr	59.5	+3.6	57.1
	May	62.1	+8.1	57.7
	June	67.2	+9.6	58.6
	July	67.4	+7.7	59.3
	Aug	70.2	+8.8	60.1
	Sept	58.6	+5.2	60.5
	Oct	59.9	+5.0	60.7
	Nov	57.3	+3.4	61.0
	Dec	58.0	+0.7	57.3
1979	Jan	56.5	+0.7	61.0
	Feb	58.8	+3.6	61.2
	Mar	65.6	+4.5	61.6
	Apr	72.5	+13.0	62.6
	May	67.7	+5.6	63.0
	June	69.1	+1.9	63.2
	July	67.1	−0.3	63.2
	Aug	67.9	−2.3	63.1
	Sept	56.7	−1.9	62.9
	Oct	58.1	−1.8	62.9
	Nov	58.4	+1.1	62.9
	Dec	55.4	−2.6	62.8
1980	Jan			

Appendix F.—*Revenue Passenger Load Factor*
Total Scheduled Domestic Service—Continued

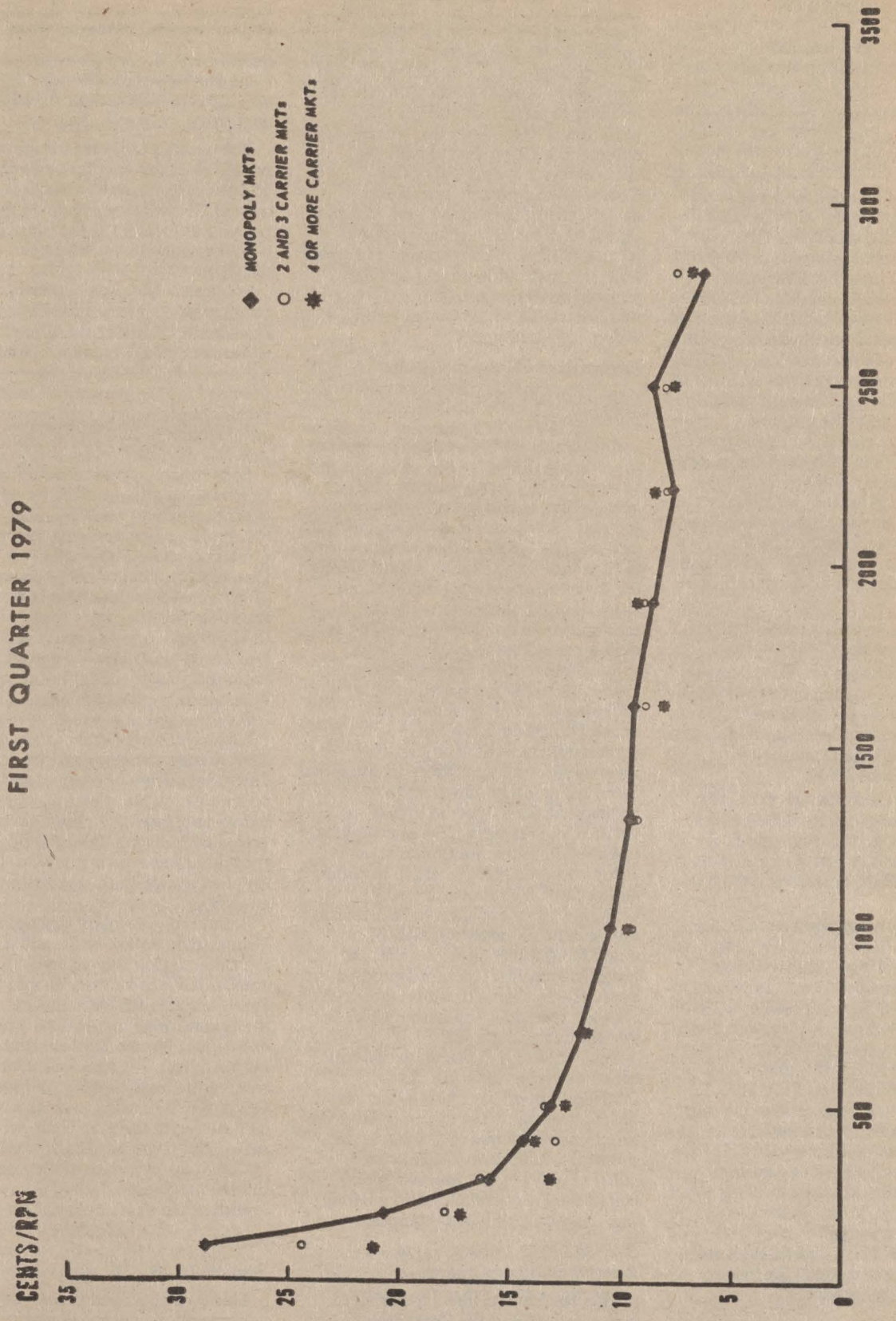
Appendix F.—*Revenue Passenger Load Factor*
Total Scheduled Domestic Service—Continued

Source: Carrier Form 41 Reports.

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Appendix G

COACH YIELDS PER-MILE BY FARE FLEXIBILITY CATEGORY AND DISTANCE
TRUNKS AND LOCALS
FIRST QUARTER 1979



[FR Doc. 80-10761 Filed 4-8-80; 8:45 am]
BILLING CODE 6320-01-C

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 210 and 211

Supplementary Procedures—Investigations of Unfair Practices in Import Trade

AGENCY: United States International Trade Commission.

ACTION: Proposed rules.

SUMMARY: These proposed rules would amend Part 210 of the Commission's *Rules of Practice and Procedure* to provide additional procedures for the termination of investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A new Part 211 is proposed to provide procedures for consent orders and to provide for certain nonadjudicative proceedings incident to the exercise of Commission jurisdiction under section 337. The previous Commission proposed rulemaking on this subject, 43 FR 2883–2889 (January 20, 1978) is hereby withdrawn. These new proposed rules reflect public comments on the original proposal and also the experience gained by the Commission in connection with consent orders and enforcement proceedings in the interim.

DATE: Comments will be considered if received on or before May 27, 1980.

ADDRESS: Comments should conform with Commission rule 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Edward M. Lebow, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone (202) 523–0486.

SUPPLEMENTARY INFORMATION: In the exercise of its jurisdiction under section 337 of the Tariff Act 1930 (19 U.S.C. 1337), the Commission is authorized to conduct proceedings supplemental to the formal adjudicative investigations provided for by Part 210 of the Commission's Rules of Practice and Procedure (19 CFR, Part 210). The proceedings may be authorized in part by other statutes, such as the Administrative Procedure Act (5 U.S.C. 551, et seq.) in the case of consent orders, and section 603 of the Trade Act of 1974 (19 U.S.C. 2482) in the case of preliminary investigations, as well as by 19 U.S.C. 1333. The Commission's rules at present do not provide for these supplemental proceedings.

The purpose of these proposed amendments to the Commission's rules is to revise the format of Subchapter C, Chapter II, Title 19, Code of Federal Regulations, to provide for these supplemental procedures, by dividing the subchapter into three parts. A new Part 209, to provide procedures for the conduct of informal inquiries and preliminary investigations, will be the subject of subsequent rulemaking. Amendments to Part 210 of the Commission's rules to provide for certain procedures in the termination of an adjudicative investigation are proposed here. Also proposed is a new Part 211, to provide procedures for consent orders and for the administration of the Commission's enforcement authority.

Explanation of Proposed Rules

Section 210.51 Termination of investigation.

Section 210.51 is amended by slightly altering the first sentence of subsection (a), striking the last sentence of subsection (a) and striking subsection (c), and adding new subsections (c), (d), and (e). The effect of these amendments is to provide specifically in settlements by licensing or other agreement and consent order settlements for the termination of an investigation in the manner provided in subsection (c).

Subsection (c)(1) requires that a motion to terminate based upon a licensing or other agreement be accompanied by a copy of the agreement, as well as any related agreements, and an affidavit stating that there are no other agreements concerning the subject matter of the disclosed agreement. This provision is intended to allow the Commission to safeguard the public interest, including competitive conditions in the U.S. economy, in its consideration of these agreements. Subsection (c)(2) of amended § 210.51 provides that an investigation shall be terminated on the basis of a licensing or other agreement without determining whether there is a violation of section 337.

Subsection (d) of the amended rule provides for termination of an investigation on the basis of a consent order agreement that complies with the requirements of new § 211.20(b). An order of termination based upon a consent order agreement would not constitute a determination of whether there is a violation of section 337.

Section 210.55 Commission determination and action.

This section has been amended to make it clear that the Commission's obligations to make a determination is subject to and does not transcend its duty under the Administrative Procedure Act to permit the settlement of disputes as provided in § 210.51.

Section 210.56 Implementation of Commission action. (Present §§ 210.56 and 210.57 are redesignated §§ 210.57 and 210.58, respectively.)

This section provides for the procedural implementation of section 337(g) to establish the effective and final date of Commission action, including consent and enforcement orders, pending possible Presidential disapproval.

Subsection (b) provides for the publication and transmittal to the President of affirmative determinations under section 337 together with the action taken. The new subsection also provides for the transmittal to the President of consent settlement and enforcement orders for his review and possible disapproval on policy grounds.

Subsection (c) provides that when the Commission either makes an affirmative determination of violation in a section 337 investigation, issues a consent order or attempts to enforce either one, the Commission's action will become effective upon publication in the **Federal Register**. Those articles that are subject to either an exclusion order or a cease and desist order may be permitted to enter the country under bond until Presidential review has taken place.

As provided in subsection (d), if the President does not disapprove of a Commission action within 60 days of the date of his being notified of such action, or if he states his approval of the action before that date, then the Commission's action will become final the day after the end of the review period or the day that he notified the Commission of his approval.

Should the President disapprove the Commission action under subsection (e), the Commission's action will be considered of no effect. Should the President disapprove a consent order, the Commission may either take a new action, i.e., issue a new consent order or obtain a licensing agreement, or it could resume the investigation. In case the Commission decides to do the latter and continue with the investigation, the period of Presidential review will not be included for purposes of the statutory time limits for concluding the investigation as established by § 210.17.

Part 211

Section 211.01 Purpose.

This Part sets forth procedures for the settlement by consent of matters which

may involve a violation of section 337 and for the enforcement, modification, and revocation of final Commission actions.

Subpart A—Informal Enforcement Procedure

Section 211.10 Informal disposition through voluntary compliance.

Section 211.10 provides a procedure whereby the Commission may accept assurances from a private party that it will desist from engaging in practices which may violate section 337. Subsection (b) requires that the Commission consider, in determining whether to accept the assurances of the party in question, such factors as the nature and gravity of the practice, the likelihood of its recurring, the prior record and good faith of the party, and the adequacy of the proffered assurances.

Subpart B—Consent Order Procedure

Section 211.20 Opportunity to submit proposed consent order.

Subsection (a) provides for an opportunity to submit to the Commission a proposed consent order prior to the institution of a formal investigation under section 337.

Subsection (b) sets forth the procedures for the submission of proposals to settle a matter by consent subsequent to institution of a formal investigation under section 337. Such a proposal must be filed as a motion with the presiding officer and incorporate the elements of a consent order agreement set forth in § 211.22. The motion, except for good cause shown, must be filed prior to the commencement of the hearing prescribed by § 210.41(e)(1). The presiding officer must certify the motion to the Commission promptly, together with his or her recommendation. Pending disposition, a party may not withdraw from a consent order agreement.

Section 211.21 Settlement by consent.

Section 211.21 sets forth the procedure for Commission action after a consent order agreement has been filed with it under § 211.20(a) or certified to it by the presiding officer under § 211.20(b). The Commission is required to publish the consent order agreement in the **Federal Register** for thirty days' public comment. Copies are also to be served on the Department of Health, Education, and Welfare, the Department of Justice, the Federal Trade Commission, and such other conduct within the thirty day period such hearings as it deems appropriate. Thereafter, within an additional twenty days and after considering the effect of the consent order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, in the manner provided by § 210.14(a)(4) of Part 210, the Commission must either: (1) Accept the agreement, issue the consent order and terminate the investigation; (2) reject the agreement and deny the motion; or (3) take such other action as it deems appropriate. In event the Commission rejects the proposed agreement, the parties are not bound by their proposal in later actions before the Commission.

Section 211.22 Contents of consent order.

This section sets forth the required contents of a consent order agreement, including an admission of all jurisdictional facts, a wiaver of judicial review, contest, or challenge of the consent order, and a statement making enforcement, modification, and revocation of the consent order explicitly subject to Subpart C of Part 211 of these rules.

Subpart C—Enforcement, Modification, and Revocation

Section 211.50 Applicability, purpose, and retroactivity.

The "applicability" and "purpose" subsections are self-explanatory. This subpart is intended to serve as the basis for all changes in final Commission actions. This subpart is not limited to enforcing cease and desist orders. Dissolving orders that have ceased to serve a useful purpose, such as exclusion orders, is also comtemplated. The rules also include temporary relief orders, but no other interlocutory orders are included. Final Commission actions have to undergo the rigors of the law relating to appeals (subsection 337(c)) and Presidential review (subsection 337(g)). However, this does not mean, when an adversely affected person fails to appeal a final Commission action, or appeals and then loses, that it may later collaterally attack the original action when that action is altered pursuant to these rules. In such a situation, it would appear that a court challenge, if any, can only attack the changed action.

The rules contain a "savings" provision, which serves to keep whole existing consent orders.

Section 211.51 Information gathering.

The power to gather information relating to the operation of a final Commission action is set out here. Any reporting provided for by law is permitted if it will either aid the Commission to determine "whether and to what extent there is compliance with the action" or "whether and to what extent the conditions which led to the action are changed." The first of these relates to cease and desist orders.

The second condition, which is adapted from subsection 337(h), may relate to any kind of final Commission action. One example of such changed circumstances is when the holder of a domestic patent ceases to produce articles domestically that are the subject of an exclusion order. In that case revocation of the exclusion order may then be appropriate.

Final Commission actions may also include provisions for gathering information by any other means provided by law, such as gaining access to records, copying records, and requiring persons to produce books or papers (19 U.S.C. 1333(a)). This rule also provides for the collection of information from voluntary sources.

Under subsection (b), the Commission is empowered to prescribe the form and detail of reporting. This implements 19 U.S.C. 1333. Under subsection (c), information gathering is enforceable in court or by any other means available to enforce the final action. In subsection (d), discretion is kept to set the terms of informational requirements of a final action. This would allow for the adjustment of reporting requirements to meet the needs of individual cases and changes in international trade.

Section 211.52 Confidentiality of information.

This section provides that information received pursuant to a final action may be held in confidence and that such protective orders as are necessary may be issued.

Section 211.53 Review of reports.

This section sets forth the Commission's general authority to review reports and take further appropriate action.

Section 211.54 Advice to persons submitting information.

Advice to persons reporting may be sufficient in some cases. When a cease and desist order is involved, and compliance with the order is the primary objective of reporting, then advising persons that their reporting evidences noncompliance may be an effective means of gaining compliance. The Federal Trade Commission appears to reserve the right to exercise this option (16 CFR 3.61 (a)).

Section 211.55 Modification of information requirements.

Modification of reporting requirements will facilitate focusing on problems which require special study in order to determine how the oversight function will be exercised. It may also be used to document facts that justify change in a final order. Modifying reporting requirements will also assure compliance with many cease and desist orders. Finally, it will facilitate altering or abolishing reporting schemes that have proved useless, unreasonably burdensome, or undesirable for other reasons. The rule would allow any person to request changes in reporting requirements, which may be handled publicly or not, as conditions warrant.

Section 211.56 Proceedings to enforce, modify, revoke or substitute for final Commission actions.

This section represents a procedural framework for fundamental change in final Commission actions. Such matters may be handled informally by letter or conference under subsection (a) or after formal enforcement proceedings under subsection (b) by complaint, followed by answer and then a decision. The formal procedures are adapted from existing rules of other Federal agencies that conduct their own enforcement proceedings short of court action. This procedure is aimed primarily at enforcement (by modification or revocation and exclusion) of cease and desist orders, temporary cease and desist orders, and consent orders. Parties to section 337 proceedings who want cease and desist orders or exclusion orders revoked or modifed because of changed circumstances may seek modification or revocation by a simpler process of motion answer under subsection (c) of this section. The less formal subsection (c) would be appropriate in circumstances in which a former complainant is no longer prosecuting his patent domestically or public interest factors require a change in an outstanding Commission order.

Upon conclusion of the enforcement process, which may include a hearing, a modified cease and desist order may issue or the existing final Commission action may be replaced with an exclusion order. Where a violation is found under subsection (b), any new and more restrictive Commission order would be subject to public-interest determinations, bonding, Presidential review, and court review (although not on the original record of the section 337 investigation).

Section 211.57 Temporary emergency action.

This section provides for temporary emergency relief action. Thus, when patterns of trade are changing rapidly or enforcement is needed immediately to be effective, a cease and desist order could be revoked and temporarily replaced by exclusion or any other temporary measure allowed by the law if certain criteria are met. It must be evident that violations will occur or that temporary measures pending docketing of a formal complaint under § 211.56 are necessary to accomplish the purpose of section 337. This section applies to all types of final Commission actions.

Section 211.58 Notice of enforcement action to government agencies.

Notice to Federal agencies is essential to the proper functioning of these rules. Under subsection 337(b), Government agencies have a role in Commission section 337 proceedings. These rules are supplementary to section 337, and therefore the agencies should have a role here, too. Furthermore, advice to the Secretary of Treasury when an exclusion order of any type is made or revoked is required by subsections 337(d), 337(e), and 337(h).

The revised rules proposed by the Commission are set forth below.

Chapter II, Title 19, of the Code of Federal Regulations would be amended as follows:

Subchapter C—Investigations of Unfair Practices in Import Trade

(1) Subchapter C of 19 CFR Chapter II would be retitled "Investigations of Unfair Practices in Import Trade";

(2) Part 210 of Subchapter C would be retitled "Adjudicative Procedures";

(3) Present §§ 210.56 and 210.57 of Part 210 would be redesignated §§ 210.57 and 210.58 of Part 210, respectively;

(4) New § 210.56 would be added, and present §§ 210.51 and 210.55 would be amended; and

(5) New Part 211, entitled "Enforcement Procedures," consisting of Subparts A, B, and C would be added. The new rules that correspond to this enumeration, which are hereby proposed, are as follows:

PART 210—ADJUDICATIVE PROCEDURES

§ 210.51 Termination of investigation.

(a) *Motions for termination.* Any party may move at any time for an order to terminate an investigation under this part, to terminate the investigation as to all issues in an investigation in regard to one or more but not all of the respondents, or to terminate the investigation as to any of the issues in regard to any or all of the respondents.

(b) *Default.* Upon the occurrence of the condition of default, an investigation before the Commission may be terminated as to one or more of the parties in the investigation.

(c) *Settlement by licensing or other agreement.* (1) When a complaint is filed alleging patent, trademark, or copyright infringement, or a misappropriation of trade secrets or technical know-how, an investigation before the Commission directed to such subject matter may be terminated as provided in paragraph (a) of this section on the basis of a licensing or other agreement entered into between the complainant (all of the complainants if there is more than one) and one or more of the respondents. A motion for termination by such parties shall contain copies of the licensing or other agreement and any agreements supplemental thereto and an affidavit executed by the parties stating that there are no other agreements, written or oral, expressed or implied, between such parties concerning the subject matter of the investigation.

(2) The licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with his recommendation. An order of termination based upon such licensing or other agreement shall not constitute a determination of the Commission under § 210.55.

(d) *Consent order settlement.* An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a consent order settlement under § 211.20(b) of this chapter. An order of termination based upon such a settlement shall not constitute a determination of the Commission under § 210.55.

(e) *Effect of termination.* Except as provided in paragraphs (c) and (d) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.55, and an order of termination issued by the presiding officer (when not the Commission) shall constitute a recommended determination of the presiding officer under § 210.53.

§ 210.55 Commission determination and action.

(a) *Review of recommended determination.* Subject to §§ 210.51 and 210.54, upon receipt of a recommended determination and the record under § 210.53, the Commission shall review the same and determine, as the case

may be, whether there is a violation of section 337 or whether there is reason to believe that there is such a violation, and, when appropriate, whether any action (exclusion of articles from entry, exclusion of articles from entry except under bond, or cease and desist order) is in the public interest and should be ordered, and the amount of any bond required.

(b) *When the presiding officer is the Commission.* When the Commission has presided at the taking of evidence, it shall determine, as the case may be, whether there is a violation of section 337 or whether there is reason to believe there is such a violation, and, when appropriate, whether any actions (exclusion of articles from entry, exclusion of articles from entry except under bond, or cease and desist order) is in the public interest and should be ordered, and the amount of any bond required.

§ 210.56 Implementation of Commission action.

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.55 or a termination on the basis of a licensing or other agreement or consent settlement pursuant to § 210.51 (c) and (d), respectively, shall be served upon each party to the investigation.

(b) *Publication and transmittal to the President.* A Commission determination that there is a violation of section 337, or that there is reason to believe that there is such a violation, together with the action taken, relative to such determination, or Commission action pursuant to Subparts B and C of Part 211 of this chapter shall be immediately (1) published in the **Federal Register**, and (2) transmitted to the President together with the record upon which the action is based.

(c) *Effective date of Commission action.* Commission action, consisting of the Commission determination and action taken under § 210.55, or action taken under Subparts B and C of Part 211 of this chapter, shall be effective upon publication thereof in the **Federal Register**, except that articles directed to be excluded from entry or subject to a cease and desist order shall be entitled to entry under bond determined by the Commission until such determination and action become final in the manner specified in paragraphs (d) and (e) of this section.

(d) *Finality of affirmative Commission action.* If the President does not disapprove for policy reasons such Commission action within a period of sixty (60) days beginning on the day after the day on which a copy of such Commission action is delivered to the President, or if the President notifies the Commission before the close of such period that he approves such Commission action, then such Commission action shall become final on the day after the close of such period, or the day on which the President notifies the Commission of his approval, as the case may be.

(e) *Disapproval by the President.* If, before the close of such period, the President notifies the Commission of his disapproval of the Commission action for policy reasons, then effective on the date the Commission receives such notice such Commission action shall have no force or effect. Within ten (10) days following such disapproval any party may by motion request the Commission to consider other appropriate action in light of and consistent with the Presidential disapproval. The Commission may in its discretion conduct such further proceedings as it deems appropriate. Any new Commission action shall be served upon the parties, published in the **Federal Register**, and referred to the President. Unless such new action is disapproved by the President, it will become effective and final. Subsequent to the President's disapproval of a consent order settlement, the Commission may resume its investigation in conformity with these rules. Should the Commission resume an investigation subsequent to a Presidential disapproval, then for the purpose of § 210.10 the period of time during which the consent order was effective shall be excluded from all applicable time restrictions.

(f) *Duration.* Final Commission action shall remain in effect as provided in Subpart C of Part 211 of this chapter.

PART 211—ENFORCEMENT PROCEDURES

Sec.

211.01 Purpose.

Subpart A—Informal Enforcement Procedure

211.10 Informal disposition through voluntary compliance.

Subpart B—Consent Order Procedure

211.20 Opportunity to submit proposed consent order.
211.21 Settlement by consent.
211.22 Contents of consent order agreement.

Subpart C—Enforcement, Modification, and Revocation of Final Commission Actions

211.50 Applicability, purpose, and savings.
211.51 Information gathering.
211.52 Confidentiality of information.
211.53 Review of reports.
211.54 Advice to persons submitting information.
211.55 Modification of information requirements.
211.56 Proceedings to enforce, modify, revoke or substitute for final Commission actions.
211.57 Temporary emergency action.
211.58 Notice of enforcement action to government agencies.

Authority: Secs. 333, 335, and 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1333, 1335, and 1337), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482).

§ 211.01 Purpose.

This part sets forth procedures for the settlement by consent of matters which may involve a violation of section 337 and for the enforcement, modification, and revocation of final Commission actions. Definitions applicable to Part 210 of this chapter apply to this part unless specifically provided otherwise.

Subpart A—Informal Enforcement Procedure

§ 211.10 Informal disposition through voluntary compliance.

(a) *Opportunity for informal disposition.* The Commission, when it has information obtained during the course of an informal inquiry or preliminary investigation pursuant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) indicating that a person may be engaging in a practice which may involve a violation of section 337, may afford such person the opportunity to have the matter disposed of on an informal administrative basis, if the Commission deems that the public interest factors set forth in § 210.14(a)(2) will be fully safeguarded thereby.

(b) *Public interest factors to be considered.* In determining whether the public interest factors set forth in § 210.14(a)(2) will be fully safeguarded through such informal administrative action the Commission will consider—

(1) The nature and gravity of the practice;

(2) Whether the practice is likely to recur;

(3) The prior record and good faith of the person involved;

(4) The adequacy of assurance of voluntary compliance; and

(5) Any other relevant factor that the Commission deems appropriate.

Subpart B—Consent Order Procedure

§ 211.20 Opportunity to submit proposed consent order.

(a) *Prior to institution of investigation.* Where time, the nature of the proceeding, and the public interest permit, any person being investigated pursuant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) or § 210.11(b) of this chapter shall be afforded the

opportunity to submit to the Commission a proposal for disposition of the matter under investigation in the form of a consent order agreement which incorporates a proposed consent order executed by or on behalf of such person, all complainants, and an attorney employed by the Commission and complying with the requirements of § 211.22.

(b) *Subsequent to institution of an investigation.* In investigations under section 337, a proposal to settle a matter by consent shall be submitted as a motion to the presiding officer to terminate an investigation under § 210.51 of this chapter, together with a consent order agreement which incorporates a proposed consent order. The proposed consent order agreement shall comply with the requirements of § 211.22. The motion may be filed at any time prior to commencement of a hearing as provided in § 210.41(a)(1) of this chapter jointly by all of: (1) All private complainants, (2) the Commission investigative attorney, and (3) one or more respondents. The Commission may, however, upon request and for good cause shown, consider such a motion certified to it by the presiding officer during the course of a hearing. The presiding officer shall certify the motion to the Commission promptly together with his recommendation after service of such motion. The filing of the motion shall not stay proceedings before the presiding officer unless the presiding officer or the Commission shall so order. For the purpose of the time limits for the completion of the hearing set forth in § 210.41(e)(1) of this chapter, there shall be excluded any period of time during which the proceeding is stayed by order of the Commission. Pending disposition by the Commission (and review by the presiding officer) of a consent order agreement, a party may not withdraw from the consent order agreement once it has been submitted pursuant to this section.

§ 211.21 Settlement by consent.

After the motion for termination based on a consent order agreement has been filed with the Commission pursuant to § 211.20(a) or certified to the Commission by the presiding officer pursuant to § 211.20(b) the Commission shall: Promptly publish notice of such motion along with the consent order agreement (with confidential information deleted) in the **Federal Register** and for a period of thirty (30) days thereafter receive and consider any comments concerning the consent order agreement that may be filed by interested persons. Publication of the proposed consent order agreement shall not be deemed to constitute acceptance, provisional or otherwise, of such agreement. The Commission shall make available a summary of the provisions of the consent order agreement and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the consent order agreement. Notice may also be made through whatever other medium the Commission deems necessary. The Commission shall promptly serve notice of the proposed consent order agreement on the Department of Health, Education, and Welfare, the Department of Justice, and the Federal Trade Commission, and such other departments as the Commission deems appropriate. During the thirty (30) day comment period the Commission may conduct such public proceedings with regard to the notice of proposed consent order agreement as it deems appropriate. Thereafter, within an additional period of twenty (20) days, the Commission shall, after considering the effect of the consent order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and U.S. consumers, in the manner provided by § 210.14(a)(4) of this chapter, either (a) accept the agreement, issue the consent order, and terminate the investigation; (b) reject the agreement and deny the motion; or (c) take such other action as it deems appropriate. The Commission shall publish notice of its action together with a statement of reasons in support thereof in the **Federal Register.** The Commission shall serve notice of its action together with the statement of reasons on all parties. Should the Commission reject the proposed agreement and deny the motion, the parties are in no way bound by their proposal in later actions before the Commission.

§ 211.22 Contents of consent order agreement.

(a) *Contents.* Every consent order agreement shall contain, in addition to the appropriate proposed consent order, (1) an admission of all jurisdictional facts; (2) an express waiver of all rights to seek judicial review or otherwise challenge or contest the validity of the consent order; and (3) a statement that the enforcement, modification, and revocation will be carried out pursuant to Subpart C of this Part 211, incorporating by reference the Commission's *Rules of Practice and Procedure.* The consent order agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute admission by any party that section 337 has been violated.

(b) *Effect, interpretation, and reporting.* The consent order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in section 337 and Parts 210 and 211 for other Commission action. Except as otherwise provided in the agreement, the complaint and notice of investigation or the proposed complaint, as the case may be, may be used in construing the terms of the consent order, but no agreement, understanding, representation or interpretation not contained in the consent order agreement or Commission decision accompanying the consent order may be used to vary the terms of the consent order. The Commission may require periodic compliance reports pursuant to Subpart C of this Part 211 to be submitted by the person entering into the consent order agreement.

Subpart C—Enforcement, Modification, and Revocation of Final Commission Actions

§ 211.50 Applicability, purpose, and retroactivity.

(a) *Applicability.* The rules in this subpart apply to final Commission actions issued by the Commission under section 337, including exclusion orders, temporary exclusion orders, and cease and desist orders (cease and desist orders, for purposes of this subpart, means cease and desist orders, temporary cease and desist orders, and consent orders).

(b) *Purpose.* The purpose of this subpart is to set forth procedures for the enforcement, modification, and revocation of final Commission actions.

(c) *Retroactivity.* The rules in this subpart apply to final Commission actions taken before the effective date of these rules only to the extent not inconsistent with such final actions.

§ 211.51 Information gathering.

(a) *Power to require information.* Whenever the Commission takes final Commission action, it may attach to such action (or, in the case of a consent order, approve) terms and conditions requiring any person to report to the Commission facts in that person's possession that will aid the Commission in determining whether and to what extent there is compliance with the action or whether and to what extent the conditions which led to the action are changed. The Commission may also include (or, in the case of a consent

order, approve) provisions that exercise any other information-gathering power available to it by law. The Commission may at any time request the cooperation of any person or agency in supplying the Commission with information that will aid the Commission in these determinations.

(b) *Form and detail of reports.* Reports under paragraph (a) of this section may be required to be in writing, under oath, and in such detail and in such form as the Commission prescribes. A final Commission action may also contain terms and conditions which exercise, or make possible the exercise of, on conditions precedent, any power of information gathering available to the Commission by law, subject to the standards of paragraph (a) of this section.

(c) *Power to enforce informational requirements.* Terms and conditions of final Commission actions for reporting and information gathering, and modifications of such terms and conditions, shall be enforceable by the Commission by a civil action or, at the Commission's discretion, in the same manner as any other provision of the final Commission action is enforced.

(d) *Term of reporting requirement.* The Commission may prescribe in the final Commission action (or, in the case of a consent order, approve) frequency of reporting or information gathering and the date on which these activities are to terminate. If no date for termination is provided, reporting and information gathering shall terminate when the final Commission action or any amendment to its expires by its own terms or is terminated. The Commission may modify informational requirements of a final Commission action at any time, pursuant to § 211.53 and § 211.55.

§ 211.52 Confidentiality of information.

Confidential information provided to the Commission pursuant to final Commission action will be received by the Commission in confidence. The Commission may, either upon motion or its own initiative, issue such protective orders as it deems necessary.

§ 211.53 Review of reports.

The Commission will review reports submitted pursuant to any final Commission action and conduct such further investigation as it deems necessary, consistent with the action.

§ 211.54 Advice to persons submitting information.

The Commission may, upon request or on its own initiative, advise persons reporting or providing information that their reports or information do not comply with a final Commission action or constitute a reason to modify or revoke such action.

§ 211.55 Modification of information requirements.

The Commission may modify reporting requirements as necessary: (a) To assure compliance with an outstanding action; (b) to take account of changed circumstances; or (c) to minimize the burden of reporting or informational access. A recommendation to modify reporting requirements shall identify the reports involved and state the reason or reasons for modification. No reporting requirement will be suspended during the pendency of such a recommendation unless the Commission orders it. The Commission may, if the public interest warrants, announce that a modification of reporting is under consideration and ask for comment, but it may also modify any reporting requirement at any time without notice, consistent with the standards of this section.

§ 211.56 Proceedings to enforce, modify, revoke or substitute for final Commission actions.

(a) *Informal enforcement proceedings.* Informal enforcement proceedings may be initiated by the Commission upon complaint or its own motion with respect to any act done or omitted by any person in violation of any provision of a final Commission action. Such matters may be handled by the Commission through correspondence or conference or in any other way which the Commission deems appropriate. The Commission may issue such orders as it deems appropriate to insure compliance with a cease and desist order, or any part thereof. Any matter not disposed of informally may be made the subject of a formal proceeding pursuant to this subpart. The filing of an informal complaint shall not bar the subsequent filing of a formal complaint. Prior to issuing any such order, the Commission may affort interested persons, including members of the Commission's staff, an opportunity to make written or oral presentations with respect to the subject matter of the proposed order.

(b) *Formal enforcement proceedings.* In order to determine whether a cease and desist order is being violated, the Commission may, either on its own initiative or after the filing by any person of a formal complaint under oath containing information which the Commission has reason to believe demonstrates a material violation of a cease and desist order, institute an enforcement proceeding by docketing a complaint setting forth the alleged violation, and following such proceedings, modify, revoke, or enforce the order. The complaint, if docketed, shall be served upon the alleged violator and published in the **Federal Register.**

(1) *Answer.* Within fifteen (15) days after the date of receipt of a complaint docketed pursuant to this subsection, the named respondent shall file an answer to the complaint. Answers shall fully and completely advise the Commission as to the nature of the defense and shall admit or deny each allegation of the complaint specifically and in detail unless the respondent is without knowledge, in which case his answer shall so state and the statement shall operate as a denial. Allegations of fact not denied or controverted shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered and shall, in the absence of a reply, to deemed to be uncontroverted. Failure of a respondent to file and serve an answer within the time and in the manner prescribed herein shall authorize the Commission in its discretion, to find the facts alleged in the complaint to be true and to take such action as may be appropriate without notice or hearings, or, in its discretion, to proceed to take evidence, without notice, of the allegations or charges set forth in the complaint, provided that the Commission (or presiding officer, if one is appointed) may permit late filings of an answer for good cause shown.

(2) *Parties to enforcement proceedings.* The parties to an enforcement proceeding shall be the Commission, the respondent, the complainant, and any other person with interest sufficient to support intervention in a section 337 investigation under § 210.6 of this chapter.

(3) *Public hearing.* The Commission, in the course of an enforcement proceeding, may hold a public hearing and afford the parties to the enforcement proceeding the opportunity to appear and be heard.

(4) *Written statements.* At any time after a formal complaint under this subsection is published in the **Federal Register,** any person may submit to the Commission a written statement of information pertinent to the subject matter of the enforcement proceedings. Except in the case of the complaining party and the named respondent(s), such statement may be presented in lieu of an appearance at the hearing. Statements shall conform to the requirements for documents set forth in § 201.8 of this chapter.

(5) *Commission action.* (i) Upon conclusion of an enforcement

proceeding relating to a cease and desist order, the Commission may: (A) Modify the cease and desist order in any manner necessary to prevent the unfair practices which were originally the basis for issuing such order; (B) bring civil actions in United States district courts pursuant to section 337(b) requesting the imposition of a civil penalty or the issuance of mandatory injunctions incorporating relief sought by the Commission; of (C) revoke the cease and desist order and direct that the articles concerned be excluded from entry into the United States.

(ii) Prior to effecting any modification, or revocation and/or exclusion under this subsection, the Commission shall consider the effect of such action upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers. The Commission may find that, in light of such factors, such action should not be taken. Any such order shall become effective and final as provided in § 210.56 of this chapter for purposes of setting bond (if applicable), appeal, and Presidential review under section 337. The hearings provided for under this subsection are not subject to sections 554, 555, 556, 557 and 702 of Title 5, United States Code.

(c) *Modification or dissolution of final Commission actions due to changed circumstances.* Whenever any former party believes that changed conditions of fact or law, or the public interest, require that a final Commission action be modified or set aside, in whole or in part, such person may file with the Commission a motion requesting that the Commission do so. The motion shall state the changes desired and the changed circumstances warranting such action, and shall include materials and argument in support thereof. Upon receiving a motion, the Commission shall either: (1) Provisionally accept the motion, or (2) reject the motion. Should the Commission on its own initiative believe that such a modification may be in order, it shall publish notice to that effect, which notice shall be treated as a provisionally accepted motion under this subsection. Upon provisional acceptance, notice thereof shall be published in the **Federal Register**. The motion and the notice shall be served on each former party to the section 337 proceeding. Within thirty (30) days after the service of such motion, any party served may file an answer thereto. The Commission may hold a public hearing and afford interested persons the opportunity to appear and be heard. After consideration of the motion, any responses thereto, or any information placed on the record at a public hearing or otherwise, the Commission shall take such action as it deems appropriate. Any final Commission action will, if not modified or revoked, expire by terms stated in the action.

§ 211.57 Temporary emergency action.

Whenever the Commission determines, pending a formal enforcement proceeding under § 211.56(b), that without immediate action a violation of a cease and desist order will occur and that subsequent action by the Commission would not adequately repair the harm caused by such violation, the Commission may immediately and without hearing or notice modify or revoke a cease and desist order and, if it is revoked, replace the cease and desist order with an appropriate exclusion order. Prior to taking any action under this section the Commission shall consider the effect of such action upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers. Any order issued under this section shall become effective and final as provided in § 210.56 of this chapter for purposes of setting bond (if applicable), appeal, and Presidential review under section 337. The Commission shall, if it has not already done so, institute a formal enforcement proceeding under § 211.56(b) at the time of taking action under this section or as soon as possible thereafter, in order to give the alleged violator and other interested parties a full opportunity to present information and views regarding the continuation, modification or revocation of Commission action taken under this section.

§ 211.58 Notice of enforcement action to government agencies.

(a) *Consultation.* The Commmission may consult with or seek information from any government agency when taking any action under this subpart.

(b) *Notification of Treasury.* The Commission shall notify the Secretary of the Treasury of any action under this subpart which results in a permanent or temporary exclusion of articles from entry or the revocation of an order to such effect.

Issued: April 2, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-10773 Filed 4-8-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1304, 1306

Records and Reports of Registrants, Central Recordkeeping Permits

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment to § 1304.04(a) of Title 21 of the Code of Federal Regulations would eliminate central recordkeeping permits but would still provide a means whereby qualified registrants would be able to keep certain required records at a central location. Rather than the current permit system, the proposed amendment would establish a much simpler notification system.

DATES: Written comments and objections must be received on or before May 12, 1980.

ADDRESSED: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 Eye Street, N.W., Room 518, Washington, D.C. 20537, telephone number (202) 633-1321.

SUPPLEMENTARY INFORMATION: Section 1304.04(a) of Title 21, Code of Federal Regulations, delineates the means by which a registrant may keep certain required records at a central location rather than at the registered location. The system, as it presently exists, requires that the registrant make application to DEA for a permit to keep central records. The applications are available from DEA field offices but the permits are now issued at DEA Headquarters, Office of Compliance and Regulatory Affairs.

The proposed changes would allow a registrant wishing to keep records at a central location to do so without the need of a permit. The registrant would instead notify, in writing, the Regional Director of the DEA region in which it is located of its intention to keep the

records at a central location, the nature of the records to be kept centrally, and the exact location where the records will be kept. All of the other requirements currently contained in the affected section will remain the same.

All interested persons are invited to submit their comments and objections in writing regarding this proposal.

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator hereby proposes that 21 CFR Part 1304 be amended as follows:

1. Section 1304.04 Maintenance of records and inventories. (a) Every inventory and other records required to be kept under this Part shall be kept by the registrant and be available, for at least 2 years from the date of such inventory or records, for inspection and copying by authorized employees of the Administration, except that financial and shipping records (such as invoices and packing slips but not executed order forms subject to paragraph 1305.13 of this chapter) may be kept at a central location, rather than at the registered location, if the registrant has notified the Administration of his intention to keep central records. Written notification must be submitted by registered or certified mail, return receipt requested, in triplicate, to the Regional Director of the Administration in the region in which the registrant is located.

Unless the registrant is informed by the Regional Director that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of his notification by the Regional Director. All notifications must include:

(1) The nature of the records to be kept centrally.

(2) The exact location where the records will be kept.

(3) The name, address, DEA registration number and type of DEA registration of the registrant whose records are being maintained centrally.

(4) Whether central records will be maintained in a manual, or computer readable form.

(b) All registrants that are authorized to maintain a central recordkeeping system shall be subject to the following conditions:

(1) The records to be maintained at the central record location shall not include executed order forms, prescriptions and/or inventories which shall be maintained at each registered location.

(2) If the records are kept on microfilm, computer media or in any form requiring special equipment to render the records easily readable, the registrant shall provide access to such equipment with the records. If any code system is used (other than pricing information), a key to the code shall be provided to make the records understandable.

(3) The registrant agrees to deliver all or any part of such records to the registered location within 48 hours of receipt of a written request from the Administration for such records, and if the Administration chooses to do so in lieu of requiring delivery of such records to the registered location, to allow authorized employees of the Administration to inspect such records at the central location upon request by such employees without a warrant of any kind.

(4) In the event that a registrant fails to comply with these conditions, the Regional Director may cancel such central recordkeeping authorization, and all other central recordkeeping authorizations held by the registrant without a hearing or other procedures. In the event of a cancellation of central recordkeeping authorizations under this sub-paragraph the registrant shall, within the time specified by the Regional Director, comply with the requirements of this section that all records be kept at the registered location.

(c) Registrants need not notify the Regional Director or obtain central recordkeeping approval in order to maintain records on an in-house computer system.

(d) ARCOS participants who desire authorization to report from other than their registered locations must obtain a separate central reporting identifier. Request for central reporting identifiers will be submitted to: ARCOS Unit, P.O. Box 28293, Central Station, Washington, D.C. 20005.

(e) All central recordkeeping permits previously issued by the Administration will expire on September 30, 1980. Registrants who desire to continue maintaining central records will make notification to the local Regional Director as provided in (a) above.

PART 1304—RECORDS AND REPORTS OF REGISTRANTS

§ 1304.04 [Amended]

2. Sections 1304.04(b), (c) and (d) are redesignated as 1304.04(f), (g) and (h), respectively.

PART 1306—PRESCRIPTIONS

§ 1306.22 [Amended]

Section 1306.22(d) is hereby deleted.

Dated: April 3, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-10728 Filed 4-8-80; 8:45 am]

BILLING CODE 4410-09-M

21 CFR Part 1306

Prescriptions for Schedule II Controlled Substances

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment of § 1306.13 of Title 21 of the Code of Federal Regulations would permit the partial filling of prescriptions for Schedule II controlled substances, beyond the current 72-hour time limit, if the prescriptions are written for patients in Long Term Care Facilities.

DATES: Written comments and objections should be received on or before May 12, 1980.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, telephone number (202) 633-1321.

SUPPLEMENTAL INFORMATION: The Drug Enforcement Administration has received suggestions and requests from professional associations and organizations proposing that DEA issue new regulations permitting pharmacies to partially fill prescriptions for controlled substances for patients in Long Term Care Facilities (LTCF). These regulations, if issued, should reduce the health care costs to such patients by limiting the amounts of controlled substances which might otherwise accumulate at Long Term Care Facilities, which are non-registered locations.

The Drug Enforcement Administration has evaluated these suggestions and requests for their practicality and impact and agrees that regulations should be issued permitting the partial filling of Schedule II prescription orders for patients in Long Term Care Facilities.

All interested persons are invited to submit their comments and objections in writing regarding these proposals. These

comments or objections should state with particularity the issues concerning which the person desires to be heard. If a person believes that one or more issues raised by him warrent a full adversary-type hearing, he should state and summarize the reasons for his belief. In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a full adversary-type hearing, the Administrator shall publish in the **Federal Register** an order summarizing the issues to be heard and setting the time for a public hearing.

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator hereby proposes that 21 CFR Part 1306 be amended as follows: 1. By amending § 1306.02, by adding new paragraph (e) and by redesignating existing paragraphs (e) through (g) as paragraphs (f) through (h) respectively.

§ 1306.02 Definitions.

* * * * *

(e) A "Long Term Care Facility" (LTCF) means a nursing home, retirement care, mental care or other facility and institution which provides extended health care to patients residing within.

* * * * *

2. By revising § 1306.13 as follows:

§ 1306.13 Partial filling of prescriptions.

The existing paragraph is designated as paragraph (a), and the following is added:

* * * * *

(b) Prescriptions for Schedule II controlled substances written for patients in Long Term Care Facilities (LTCF) may be filled in partial quantities, to include individual dosage units, if authorized by the prescribing practitioner. A notation that partial filling is authorized will be made on the face of the prescription by the prescribing practitioner. For each partial filling the dispensing pharmacist will record on the back of the prescription (or on another approprite uniformly maintained, readily retrievable record) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharmacist. Schedule II prescriptions, for patients in LTCF, authorizing partial filling will be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

(c) Information pertaining to current Schedule II prescriptions, authorized to be partially filled for patients in LTCF, may be maintained in a computerized system if this system has the capability to permit:

(1) Output (display or printout) of the original prescription number, date of issuance, identification of prescribing individual practitioner, identification of patient, identification of LTCF, identification of medication authorized (to include dosage form, strength and quantity), listing of partial fillings that have been dispensed under each prescription and the information required in § 1306.13(b).

(2) Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted.

(3) Retrieval of partially filled Scheduled II prescription information, the same as required by § 1306.22(b) (4) and (5) for Schedules III and IV prescription refill information.

Dated: April 3, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-10729 Filed 4-8-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 171, 177 and 182

Indian Mineral Development Regulations

March 26, 1980.

AGENCY: Bureau of Indian Affairs.

ACTION: Notice of Intent to repropose revision of Indian Mineral Development Regulations.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs intends to repropose revision of most of the regulations governing the development of minerals on Indian lands. On April 5, 1977, a notice of proposed rulemaking was published in the **Federal Register** for the revision of the mineral development regulations. (42 F.R. 18083.) Numerous comments were received in response to the notice and several public meetings were held. However, with the exception of the regulations promulgated to implement the Surface Coal Mining and Reclamation Act of 1977, 25 CFR Part 177, Subpart B (42 F.R. 63395, December 16, 1977), and revised rules governing oil and gas leasing of Osage Reservation lands (43 F.R. 8135, February 28, 1978), the regulations have as yet not been promulgated to become effective. Because of the lengthy passage of time and because some significant changes have been made in the rules as proposed, the rules will again be published for comment.

FOR FURTHER INFORMATION CONTACT: Tom Riggs, (202) 343-3722.

It has been determined that the revision does not meet the criteria of significance under the Department of the Interior's rulemaking regulations, 43 CFR 14.3(c); nor do they require a regulatory analysis, § 14.3(d).

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-10852 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-266-76]

Treatment of Organization and Syndication Fees; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the treatment of partnership organization and syndication fees.

DATES: The public hearing will be held on May 21, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by May 9, 1980.

ADDRESS: The public hearing will be held in the Chief Counsel's Conference Room, Room 4132, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-266-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles G. Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 707 and 709 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, January 11, 1980, at page 2349 (45 FR 2349).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by May 9, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-10698 Filed 4-8-80; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[EE-164-78]

Coordination of Vesting and Discrimination Requirements for Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with additional guidance needed to comply with that Act and would affect all employers maintaining qualified plans.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 9, 1980. The amendments are proposed to be effective for plan years beginning 30 days after the publication of this regulation in the Federal Register as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-164-78), 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, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 411(d)(1) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1012(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 901) and these regulations 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 401(a)(4) of the Code provides that a plan which discriminates in favor of employees who are officers, shareholders, or highly compensated (hereinafter refered to as "prohibited group") is not a qualified plan under section 401(a). Section 411(d)(1) provides that the vesting schedule of a plan which satisfies the requirements of section 411 shall be considered as satisfying any vesting requirements resulting from the application of section 401(a)(4) except in two situations. One situation, as set forth in section 411(d)(1)(A), is a pattern of abuse under the plan which tends to discriminate in favor of the prohibited group (pattern of abuse). The other situation, as detailed in section 411(d)(1)(B), is where there have been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of the prohibited group (hereinafter referred to as "discriminatory vesting").

Prior Guidelines

Initial guidelines under section 411(d)(1) were set forth in Revenue Procedure 75-49, 1975-2 C.B. 584. That procedure established several alternative tests, with respect to vesting, that a plan must satisfy to secure a favorable advance determination letter. If a plan fails to satisfy these tests, a favorable advance determination letter will not be issued unless the plan adopts accelerated vesting (so-called "4/40 vesting").

Revenue Procedure 75-49 was modified in Revenue Procedure 76-11, 1976-1 C.B. 550. That procedure adopted alternative ways of satisfying the requirements of section 411(d)(1) in order to secure a favorable advance determination letter, in addition to the tests contained in Revenue Procedure 75-49.

The tests of Revenue Procedures 75-49 and 76-11 were applied only with respect to whether a plan could receive a favorable advance determination letter. The determination letter by its terms provided that the approval of the plan's qualified status by the Service did not extend to the plan in operation. Therefore, separate tests for determining discrimination in vesting were necessary with respect to the issuance of a determination letter and with respect to testing the operation of the plan's vesting schedule.

In addition, the tests described in Revenue Procedures 75-49 and 76-11 were generally mechanical. Objections were raised by plan administrators and sponsors when they were required to accept 4/40 vesting as a minimum schedule, and yet 4/40 vesting did not reflect the policies of ERISA if applied as a maximum vesting schedule. At the same time, it is recognized that there is a value in allowing safe harbors for a plan administrators who seek a determination letter with respect to the qualified status of a plan. Therefore, although a facts and circumstances test more accurately reflects the vesting antidiscrimination provisions of the Code, and the policies of ERISA, it is recognized that some forms of safe harbor are appropriate for certainty purposes.

The rules contained in the proposed regulations attempt to accommodate both goals. On the one hand, a facts and circumstances test is described. This description is amplified by a list of factors which may be included in applying the test. It is anticipated that these factors will offer substantial guidance to plan administrators in reviewing the vesting provisions applicable both with respect to a determination letter application and with respect to the status of a plan in operation. On the other hand, two safe harbor tests are provided which would insulate a plan against a finding of discriminatory vesting under the plan.

After this regulation is adopted, it is anticipated that the tests and vesting

schedule contained in Revenue Procedures 75–49 and 76–11 will no longer be applied. While plans having determination letters based on 4/40 vesting need not apply for a new determination letter on the basis of the plan's vesting schedule, plan administrators should be aware that the tests included in these regulations will be applied in testing the operation of each plan's vesting schedule and are cautioned to review each plan accordingly. Because of the guidance to be provided by this regulation after it is adopted, the concerns voiced by plan administrators under prior rules regarding how a plan's operation with respect to vesting would be judged should be alleviated. In addition, when a plan is submitted to the Internal Revenue Service for a determination letter it is anticipated that the rules in these regulations will be applied for purposes of issuing such letters.

Discrimination in Vesting

The proposed rules provide that the determination of whether there is a pattern of abuse or discriminatory vesting under a plan shall be determined on the facts and circumstances of each case. Several criteria are set forth as factors to be used in making such a determination.

Two safe harbors are provided against a finding of discriminatory vesting under the plan. One safe harbor requires full vesting after an employee has three years of service. The other safe harbor requires full vesting after ten years of service, and the sum of the vested percentages for the employee's service prior to the completion of ten years of service must equal or exceed 700.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight 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 is Kirk F. Maldonado 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 these regulations, both on matters of substance and style.

Proposed Amendment to the Regulations

It is proposed to amend 26 CFR Part 1 by adding the following new section at the appropriate place:

§ 1.411 (d)–1 Coordination of vesting and discrimination requirements.

(a) *General rule.* A plan which satisfies the requirements of section 411 (a) (2) shall be treated as satisfying any vesting schedule requirements resulting from the application of section 401 (a) (4) unless the plan is discriminatory within the meaning of section 411 (d) (1) and this section. A plan is discriminatory if there is a pattern of abuse or there is discriminatory vesting as determined under paragraphs (b) and (c) of this section, respectively. Under section 401 (a) (4), a plan which discriminates in favor of employees who are officers, shareholders, or highly compensated (hereinafter referred to as "prohibited group"), is not a qualified plan under section 401 (a).

(b) *Pattern of abuse*—(1) *Definition.* A plan is discriminatory under section 411 (d) (1) (A) and shall not be considered to satisfy the requirements of section 401 (a) (4) if there has been a pattern of abuse under the plan tending to discriminate in favor of the prohibited group (hereinafter referred to as "pattern of abuse").

(2) *Test for pattern of abuse.* The determination of whether there has been a pattern of abuse shall be made on the basis of the facts and circumstances of each case. An example of a pattern of abuse is the systematic dismissal of employees before their accrued benefits vest.

(c) *Discriminatory vesting*—(1) *Definition.* A plan is discriminatory under section 411 (d) (1) (B) and shall not be considered to satisfy the requirements of section 401 (a) (4) if there have been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of the prohibited group by operation of the vesting schedule (hereinafter referred to as "discriminatory vesting").

(2) *Test for discriminatory vesting.* Unless paragraph (d) applies, the determination of whether there is, or there is reason to believe there will be, discriminatory vesting shall be made on the basis of the facts and circumstances of each case. An unfavorable comparison based on one of the following factors does not require a finding that there is discriminatory vesting. Factors which are relevant to this determination include, but are not limited to, comparisions between the prohibited group and all other employees covered by the plan of: (i) The employment turnover rate. The term "employment turnover rate" means the annual rate of turnover for employees.

(ii) The average percentage of vesting of each employee currently employed by the employer maintaining the plan.

(iii) The average percentage of vesting of each employee whose employment is terminated. For purposes of this subparagraph, a "termination of employment" occurs when the employee leaves by reason of a quit, discharge, retirement, or any other means.

(iv) The average number of years remaining for each employee until that employee becomes fully vested.

(v) In the case of a plan amendment which increases the length of service required for any particular level of vesting, the percentage of employees satisfying the new length of service requirement at the time it becomes effective.

(d) *Safe habor test*—(1) *General rule.* A plan whose vesting schedule satisfies the requirements of subparagraph (2) or (3) of this paragraph shall be deemed not to be discriminatory under paragraph (c) of this section.

(2) *Three year rule.* A plan satisfies the requirements of this subparagraph if any employee who has completed 3 years of service has a 100% nonforfeitable right to the accrued benefit derived from employer contributions.

(3) *Ten year rule.* A plan satisfies the requirements of this subparagraph if any employee who has completed 10 years of service has a 100% nonforfeitable right to the accrued benefit derived from employer contributions, and the sum of the 10 relevant percentages of the employee's nonforfeitable rights equals or exceeds 700. The relevant percentages to be added are the employee's vested percentage (if any) prior to the completion of the first year of service, and the vested percentages after the completion of each of the first 9 years of service.

(4) *Determination of years of service.* For purposes of this paragraph, the term "years of service" means years of service required to be taken into account for purposes of section 411(a)(2), determined without regard to subparagraphs (A), (B), and (C) of section 411(a)(4).

(5) *Examples.* The rules provided by this paragraph are illustrated by the following examples:

Example (1). (i) Plan A provides that years of service for purposes of vesting are calculated under section 411(a)(2) without regard to subparagraphs (A), (B), and (C) of section 411(a)(4). Under the plan, an employee is 100% vested in the accrued benefit derived from employer contributions after three years of service.

(ii) The vesting schedule of Plan A can be illustrated by the following table:

Completed years of service	Nonforfeitable percentage
Less than 1	0
1 but less than 2	0
2 but less than 3	0
3 but less than 4	100
4 but less than 5	100
5 but less than 6	100
6 but less than 7	100
7 but less than 8	100
8 but less than 9	100
9 but less than 10	100
Total	700

(iii) Plan A satisfies the requirements of subparagraph (2) of this paragraph because an employee is 100% vested after three years of service. Plan A also satisfies the requirements of subparagraph (3) of this paragraph because the sum of the 10 relevant percentages equals 700 and an employee is 100% vested after 10 years of service. Therefore, Plan A is deemed to be nondiscriminatory under paragraph (c) of this section.

Example (2). (i) Plan B provides that years of service for purposes of vesting are calculated under section 411(a)(2), without regard to subparagraphs (A), (B), and (C) of section 411(a)(4). Under the plan, an employee is 20% vested after one year of service, 40% after two years, 60% after three years, 80% after four years, and 100% after five years.

(ii) The vesting schedule of Plan B can be illustrated by the following table:

Completed years of service	Nonforfeitable percentage
Less than 1	0
1 but less than 2	20
2 but less than 3	40
3 but less than 4	60
4 but less than 5	80
5 but less than 6	100
6 but less than 7	100
7 but less than 8	100
8 but less than 9	100
9 but less than 10	100
Total	700

(iii) Plan B does not satisfy the requirements of subparagraph (2) of this paragraph because an employee is not 100% vested after 3 years of service. However, Plan B satisfies the requirements of subparagraph (3) of this paragraph because the sum of the 10 relevant percentages equals 700 and an employee is 100% vested after 10 years of service. Therefore, Plan B is deemed to be nondiscriminatory under paragraph (c) of this section.

Example (3). (i) Plan C provides that years of service for purposes of vesting are calculated under section 411(a)(2), with regard to subparagraphs (A), (B), and (C) of section 411(a)(4). Under the plan, an employee's right to the accrued benefit derived from employer contributions vest as provided in section 411(a)(2)(A).

(ii) The vesting schedule of Plan C can be illustrated by the following table:

Completed years of service	Nonforfeitable percentage
Less than 1	0
1 but less than 2	0
2 but less than 3	0
3 but less than 4	0
4 but less than 5	0
5 but less than 6	0
6 but less than 7	0
7 but less than 8	0
8 but less than 9	0
9 but less than 10	0
10 or more	100

(iii) Plan C does not meet the requirements of subparagraph (2) of this paragraph because an employee is not 100% vested after 3 years of service. Plan C does not meet the requirements of subparagraph (3) of this paragraph because the sum of the 10 relevant percentages does not equal 700, although an employee is 100% vested after 10 years of service. Also, Plan C fails to meet the requirements of subparagraph (4) of this paragraph because an employee's service for vesting purposes is calculated using all of the subparagraphs of section 411(a)(4) instead of disregarding subparagraphs (A), (B), and (C) thereof.

(iv) Even though Plan C does not satisfy the requirements of subparagraph (2) or (3) of this paragraph, it may be found to be nondiscriminatory under paragraph (c) of this section if it satisfies the facts and circumstances test set forth in paragraph (c)(2) of this section.

(e) *Defined benefit plans.* A defined benefit plan which satisfies the benefit accural requirements of section 411(b) shall still be subject to the nondiscrimination requirements of section 401(a)(4) with regard to its benefit accural rates. Thus, even though a plan satisfies the section 411(b) requirements, the plan may still be discriminatory under section 401(a)(4) with respect to its benefit accurals.

(f) *Effective date.* This section shall apply to plan years beginning 30 days after the publication of this section in the **Federal Register** as a Treasury decision.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-10699 Filed 4-8-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-45-76]

Consolidated Return Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to consolidated returns for percentage depletion for independent producers and royalty owners. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. The regulations would provide the public with guidance needed to comply with the Act and would affect certain corporations that file consolidated returns.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 9, 1980. The regulations are proposed to be effective for taxable years for which the due date (without extensions) for filing returns is after (the filing date of this document as a treasury decision).

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

FOR FURTHER INFORMATION CONTACT: Lawrence M. Axelrod 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 (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1954. These amendments are proposed to comform the regulations to section 501(a) of the Tax Reduction Act of 1975 (89 Stat. 47). They are to be issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637 and 917, 26 U.S.C. 1502 and 7805).

Percentage Depletion for Independent Producers and Royalty Owners

Section 613 provides general rules permitting a taxpayer that extracts minerals to deduct a reasonable allowance for depletion, computed as a percentage of the gross income from the property. The allowance may exceed 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion). In the case of

oil and gas wells, however, section 613A, as added by section 501(a) of the Tax Reduction Act of 1975, restricts the percentage depletion allowance to certain domestic gas wells and indpendent producers and royalty owners. Section 613A(d) further limits the allowance in the case of independent producers and royalty owners to 65 percent taxpayers's "taxable income" for the taxable year.

These proposed regulations provide rules for computing the limitation under section 613A(d) on percentage depletion with respect to oil and gas wells if the corporation operating the wells is a member of an affiliated group that files a consolidated return. The notice proposes that the group's consolidated taxable income be used as the base for computing the 65-percent limitation.

Unlike the limitation provided in section 613(a), which is 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion), the limitation provided in section 613A (d) is determined as a percentage of the taxpayer's taxable income from all sources. Thus, the 65-percent limitation under section 613A(d) will apply only if the taxpayer has losses from other wells or unrelated operations which result in taxable income from the oil or gas property exceeding taxable income from all sources. In this respect, the section 613A(d) limitation can be viewed as a "minimum tax" provision. It is apparent that Congress did not intend to allow a percentage depletion deduction for oil or gas that would eliminate a taxpayer's entire tax liability for a taxable year.

In the context of a consolidated return, the limitation should not permit the depletion deduction to eliminate the group's entire tax liability for the consolidated return year, which would frustrate the congressional intent. For this reason, a member's separate taxable income cannot be used for the limitation. For example, assume a member has taxable income from an oil property of $130 and a loss from another operation of $30 for the taxable year. In addition, the other member of the group has a $35 loss for the year. If a separate return is filed, the member with the oil property can claim a depletion deduction not greater that $65 (*i.e.*, the lower of 50%×$130 or 65%×($130−$30)) resulting in taxable income of $35 (*i.e.* $130−$30−$65). If, however, a consolidated return were filed (and if the oil member's separate taxable income were used as the base for computing the 65-percent limitation), the $35 loss of the other member would completely offset the taxable income of the oil member, resulting in no tax liability. Viewed another way, the depletion deduction would completely offset the group's consolidated taxable income (computed without the deduction). Given that such a result is exactly what Congress intended to prevent by enacting section 613A(d), use of a member's separate taxable income for purposes of determining the section 613A(d) limitation on a consolidated return is not appropriate. Since the percentage depletion deduction should never exceed 65 percent of the group's consolidated taxable income (before the deduction), the depletion deduction in the foregoing example should not exceed $42.25 (*i.e.*, 65%×$65).

The proposed regulations adopt consolidated taxable income as the base for determining the 65% limitation. Use of the portion of such income attributable to the member which has income from oil or gas property as the base was considered and rejected. Unlike the bad debt deducation as computed under § 1.1502–42, the limitation described in section 613A(d) is not equivalent to a preferential tax rate imposed on a specific type of corporation. In addition, the section 613A(d) limitation does not establish the amount of the deduction, as is the case for the bad debt deduction. Rather section 613A(d) merely limits the current deductibility of the amount determined under section 613(a). Any portion of the deduction which is disallowed by reason of section 613A(d) becomes a carryover to a subsequent taxable year. Use of consolidated taxable income for purposes of applying the taxable income limitation in section 613A(d) could result in the allowance of a greater deduction under section 613A for the taxable year than would be permitted if a corporation filed a separate return. Allowance of a greater deduction, however, is only a matter of timing. To the extent the rule merely allows a corporation to deduct amounts on a consolidated return, which would be carryovers if the corporation filed a separate return, a fundamental purpose for filing a consolidated return is properly achieved. On the other hand, if use of consolidated taxable income for the limitation results in a reduction of the deduction computed under section 613(a) that would have been allowed for the taxable year if the corporation filed a separate return (because the aggregate of the incomes and losses of other members is negative), the "minimum tax" policy underlying section 613A(d) is implemented.

Furthermore, use of the group's consolidated taxable income as the base for computing the 65 percent limitation will eliminate any incentive to shift loss activities to members other than those owning oil and gas property, and profit activities to members that own such property, simply for purposes of increasing the limitation.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (perferably 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 is Lawrence M. Axelrod of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.1502–12 is amended as follows:

1. The material preceding paragraph (a) is revised.
2. The word "and" at the end of paragraph (n) is deleted.
3. Paragraph (o) is revised.
4. A new paragraph (p) is added.

The new and revised provisions read as follows:

§ 1.1502–12 Separate taxable income.

The separate taxable income of a member (including a case in which deductions exceed gross income) is computed in accordance with the provisions of the Code covering the determination of taxable income of separate corporations, subject to the following modifications:

* * * * *

(o) Basis shall be determined under §§ 1.1502–31 and 1.1502–32, and earnings and profits shall be determined under § 1.1502–33; and

(p) The limitation on deductions provided in section 613A shall be taken into account for each member's oil and gas properties as provided in § 1.1502–44.

Par. 2. A new § 1.1502–44 is added to read as follows:

§ 1.1502–44 Percentage depletion for independent producers and royalty owners.

(a) *In general.* The sum of the percentage depletion deductions for the taxable year for all oil or gas property owned by all members, plus any carryovers under section 613A(d)(1) or paragraph (d) of this section from a prior taxable year, may not exceed 65 percent of the group's adjusted consolidated taxable income (under paragraph (b) of this section) for the consolidated return year.

(b) *Adjusted consolidated taxable income.* For purposes of this section, adjusted consolidated taxable income is an amount (not less than zero) equal to the group's consolidated taxable income determined without—

(1) Any depletion with respect to an oil or gas property (other than a gas property with respect to which the depletion allowance for all production is determined pursuant to section 613A(b)) for which percentage depletion would exceed cost depletion in the absence of the depletable quantity limitations contained in section 613A(c) (1) and (6) and the consolidated taxable income limitation contained in paragraph (a) of this section,

(2) Any consolidated net operating loss carryback to the consolidated return year under § 1.1502–21, and

(3) Any consolidated net capital loss carryback to the consolidated return year under § 1.1502–22.

(c) *Allocation to oil and gas properties.* The maximum amount allowable as a deduction under section 613A(c), after the application of paragraph (a) of this section, is allocated to properties held by members in accordance with the regulations under section 613A(d). Those regulations provide for an initial allocation and possible reallocation of the maximum allowable percentage depletion deduction among oil and gas properties. Thus, if, after the initial allocation, cost depletion exceeds the percentage depletion that would be allowable for a particular oil or gas property, cost depletion must be used for that property and the maximum amount of percentage depletion allowable as a deduction for the group is reallocated among only the remaining properties held by all members.

(d) *Carryover for disallowed amounts.* (1) If any amount is disallowed as a deduction for the taxable year by reason of section 613A(d)(1) or paragraph (a) of this section, the disallowed amount for each oil or gas property is treated as an amount allowed as a deduction under section 613A(c), for the following taxable year for the member that owned the property, in accordance with the regulations under section 613A and paragraphs (a) and (d)(2) of this section.

(2) Any amount that was disallowed as a deduction in a separate return limitation year of a member may be carried to a consolidated return year only to the extent that 65 percent of the excess determined under paragraph (d)(3) of this section exceeds the sum of the otherwise allowable percentage depletion deductions for the member's oil and gas properties for the year.

(3) The excess determined in this subparagraph (3) for a member is the excess, if any, of adjusted consolidated taxable income for the year under paragraph (b) of this section over that income recomputed by excluding the items of income and deductions of the member.

(e) *Effective date.* This section applies to taxable years for which the due date (without extensions) for filing returns is after (the filing date of this document as a treasury decision).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 10701 Filed 4–8–80; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1, 3, and 53

[LR–273–76]

Holding Period Required for Treatment of Long-Term Capital Gain or Long-Term Capital Loss; Changes in Terms Relating to Transactions in Capital Assets

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to changes in the holding period required for gains or losses on transactions in capital assets to be treated as long-term capital gains or long-term capital losses and to changes in certain terms relating to transactions in capital assets. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations would provide the public with guidance needed to comply with that Act and would affect the tax treatment of sales or excanges of capital assets.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 9, 1980. The amendments pertaining to the change in the holding period from 6 months to 9 months are proposed to be effective for taxable years beginning in 1977. The amendments pertaining to the change in the holding period from 9 months to 1 year are proposed to be effective for taxable years beginning after December 31, 1977. The amendments pertaining to the new terms "capital gain net income" and "net capital gain" are proposed to be effective for taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–273–76), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: Claudine Ausness 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, 202–566–3803).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations, the Regulations on Capital Construction Fund, and the Regulations on Foundation Excise Taxes (26 CFR Parts 1, 3 and 53) under numerous sections of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 1402 (a)(1) and (2), and 1901 (a)(136)(A) and (B) of the Tax Reform Act of 1976 (90 Stat. 1731, 1787) 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).

Explanation of Provisions

Section 1402 (a)(1) and (2) of the Tax Reform Act of 1976 amends section 1222 (1), (2), (3) and (4) of the Code by lengthening the holding period defining long-term capital gains and losses from 6 months to 9 months for taxable years beginning in 1977. The Act further lengthens the holding period from 9 months to 1 year for taxable years beginning after December 31, 1977. The proposed amendments would conform the regulations to these changes in the required holding period. Therefore, gain or loss from sales or exchanges of capital assets will be considered long-term capital gain or long-term capital loss if the asset was held for more than 1 year (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977). Conversely, gain or loss from sales or exchanges of capital assets will be considered short-term capital gain or short-term capital loss if the asset was held for not more than 1 year (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977). These changes do not affect the

rules pertaining to the holding period of commodity futures.

Section 1901 (a)(136)(A) and (B) of the Act substituted the term "capital gain net income" for the term "net capital gain" and substituted the term "net capital gain" for the term "net section 1201 gain" in section 1222 (9) and (11) of the Code, respectively. The proposed amendments would conform the regulations to these changes in terminology.

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 is Claudine Ausness of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1, 3 and 53 are as follows:

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1980

Paragraph 1. The following regulation sections are amended by substituting "1 year (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977)" for "6 months" and "six months" each place "6 months" or "six months" appears in such regulation sections:

1. Section 1.123–1 (a) (3).
2. Section 1.166–5 (a) (2).
3. Section 1.170A–4 (b) (1).
4. Section 1.272–1 (b) (3).
5. Section 1.333–5 (d) (1) and (d) (2).
6. Section 1.341–4 (a).
7. Section 1.341–6 (b) (2) (iii) and (b) (5).
8. Example (1) of § 1.357–2 (b).
9. Section 1.421–5 (a) (1), (c) (2), (d) (1) and (e).
10. Section 1.423–1 (a) (1).
11. Section 1.424–1 (a) (1) (i).
12. That portion of § 1.614–6 (b) other than the example.
13. Section 1.631–1 (a) (4), (b) (1) and (d) (4).
14. Section 1.631–2 (a) (1), (a) (2), (b) (1), (c) (2), (d) (1), (d) (3) (i) and (d) (3) (iii).
15. Section 1.631–3 (a) (1), (a) (2), (b) (1) and (c) (3).
16. Section 1.691 (a)–3 (b) (1).
17. Section 1.702–1 (a) (1) and (a) (2).
18. Section 1.817–2 (b) (1) (i), (b) (3) (i) and (b) (3) (ii).
19. Section 1.852–4 (b) (1), (b) (2) (i), (b) (3) and (d) (1).
20. Section 1.856–2 (c) (1) (iii) (*a*).
21. Section 1.857–4 (b) and (c) (1).
22. Section 1.1012–1 (e) (3), (e) (4) (i) and (e) (4) (ii).
23. Section 1.1222–1 (a) and (c).
24. Section 1.1223–1 (j).
25. Section 1.1231–1 (a), (b), (c) (1), (c) (2), (c) (5), (e) (1) and (e) (3).
26. Section 1.1232–1 (a).
27. Section 1.1232–3 (a) (1) and (b) (1) (ii).
28. Section 1.1233–1 (a) (4), (c) (2), (c) (4), (c) (5) and (e).
29. Section 1.1234–2 (a).
30. Section 1.1235–1 (a).
31. Section 1.1235–2 (d) (2).
32. Section 1.1245–4 (a) (4).
33. Section 1.1247–3 (b) (4) and (d) (1).
34. Section 1.1248–1 (e) (3).
35. Section 1.1251–3 (a) (1) (i) (*a*).
36. Section 1.1385–1 (c) (2) (ii) (*a*).

§§ 1.421–5, 1.423.2 and 1.424–2 [Amended]

Par. 2. Paragraphs (a) (2) and (b) (1) (i) of § 1.421–5, paragraph (k) (1) (i) of § 1.423–2, and paragraph (b) (1) (i) of § 1.424–2 are amended by substituting "1-year (6-month for taxable years beginning before 1977; 9-month for taxable years beginning in 1977)" for "6-month" each place "6-month" appears in such regulation sections.

§ 1.1012–1 [Amended]

Par. 3. Paragraph (e) (3) of § 1.1012–1 is amended by substituting "1-year (6-month for taxable years beginning before 1977; 9-month for taxable years beginning in 1977)" for "6-months" each place "6-months" appears in such paragraph.

§ 1.1012–1 [Amended]

Par. 4. The caption of paragraph (e) (3) (iii) of § 1.1012–1 is amended by substituting *"1-year"* for *"6-months"*.

§ 1.1247–3 [Amended]

Par. 5. The caption of paragraph (d) of § 1.1247–3 is amended by substituting *"1 year"* for *"6 months"*.

Par. 6. The following regulation sections are amended by substituting "capital gain net income (net capital gain for taxable years beginning before January 1, 1977)" for "net capital gain" and "net capital gains" each place "net capital gain" or "net capital gains" appears in such regulation sections.

1. Section 1.381 (c) (3)–1 (c) (1), (d) (1), (d) (1) (ii), (d) (2), (e) (1), (e) (5), (e) (6), and (e) (7).
2. Section 1.852–10 (b) (1).
3. Section 1.1202–1 (a).
4. Section 1.1212–1 (a) (2) (i), (a) (3) (ii), (a) (3) (iii) (*a*), and (a) (3) (iii) (*f*).
5. Section 1.1222–1 (d) (1).
6. Section 1.1248–4 (d) (5) (ii) and (g) (2).
7. Section 1.1502–4 (d) (1) (ii).
8. Section 1.1502–11 (a) (3).
9. Section 1.1502–15 (a) (1).
10. Section 1.1502–21 (f) (2).
11. Section 1.1502–22 (a) (1), (c) (2) (i) and (d) (2) (i).
12. Section 1.1502–25 (c) (2) (ii).
13. Section 1.1502–27 (b) (2).
14. Section 1.1502–79 (a) (3) (ii) and (b) (2) (i).
15. Section 1.1552–1 (a) (1) (ii) (*b*).

Par. 7. The following regulation sections are amended by adding the parenthetical phrase "(capital gain net income for taxable years beginning after December 31, 1976)" direct after the phrases "net capital gain" and "net capital gains" each place the phrases "net capital gain" or "net capital gains" appears in such regulation sections:

1. Section 1.381 (c) (3)–1 (c) (4), (d) (4) and (e) (8).
2. Examples (3) and (5) of § 1.642 (c)–3 (c).
3. Example (2) of § 1.643 (a)–6 (b).
4. Examples (6), (7) and (8) of § 1.1211–1 (b) (8).
5. Section 1.1212–1 (a) (1) (i), examples (a), (b) and (c) of paragraph (a) (1) (ii), example (2) of paragraph (a) (2) (iii), examples (1), (2), (3), (4) and (5) of paragraph (a) (3) (iv), and example (7) of paragraph (b) (5).
6. Example (2) of § 1.1248–4 (d) (5) (iii).
7. Examples (4) and (5) of § 1.1375–1 (f).
8. Example (2) of § 1.1502–4 (j).
9. Examples (1), (2), and (3) of § 1.1502–11 (b) (6).

§§ 1.381 and 1.1502–22 [Amended]

Par. 8. The captions of paragraphs (d) (1) and (e) (5) of § 1.381 (c) (3)–1, of § 1.1502–22, and of paragraph (a) (1) of § 1.1502–22 are amended by substituting *"capital gain net income"* for *"net capital gain"* each place *"net capital gain"* appears in such captions.

Par. 9. The following regulation sections are amended by substituting "net capital gain (net section 1201 gain

for taxable years beginning before January 1, 1977)" for "net section 1201 gain" each place "net section 1201 gain" appears in such regulation sections:

1. Section 1.665 (d)–1A (c) (2).

2. Section 1.1201–1 (a) (1) (i), (a) (2) (i), (a) (4), (b) (1), (b) (2) (i), (b) (2) (ii) (*a*), (b) (2) (ii) (*b*), (e) (1) and (e) (2).

3. Section 1.1222–1 (h).

4. Section 1.1348–2 (d) (1).

Par. 10. The following regulation sections are amended by adding the parenthetical phrase "(net capital gain for taxable years beginning after December 31, 1976)" directly after the phrase "net section 1201 gain" each place the phrase "net section 1201 gain" appears in such regulation sections:

1. Example (1) of § 1.21–1 (n).

2. Example (3) of § 1.514(b)–1 (b) (1) (iii) and example (2) of paragraph (b) (3).

3. Section 1.1201–1 (a) (3) (i), (a) (3) (ii) (*a*), (a) (3) (ii) (*b*), (a) (3) (iii), (a) (3) (iv), (b) (2) (iii) and examples (2), (3) and (4) of paragraph (g).

§ 1.21–1 [Amended]

Par. 11. Example (1) of § 1.21–1 (n) is amended by adding the parenthetical phrase "(net capital gain for taxable years beginning after December 31, 1976)" directly after the phrase "section 1201 gain."

PART 3—CAPITAL CONSTRUCTION FUND

§ 3.4 [Amended]

Par. 12. Paragraphs (c) and (d) (2) of § 3.4 are amended by substituting "1 year (6 months for taxable years beginning before 1977, 9 months for taxable years beginning in 1977)" for "6 months" each place "6 months" appears in such paragraphs.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

§ 53.4940–1 [Amended]

Par. 13. Paragraphs (c) (1) (i) and (f) (1) of § 53.4940–1 are amended by substituting "capital gain net income (net capital gain for taxable years beginning before January 1, 1977)" for "net capital gain" each place "net capital gain" appears in such regulation section.

§ 53.4940–1 [Amended]

Par. 14. Example (2) of § 53.4940–1 (f) (4) is amended by adding the parenthetical phrase "(capital gain net income for taxable years beginning after December 31, 1976)" directly after the phrase "net capital gain" each place the phrase "net capital gain" appears in such regulation section.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–10700 Filed 4–8–80; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1, 31, and 301

[LR–279–76]

Withholding on Certain Individuals Engaged in Fishing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of certain crewmen on boats engaged in catching fish as self-employed rather than as employees. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations will provide operators and crewmen of fishing boats with guidance necessary for compliance with the Acts.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 9, 1980. The amendments relating to income tax withholding and self-employment taxes are proposed to be effective for taxable years ending after December 31, 1954. The amendments relating to social security taxes are proposed to be effective with respect to services performed after December 31, 1954, except for services performed after December 31, 1954, but before October 4, 1976, in cases in which the owner or operator of a boat treated a share of the boat's catch as being subject to such taxes. The amendment relating to reporting requirements are proposed to be effective for calendar years beginning after October 4, 1976.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR 279–76), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Claudine Ausness of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T (202–566–3803)).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 1402, 3121, 3401, and 6050A of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1207 (e) and (f)(4) of the Tax Reform Act of 1976 (90 Stat. 1706), as amended by section 701 (z) of the Revenue Act of 1978 (92 Stat. 2921), 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).

Explanation of Provisions

Under the Tax Reform Act of 1976, as amended, if certain conditions are met, after 1954 crewmen on boats engaged in catching fish and other aquatic animals are generally consisdered self-employed, rather than employees, for purposes of income tax withholding, self-employment tax, and the social security laws.

In order for a crewman to be considered self employed, all of the following conditions must be met:

(1) The crew member must receive a share of the boat's catch or a share of the proceeds from the sale of the catch, and he must be entitled to no other cash;

(2) The amount of the crew member's share must depend solely on the amount of the boat's catch, and therefore the amount of the share cannot be fixed at any minimum; and

(3) The crew of the boat on which the individual performed services must normally be made up of fewer than 10 individuals.

Even if the criteria under the new provision are satisfied, for purposes of the social security tax, a crewman is nevertheless deemed an employee, with regard to any services performed after December 31, 1954, but before October 4, 1976, if the boat operator treated a share of the boat's catch received by the crewman as subject to social security tax.

If the new criteria are satified, the boat operator must file an information return on Form 1099–F (Copy A) by February 28 of the calendar year following the year in which service is performed, and, if the crewman has made his address known, the operator must furnish Copy B of the same form to the crewman. The operator must report on Form 1099–F the identity of each individual performing services, the individual's percentage share of the catch, and the amount of the proceeds received or the type and weight of the catch each crewman received as compensation for his services.

Under the proposed regulation, a crewman's share is not dependent solely on the amount of the boat's catch if the

crewman is entitled under any individual or collective agreement to any fee, hourly wage, minimum for services, or any other amount unrelated to the size of the catch. Further, the operating crew includes the captain for purposes of determining the number of persons who normally make up the crew of the boat. The regulation provides that services performed by a crewman on one voyage may be excepted from employment but may not be so excepted on a subsequent voyage on the same or on a different boat, and that services of some crewmen on a voyage may be excepted from employment while services of other crewmen on the same voyage may not be so excepted.

The proposed regulation specifies certain events which result in a boat operator's "treating" a share of the boat's catch as subject to social security taxes for purposes of the exception to the 1955 effective date in the case of such taxes. For example, the operator is generally deemed to have treated the share of the catch as subject to social security taxes (1) if the operator voluntarily filed Form 941, (2) if he made full or partial payment of FICA tax (unless he made such payment only in order to file a court claim for a refund), or (3) if the operator withheld FICA tax from the crewman's share (regardless of whether the tax was paid over to the Service).

The proposed regulation makes clear that, if a share of the catch has been "treated" as subject to social security taxes, in the case of services performed after December 31, 1954, but before October 4, 1976, even though the crewman otherwise satisfied the criteria necessary for being considered self-employed, he is not required to pay tax on self-employment income with respect to such services, but is required to pay income tax on income received for such services. The fact that a boat operator has treated a share of the catch as being subject to the social security tax does not mean that the operator is required to withhold income tax with respect to that share. However, in such cases the boat operator is required to pay over both the employee and employer portions of FICA tax.

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 is Claudine Ausness of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulation

The proposed amendments to 26 CFR Parts 1, 31, and 301 follow:

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

Paragraph 1. Section 1.1402(c)–3 is amended by revising the second sentence of paragraph (a) and by adding a new paragraph (g) to read as follows:

§ 1.1402(c)–3 Employees.

(a) *General rule.* * * * However, in six cases set forth in paragraphs (b) to (g), inclusive, of this section, the performance of service by an individual is considered to constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1. * * *

* * * * *

(g) *Individuals engaged in fishing.* For taxable years ending after December 31, 1954, service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1 if the service is excepted from the definition of employment by section 3121(b)(20) and §31.3121(b)(20)–1(a). However, the preceding sentence does not apply to services performed after December 31, 1954, and before October 4, 1976, on a boat engaged in catching fish if the owner or operator of the boat treated the individual as an employee in the manner described in § 31.3121(b)(20)–1(b).

Par. 2. Section 1.6050A–1 is added immediately after § 1.6050–1, to read as follows:

§ 1.6050A–1 Reporting requirements of certain fishing boat operators.

(a) *Requirement of reporting.* The operator of a boat on which one or more individuals during a calendar year services described in § 31.3121(b)(20)–1(a) shall make an information return on Form 1099F for that calendar year. The return shall include the following information:

(1) The name and taxpayer identification number of each individual performing the services;

(2) The percentage of each individual's share of the catch of fish or other forms of aquatic life (hereinafter "fish");

(3) The percentage of the operator's share of the catch of fish;

(4) If the individual receives all or part of his share of the catch in kind; the type and weight of the share and, if it can be ascertained, the fair market value of his share;

(5) If the individual receives a share of the proceeds of the catch, the dollar amount received; and

(6) Any other information that is required by the form.

For purposes of this section, the term, "boat operator" means an employer (as defined in section § 31.3121(d)–2) of an employee whose services are excepted from employment by section 3121(b)(20) and § 31.3121(b)(20)–1. The boat operator may make separate returns on Form 1099F for each crew member for each voyage, or he may aggregate the information required by this paragraph for an individual for all or any part of a return period in which the type of catch (if required) and the percentage due the crew member remain the same.

(b) Time and place for filing. Returns required to be made under this section on Form 1099F shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099F, on or before February 28 of the year following the year in which the relevant services were performed.

(c) *Requirement of and time for furnishing statement*—(1) *requirement of furnishing statement.* Every person filing a Form 1099F under this section shall furnish to the individual whose identifying number is (or should be) shown on the form a written statement showing the information required by paragraph (a) of this section. The requirement of the preceding sentence may be met by furnishing to the individual copy B of Form 1099F or a reasonable facsimile of Form 1099F that was filed pursuant to this section.

(2) *Time for furnishing statement.* Each statement required by this paragraph to be furnished to any individual for a calendar year shall be furnished on or before January 31 of the year following the calendar year for which the return was made.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Par. 3. Section 31.3121(b)(20)–1 is added immediately after § 31.3121(b)(19)–1, to read as follows:

§ 31.3121(b)(20)–1 Service performed on a boat engaged in catching fish.

(a) *In general.* (1) Service performed on or after December 31, 1954, by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") are excepted from employment if—

(i) The individual receives a share of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish or a share of the proceeds from the sale of the catch,

(ii) The amount of the individual's share depends solely on the amount of the boat's (or boat's for a fishing operation involving more than one boat) catch of fish,

(iii) The individual does not recieve, and is not entitled to receive, any cash remuneration, other than remuneration that is described in sub-division (1) of this subparagraph, and

(iv) The crew of the boat (or of each boat from which the individual receives a share of the catch) normally is made up of fewer than 10 individuals.

(2) The requirement of subdivision (ii) of subparagraph (1) is not satisfied if there exists an agreement with the boat's (or boats') owner or operator by which the individual's remuneration is determined partially or fully by a factor not dependent on the size of the catch. For example, if a boat is operated under a remuneration arrangement, *e.g.*, a collective agreement which specifies that crew members, in addition to receiving a share of the catch, are entitled to an hourly wage for repairing nets, regardless of whether this wage is actually paid, then all the crew members covered by the arrangement are entitled to receive cash remuneration other than a share of the catch and their services are not expected from employment by section 3121(b)(20).

(3) The operating crew of a boat includes all persons on the boat (including the captain) who receive any form of remuneration in exchange for services rendered while on a boat engaged in catching fish. See § 1.6050A–1 for reporting requirements for the operator of a boat engaged in catching fish with respect to individuals performing services described in this section.

(4) During the same return period, service performed by a crew member may be excepted from employment by section 3121(b)(20) and this section for one voyage and not so excepted on a subsequent voyage on the same or on a different boat.

(5) During the same voyage, service performed by one crew member may be excepted from employment by section 3121(b)(20) and this section but service performed by another crew member may not be so excepted.

(b) *Special rule.* Services performed after Decembner 31, 1954, and before October 4, 1976, on a boat by an individual engaged in catching fish are not excepted from employment for any voyage (for purposes of section 3121(b) and the corresponding regulations), even through the individual satisfies the requirements of subdivision (i) through (iv) of paragraph (a)(1) of this section, if the owner or operator of the boat engaged in catching fish treated the individual as an employee. For purposes of this subparagraph, the individual was treated as an employee if—

(1) Form 941 was voluntarily filed by the boat operator or owner, regardless of whether the tax imposed by chapter 21 was withheld. For purposes of this subdivision, the filing of Form 941 is not voluntary if the filing was the result of action taken by the Service pursuant to section 6651(a) (relating to addition to the tax for failure to file tax return or to pay tax);

(2) The boat owner or operator withheld from the individual's share the tax imposed by chapter 21, regardless of whether the tax was paid over to the Service; or

(3) The boat owner or operator made full or partial payment of the tax imposed by chapter 21, unless the payment was made pursuant to section 7422(a) (relating to no civil actions for refund prior to filing claim for refund). However, for purposes of this paragaph, crew members whose services, but for subdivisions (i) through (iii), would have been excepted from employment by section 3121(b)(20) are not required to pay self-employment tax on income earned in performing those services. See § 1.1402 (c)-3(g). Moreover, in such cases the employer is not entitled to a refund of the employer's share of any tax imposed by chapter 21 that was paid.

Par. 4. Section 31.3401(a)(17)–1 is added after § 31.3401(a)(16)–1, to read as follows:

§ 31.3401(a)(17)–1 Remuneration for services performed on a boat engaged in catching fish.

(a) Remuneration for services performed on or after December 31, 1954, by an individual on a boat engaged in catching fish or other forms of aquatic animal life (hereinafter "fish") is excepted from wages and hence is not subject to withholding if—

(1) The individual receives a share of the boat's (or boats' for a fishing operation involved more than one boat) catch of fish or a share of the proceeds from the sale of the catch,

(2) The amount of the individual's share depends solely on the amount of the boat's (or boats' for a fishing operation involving more than one boat) catch of fish,

(3) The individual does not receive, and is not entitled to receive, any cash remuneration, other than remuneration that is described in subparagraph (1) of this paragraph, and

(4) The crew of the boat (or of each boat from which the individual receives a share of the catch) normally is made up of fewer than 10 individuals.

(b) The requirement of subparagraph (2) of paragraph (a) is not satisfied if there exists an agreement with the boat's (or boats') owner or operator by which the individual's remuneration is determined partially or fully by a factor not dependent on the size of the catch. For example, if a boat is operated under a remuneration arrangement, *e.g.*, a union contract, which specifies that crew members, in addition to receiving a share of the catch, are entitled to an hourly wage for repairing nets, regardless of whether this wage is actually paid, then all the crew members covered by the arrangement are entitled to receive cash remuneration other than as a share of the catch and are not excepted from employment by section 3121(b)(20).

(c) The operating crew of a boat includes all persons on the boat (including the captain) who receive any form of remuneration in exchange for services rendered while on a boat engaged in catching fish. See § 1.6050A–1 for reporting requirements for the operator of a boat engaged in catching fish with respect to individuals performing services described in this section.

(d) During the same return period, service performed by a crew member may be excepted from employment by section 3121(b)(20) and this section for one voyage and not so excepted on a subsequent voyage on the same or on a different boat.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 5. Section 301.6050A–1 is added immediately after § 301.6050–1, to read as follows:

§ 301.6050A–1 Information returns regarding services performed by certain crewmen on fishing boats.

For provisions relating to the requirement of returns of information regarding services performed by certain crewmen on fishing boats, see § 1.6050A–1 of this chapter (Income Tax Regulations) and § 301.6652–1 of this chapter (Regulations on Procedure and Administration).

Par. 6. Section 301.6652–1(a)(2) is amended to read as follows:

§ 301.6652–1 Failure to file certain information returns.

(a) *Returns with respect to payments made in calendar years after 1962.* * * *

(2) *Other payments; statements with respect to tips.* In the case of each failure—

(i) To file a statement of a payment made to another person required under authority of section 6041, relating to information returns with respect to certain information at source, or section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a), or section 6050A(a), relating to information returns with respect to remuneration of certain crew members defined in section 3121(b)(20), or

(ii) To furnish a statement required under authority of section 6053(b), relating to statements furnished by employers with respect to tips, or section 6050A(b), relating to statements furnished by fishing boat operators with respect to remuneration of certain crew members, within the time prescribed by regulations under those sections for filing such statements (determined with regard to any extension of time for filing),

there shall be paid by the person failing to so file the statement $1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calander year shall not exceed $1,000.

* * * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–10702 Filed 4–8–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Determination of Completeness for Permanent Program Submission From the State of Arkansas

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Determination of completeness of Arkansas program submission.

SUMMARY: On February 19, 1980, the State of Arkansas submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Arkansas program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded a review and has determined the program submission is complete.

ADDRESSES: Written comments on the Arkansas program and a summary of the public meeting are available for public review, 8 a.m.–4 p.m., Monday through Friday, excluding holidays at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Bldg., 818 Grand Avenue, Kansas City, MO 64106.

Copies of the full text of the proposed Arkansas program are available for review during regular business hours at the OSM regional office above and at the following office of the state regulatory authority:

Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

Copies of the full text of the proposed Arkansas program are also available for review at the following locations:

Clark County Library, 609 Caddo, Arkadelphia, Arkansas.
Public Library of Camden and Ouachita County, 120 Harrison Avenue SW, Camden, Arkansas.
Barton Library, East Fifth and North Jefferson, Eldorado, Arkansas.
Ozarks Regional Library Headquarters, 217 E. Dickson, Fayetteville, Arkansas.
Fort Smith Public Library, 61 S. Eighth, Fort Smith, Arkansas.
Crowley Ridge Regional Library, 315 W. Oak, Jonesboro, Arkansas.
Magnolia Public Library, 220 E. Main, Magnolia, Arkansas.
Ozark Public Library, 407 W. Market, Ozark, Arkansas.
Pope County Library, 114 E. Third, Russellville, Arkansas.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Bldg., 818 Grand Avenue, Kansas City, MO 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 19, 1980, OSM received a proposed permanent regulatory program from the State of Arkansas. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326–15328, March 13, 1979), the Regional Director, Region IV, published notification of receipt of the program submission in the **Federal Register** of February 27, 1980 (45 FR 12918–12919) and in the following newspapers of general circulation within Arkansas: Arkansas Gazette, Little Rock; Southwest Times Record, Fort Smith.

The February 27, 1980, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the program submission, announcement of a public review meeting on March 31, 1980, in Little Rock, Arkansas, to discuss the submission and its completeness, and announcement of a public comment period until March 31, 1980, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and **Federal Register** notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b), and constitutes the Regional Director's decision on the completeness of the Arkansas program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Arkansas submission fulfills the requirements for program submissions under 30 CFR 731.14 and is therefore complete.

It should be noted that Arkansas has addressed 30 CFR 731.14(g)(6), administering and enforcing the permanent program performance standards, in the narrative materials that address 30 CFR 731.14(g) (1), (4), and (5). Also, the program submission did not include the Arkansas Administrative Procedures Act or the Arkansas Freedom of Information Act. However, these documents have subsequently been submitted and are available at the locations listed above.

No later than June 6, 1980, the Regional Director will publish a notice in the Federal Register and in the following newspapers of general circulation in Arkansas initiating substantive review of the program submission: Arkansas Gazette, Little Rock; Southwest Times Record, Fort Smith.

The review will include a formal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Arkansas regulatory program, in accordance with Section 702(d) of SMCRA (30 U.S.C. 1292(d)) which states that approval of state programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: April 3, 1980.

Kenneth L. Faulk,

Acting Regional Director.

[FR Doc. 10724 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 425

[FRL 1458-5]

Leather Tanning and Finishing Industry Point Source Category; availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of additional documents.

SUMMARY: EPA proposed regulations to limit effluent discharge to waters of the Untied States and introduction of pollutants into publicly owned treatment works from leather tanning and finishing facilities on July 2, 1979 (44 FR 38746). EPA announces today that copies of additional documents have been added to the record for this rulemaking. These documents include, "Environmental Assessment for the Leather Tanning Industry", submitted to the Public Information Reference Unit for public review on March 12, 1980; reports prepared by Midwest Research Institute (MRI) and Carborundum, Inc. on analytical precision and accuracy studies for leather tanning wastewaters, and an EPA memorandum concerning these studies dated February 6, 1980, submitted to the Public Information Reference Unit for public review on March 20, 1980. Copies of public comments and additional related documents are being added to the record as they are received.

DATES: Comments on the specific documents added to the record (cited above) will be accepted on or before May 9, 1980. However, comments on the balance of the record and this rulemaking are to be submitted in writing by April 10, 1980.

ADDRESS: Send comments to: Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Leather Tanning Rules.

The record for this rulemaking is available for public inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library, rear) PM-213, 401 M Street, S.W., Washington, D.C. 20460. The EPA public information regulations (40 CFR Part 2) provide that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Anderson, at the above listed address, or call (202)426-2707.

Dated: April 2, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-10739 Filed 4-8-;80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Ch. 3

Implementation of Section 7(b) of the Indian Self-Determination and Education Assistance Act; Intent To Develop Regulations

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of intent to develop regulations.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare proposes to develop regulations implementing the Indian preference requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450e(b), with respect to certain awards made by the Department.

DATE: Please submit comments on or before July 8, 1980.

ADDRESS: Submit comments to: Mr. Jack Coleman, Office of Procurement Policy, Office of Grants and Procurement, OASMB-OS, HEW, 200 Independence Avenue, S.W., Room 539H, Hubert H. Humphrey Building, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Coleman, Office of Procurement Policy, OGP-OASMB-OS, (202) 245-8901.

SUPPLEMENTARY INFORMATION: Section 7(b) of Public Law 93-638, the Indian Self-Determination and Education Assistance Act, (25 U.S.C. 450e(b)), requires that recipients of certain Federal awards apply Indian preference in carrying out those awards. Section 7(b) provides, in full, as follows:

> Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—
>
> (1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and
>
> (2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77).

The Department has previously promulgated regulations implementing section 7(b) with respect to awards in particular program areas that are subject to it. See, for example, the regulations applicable to awards under section 103 of Pub. L. 93-638, at 41 CFR 3-4.6013 (clauses 29 and 35), 41 CFR 3-4.6014 (clauses 16 and 17), and 42 CFR 36.220 and 36.221.

The Department has not promulgated detailed regulations implementing section 7(b) with respect to all awards that it makes that are subject to that statutory provision. The Department now propose to do so in accordance with its normal rulemaking procedures, including publication in the Federal Register of proposed regulations with an opportunity for public comment. Before issuing proposed regulations, the Department is requesting public comment on several major issues to be addressed by those regulations.

Specifically, the Department requests comment on each of the following questions:

1. Should the Department promulgate regulations implementing section 7(b) for all HEW awards to which it applies?

2. In light of the language of the first paragraph of section 7(b), which contracts and grants awarded by the Department must include the Indian

preference provisions required by that section?

3. What differences, if any, should there be between regulations relating to contracts and those relating to grants?

4. Should the regulations differ with respect to different types of projects? For example, should there be any difference in regulations relating to construction projects and those relating to nonconstruction projects?

5. What particular provisions should the Department adopt to implement the requirement of "preference and opportunities for training and employment" stated in section 7(b)(1)? In short, what does it mean to give "preferences and opportunities"?

6. What particular provisions should the Department adopt to implement the requirement of "preference in the award of subcontracts and subgrants" in section 7(b)(2)? In short, what does it mean to give a preference?

In addition, members of the public are encouraged to comment on any other matters relating to the promulgation of section 7(b) regulations.

Dated: April 2, 1980.

E. T. Rhodes,

Deputy Assistant Secretary for Grants and Procurement.

[FR Doc. 80-10590 Filed 4-8-80; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 79-246]

Private Line Rate Structure and Volume Discount Practices; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; reply and responsive comments; extension of time.

SUMMARY: The Chief, Common Carrier Bureau, has granted an extension of time for all parties from April 7, 1980 until May 7, 1980 in which to file counterproposals and replies in the proceeding relating to private line rate structure and volume discount practices. In addition, the date for filing replies to counterproposals has been extended from April 23, 1980 until June 9, 1980. This action was taken in response to a motion filed by AT&T requesting additional time to file modifications of its initial proposal filed in this proceeding.

DATES: Reply Comments must be filed on or before May 7, 1980 and Responsive Comments to proposals must be filed on or before June 9, 1980.

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

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Tariff Division, Common Carrier Bureau, (202) 632-6312.

Adopted: March 31, 1980.

Released: April 3, 1980.

(44 FR 61216, October 24, 1979; 45 FR 16214, March 13, 1980)

In the Matter of American Telephone and Telegraph Company private line rate structure and volume discount practices.

1. Before the Chief, Common Carrier Bureau, is a motion for extension of time by the American Telephone and Telegraph Company (AT&T) requesting an extension from April 7, 1980 until May 7, 1980 in which to file replies and counterproposals in the above-captioned proceeding.

2. In support, AT&T states that numerous comments responsive to its initial proposal have been filed, that these comments vary in degree of detailed analysis, and that they have required a thorough and time-consuming evaluation. It further recites that its evaluation of these comments has suggested ways in which to modify its initial proposal consistent with the Commission's guidelines. Because additional time would lead to an adequate development of its proposed modifications, AT&T reasons that a grant of the extension would serve the public interest.

3. We conclude that AT&T has shown sufficient reason for granting the requested extension. In particular, we believe that the extension is justified in order to permit AT&T to submit a proposal which complies with the Commission's guidelines for a restructuring of AT&T's private line tariff. Consistent with this result, moreover, the remaining filing dates will be adjusted as set forth below.

4. Accordingly, it is ordered, pursuant to delegated authority contained in Section 0.291 of the Commission's Rules, 47 CFR § 0.291, That the "Motion for Extension of Time" filed by the American Telephone & Telegraph Company IS GRANTED.

5. It is further ordered, That reply comments and alternate proposals of all parties shall be filed by on or before May 7, 1980. Responsive comments to proposals shall be filed on or before June 9, 1980.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-10696 Filed 4-8-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 67

[Docket No. 21263]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the U.S. Mainland, and Hawaii, Alaska, and Puerto Rico/Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Supplemental information request, Docket No. 21263.

SUMMARY: The Federal-State Joint Board convened in this proceeding seeks additional information on its authority as well as technical information concerning separations procedures for Alaska.

DATES: Comments to be filed no later than May 9, 1980, and replies to be filed no later than May 27, 1980.

T2ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Common Carrier Bureau, (202) 632-3772.

In the matter of integration of rates and services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland, and Hawaii, Alaska and Puerto Rico/Virgin Islands, Docket No. 21263. See also 45 FR 4365, January 22, 1980.

Adopted: March 27, 1980.

Released: April 2, 1980.

1. The Federal-State Joint Board convened in this proceeding, following consultation with the Joint Staff, has instructed the staff to set forth questions to be answered in a memorandum of law, and to develop technical questions. Since time is of the essence and since the information sought should be readily available to the parties, a thirty day comment period and fifteen day reply period will be established.

2. The following questions have been developed in accordance with the Joint Board's instructions. Answers to the questions in A shall be provided in a memorandum of law. Responses to the data requests in B shall cross reference any previous filings and all work papers should be retained for future review as may be required.

A. Memorandum of Law: Provide a legal memorandum addressing questions (1) – (4) below. Copies of all decisions not reported in a national reporter system should be attached.

1. The purpose clause contained in Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. 151 (1976), provides:

> Sec. 1. *For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges,* for the purpose of the national defense, for the purpose of promoting safety of life and property through use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by the law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the "Federal Communications Commission," which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act. (Emphasis added.)

Parties to this proceeding have argued that Section 1 of the Communications Act mandates "universal" service, "adequate" service and/or "affordable" rates.

(a) Please provide comments, including legal citations, as to whether or not Section 1 requires "universal" service, "adequate" service, and/or "affordable" rates.

(b) Is there an established legal definition for any or each of these terms? Provide citations. If there are established legal definitions, state any deviations from such definitions applicable to this proceeding and set forth legal justification for such deviations.

(c) If Section 1 requires "universal" service, "adequate" service, and/or "affordable" rates, define what would constitute achievement of the appropriate goal(s).

(d) What limitations, if any, do Title II and any other appropriate parts of the Communications Act have on the Federal Communications Commission's jurisdiction to implement the broad purpose stated in Section 1?

(e) What limitations, if any, apply to the use of separations procedures to accomplish the purposes stated in Section 1?

2. Taking into consideration your response to Question 1, *supra,* is the Federal Communications Commission legally empowered to modify existing separations methodology:

(a) To assist the development or improvement of communications facilities and services to meet the social or telecommunications goals of any individual state?

(b) To assist the development or improvement of communications facilities and services within discrete areas of one or more states?

(c) To assist the development or improvement of communications facilities and services within areas of a particular state presently receiving no service or less than adequate service?

(d) To assist the development or improvement of communications facilities and services within discrete areas of one or more states presently receiving no service or less than adequate service?

3. What, if any, additional legal procedures would be required to make applicable on a nationwide basis any modification to existing separations methodology which may be adopted by the Federal Communications Commission to assist the development or improvement of communications facilities and services in discrete areas of a single state?

4. Assuming that existing separations methodology is modified in such a way as to allocate greater amounts of investment and expense to the interstate jurisdiction for specific telecommunications purposes, where should subsequent responsibility lie for insuring that those objectives are fulfilled? To the extent that such development is made possible by modifying separations methodology to allocate greater amounts of investment and expense to the interstate jurisdiction, must the development and the capital expenditures associated with such telecommunications purposes be approved in advance under Section 214 of the Communications Act and must the services by subject to tariffs filed before the Federal Communications Commission? Can the Federal Communications Commission legally delegate this authority to a state regulatory agency?

B. Data Requests. (1) Assuming *arguendo* that the existing Separations Manual is recommended (i.e. no "Bush" supplement) what changes, if any, should be made to the implementation factors (i.e. CSR ratio) applied in practice to make the Manual reflect Alaska?

(2) What changes, if any, should be made to the current definition of non-traffic sensitive plant to reflect facilities in Alaska? What factors should be applied to such facilities?

(3) What would be the intrastate effect, exchange and toll, if 10, 25, or 50 percent of the staff proposed supplement to interstate was allocated to intrastate?

(4) What locations on the mainland would qualify for the staff proposed "Bush" supplement assuming satellite interconnection was not required? Specify exact locations and limitations, if any, to the response.

(5) Identify the satellite facilities and associated revenue requirements included in Alascom's purported revenue requirement. What capital contributions have been made by the State of Alaska? How are the capital investments of such facilities treated?

(6) What are the anticipated capital expenditures of Alascom and the independents in the "Bush" for the next five years? Specify the facilities, locations, revenue requirements and source of anticipated revenues to satisfy the revenue requirement. Specify the assumptions made in determining the revenue requirement.

(7) Set forth what transition proposals, if any, should be applied for Alaska.

3. In order to expedite review of the material submitted in response to this data request, the parties are requested to submit an original and six copies to the Secretary, Federal Communications Commission and one copy to each of the State commission members of this Joint Board.

4. Accordingly, it is ordered that the parties shall submit a memorandum of law and response to the data requests as detailed in paragraph 2 above no later than May 9, 1980. Replies may be filed no later than May 27, 1980.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-10715 Filed 4-8-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-131; RM-3439]

FM Broadcast Station in Allendale, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Allendale, South Carolina, in response to a petition filed by Good Radio Broadcasting Company. The proposed channel could provide a first fulltime local aural broadcast service to Allendale.

DATES: Comments must be filed on or before May 27, 1980, and reply comments must be filed on or before June 16, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Allendale, South Carolina), BC Docket No. 80-131, RM-3439.

Adopted: March 25, 1980.

Released: April 7, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Good Radio Broadcasting Company ("petitioner"), proposing the assignment of Channel 228A to Allendale, South Carolina, as that community's first FM assignment.

(b) The channel can be assigned to Allendale, provided the transmitter site is located approximately 2.6 kilometers (1.6 miles) west of Allendale.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Location.* Allendale, in Allendale County, is located approximately 129 kilometers (80 miles) west of Charleston, South Carolina.

(b) *Population:*[2] Allendale—3,620; Allendale County—9,692.

(c) *Local Aural Broadcast Service.* Allendale is served locally by daytime-only Station WDOG.

3. *Economic Considerations.* Petitioner states that agriculture is the basic industry in Allendale County. Petitioner has submitted economic and demographic information with respect to Allendale which demonstrates the need for a first FM assignment.

4. In view of the fact that the proposed FM channel assignment would provide for a first fulltime local aural broadcast service in Allendale, the Commission believes it appropriate to propose amending the FM Table of Assignment, § 73.202(b) of the Commission's rules, with regard to Allendale, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Allendale, S.C.		228A

5. The Commission's authority to institute rule making proceedings, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 27, 1980, and reply comments on or before June 16, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibted in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Bauman,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-131; RM-3439]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of request.

3. *Cut-off procedure.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-10688 Filed 4-8-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-132; RM-3437]

FM Broadcast Station in Memphis, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Memphis, Missouri, in response to a petition filed by Samuel Berkowitz. The proposed channel could provide for a first local aural broadcast service to Memphis.

DATES: Comments must be filed on or before May 27, 1980, and reply comments must be filed on or before June 16, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Memphis, Missouri), BC Docket No. 80-132, RM-3437.

Adopted: March 25, 1980. Released: April 7, 1980.

1. *Petitioner, Proposal, Comments.* (a) On May 21, 1979, Samuel Berkowitz ("petitioner"), filed a request to assign Channel 244A to Memphis, Missouri.[1]

(b) The channel can be assigned to Memphis in conformity with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Memphis, seat of Scotland County, is located approximately 109 kilometers (68 miles) northwest of Hannibal, Missouri.

(b) *Population.* Memphis—2,081[2]; Scotland County—5,499.

(c) *Local Aural Service.* None.

3. *Economic Considerations.* Petitioner asserts that Memphis and the surrounding area is primarily dependent on agriculture. Petitioner has submitted demographic and economic data with respect to Memphis in an effort to demonstrate the need for an FM assignment. Petitioner notes that the only news medium in Memphis is a weekly newspaper.

4. In view of the fact that proposed FM channel could provide a first local aural service to Memphis and Scotland County, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Memphis, Missouri, as follow:

City	Channel No.	
	Present	Proposed
Memphis, Mo.		244A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 27, 1980, and reply comments on or before June 16, 1980.

[1] Petitioner's request was entitled "Comments and Counterproposal" to a petition filed in BC Docket No. 79-70, which proposed either Channel 252A or 244A for Palmyra, Missouri. The *Notice* in this docket proposed Channel 252A for Palmyra, and on April 2, 1979, a *Report and Order* was adopted making that assignment. Since Channel 244A is available for assignment to Memphis, Missouri, the Memphis request has been accepted as a new petition. Public Notice was given on August 17, 1979, Report No. 1188.

[2] Population figures are taken from the 1970 U.S. Census.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-132 RM-3437]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceedings itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-10687 Filed 4-8-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 70
Wednesday, April 9, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 36957]

National Airlines, Inc. Service Suspensions; Enforcement Proceeding; Reassignment of Proceeding

This proceeding has been reassigned from Chief Administrative Law Judge Joseph J. Saunders to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., April 3, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-10745 Filed 4-8-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37730]

Standard Foreign Fare Level Investigation; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 7, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

For informated concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report dated March 20, 1980, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Areonautics Board.

Dated at Washington, D.C., April 3, 1980.

Ronnie A. Yoder,

Chief Administrative Law Judge.

[FR Doc. 80-10746 Filed 4-8-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 5:00 p.m., on April 28, 1980, at the U.S. Commission on Civil Rights, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is the review of data requested by staff and committee on Indianapolis Employment project; summarize data reviewed on the Indianapolis Employment Study; and review of the names of individuals interviewed by Midwestern Regionl Office staff for SAC assignments in conjunction with the factfinding hearings for June 19th and 20th, Indianapolis, Indiana.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 2, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-10717 Filed 4-8-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Importers and Retailers' Textile Advisory Committee will be held on May 15, 1980 at 10:30 a.m. in Room 3836, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

April 4, 1980.

Arthur Garel,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 80-10693 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Advisory Committee for International Legal Metrology; Open Meeting

The Advisory Committee for International Legal Metrology will meet from 1:00 p.m. to 5:00 p.m. on Thursday, May 1, 1980, and from 9:00 a.m. to 5:00 p.m. on Friday, May 2, 1980. The meeting will be held in Lecture Room D. Administration Building, National Bureau of Standards, Gaithersburg, Maryland.

The Committee, initially established in March 1974 (39 FR 6136), advised the Department, through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS' assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government,

professional metrologists, national standards bodies, industry and trade associations, and consumers.

The May meeting is a prelude to the 6th International Conference of Legal Metrology to be held in Washington, D.C., June 16–20, 1980. As such, the agenda for the Committee meeting will include the following discussion items to be acted upon during the International Conference:

1. Examination of Member States:
2. Possible Amendment of the OIML Convention;
3. OIML relations with international institutions;
4. Draft Recommendations (12) to be presented for sanctioning by the International Conference;
5. Long-term policy regarding OIML Mark of Conformity and composition of OIML Secretariats;
6. Report on developing countries; and
7. Administrative and financial questions, including proposed budget for 1981–1984.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before April 23, 1980. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David E. Edgerly, Office of Domestic and International Measurement Standards, National Bureau of Standards, Washington, D.C. 20234, telephone: 301–921–3307.

Dated: April 3, 1980.

Thomas A. Dillon,

Acting Director, National Bureau of Standards.

[FR Doc. 80-10671 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss scallops; groundfish; draft statement on enforceability of management measures; Scientific and Statistical Committee Report (standing agenda Item); as well as other business.

DATES: The meeting will convene on Wednesday, April 30, 1980, at approximately 10 a.m., and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Hawthorne Inn, 18 Washington Square West, Salem, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: 617–535–5450.

Dated: April 3, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-10737 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) and its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) will hold joint and separate meetings.

DATES: The Council meeting will convene Thursday, April 24, 1980, at 8:30 a.m., and will adjourn Friday, April 25, 1980, at 5 p.m., at the Anchorage/Westward/Hilton Hotel (Kenai/Aleutian Rooms), 3rd and E Streets, Anchorage, Alaska. The SSC meeting will convene Tuesday, April 22, 1980, at 9 a.m., and will adjourn April 23, 1980, at 5 p.m., in the Council headquarters, 333 West 4th Avenue, Suite 32, Anchorage, Alaska. The AP meeting will convene Wednesday, April 23, 1980, at 9 a.m., and will adjourn at 5 p.m., in the Kenai/Aleutian Rooms of the Anchorage/Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The meetings may be lengthened or shortened depending upon progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone: (907) 274–4563.

Proposed Agenda:

SPECIAL NOTE: Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk as early as possible of the agenda item to be addressed and the time required. Preregistration and public comment may be scheduled for: F. OLD BUSINESS: G. FISHERY MANAGEMENT PLANS: H. NEW BUSINESS agenda items. The following agenda items will be discussed by the Council: A. CALL TO ORDER: B. APPROVAL OF AGENDA: C. APPROVAL OF MINUTES: D. EXECUTIVE DIRECTOR'S REPORT: E. SPECIAL REPORTS: E–1. The Alaska Department of Fish and Game (ADFG) Report on Domestic Fisheries. E–2. National Marine Fisheries Service (NMFS) Report on Foreign Fisheries, including joint ventures. E–3. U.S. Coast Guard (USCG) Report on Enforcement and Surveillance. E–4. Special SSC and AP reports. F. OLD BUSINESS: F–1. Appointment of new AP members. F–2. Old business as appropriate. G. FISHERY MANAGEMENT PLANS: G–1. Gulf of Alaska Groundfish FMP: review proposed 981 amendments and consider release of reserves. G–2. Bering Sea/Aleutian Islands Groundfish FMP: review proposed 1981 proposals; take action on a proposal to increase the cod optimum yield for 1980 and other business as appropriate. G–3. Herring draft FMP; consider comments received during the public hearings. G–4. Troll Salmon FMP; an update. H. NEW BUSINESS: H–1. Consideration of a policy on the management plan development process. H–3. An evaluation of the Environmental Defense Fund petition for changes in the guidelines for developing fishery management plans. H–4. Other new business as necessary. I. REPORTS, CONTRACTS, PROPOSALS: I–1. Review proposals and award contract for a "Study of the Offshore Chinook and Coho Salmon Fishery Off Alaska." I–2. Review proposals and award contract for the "Halibut Limited entry" study off Alaska. I–3. Other business as necessary. J. FINANCE REPORTS: J–1. Review of fiscal year 1980 six-month financial report. J–2. Other finance matters as necessary. K. PUBLIC COMMENTS: L. CHAIRMAN'S CLOSING REMARKS: M. ADJOURNMENT.

SSC/AP AGENDA SAME AS COUNCIL

Dated: April 4, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-10738 Filed 4-8-80; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council, Its Scientific and Statistical Committee, and Its Pink Shrimp Subpanel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of

1976 (Pub. L. 94–265), and the Council has established a Scientific and Statistical Committee and a Pink Shrimp Subpanel to assist in carrying out its responsibilities.

DATES: May 13–15, 1980.

ADDRESS: The meetings will take place at the Sheraton Portland Hotel, 1000 N.E. Multnomah, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, telephone: (503) 221–6362.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(open meeting) May 13–14, 1980, (1 p.m. to 5 p.m., on May 13; 8 a.m. to 5 p.m. on May 14).

Agenda: Discuss Groundfish and Pink Shrimp Fishery Management Plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m., on May 13, and conduct other Committee business.

Pink Shrimp Subpanel—(open meeting) May 13–14, 1980 (11 a.m. to 5 p.m., on May 13; 8 a.m. to 5 p.m., on May 14).

Agenda: Review Pink Shrimp FMP.

Council—(open meeting) May 14–15, 1980, (10 a.m. to 5 p.m. on May 14; 8 a.m. to 5 p.m. on May 15).

Agenda: Open Session—Review of Groundfish and Pink Shrimp FMP's, conduct other fishery management business, and conduct a public comment period beginning at 4 p.m., on May 14, 1980.

Council—(closed meeting) May 14, 1980 (8 a.m. to 10 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, SSC members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on February 1, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (6), as information which is properly classified pursuant to Executive Order and as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: April 3, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–10736 Filed 4–8–80; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Part-Time Permanent Employment

April 1, 1980.

SUMMARY: The Defense Logistics Agency (DLA) proposes to issue agency procedures to implement the Federal Employees Part-Time Career Employment Act of 1978, 5 U.S.C. 3401 et seq. by establishing a continuing program to provide career part-time employment opportunities in DLA. Written comments will be considered if received before June 4, 1980. Comments should be addressed to the Chief, Staffing and Employee Relations Division, Office of Personnel (DLA–KS), Cameron Station, Alexandria, Virginia 22314. The final procedures will be effective upon issuance. Persons interested in purchasing a copy of the procedures may request it in writing from HQ DLA, Attn: DLA–XAPD, Cameron Station, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Sonya Singer (202) 274–7167.

Part-Time Permanent Employment

I. *Purpose and scope.* To implement Pub. L. 95–437 by establishing a continuing program to provide career part-time employment opportunities in DLA. This DLAR applies to HQ DLA, DLA field activities, and Federal employees serviced by a DLA Civilian Personnel Office.

II *Policy.* A. In order to fully utilize the skills of individuals who are unable to meet the requirements of a 40-hour work week, it is the policy of DLA to provide career part-time employment to the extent consistent with resources and efficient mission accomplishment in positions through GS–15 (and wage grade equivalents).

B. No encumbered position will be abolished in order to make the duties available to be performed on a part-time basis.

C. A full time employee will not be required to accept part-time employment as a condition of continued employment.

III. *Definition. Part-time Permanent or Part-Time Career Employee.* An employee, serving under a competitive or excepted appointment in tenure group I or II, whose regularly scheduled work week is no less than 16 hours and no more than 32 hours.

IV. *Responsibilities.*

A. *HQ DLA.*—1. *The Staff Director, Personnel, DLA* will provide overall guidance on matters related to this DLAR.

2. *The Chief, Staffing and Employee Relations Division, Office of Personnel (DLA–KS)* will act as DLA coordinator for part-time employment, assisting in the development of program goals and timetables, monitoring progress, and complying with the Office of Personnel Management (OPM) reporting requirements.

3. *The Chief, Programs and Evaluation Division, Office of Personnel (DLA–KP)* will include evaluation of activity part-time employment programs in regular personnel management reviews.

B. *DLA Field Activities.* 1. *Heads of PLFAs* will:

a. Determine the extent to which part-time employment can be expanded and establish local goals and timetables based on DLA policy and guidance.

b. Publicize the availability of part-time employment and establish a procedure for the consideration of employee requests for conversion to part-time schedules.

c. Except positions from inclusion in this program based on mission and organizational needs.

d. Designate a part-time employment program coordinator to act as a single point of contact on all matters related to implementation of this DLAR at the activity.

e. Prepare and submit semiannual reports, in accordance with the provisions of paragraph VI and Enclosure 1, for each activity assigned to the PLFA for civilian personnel administration.

f. Issue guidance implementing this DLAR and provide for its distribution to all supervisors.

2. *The Commander, DLA Administrative Support Center (DASC–Z)* will implement this DLAR for HQ DLA.

V. *Procedures.* A. Newly established positions and positions becoming vacant will be reviewed to determine their suitability for conversion to part-time. Criteria to be used in this process should include:

1. Mission requirements and occupational mix.

2. Workload fluctuations.

3. Size of work force, turnover rate, and employment trends.

4. Affirmative action.

5. Geographic dispersion.

6. Current employee interest in part-time schedules.

7. Personnel ceilings and budgetary constraints.

B. Employees will be informed of the availability, rights, and benefits of part-time employment, as well as the procedure for requesting conversion from full time.

C. When the area of consideration for filling part-time vacancies includes external sources, appropriate public notification will be accomplished through such means as Federal job information announcements, recruiting bulletins, and position vacancy listings.

VI. *Forms and Reports.* Activities will prepare semiannual status reports on their part-time permanent employment programs in the format prescribed in Enclosure 1. These reports will be submitted to reach HQ DLA, ATTN: DLA-KS, by April 30 for the period October through March, and by October 31 for the period April through September. Interagency Report Control Number 0218-OPM-SA has been assigned for this purpose.

Anthony W. Hudson,

Staff Director, Personnel.

Part-Time Permanent Employment Program Report

[RCS: 0218-OPM-SA]

In compliance with the requirements of the Federal Employees Part-time Career Employment Act of 1978, each PLFA will report part-time permanent employment progress twice yearly: on April 30 for the period October through March, and on October 31 for the period April through September. Reports should include:

1. A consolidated narrative for the PLFA and its assigned activities setting forth:

a. Specific information on the activity's progress in meeting the part-time permanent employment goals it has established under DLAR 1402.4.

b. An explanation of any impediments encountered in meeting such goals or in otherwise carrying out the provisions of DLAR 1402.4 and a description of the measures taken to overcome such impediments.

c. Information on the extent to which opportunities for permanent part-time employment have been extended to older individuals, the handicapped, students and parents with family responsibilities. Note: HQ DLA will continue to receive data from the HQ DLA Automated Civilian Personnel Data Bank (ACPDB) on the composition of the part-time permanent work force by organization, sex, age, race, and handicap. *Activity reports need not duplicate these statistical data.*

2. New part-time permanent jobs established during the reporting period will be listed in the format prescribed in the attachment. A separate form will be submitted for each PLFA and for each assigned activity. Local reproduction of the form is authorized.

BILLING CODE 3620-01-M

PART-TIME PERMANENT EMPLOYMENT PROGRAM REPORT
(RCS: 0218-OPM-SA)

Assigned Activity

PLFA

Reporting Period

New Permanent Part-time Jobs Established

Occupational Series	Total	GS 1 - 4	GS 5 - 9	GS 10 - 12	GS 13 - 15	Wage Grade and other Non-GS Pay Systems
(List in ascending order)						
Grand Total						

Percent of total jobs filled by conversion of current full time employees to part-time permanent schedules: _____

[FR Doc. 80-10652 Filed 4-8-80; 8:45 am]
BILLING CODE 3620-01-C

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 80-CERT-015]

Calcasieu Refining Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on March 11, 1980, Calcasieu Refining Company (Calcasieu), 4543 Post Oak Place, Suite 204, Houston, Texas 77027, filed an application for certification of an eligible use of natural gas to displace fuel oil at its refinery facility in Lake Charles, Louisiana, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Calcasieu states that the volume of natural gas for which it requests certification is approximately 10,000,000 cubic feet per day. This volume is estimated to displace the use of approximately 1,818 barrels of #5 fuel oil (0.3 percent sulfur) per day.

The eligible seller is the Esperanza Transmission Company, P.O. Box 1050, Corpus Christi, Texas 78403. The gas would be transported by the United Gas Pipeline Company, P.O. Box 1487, Houston, Texas 77001, and the Texas Eastern Transmission Company, P.O. Box 2521, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before April 21, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Calcasieu and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on March 31, 1980.

Paul T. Burke,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-10635 Filed 4-8-80; 8:45 am]

BILLING CODE 6450-01-M

Entitlements Program Crude Oil Cost Data; November 1978 through January 1980

The Economic Regulatory Administration (ERA) hereby issues its bi-monthly notice of crude oil cost data. The purpose of this notice is to make available to the public information on the effect of the entitlements program on the crude oil costs of the various segments of the refining industry. Table I (attached) sets forth the pre-entitlements costs of crude oil to (1) the major refiners (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil), (2) large independent refiners (Amerada Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee, and Champlin), and (3) small refiners. Table II (attached) shows the post-entitlement crude oil cost distribution for the 22 major and large independent companies. Table III (attached) shows the pre-entitlement imported crude oil cost distribution for the same 22 companies.

The data are based on the reports filed each month on the Form ERA–49 by all refiners in the entitlements program.

Issued in Washington, D.C. on April 2, 1980

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, (202/653–3475).

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, (202/653–4055).

Table I.—*Crude Oil Costs Before and After Entitlement Payments*

[Dollars per barrel]

	Majors (top 15)[1]		Large independents [2]		Small refiners	
	Pre	Post [3]	Pre	Post [3]	Pre	Post [3]
1978:						
November	12.51	12.91	13.26	12.95	13.07	12.23
December	12.68	13.06	13.78	13.25	13.22	12.43
1979:						
January	12.76	13.24	14.06	13.48	13.60	12.65
February	13.17	13.65	14.22	13.60	13.72	12.77
March	13.40	13.82	14.60	14.55	14.11	13.23
April	14.15	14.60	15.85	15.27	14.82	13.96
May	14.82	15.42	17.10	16.41	15.89	14.78
June	16.43	16.93	18.61	17.39	17.76	17.17
July	18.13	18.71	20.74	19.19	18.74	18.11
August	19.11	19.62	21.73	20.25	20.52	20.06
September	19.29	19.85	21.43	20.10	21.43	20.78
October	20.02	20.68	22.63	23.89	21.60	20.62
November	21.03	21.81	25.87	24.61	22.92	21.97
December	22.71	23.55	26.00	23.65	24.96	24.23
1980: January	23.96	24.90	26.19	25.15	26.81	24.62
Change: January to January	11.20	11.66	12.13	11.67	13.21	11.97

[1] Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil.

[2] Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee, and Champlin.

[3] Post entitlements payment costs show the effect of the entitlements payments in the month for which the notice is published even though the payments take place two months later. For example, November 1979 data are shown in the entitlement notice for November 1979 published in January 1980.

Table II.—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]

Number of companies with per barrel costs

	Nov. 1978	Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979
$11.00 to $11.99	2	1	1	0	0	0	0
$12.00 to $12.99	6	6	8	2	3	2	0
$13.00 to $13.99	13	11	7	12	5	0	2
$14.00 to $14.99	1	4	5	8	13	10	5
$15.00 to $15.99	0	0	1	0	0	7	5
$16.00 to $16.99	0	0	0	0	1	3	6
$17.00 to $17.99	0	0	0	0	0	0	2
$18.00 to $18.99	0	0	0	0	0	0	1
$19.00 to $19.99	0	0	0	0	0	0	1
$20.00 to $20.99	0	0	0	0	0	0	0
$21.00 to $21.99	0	0	0	0	0	0	0
$22.00 to $22.99	0	0	0	0	0	0	0
$23.00 to $23.99	0	0	0	0	0	0	0
$24.00 to $24.99	0	0	0	0	0	0	0
$25.00 to $25.99	0	0	0	0	0	0	0
$26.00 to $26.99	0	0	0	0	0	0	0
$27.00 to $27.99	0	0	0	0	0	0	0
$28.00 to $28.99	0	0	0	0	0	0	0
$29.00 to $29.99	0	0	0	0	0	0	0
$30.00 to $30.99	0	0	0	0	0	0	0

[1] Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee, Champlin.

Table II.—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]—Continued

	June 1979	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980
$11.00 to $11.99	0	0	0	0	0	0	0	0
$12.00 to $12.99	0	0	0	0	0	0	0	0
$13.00 to $13.99	0	0	0	0	0	0	0	0
$14.00 to $14.99	2	0	0	0	0	0	0	0
$15.00 to $15.99	3	1	0	0	0	0	0	0
$16.00 to $16.99	4	0	1	2	1	0	0	0
$17.00 to $17.99	5	4	2	1	1	0	0	0
$18.00 to $18.99	6	5	5	1	1	1	0	0
$19.00 to $19.99	0	4	2	4	3	1	1	0
$20.00 to $20.99	2	6	7	6	1	2	1	0
$21.00 to $21.99	0	0	1	3	7	3	4	2
$22.00 to $22.99	0	0	3	3	3	5	3	3
$23.00 to $23.99	0	2	0	1	2	6	2	1
$24.00 to $24.99	0	0	1	1	2	3	5	1
$25.00 to $25.99	0	0	0	0	0	0	2	4
$26.00 to $26.99	0	0	0	0	1	0	2	5
$27.00 to $27.99	0	0	0	0	0	0	1	2
$28.00 to $28.99	0	0	0	0	0	0	0	4
$29.00 to $29.99	0	0	0	0	0	1	1	0
$30.00 to $30.99	0	0	0	0	0	0	0	0

[1] Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee, and Champlin.

Table III.—*Preentitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]

[Number of companies with per barrel crude oil cost]

	Nov. 1978	Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979
$13.00 to $13.99	4	1	0	0	0	0	0
$14.00 to $14.99	10	10	5	2	2	0	0
$15.00 to $15.99	7	9	7	10	3	1	0
$16.00 to $16.99	1	1	8	6	11	8	2
$17.00 to $17.99	0	1	0	2	3	2	6
$18.00 to $18.99	0	0	1	1	2	3	3
$19.00 to $19.99	0	0	0	0	1	5	5
$20.00 to $20.99	0	0	0	1	0	2	2
$21.00 to $21.99	0	0	0	0	0	0	2
$22.00 to $22.99	0	0	0	0	0	0	0
$23.00 to $23.99	0	0	0	0	0	0	1
$24.00 to $24.99	0	0	0	0	0	0	1
$25.00 to $25.99	0	0	0	0	0	0	0
$26.00 to $26.99	0	0	0	0	0	0	0
$27.00 to $27.99	0	0	0	0	0	0	0
$28.00 to $28.99	0	0	0	0	0	0	0
$29.00 to $29.99	0	0	0	0	0	0	0
$30.00 to $30.99	0	0	0	0	0	0	0
$31.00 to $31.99	0	0	0	0	0	0	0
$32.00 to $32.99	0	0	0	0	0	0	0
$33.00 to $33.99	0	0	0	0	0	0	0

[1] Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee, and Champlin.

Table III.—*Preentitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]—Continued

	June 1979	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980
$13.00 to $13.99	0	0	0	0	0	0	0	0
$14.00 to $14.99	0	0	0	0	0	0	0	0
$15.00 to $15.99	0	0	0	0	0	0	0	0
$16.00 to $16.99	1	0	0	0	0	0	0	0
$17.00 to $17.99	0	0	0	0	0	0	0	0
$18.00 to $18.99	2	1	0	0	0	0	0	0
$19.00 to $19.99	5	0	1	0	0	0	0	0
$20.00 to $20.99	1	2	2	2	1	1	0	0
$21.00 to $21.99	2	3	2	0	1	0	0	0
$22.00 to $22.99	4	4	3	1	4	1	0	0
$23.00 to $23.99	1	3	1	5	2	1	1	0
$24.00 to $24.99	3	3	4	3	1	2	3	1
$25.00 to $25.99	0	1	3	4	0	3	1	0
$26.00 to $26.99	1	2	3	2	6	2	2	2
$27.00 to $27.99	0	0	1	1	2	4	1	1
$28.00 to $28.99	0	2	1	2	2	4	4	3
$29.00 to $29.99	0	0	0	2	1	0	2	1
$30.00 to $30.99	0	0	0	0	0	1	4	2
$31.00 to $31.99	0	0	0	0	0	0	0	3
$32.00 to $32.99	0	0	0	0	0	0	1	1
$33.00 to $33.99	0	1	1	0	0	0	0	0
$34.00 to $34.99	0	0	0	0	0	2	2	3
$35.00 to $35.99	0	0	0	0	1	1	1	3
$36.00 to $36.99	0	0	0	0	0	0	0	0
$37.00 to $37.99	0	0	0	0	0	0	0	1
$38.00 to $38.99	0	0	0	0	0	0	0	1

[1] Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr McGee, and Champlin.

[FR Doc. 80-10713 Filed 4-8-80; 8:45 am]

BILLING CODE 6450-01-M

Mississippi Power & Light Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

[ERA Docket No. 80-CERT-012]

Mississippi Power and Light Company (MP&L) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Baxter Wilson Steam Electric Stations, Unit #1 and Unit #2, located in Vicksburg, Mississippi with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on February 19, 1980. Notice of the application was published in the **Federal Register** (45 FR 18432, March 21, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed MP&L's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certifications of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that MP&L's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on April 3, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C. 20461, April 3, 1980.

Re: ERA Certification of Eligible Use, ERA Docket No. 80-CERT-012, Mississippi Power & Light Company.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 653-3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80-CERT-012.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Mississippi Power & Light Co.

ERA Docket No. 80-CERT-012

Application for Certification

Pursuant to 10 CFR Part 595, Mississippi Power and Light Company (MP&L) filed an application for certification of an eligible use of up to 200,000 Mcf of natural gas per day for its Baxter Wilson Steam Electric Stations, Unit #1 and Unit #2.(BWSES #1 and BWSES #2), located in Vicksburg, Mississippi, with the Administrator of the Economic Regulatory Administration (ERA) on February 19, 1980. The application states that the eligible seller of the gas and transporter is the Michigan Consolidated Gas Company (Michigan Consolidated). The application indicates that the use of this natural gas is estimated to displace up to 32,000 barrels of No. 6 residual fuel oil (2.5 percent sulfur) per day. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 200,000 Mcf of natural gas per day at BWSES #1 and BWSES #2 purchased from Michigan Consolidated is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C. on April 3, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-10636 Filed 4-8-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC79-004; OFC Case No. 68001-9068-09-77, 68001-9068-10-77, 68001-9068-13-77, 68001-9068-14-77, 68001-9068-18-77, 68001-9068-21-77, 68001-9068-22-77]

Wabash Power Equipment Co., Classification

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of classification, Wabash Power Equipment Company.

SUMMARY: On November 29, 1979, the Economic Regulatory Administration (ERA) published notice in the **Federal Register** (44 FR 68508) of the eligibility of Wabash Power Equipment Company (Wabash) to request classification of seven boilers purusant to § 515.10 of the revised Interim Rules to Permit Classification of Certain Powerplants and Installations as Existing Facilities issued by ERA on March 15, 1979 (44 FR 17464, March 21, 1979) (Revised Interim Rule), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) (FUA or Act). The publication of notice of Wabash's request for classification commenced a public comment period that ended December 26, 1979.

Subsequently, ERA has concluded that each of the five following boilers meets the requirements for automatic classification as "existing" pursuant to § 515.12(c) of the Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities issued by ERA on October 12, 1979 (44 FR 60690 (October 19, 1979), as amended, 44 FR 69919 (December 5, 1979)) (Final Rule):

ERA case No.	Wabash unit No.	Date ordered	Date ready for operational use
68001-9068-09-77	2250	Oct. 31, 1978	Oct. 30, 1978.
68001-9068-10-77	520	Jan 5, 1978	Mar. 21, 1978.
68001-9068-13-77	522	Jan 19, 1978	June 22, 1978.
68001-9068-14-77	523	Jan. 19, 1978	June 14, 1978.
68001-9068-18-77	22505	Oct 18, 1978	Oct 30, 1978.

SUPPLEMENTAL INFORMATION: § 515.12(c) of the Final Rule provides that any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which was operational on or before May 8, 1979, is automatically classified as

"existing" and subject to the provisions of Title III of the Act. A duly authorized officer of Wabash has certified to the dates referenced above for each of the five units listed.

The information provided by Wabash indicates that a contract for each of the five foregoing boilers (Nos. 25507, 520, 522, 523 and 22505) was signed prior to November 9, 1978. In addition, information provided by Wabash indicates that these boilers were operational prior to May 8, 1979. The term "operational" used in this context, in accordance with § 515.20(c)(23) of the Final Rule, means that the boilers were tested by the manufacturer at the completion of the manufacturing process, and were found to be capable of producing a product or providing a service on a continuing basis.

Based on the information provided by Wabash, Wabash Units Nos. 22507, 520, 522, 523 and 22505 are automatically classified as existing in accordance with § 515.12(c) of ERA's Final Rule, and are therefore subject to the provisions of Title III of the Act.

This classification of the five boilers described does not effect Wabash's pending requests with respect to boilers numbers 78221 and 78222 (OFC Case Nos. 68001–9068–21–77 and 68001–9068–22–77).

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3679.

Ellen Russell, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–3675.

Allan Stein, Office of the General Counsel, Department of Energy, 10000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

Issued in Washington, D.C., on April 3, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–10749 Filed 4–8–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Commission Decisional Process; Meeting

April 4, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Tuesday, May 6, 1980, from 10:00 a.m. to 2:00 p.m., at the Federal Energy Regulatory Commission, 941 N. Capitol Street, N.E., Room 3200, Washington, D.C.

The purpose of the meeting is to discuss the Subcommittee's work on the procedures for obtaining certificates under the Natural Gas Act.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–10735 Filed 4–8–80; 8:45 am]

BILLING CODE 6450–85–M

Alaska Natural Gas Transportation System; Delegation of Authority by the Federal Energy Regulatory Commission to the Office of the Federal Inspector

March 31, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Delegation.

SUMMARY: Notice is hereby given of a delegation, by the Federal Energy Regulatory Commission to the Office of the Federal Inspector, of the Commission's authority under § 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)) to attach terms and conditions to certificates of public convenience and necessity issued by the Commission to project sponsors of the Alaska Natural Gas Transportation System (ANGTS) in the Commission's Docket Nos. CP78–123, et al., authorizing the project sponsors to construct and operate the ANGTS, to the extent that any such terms and conditions are required by the public convenience and necessity to implement the requirements of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470, et seq.) and the Preservation of Historical and Archaeological Data Act Amendments of 1974 (16 U.S.C. 469, et seq.), with respect to the construction and operation of the ANGTS.

DATE: The Delegation Order is effective April 9, 1980.

FOR FURTHER INFORMATION CONTACT:

Barry Smoler, Office of the General Counsel, Room 8600B, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8433 or Ned Hengerer, General Counsel, Office of the Federal Inspector, Alaska Natural Gas Transportation System, Post Office Building, Room 2413, 1200 Pennsylvania Avenue NW., Washington, D.C. 20044, (202) 275–1100.

SUPPLEMENTARY INFORMATION:

I. Background

Several statutes impose obligations on Federal agencies whose activities may affect significant cultural resources. The first such statute is the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.) (NHPA). The NHPA was intended to accelerate and encourage plans to protect the historic and cultural foundations of the nation. To accomplish this, the NHPA funds the National Register of Historic Places and National Trust for Historic Preservation, and creates the Advisory Council on Historic Preservation. The section of the NHPA of most relevance to the Federal Energy Regulatory Commission is § 106 (16 U.S.C. 470f), which imposes three responsibilities on a Federal agency licensing an undertaking: (1) identify properties listed in the National Register or eligible for listing which are affected by the undertaking; (2) provide the Advisory Council an opportunity to comment on the undertaking; and (3) consider the cultural resources identified in approving the undertaking.

The second statute of concern is the Preservation of Historical and Archaeological Data Act, as amended in 1974 (16 U.S.C. 469 et seq.). It requires that, when a Federal agency finds that its activities in connection with a project it licenses may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archaeological data, the agency must so notify the Secretary of the Interior. Upon notification, and pursuant to prescribed determinations and procedures, the Secretary of the Interior may then have certain responsibilities to conduct appropriate surveys and to recover and preserve certain data.

Pursuant to the Natural Gas Act (15 U.S.C. 717, et seq.), the Alaskan Natural Gas Transportation Act (15 U.S.C. 719, et seq.) and the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Executive Office of the President, Energy Policy and Planning, September 1977), the Commission is in the process of issuing conditional certificates of public convenience and necessity to the project sponsors of the Alaska Natural Gas Transportation System (ANGTS), to authorize them to construct and operate the ANGTS. Those matters are pending in the Commission's Docket Nos. CP78–123 et al. Compliance with the above cited cultural resources legislation may require the attachment of appropriate conditions to the certificates issued by the Commission to the project sponsors.

The Commission is authorized by § 7(e) of the Natural Gas Act to condition the grant of a certificate of

public convenience and necessity. Any conditions attached by the Commission pursuant to such authority apply to the entire length of the pipeline, regardless of ownership of the land traversed. With regard to the portions of the pipeline crossing Federal lands, the Department of Interior is authorized by § 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), to attach stipulations to grants of rights-of-way across Federal lands. Thus, while the conditions attached by the Commission apply to both Federal and private lands, the stipulations imposed on the rights-of-way granted to the project sponsors by the Department of Interior apply only to Federal lands.

The Office of the Federal Inspector was established by Reorganization Plan No. 1 of 1979. The principal purpose and effect of the Plan is to consolidate into a single agency (the Inspector) all statutory authority to enforce Federal statutes, regulations, certificates, permits and other authorizations pertinent to the construction and operation of the ANGTS. Section 202(b) of the Reorganization Plan also imposes on the Inspector certain responsibilities for co-ordinating and facilitating the Federal certificate and permit issuance process. The last sentence of § 202(b) provides: "Upon agreement between the Federal Inspector and the head of any agency, that agency may delegate to the Federal Inspector any statutory function vested in such agency related to the functions of the Federal Inspector." The issuance of those certificates or the attachment of conditions to them is a statutory function "related to the functions of the Federal Inspector" which may be delegated to the Inspector pursuant to agreement with him.

II. The Delegation Order

Paragraph (a) of the Delegation Order delegates to the Inspector the Commission's authority under § 7(e) of the Natural Gas Act to attach terms and conditions to certificates of public convenience and necessity issued by the Commission to the project sponsors of the ANGTS, to the extent that any such terms and conditions are required by the public convenience and necessity to implement the requirements of the above cited cultural resources legislation with respect to the construction and operation of the AGNTS. This delegation is intended to be sufficiently comprehensive as to consolidate within the Office of the Federal Inspector all responsibilities that the Commission might otherwise have with respect to the application of the above cited cultural resources legislation to the ANGTS.

Paragraph (b) of the delegation (as well as the joint signature of the order) fulfills the requirement of § 202(b) of the Plan with respect to agreement by the Inspector to the matters delegated.

III. Effective Date

Pursuant to paragraph (c) of the order, the delegation becomes effective April 9, 1980.

(Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Act (15 U.S.C. 717 et seq.); Alaska Natural Gas Transportation Act (15 U.S.C. 719 et seq.); Reorganization Plan No. 1 of 1979; National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); Preservation of Historical and Archaeological Data Act (16 U.S.C. 469 et seq.))

Kenneth F. Plumb,

Secretary.

Federal Energy Regulatory Commission Delegation Order No. ANGTS–1 to the Office of the Federal Inspector

Pursuant to the authority vested in the Federal Energy Regulatory Commission ("the Commission") and the Office of the Federal Inspector ("the Inspector") by Section 202(b) of Reorganization Plan No. 1 of 1979—

(a) The Commission hereby delegates to the Inspector the Commission's authority under Section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)) to attach terms and conditions to certificates of public convenience and necessity issued by the Commission to project sponsors of the Alaska Natural Gas Transportation System ("the ANGTS") in the Commission's Docket Nos. CP78–123, et al. authorizing the project sponsors to construct and operate the ANGTS or any segment thereof, to the extent that any such terms and conditions are required by the public convenience and necessity to implement the requirements of:

(1) The National Historic Preservation Act on 1966, as amended (16 U.S.C. 470, et seq.), and

(2) The Preservation of Historical and Archaeological Data Act Amendments of 1974 (16 U.S.C. 469, et seq.)

with respect to the construction and operation of the ANGTS. This delegation shall apply with respect to both conditional and final certificates, regardless of whether such certificates are issued prior or subsequent to the effective date of this order.

(b) The inspector hereby accepts the authority delegated by this order, and agrees to attach whatever terms and conditions (if any) are necessary to fulfill the mandate of the statutes enumerated in paragraph (a) above the full extent of the authority delegated by this order. The inspector shall have exclusive jurisdiction to determine the extent to which the public convenience and necessity require the attachment of such terms and conditions.

(c) This order shall become effective April 9, 1980.

Issued in Washington, D.C. on March 31, 1980.

Charles B. Curtis,

Chairman, Federal Energy Regulatory Commission (By agreement of the Commission).

John T. Rhett,

Federal Inspector.

[FR Doc. 80-10767 Filed 4-8-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO–HA–78–3; FRL 1451–3]

Health Assessment Document for Tetrachloroethylene (Perchloroethylene); Extension of Comment Period for the Second External Review Draft

In the **Federal Register** of Tuesday, April 1, 1980, in FR Doc. 80–9725, appearing on page 21346, in the third column, in the first paragraph of the text, line six, "(45 FR 9766), to May 12, 1988." should read "(45 FR 9766), to May 12, 1980.

BILLING CODE 1505-01-M

[FRL 1458–8]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of January 1, 1979 and January 31, 1979.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classification of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the

number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1979 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: March 31, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Jan. 1 and Jan. 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
D-COE-E36057-NC	Joyce Creek Flood Control Project, Camden County, North Carolina	EU2	E
D-COE-F32057-MI	Las Cheneaux Island, Confined Disposal Facility Maintenance Dredging Federal Navigation Channels, Michigan.	LO2	F
D-COE-G35005-LA	Sand Dredging Operations, Lafourche Parish, Louisiana	ER2	F
D-COE-K32019-HI	Kaunakakai Harbor, Molakai, Maui County, Hawaii	ER2	J
DS-COE-K35012-CA	Sacramento River. Bank Protection Project, California	LO1	J
DS-COE-K35013-CA	Sacramento River. Chico Landing to Red Bluff, Bank Protection Project, Butte and Glen Counties, California.	LO1	J
DS-COE-L36032-OR	Supplement for the Charleston Breakwater Extension and Groin Structure, in Coos Bays, Oregon.	LO1	K
	Department of Agriculture		
D-AFS-J65080-UT	Timber Management Plan, Bridger-Teton National Forest, Utah	LO2	I
DS-AFS-L61085-OR	Land Use Plan for the Rogue Illinois Planning Unit, Siskiyou National Forest, Curry and Josephine Counties, Oregon (USDA-FS-R6-DES-(ADM)-77-2).	ER2	K
D-AFS-L61120-00	Chetco and Grayback Planning Units, Siskiyou National Forest, Josephine and Curry Counties, Oregon, and Del Norte County, California (USDA-FS-R6-DES-(ADM)-79-2).	ER2	K
D-REA-E08012-FL	230 KV Transmission Facilities, Lee County, Florida	LO2	E
D-SCS-B36018-CT	South Branch Park River Watershed, Hartford County, Connecticut (USDA-SCS-EIS-WS-(ADM)-78-1-D-CT).	ER2	B
D-SCS-L36058-WA	East Side Green River Watershed Project, King County, Washington (USDA-SCS-ES-WS-(ADM)).	LO1	K
	Department of Commerce		
D-NOA-B91010-OO	Fishery Management Plan (FMP), Butterfish Fishery of the Northwest Atlantic Ocean	LO1	B
DS-NOA-L90010-OO	Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California.	LO1	K
	Department of Defense		
D-USN-K09001-CA	Navy COSO Geothermal Development Program, NWC China Lake, Kern County, California	LO2	J
	Department of Energy		
D-DOE-A00141-CA	Livermore Site, Lawrence Livermore and Sandia Laboratories, Alameda County, California	LO2	A
RD-DOE-A86128-OO	Motor Gasoline Deregulation	ER2	A
	Department of Interior		
D-BLM-J01019-WY	Development of Coal Resources in South Central Wyoming	ER2	I
D-BLM-J01021-WY	Eastern Powder River Coal Region, Development of Coal Resources, Campbell County, Wyoming.	ER2	I
D-IGS-J01020-UT	Development of Coal Resources in Central Utah	ER2	I
	Department of Transportation		
D-FAA-D40063-VA	Dulles Acces Highway Extension, I-66 and Outer Parallel Roadways, VA-7 to I-495, Arlington, Fairfax County, Virginia.	ER-2	D
D-FHW-C40039-NY	Town of Greece, Rochester Outer Loop, NY-47 Monroe County, New York	ER2	C
DS-FHW-D40010-MD	I-83 in Baltimore City, Gay Street to I-95, Baltimore County, Maryland	ER2	D
D-FHW-D40062-PA	I-579, Crosstown Boulevard, LR 1026 Sections 2, 3, and 4, Pittsburgh, Allegheny County, Pennsylvania.	ER2	D

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Jan. 1 and Jan. 31, 1979*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
D-FHW-D40065-VA	VA-199, Williamsburg Bypass, VA-5 to I-64, James City and York Counties, Virginia	ER2	D
D-FHW-E40156-NC	U.S. 23, Tennessee State Line to U.S. 19, Madison County, North Carolina (FHWA-NC-EIS-78-05-D).	LO2	E
D-FHW-E40158-TN	TN-22, 4-Lane Section Near Union City to Old TN-22 Near Dresden, Obion and Weakley Counties, Tennessee (FHWA-TN-EIS-78-09-D).	LO2	E
D-FHW-F40118-MI	Matthew Road to I-94/I-96, U.S. 31 Relocation, Berrien County, Michigan	ER2	F
D-FHW-F40122-MI	Saginaw River Bridge Study, Bay City, Bay County, Michigan	ER2	F
D-FHW-H40088-IA	IA-100, IA-149 to IA-94, Linn County, Iowa (FHWA-Iowa-EIS-78-4-D)	ER3	H
D-FHW-K40063-CA	CA-76, Oceanside Bypass, I-5 East to Oceanside, San Diego County, California	LO2	J
	Department of Housing and Urban Development		
D-HUD-B89011-MA	Chelsea Naval Hospital Urban Renewal Project, Chelsea, Suffolk County, Massachusetts	LO2	B
D-HUD-E89009-NC	Eagle Market Street Neighborhood and Econocmic Development Project, Asheville, Buncombe County, North Carolina (UDAG).	LO2	E
D-HUD-G85123-TX	Memorial Chase Subdivision, Harris County, Texas	ER2	G
D-HUD-G85125-TX	Pinelake Subdivision, Harris County, Texas	ER2	G
D-HUD-G85126-TX	Cross Creek Community, Plano, Collin County, Texas	ER2	G
D-HUD-G85128-TX	Parkridge Subdivision, Harris County, Texas	LO1	G
D-HUD-G85129-LA	Huntington Park Phase II Development, Shreveport, Louisiana	ER2	G
D-HUD-G85134-TX	Northwest El Paso Joint Venture Subdivision, El Paso County, Texas	ER2	G
	Pennsylvania Avenue Development Corporation		
DS-PAD-A89142-DC	Pennsylvania Avenue Plan, Market Square Archives and Records Service Annex, Washington D.C.	ER1	D
	Veterans Administration		
D-VAD-D99001-PA	National Cemetery, Indiantown Gap, Lebanon County, Pennsylvania	LO1	D
	Water Resources Council		
D-WRC-F39007-OO	Maumee River Basin Study, Michigan, Ohio and Indiana	LO2	F

Appendix II.—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Jan. 1 and Jan. 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
F-COE-C36003-NJ	Flood Control Project, Rahway River and Van Winkles Brook, Springfield, Union County, New Jersey.	Although the final EIS does not adequately respond to EPA's comments on the draft EIS, corps representatives assure EPA that the draft EIS at the phase I GDM stage will do so. Accordingly, EPA does not object to futher project development.	C
F-COE-F36015-MN	Root River Basin Flood Control, Houston and Fillmore Counties, Minnesota.	EPA's concerns were adequately addressed in the final EIS	F

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Jan. 1 and Jan. 31, 1979*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	Department of Agriculture		
FS-AFS-K61011-CA	King Planning Unit, Klamath National Forest, California.	EPA's concerns were adequately addressed in the final supplemental EIS	J
F-APH-A82100-00	Japanese Beetle Regulatory Program	EPA's concerns were adequately addressed in the final EIS's. However, EPA made specific comments which are intended to help implement the program and assist in strengthening future EIS's prepared for the program.	A
	Department of Transportation		
F-FHW-A42149-CT	CT-7, Relocation Norwalk to Danbury, Fairfield County, Connecticut (FHWA-CONN-EIS-74-01-F).	EPA suggested that FHWA should not approve the proposed project until an indirect source permit has been issued. EPA also expressed concerns about the validity of the traffic analysis, and the potential for project-induced hydorcarbon increases to result in a near halt of other new hydrocarbon source construction in Connecticut.	B
F-FHW-D40034-MD	Relocated MD-24, U.S. 1, Bel Air Bypass to I-95, Harford County, Maryland.	EPA's concerns were adequately addressed in the final EIS	D
F-FHW-D40056-DE	DE-4, DE-2 to DE-7, New Castle County, Delaware.	EPA's concerns were adequately addressed in the final EIS	D
F-FHW-J40029-ND	U.S. 2, Minot East to Surrey, Ward County, North Dakota.	EPA's concerns were adequately addressed in the final EIS. However, EPA remains concerned about the vague commitments to replace wetland habitat.	I
F-UMT-D54026-PA	Pittsburgh Light Rail Transit Reconstruction, Pittsburgh, Allegheny County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS. EPA recommneded that stream encroachments be minimized, and suggested several mitigation measures to be used where channel changes were unavoidable.	D
	Federal Energy Regulatory Commission		
F-FRC-K05005-CA	Potter Valley Project, No. 77, Lake and Mendocino Counties, California.	EPA's concerns were adequately addressed in the final EIS	J
	Department of Housing and Development		
F-HUD-E40121-SC	Johnston Street Extension and Renewal, Rock Hill, York County, South Carolina.	EPA's review reveals that certain essential information on air quality was not satisfactorily completed. EPA's comments on the DEIS requested both a microscale analysis for CO for one and eight-hour averages and a total pollutant burden for hydrocarbons with/without the project, for year of design, operation and worst emission. Until an acceptable HC and CO are prepared for this facility, EPA's review on the environmental acceptability will be incomplete.	E
F-HUD-E85039-FL	Carrollwood Meadows Subdivision, Tampa, Hillsborough County, Florida (HUD-R04-EIS-77-19-F).	EPA's review of the FEIS reveals that certain previously requested information on air quality was not included. EPA's comments on the DEIS requested: (1) a total pollutant burden for hydrocarbons with and without the project for design year, year of worst emissions and year project goes into operation or use, and (2) a microscale analysis for one and eight-hour averages for CO. Until this information is available for EPA's assessment, EPA cannot review the environmental acceptability of this proposed facility.	E
F-HUD-K89022-CA	Central Business District Redevelopment Project, Los Angeles, California.	EPA's concerns were adequately addressed in the final EIS	J
F-HUD-K89024-CA	North Hollywood Redevelopment Project in the City of Los Angeles, California.	EPA's concerns were adequately addressed in the final EIS	J
	Nuclear Regulatory Commission		
F-NRC-F06008-IL	La Salle County Station, Units 1 and 2, La Salle County, Illinois.	EPA has environmental reservations on the project as proposed. EPA is concerned about the design of the cooling system and believes that NRC should require operation of the facility in a closed cycle fashion as a condition of the operational permit.	F
	Veterans Administration		
F-VAD-D80005-VA	Quantico National Cemetery, Quantico, Virginia	EPA's concerns were adequately addressed in the final EIS	D

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Jan. 1 and Jan. 31, 1979*

Identifying No.	Title	Source of review
	Corps of Engineers	
F-COE-C36004-NJ	Flood Control Project, Robinson's Branch of the Rahway River, Clark, Scotch Plains, and Rahway, Union County, New Jersey	C
	Department of Agriculture	
F-AFS-E65015-AL	Conecuh Unit No. 6, Conecuh National Forest, Covington and Escambia Counties, Alabama (USDAFS-RB-FES-ADM-77-02)	E
F-AFS-J61017-MT	Great Bear Wilderness, Flathead and Lewis National Forests, Montana	I
F-SCS-E36046-AL	Southeast Choctawhatchee River, Watershed Protection and Recreation, Dale, Geneva, and Houston Counties, Alabama	E
	Department of Commerce	
F-NOA-B91010-00	Fishery Management Plan for the Butterfish Fishery of the Northeast Atlantic Ocean	B
	Department of Interior	
F-NPS-E61022-00	Master Plan, Cumberland Gap National Historical Park, Kentucky, Tennessee, and Virginia, (FES 79-2)	E
F-NPS-G61004-AR	Wilderness Recommendation, Buffalo National Park, Newton and Marion Counties, Arkansas	G

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Jan. 1 and Jan. 31, 1979*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Transportation			
F-FAA-E51025-AL	New Walker County Airport, Jasper, Alabama		E
NF-FHW-A41663-NC	U.S. 421, West Market Street from Jamestown-College Road to Muirs Chapel Road, Greensboro, Guilford County, North Carolina		E
F-FHW-E40065-00	U.S. 60, Replacement Bridge Over Big Sandy River, Catlettsburg, Kentucky and Kenova, West Virginia (FHWA-KY-EIS-75-01-F)		E
FS-FHW-E40081-00	The Appalachian Highway, GA-5, Realignment, Forsyth, Cherokee, Pickens, Gilmer, Fannin, and Union Counties, Georgia		E
F-FHW-E40127-KY	I-65, Kentucky Turnpike, Elizabethtown to Louisville Road, Bullett, Hardin, and Jefferson Counties, Kentucky		E
F-FHW-G40064-LA	Hooper Road and Harding Boulevard, LA-408, East Baton Rouge Parish, Louisiana		G
F-FHW-J40015-WY	6th Street S.W. Great Falls, Burlington Underpass to Central Avenue, Wyoming		I
F-FHW-L40048-OR	North and South Tigard Interchange, Pacific Highway, I-5, Multnomah, Clackamas, and Washington Counties, Oregon (FHWA-OR-EIS-76-04-F).		K
Department of Housing and Urban Development			
F-HUD-B89010-MA	Lafayette Place, Urban Development Boston, Suffolk County, Massachusetts		B
F-HUD-E85033-TN	Proposed Hillshire Subdivision, Shelby County, Tennessee (HUD-R04-EIS-77-26F)		E
F-HUD-E89007-AL	Non-Metro Discretionary Fund, FY-1977, Macon County, Alabama (CDBG)		E
F-HUD-G85068-TX	Woodland Oaks Subdivision, Harris County, Texas		G
F-HUD-G85086-TX	Countryside Subdivision, League City, Galveston County, Texas		G
F-HUD-G85105-TX	Westlake Forest Subdivision, Harris County, Texas		G
F-HUD-G85106-TX	Northwest Park Subdivision, Harris County, Texas		G
F-HUD-G85109-TX	Westbranch Subdivision, Harris County, Texas		G
F-HUD-G85112-TX	Keegans Glen Subdivision, Harris County, Texas		G

Identifying No.	Title	Source of review
Nuclear Regulatory Commission		
F-NRC-J01008-WY	Highland Uranium Solution, Mining Project, Converse County, Wyoming	I

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Jan. 1 and Jan. 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Interior			
A-IGS-A02134-00	30 CFR Part 250, Operations in the Outer Continental Shelf (OCS) (43 FR 606013).	EPA believes a number of items in the notice involve significant policy issues and will continue working with Department of Interior as the proposed rulemaking is developed.	A
Department of Transportation			
R-CGD-A52133-00	33 CFR 130, 131, Offshore Oil Pollution Liability and Compensation (CGD 77-055) (43 FR 56840).	EPA feels that the regulation would be more useful as an "in hand" document to the offshore facility and vessel operators if there were fewer references to additional documents.	A
Federal Energy Regulatory Commission			
A-FRC-B05007-MA	Application for Minor License for Unconstructed Glendale Project No. 2801, Housatonic River, Stockbridge, Maine.	EPA suggested several points to reduce the possibility of environmental impact both during construction and operation of the project.	B
A-FRC-B05009-VT	Application for Preliminary Permit for Proposed Bolton Falls Hydroelectric Project No. 2879, Winooski River, Waterbury, Duxbury and Bolton, Vermont.	EPA made several recommendations to the FERC including a request that the applicant prepare an environmental assessment during the 36-month term of the preliminary permit.	B
Nuclear Regulatory Commission			
A-NRC-A22024-00	Licensing Procedures for Geologic Repositories for High-Level Radioactive Wastes, Notices (43 FR 53869).	EPA is currently developing environmental criteria and standards for the disposal of radioactive wastes. EPA feels that the forthcoming criteria and standards should be met by any proposed geologic repository and its licensee.	A

Appendix VI.—Source for Copies of EPA Comments

A. Public information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30308.

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.

K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 80-10694 Filed 4-8-80; 8:45 am]
BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Part-Time Career Employment Program

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed instructions implementing the Federal Employees Part-Time Career Employment Act of 1978, with comments invited for consideration in developing final instructions.

SUMMARY: The Equal Employment Opportunity Commission proposes to issue instructions to govern the operation of a part-time career employment program within the Commission. The Federal Employees Part-Time Career Employment Act of 1978, 5 U.S.C. 3401 *et seq.*, requires the head of each agency to establish and maintain a part-time career program in furtherance of the aims of the Act. After comments have been received and reviewed, final instructions will be issued as an EEOC Directive in the 500 "Personnel Management" series of the agency's Directives System.

COMMENTS DUE: June 9, 1980.

ADDRESS: Send written comments to Marie D. Wilson, Executive Officer, Office of the Executive Secretariat, Equal Employment Opportunity Commission, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Sylvia B. Byrne, Personnel Division, Equal Employment Opportunity Commission, (202) 634–7002.

SUPPLEMENTARY INFORMATION: In this early stage of initial implementation of the law, the objectives of increased part-time career employment would appear to be served best by the issuance of instructions that are not overly prescriptive. Thus, these instructions may be supplemented from time to time through the EEOC Directives System in order to provide additional information and guidance. Any substantive changes in the program will first be published for comment in the **Federal Register.**

By virtue of the authority vested in the Commission under the Federal Employees Part-Time Career Employment Act of 1978, 5 U.S.C. 3401, *et seq.*, the Equal Employment Opportunity Commission hereby publishes the following proposed instructions implementing the Act.

Signed at Washington, D.C., this 1st day of April, 1980. For the Commission.

Eleanor Holmes Norton,

Chair.

Part-Time Career Employment Program

I. Purpose of Program
II. Definitions
III. Policy
IV. Scope
V. Exceptions and Limitations
VI. Program Implementation
VII. Part-Time Career Employment Practices

I. Purpose of Program

These instructions implement Pub. L. 95–437, the Federal Employees Part-Time Career Employment Act of 1978, by establishing a continuing program in the Equal Employment Opportunity Commission to provide part-time career employment opportunities.

Working the traditional "8-to-5 job" is impossible for those in many sectors of society, with the result that a rich source of productive potential goes virtually untapped. The Act clearly implies that the time has come for Federal employers to consider alternative work schedules that will put to work the skills of those men and women who have much to contribute to the workplace but who are unable, for one reason or another, to build their careers around traditional hours of work.

The benefits of permanent part-time employment accrue to employer and employee alike. For employers, part-time employees provide an additional resource to call upon in realizing the goals of agency programs. For employees, a reduced workweek may mean the opportunity for those with family responsibilities to balance these demands with the need for income security, for handicapped persons or others unable to work a full day to yet be productive, for older workers to make a gradual transition into retirement, for women returning to the work force to find meaningful employment, or for students not served by other programs to finance their educational or vocational training.

With the above considerations in mind, the Equal Employment Opportunity Commission plans to operate a part-time career employment program that can address equally the responsibilities of the agency as a progressive employer and the concerns of those who possess marketable skills but are unable to apply them within the confines of the standard workweek.

II. Definitions

A. *Part-time Career Employment.* Part-time career employment is regularly scheduled work of from 16 to 32 hours a week performed by an employee who has an appointment in Tenure Group I or II and who becomes employed on such part-time basis on or after April 8, 1979. Employment on a temporary or intermittent basis or for a mixed tour of duty does not constitute part-time career employment for the purpose of this program.

B. *Tenure Group I.* Tenure Group I includes employees serving under career appointments in the competitive service who either have completed probation or are not required to serve a probationary period. It also includes permanent employees in the excepted service whose appointments carry no restrictions or conditions such as a trial period.

C. *Tenure Group II.* Tenure Group II includes employees in the competitive service who are serving probation under both career-conditional and career appointments. It also includes employees in the excepted service who are serving trial periods (or whose tenure is equivalent to career-conditional in the competitive service).

III. Policy

It is the policy of the Equal Employment Opportunity Commission to provide part-time career employment opportunities in positions through grade GS–15 of the General Schedule (or equivalent) and in hourly paid blue-collar positions, subject to agency resources and mission requirements. All persons newly employed by EEOC as part-time permanent employees after April 7, 1979, come under the provisions of these instructions.

IV. Scope

The provisions of these instructions are applicable to all EEOC offices at headquarters and in the field.

V. Exceptions and Limitations

A. Part-time permanent employees hired prior to April 8, 1979, are excluded from coverage, unless there is a break in their part-time employment.

B. Excluded from coverage under the program are positions for which basic pay is fixed at a rate equal to or greater than the minimum rate fixed for grade GS–16.

C. No position occupied by an employee shall be abolished in order to made the duties of the position available for inclusion in a part-time career employment appointment.

D. No person employed on a full-time basis in the agency shall be required to accept part-time employment as a condition of continued employment.

E. EEOC reserves the right, as authorized under section 3402(a)(3) of

the Act, to identify positions that cannot be staffed on a part-time basis without adversely affecting the agency's fulfillment of its mission.

F. While the agency can make no exception that would permit a part-time employee to regularly work more than 32 hours a week, it may identify a limited number of positions for which the work schedule may be less than 16 hours per week; and on occasion the Chair, EEOC, or designee, may authorize an employee working a 16–32 hour schedule to temporarily exceed 32 hours when such an adjustment is required for a limited period in order to meet an unusually heavy workload or to permit employee training, etc.

VI. Program Implementation

A. Program Coordination

1. The Director of Personnel is responsible for overall administration of the EEOC part-time career employment program.

2. The Chief of Employment, Personnel Division, by delegation from the Director of Personnel, serves as agency coordinator as well as coordinator for headquarters, and is assigned the following responsibilities:

a. Determining annually, in consultation with district coordinators and with the Director of Personnel and other agency management, the positions that will be used for part-time career employment and both the percentage goals for part-time career employment and the timetables for achieving such goals.

b. Overseeing implementation of part-time employment goals and timetables within the agency.

c. Preparing consolidated agency reports on part-time employment for transmittal to the Office of Personnel Management (OPM).

d. Ensuring that managers, supervisors, and employees are informed of the basic ground rules on part-time career employment; the position management and work assignment techniques that can lead to the most productive use of part-time workers; and, should the agency program include offering full-time employees the opportunity to convert to part-time work schedules, the effects of converting to regularly scheduled part-time work in terms of crediting of experience for promotion purposes, the recent change to prorating the Government contribution for health insurance, etc. Studies of part-time employment in both the public and private sectors show that providing adequate information to managers, supervisors, and employees is an essential first step in expanding part-time employment opportunities.

3. Each of the District Directors, or designee, serves as the district coordinator for the program. They and the agency coordinator have the following additional responsibilities:

a. Consulting on the agency's part-time employment program with interested parties in special emphasis areas (EEO and Federal Women's Program officials, handicapped program coordinators, etc.) and with representatives of the exclusive representative; and maintaining liaison with groups interested in promoting part-time employment opportunities.

b. Responding to requests for advice and assistance on part-time employment within the agency.

c. Monitoring progress in expanding part-time employment opportunities.

d. Reporting on part-time employment for the purpose of keeping OPM informed of progress.

B. Part-Time Goals and Timetables

1. In establishing goals and timetables, the agency coordinator, in consultation with district coordinators and with the Director of Personnel and other agency management, considers such factors as:

a. Agency mission and the agency's occupational and grade profile.

b. Workload demands and fluctuations.

c. Size of work force, turnover rate, and employment trends.

d. Affirmative action.

e. Geographical dispersion.

f. Current employee interest in part-time employment.

g. Potential for improving service to the public.

2. The agency coordinator, in consultation with district coordinators and with the Director of Personnel and other agency management, sets goals for establishing and/or converting positions for part-time career employment, and establishes an appropriate timetable of interim and final deadlines for achieving such goals. Goals for each fiscal year are established by the end of the preceding fiscal year (beginning with goal-setting in late FY 1980 for FY 1981, which is also the effective date for changes in the current method of determining agency personnel ceilings that may favorably influence the level of EEOC involvement in part-time career employment activities).

C. Evaluation and Reporting

The part-time career employment program is subject to:

1. Continuing review and evaluation by EEOC's Personnel Management Evaluation Branch, Personnel Division, as a part of the regular internal personnel management evaluation process.

2. The requirement that EEOC report biannually (May 15 and November 15) to OPM on:

a. Progress in meeting the agency's part-time employment goals on a timely basis.

b. The extent to which part-time opportunities have been extended to older persons, handicapped persons, individuals with family responsibilities, and students.

VII. Part-Time Career Employment Practices

A. *Reviewing Vacant Positions.* The agency coordinator oversees procedures to ensure that as a position of the type subject to coverage under this program becomes vacant, it is reviewed for the feasibility of filling it on a part-time career employment basis in advance of announcing the vacancy. This review takes into account factors such as those considered in establishing goals and timetables.

B. *Establishing and/or Converting Part-Time Career Positions.* Headquarters and field offices of EEOC are required to establish a sufficient number of new part-time career positions to meet agency goals. Final agency instructions, as issued in the form of an EEOC Directive, will address the requirement of law that the agency develop procedures and criteria to establish or convert positions for part-time career employment.

C. *Notifying the Public of Part-Time Vacancies.* The Agency coordinator will take appropriate steps to notify the public of vacant part-time positions. It is anticipated that this requirement can be fulfilled by such means as publicizing part-time vacancies in Federal job information announcements, publications of special emphasis groups, agency position vacancy announcements, and the like.

[FR Doc. 80-10725 Filed 4-8-80; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL LABOR RELATIONS AUTHORITY

Inclusion of Employees in Units and Coverage of Merit Pay Provisions

AGENCY: Federal Labor Relations Authority.

ACTION: Notice relating to inclusion of employees in units and coverage of merit pay provisions.

SUMMARY: This notice relates to the impact of an agency determination

concerning "merit pay" coverage on a unit of exclusive recognition.

DATE: Written comments must be submitted by the close of business on April 25, 1980, to be considered.

ADDRESS: Send written comments to the Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Samuel A. Chaitovitz, Executive Director, 1900 E Street, NW., Washington, D.C. 20424 (202) 254–9595.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

Upon receipt of a request and consideration thereof, the Authority has determined, in accordance with § 2427.2 of its rules and regulations, that an interpretation is warranted. Interested persons are invited to express their views in writing on this matter, as more fully explained in the Authority's notice set forth below:

Notice

April 1, 1980.

To Heads of Agencies, Presidents of Labor Organizations and Other Interested Persons:

The Authority has received a request from the National Federation of Federal Employees (NFFE) that the Authority issue a major policy determination. NFFE alleges in its request that agencies are implementing the "merit pay" provisions of the Civil Service Reform Act of 1978 (92 Stat. 1179) by declaring all GS–13 to GS–15 employees to be management officials or supervisors which results in their exclusion from units of exclusive recognition. Further, NFFE alleges that agencies claim the Authority cannot resolve questions relating to this action but rather the Office of Personnel Management alone can hear complaints concerning an employee's coverage under the "merit pay" provisions.

The Authority hereby determines, in conformity with section 2427.2 of its rules and regulations, that an interpretation of the Statute is warranted on the following:

What is the impact, if any, of an agency determination that an employee is a supervisor or management official for purposes of coverage under the "merit pay" provisions of the Civil Service Reform Act of 1978 (92 Stat. 1179) on such employee's inclusion in a unit of exclusive recognition under section 7112 of the Statute (92 Stat. 1200)?

Before issuing an interpretation on the above, the Authority, pursuant to section 2427.4 of its rules and regulations, solicits your views in writing.

To receive consideration, such views must be submitted to the Authority by the close of business on April 25, 1980.

Issued, Washington, D.C., April 1, 1980.

Federal Labor Relations Authority.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

Leon B. Applewhaite,

Member.

[FR Doc. 80-10683 Filed 4-8-80; 8:45 am]

BILLING CODE 6325-19-M

FEDERAL RESERVE SYSTEM

Ameribanc, Inc.; Proposed de Novo Subsidiary, Ameribanc Life Insurance Co.

Ameribanc, Inc., St. Joseph, Missouri, 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 establish *de novo* Ameribanc Life Insurance Company, Phoenix, Ariz.

Applicant states that the proposed subsidiary would underwrite as reinsurer life and disability insurance related to extensions of credit by Ameribanc's subsidiary banks. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and St. Joseph, Missouri, and the geographic areas to be served are the state of Missouri and Doniphan County, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question 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 Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 2, 1980.

Board of Governors of the Federal Reserve System, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10681 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corp.; Acquistion of Bank

Banc One Corporation, Columbus, Ohio, 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 66⅔ percent or more of the voting shares of the SBMT Bank One of Fairborn, N.A., Fairborn, Ohio the resulting bank from the merger of The First National Bank of Fairborn, N.A. and Bank One of Fairborn, N.A. 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 Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 2, 1980. 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10682 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0265]

Policy Statement for Assessing Financial Factors in the Formation of Small One-Bank Holding Companies Pursuant to the Bank Holding Company Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: In the interest of improving the transferability of ownership of small community banks and facilitating local ownership of such institutions, as well as helping to maintain the safety and soundness of the banking system, the Federal Reserve Board has adopted a policy for assessing financial factors in the formation of small one-bank holding companies.

DATE: The policy statement is effective March 28, 1980.

Policy Statement of the Board of Governors of the Federal Reserve System for Assessing the Financial Factors in the Formation of Small One-Bank Holding Companies Pursuant to the Bank Holding Company Act

In acting on applications filed under the Bank Holding Company Act, the Board has adopted, and continues to follow, the principle that bank holding companies should serve as a source of strength for their subsidiary banks. When bank holding companies incur debt and rely upon the earnings of their subsidiary banks as the means of repaying such debt, a question arises as to the probable effect upon the financial condition of the company and its subsidiary bank or banks.

The Board believes that a high level of debt at the parent holding company level impairs the ability of a bank holding company to provide financial assistance to its subsidiary bank and in some cases the servicing requirements on such debt may be a significant drain on the bank's resources. For these reasons the Board has not favored the use of acquisition debt in the formation of bank holding companies. Nevertheless, the Board has recognized that the transfer of ownership of small banks often requires the use of acquisition debt. The Board therefore has permitted the formation of small one-bank holding companies with debt levels higher than would be permitted for larger or multibank holding companies. Approval of these applications has been given on the condition that the small one-bank holding companies demonstrate the ability to service the acquisition debt without straining the capital of their subsidiary bank and, further, that such companies restore their ability to serve as a source of strength for their subsidiary bank within a relatively short period of time.

In the interest of furthering its policy of facilitating the transfer of ownership in banks without diluting bank safety and soundness, the Board has reexamined the analytical framework and financial criteria it applies when considering the formation of small one-bank holding companies and has adopted certain revisions in its procedures and standards as described below.

The revised criteria shift the focus from debt repayment to the relationship between debt and equity at the parent holding company. The holding company will have the option of improving the relationship of debt to equity by repaying the principal amount of its debt or through the retention of earnings, or both. Under these procedures, newly organized small one-bank holding companies will be expected to reduce the relationship of their debt to equity over a reasonable period of time to a level comparable to that maintained by many large and multibank holding companies.

In general, this policy is intended to apply only to one-bank holding companies that would not have significant leveraged nonbank activities and whose subsidiary bank would have total assets of approximately $150 million or less at the time the application is filed. Small one-bank holding companies formed before the effective date of this policy may switch to a plan that adheres to the intent of this policy provided they comply with criteria, 2, 3, and 4 set forth below.

The criteria are as follows:

General. In evaluating applications filed pursuant to Section 3(a)(1) of the Bank Holding Company Act, as amended, when the applicant intends to incur debt to finance the acquisition of a small bank, the Board will take into account a full range of financial and other information, including the recent trend and stability of earnings of the bank, the past and prospective growth of the bank, the quality of the bank's assets, the ability of the applicant to meet debt servicing requirements without placing an undue strain on the bank's resources, and the record and competency of management of the applicant and the bank. In addition, the Board will require applicants to meet the minimum requirements set forth below. As a general rule, failure to meet any of these requirements will result in denial of the application; however, the Board reserves the right to make exceptions if the circumstances warrant.

1. Minimum Down Payment. The amount of acquisition debt shoult not exceed 75 percent of the purchase price of the bank to be acquired. When the owner(s) of the holding company incur debt to finance the purchase of the bank, such debt will be considered acquisition debt even though it does not represent an obligation of the bank holding company, unless the owner(s) can demonstrate that such debt can be serviced without reliance on the resources of the bank or bank holding company.

2. Maintenance of Adequate Capital. An applicant proposing to use acquisition debt must demonstrate to the satisfaction of the Board that any debt servicing requirements to which the bank holding company may be subject would not cause the subsidiary bank's ratio of gross capital to assets to fall below 8 percent during the 12-year period following consummation of the acquisition. Gross capital is defined as the sum of total stockholders' equity, the allowance for possible loan losses, and subordinated capital notes and debentures.

3. Reduction in Parent Company Leverage. The applicant must demonstrate to the satisfaction of the Board that the parent holding company's ratio of debt to equity will decline to 30 percent within 12 years after consummation of the acquisition. The holding company must also demonstrate that it will be able to safely meet debt servicing and other requirements imposed by its creditors.

The term "debt," as used in the ratio of debt to equity, means any borrowed funds (exclusive of short-term borrowings that arise out of current transactions, the proceeds of which are used for current transactions), and any securities issued by, or obligatins of, the holding company that are the functional equivalent of borrowed funds.

The term "equity," as used in the ratio of debt to equity, means the total stockholders' equity of the bank holding company adjusted to reflect the periodic amortization of "goodwill" (defined as the excess of cost of any acquired company over the sum of the amounts assigned to identifiable assets acquired, less liabilities assumed) in accordance with generally accepted accounting principles. In determining the total amount of stockholders' equity, the bank holding company should account for its investments in the common stock of subsidiaries by the equity method of accounting.

Ordinarily the Board does not view redeemable preferred stock as a

substitute for common stock in a one-bank holding company formation. Nevertheless, to a limited degree and under certain circumstances the Board will consider redeemable preferred stock as equity in the capital accounts of the holding company if the following conditions are met: 1) the preferred stock is redeemable only at the option of the issuer and 2) the debt to equity ratio of the holding company would be at or remain below 30 percent following the redemption or retirement of any preferred stock. Preferred stock that is convertible into common stock of the holding company may be treated as equity.

4. Dividend Restrictions. The bank holding company is not expected to pay any corporate dividends on common stock until such time as its debt to equity ratio is below 30 percent. However, some dividends may be permitted provided all of the following conditions are met: a) the applicant has begun making scheduled repayments of principal on the acquisition debt; b) such scheduled repayments of principal are reasonable in amount, will be made at least annually, and will allow for the retirement of the acquisition debt over a period not to exceed 25 years; and c) the applicant can clearly demonstrate at the time the application is filed that such dividends will not jeopardize the ability of the holding company to reduce its debt to equity ratio to 30 percent within 12 years of consummation of the proposal or cause the gross capital to assets of the subsidiary bank to fall below 8 percent over the same period. Also, it is expected that dividends will be eliminated if the holding company is not meeting the projections made at the time the application was filed regarding the ability of the holding company to reduce the debt to equity ratio to 30 percent within 12 years of consummation of the proposal.

Board of Governors of the Federal Reserve System, March 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-10657 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-0-M

[Docket No. 0280]

Report Forms: Base Report of Outstanding Covered Consumer Credit; Monthly Report of Covered Consumer Credit Outstanding Subject to Special Deposit Requirement

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final report forms.

SUMMARY: Pursuant to the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, and Subpart A, Part 229, Title 12 of the Code of Federal Regulations (12 CFR 229.1–229.4) the following base and monthly report forms are to be completed in accordance with the following instructions by certain creditors that extend certain types of consumer credit.

The Base Report of Outstanding Covered Consumer Credit (FR 2061a) is to be completed by each covered creditor with covered credit outstanding of $2 million or more during the base period. The base determined from this report will be used to calculate the amount of a special noninterest-bearing deposit that covered creditors will be required to maintain with the Federal Reserve against increases in the amount of covered credit outstanding.

The Monthly Report of Covered Consumer Credit Outstanding Subject to Special Deposit Requirement (FR 2061b) is to be completed by each covered creditor with covered consumer credit outstanding of $2 million or more either during the base period or, on an average basis, during any subsequent calendar month. This report will be used to compute the special deposit requirement. The first monthly report (covering the period March 15 and ending April 30) shall be filed by May 12. Thereafter, each monthly report shall be filed no later than the second Monday following the reporting month.

EFFECTIVE DATE: March 18, 1980.

FOR FURTHER INFORMATION CONTACT: Martha Bethea, Division of Research and Statistics; Robert E. Mannion, Deputy General Counsel, Legal Division; Gilbert T. Schwartz, Assistant General Counsel, Legal Division; Lee S. Adams, Senior Attorney, Legal Division; Margaret Egginton, Attorney, Legal Division; and Margaret A. Stewart, Senior Attorney, Division of Consumer and Community Affairs; Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3000).

Board of Governors of the Federal Reserve System, March 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR 2061a]

Instructions

Who Must Report

This report is required from each U.S. creditor with covered consumer credit outstanding of $2 million or more during the base period. This base report may also be required of certain other creditors.

For purposes of reporting and determining whether the creditor's outstanding covered credit is $2 million or more, the covered credit of all U.S. offices of the same company and all direct and indirect U.S. subsidiaries of the same parent company shall be combined, and only one report shall be filed for the combined organization. Any office may be designated as the reporting office for the combined organization. (However, once a reporting office is designated, it should not be changed without prior notification to the institution receiving the report.)

For example, if a company has 100 offices throughout the U.S., it should combine the required information from each office, and one designated reporting office should file one combined base report for the entire company.

The covered credit of all U.S. offices (such as the branches, agencies, and subsidiaries, including banks) of the same foreign parent company and all U.S. offices of that foreign parent's non-U.S. subsidiaries shall be combined, and one office selected as the reporting office for such offices. A subsidiary is a company that is more than 50 percent owned, directly or indirectly, by another.

Purpose of the Report

In accordance with the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board of Governors of the Federal Reserve System has adopted provisions requiring certain creditors that extend certain types of consumer credit to maintain a special noninterest-bearing deposit with the Federal Reserve against increases in the amount of those types of credit outstanding.

The base for the special deposit requirement calculation for each creditor will be determined from this report. If daily data are available, a creditor shall report as its base the actual amount of covered credit outstanding on March 14, 1980 or the last day before March 14 for which such data are available. If daily data are not available, the creditor shall report as its base the amount of such credit outstanding during the last period immediately before March 14, 1980, for which such data are available.

Any covered creditor with covered credit outstanding of over $2 million on an average basis during a calendar month is required to maintain a special noninterest-bearing deposit with the appropriate institution designated

below. The special deposit requirement is 15 percent of the amount by which the amount of covered consumer credit on an average basis during the computation period exceeds the reported base or $2 million, whichever is greater. The first computation period shall cover the period beginning March 15, 1980, and ending April 30, 1980. Thereafter, each computation period, or reporting month, shall begin on the first day of each month and end on the last day of that month.

The special deposit requirement must be maintained during the period beginning on the fourth Thursday of the month following the computation period (or reporting month) and ending on the Wednesday before the fourth Thursday of the next month. For example, the special deposit required for the first computation period (March 15 through April 30) shall be held beginning Thursday, May 22, 1980 and continue through Wednesday, June 25, 1980. A new special deposit amount based on the May report will then be required beginning Thursday, June 26, and will continue through Wednesday, July 23. The amount of the special deposit may not vary during each maintenance period.

The special deposit shall be maintained in collected funds in the form of U.S. dollars.

Members of the federal Home Loan Banks and all other savings and loan associations shall maintain the special deposit with the Federal Home Loan Banks. All credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall maintain the special deposit with the Central Liquidity Facility. Deposits maintained with the Federal Home Loan Banks and the Central Liquidity Facility shall be passed through by those entities to the Federal Reserve banks. All other covered creditors, including commercial banks, mutual savings banks, U.S. branches and agencies of foreign banks, retailers, other credit card issuers, and finance companies, shall maintain the special deposit with the Federal Reserve Bank in whose District the reporting office is located.

Where and When To Report

The base report for all creditors shall be filed by no later than April 1, 1980. The first monthly report (covering the period beginning March 15 and ending April 30) shall be filed by May 12. Thereafter, each monthly report shall be filed by no later than the second Monday following the reporting month.

Members of the Federal Home Loan Banks and all other savings and loan associations should file their reports with the Federal Home Loan Bank where the deposit will be maintained.

All credit unions should file their reports with the Central Liquidity Facility of the National Credit Union Administration.

All other creditors should file their reports with the Federal Reserve Bank in whose District the reporting office is located.

How To Report

All amounts should be reported to the nearest thousand dollars.

Amounts of covered consumer credit outstanding denominated in foreign currencies should be valued in U.S. dollars at the prevailing exchange rate at the time the transaction originally is entered into.

General Definitions

Base: The larger of $2 million or the amount of covered credit outstanding as of the close of business on the base date.

Base date: For a creditor that has daily credit data available, March 14, 1980, or the last day immediately before March 14, 1980 for which such data are available; for a creditor that does not have daily credit data available, the period immediately before March 14, 1980 for which credit data are available.

Board: The Board of Governors of the Federal Reserve System.

Closed-end credit: All consumer credit except open-end credit.

Consumer credit: Credit extended in the U.S. primarily for personal, family, or household purposes. Credit extended for business or agricultural purposes is excluded.

Covered credit: Consumer credit that is (1) open-end credit and (2) closed-end credit which is unsecured or in which the proceeds of the credit are not being used to purchase the collateral. Covered credit that is sold or otherwise transferred after March 14, 1980 to any office located outside the U.S. of the same or another entity shall remain the covered credit of the transferor until such credit is repaid. Covered credit that is sold or otherwise transferred on a recourse basis to any U.S. office of the same or another entity shall remain the covered credit of the transferor; covered credit that is transferred on a nonrecourse basis to any U.S. office of the same or another entity shall be treated as covered credit of the transferee.

Covered credit does *not* include insurance company policy loans; credit extended by federal, state, or local governments, or by providers of utility, health, or educational services; state or federal government guaranteed loans; or loans secured by savings deposits [1] held at the lending institution.

Covered creditor: Any creditor which extends covered credit. For purposes of determining the amount of a creditor's outstanding covered credit, the covered credit of all U.S. offices of (1) the same company, (2) U.S. subsidiaries of the same parent company, and (3) non-U.S. subsidiaries of the same parent company shall be combined. A subsidiary is a company that is more than 50 percent owned, directly or indirectly, by another company.

Credit: The right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

Credit transaction: See "Extension of credit."

Creditor: Any person who extends, or arranges for the extension of, credit, whether in connection with a loan, a sale of property or services, or otherwise.

Extension of credit (or "credit transaction"): Loans, credit sales, or other supplying of funds.

Loan: Any type of credit, including credit extended in connection with a credit sale.

Open-end credit: Consumer credit extended on an account pursuant to a plan under which (1) the creditor may permit the customer to make purchases or obtain loans from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in instalments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

Subsidiary: Any company in which more than 50 percent of the outstanding voting stock is owned directly or indirectly by another.

U.S.: The 50 states of the United States and the District of Columbia.

Non-U.S.: Any geographic area located outside the 50 states of the United States and the District of Columbia. Thus, for purposes of this report, non-U.S. includes Puerto Rico and U.S. territories and possessions.

Examples

As noted above under "General Definitions," covered credit consists of (1) all open-end consumer credit, whether secured or unsecured, and (2) closed-end consumer credit that is either unsecured or secured by collateral that is not being purchased with the proceeds of the credit.

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[1] As defined in § 217.1(e) of Regulation Q.

Examples of open-end credit that is covered are:

Credit card plans, such as cards issued by financial institutions, retailers, and oil companies.

Overdraft and special check-type plans offerd by financial institutions.

Other revolving credit plans.

Examples of closed-end consumer credit that is covered are:

Unsecured personal loans.

Loans for which the collateral provided is already owned by the borrower.

Open account and 30-day credit without regard to whether a finance charge is imposed, such as travel and entertainment card plans and retail merchant credit.

Credit secured by financial assets, other than savings deposits, when the collateral is not purchased with the loan proceeds.

Credit extended through the use of credit cards will be presumed to be consumer—that is, non-business—credit unless the creditor establishes otherwise.

A creditor will also be required to treat as covered consumer credit any such credit that is sold or otherwise transferred to any non-U.S. office of the same or another entity and any such credit that is sold or otherwise transferred with recourse to another entity, wherever located.

Examples of consumer credit that is not covered are:

Secured credit where the collateral is purchased with the proceeds of the loan, such as automobile, mobile home, and other chattel-secured loans (see Uniform Commercial Code § 9–107, including Official Comments 1 and 2).

Credit secured by financial assets when the collateral is purchased with the proceeds.

Credit secured by savings deposits held at the lending institution.

Mortgage loans where the proceeds are used to purchase the collateral or for home improvements or "bridge" loans.

Insurance company policy loans.

Credit extended by providers of utility, health, and educational services.

Credit extended under state or federal government guaranteed consumer loan programs, such as student loans.

Instructions

Include all covered consumer credit that is on the creditor's books that is not actually written off, even if during the reporting period the credit is past due and collection is doubtful. Also, report the aggregate book value of covered credit net of unearned income and before deduction of allowance for loan losses. Depositary institutions should report covered credit outstanding net of deposits accumulated for the payment of personal loans (hypothecated deposits).

Each creditor should include the amount of its share of participation loans, including participations in pools of loans, if such loans meet the definition of covered credit. Participation loans are loans made in cooperation with other financial institutions. The creditor should report only the dollar amount outstanding of its share of the participation loans even if it is the "lead" institution in the participation arrangement.

Participations in pools of loans are described as follows: (1) A "pass-through" participation, when issued by a bank or other private institutions, represents a pro-rata share in the pooled loans. In this case, the terms of the participation (e.g., maturity, interest rate, etc.) are identical to the terms of the underlying loans. Consequently, the issuing institution incurs *no* obligation other than to pass on proportional shares of whatever payments of principal and interest are collected from the obligors of the underlying assets in the pool. The creditor *purchasing* such a participation shoud report the underlying loans as covered consumer credit. (2) In other types of participations (i.e., those other than "pass-through" participations), the instrument of participation bears terms (e.g., maturity, interest rate, etc.) that differ from the terms of the loans comprising the pool. Consequently, the institution issuing the participation *does incur* an obligation on the instrument of participation itself. A creditor *issuing* these participations should report the underlying loans as covered consumer credit.

BILLING CODE 6210-01-M

FR 2061a
OMB No. 55-S-80001
Approved by Federal Reserve Board and OMB
March 1980

Base Report of Outstanding Covered Consumer Credit

This report is required by law (12 U.S.C. § § 1901-1909, as implemented by Executive Order 12201).

The information provided by each respondent is regarded as confidential. If it should be determined subsequently that any information collected on this form must be released, respondents will be notified.

PLEASE READ INSTRUCTIONS PRIOR TO COMPLETION OF THIS REPORT

Section 1: Name and Address of Respondent Company

Name _____ Address _____

Section 2: To be Completed by Institutions Whose Covered Credit is Included in the Base Report Filed by Another Office.

If the amount of your covered consumer credit outstanding during the base period is included in a report submitted by or on behalf of your parent company, you should not complete SECTION 3 of this report. Rather, please check this box, complete Items 2a and 2b below, sign this report, and return it to the institution designated below. ☐

2a. Name and address of parent company

Name _____ Address _____

2b. Name and address of the reporting office filing the combined report (if same as Item 2a, enter "same")

Name _____ Address _____

Section 3: To be Completed by Institutions Whose Covered Credit is Not Included in the Base Report Filed by Another Office

3a. Is your institution filing this report on behalf of other offices? Yes ☐ No ☐

If yes, please provide the name and address of the parent company (if same as the name and address shown in SECTION 1 above, enter "same").

Name _____ Address _____

3b. If the amount of your covered consumer credit outstanding during the base period was less than $2 million, you should not complete Item 3c. Rather, please check this box, sign this report, and return it to the institution designated below. ☐

Otherwise, please complete Item 3c.

3c. Amount of covered consumer credit outstanding during the base period	Bils.	Mils.	Thous.

NOTE: The Base for the Special Deposit Requirement is Either (1) the Amount Shown in Item 3c Above or (2) $2 Million, Whichever is Larger.

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page 2

I certify that the information shown on this report is correct.

Authorized Signature

Title

Area Code and Telephone Number

This report must be filed no later than April 1 with the institution designated below.

All members of the Federal Home Loan Banks and all other savings and loan associations should return this report to the Federal Home Loan Bank.

All credit unions should return this report to the Central Liquidity Facility of the National Credit Union Administration.

All other creditors should return this report to the Federal Reserve Bank in whose District the respondent company is located.

PENALTIES. For each willful violation of 12 C.F.R. 229 Subpart A, the Board may assess against any creditor, or officer, director or employee thereof who willfully participates in the violation, a maximum civil penalty of $1,000. In addition, a maximum criminal penalty of $1,000 and imprisonment of up to one year may be imposed for willfull violation of this subpart.

BILLING CODE 6210-01-C

[FR 2061b]

Instructions

Who Must Report

This report is required from each U.S. creditor with covered consumer credit outstanding of $2 million or more either during the base period or, on an average basis, during any subsequent calendar month.

For purposes of reporting and determining whether the creditor's outstanding covered credit is $2 million or more, the covered credit of all U.S. offices of the same company and all direct and indirect U.S. subsidiaries of the same parent company shall be combined, and only one report shall be filed for the combined organization. Any office may be designated as the reporting office for the combined organization. (However, once a reporting office is designated, it should not be changed without prior notification to the institution receiving the report.)

For example, if a company has 100 offices throughout the U.S., it should combine the required information from each office, and one designated reporting office should file one combined monthly report for the entire company.

The covered credit of all U.S. offices (such as the branches, agencies, and subsidiaries, including banks) of the same foreign parent company and all U.S. offices of that foreign parent's non-U.S. subsidiaries shall be combined, and one office selected as the reporting office for such offices. A subsidiary is a company that is more than 50 percent owned, directly or indirectly, by another.

Purpose of the Report

In accordance with the Credit Control Act (12 U.S.C. 1901–1909) as implemented by Executive Order 12201, the Board of Governors of the Federal Reserve System has adopted provisions requiring certain creditors that extend certain types of consumer credit to maintain a special noninterest-bearing deposit with the Federal Reserve against increases in the amount of those types of credit outstanding. This report is used to compute the special deposit requirement.

Any covered creditor with covered credit outstanding of over $2 million on an average basis during a calendar month is required to maintain the special noninterest-bearing deposit with the appropriate institution designated below. The special deposit requirement is 15 percent of the amount by which the amount of covered consumer credit on an average basis during the computation period exceeds the creditor's reported base or $2 million, whichever is greater. The first computation period shall cover the period beginning March 15, 1980, and ending April 30, 1980. Thereafter, each computation period, or reporting month, shall begin on the first day of each month and end on the last day of that month. Thus, for example, the computation period for May will begin on May 1 and end on May 31.

The special deposit requirement must be maintained during the period beginning on the fourth Thursday of the month following the computation period (or reporting month) and ending on the Wednesday before the fourth Thursday of the next month. For example, the special deposit required for the first computation period (March 15 through April 30) shall be held beginning Thursday, May 22, 1980 and continue through Wednesday, June 25, 1980. A new special deposit amount based on the May report will then be required beginning Thursday, June 26, and will continue through Wednesday, July 23. The amount of the special deposit may not vary during each maintenance period.

The special deposit shall be maintained in collected funds in the form of U.S. dollars.

Members of the Federal Home Loan Banks and all other savings and loan associations shall maintain the special deposit with the Federal Home Loan Banks. All credit unions, whether or not members of the National Credit Union Administration's Central Liquidity Facility, shall maintain the special deposit with the Central Liquidity Facility. Deposits maintained with the Federal Home Loan Banks and the Central Liquidity Facility shall be passed through by those entities to the Federal Reserve Banks. All other covered creditors, including commercial banks, mutual savings banks, U.S. branches and agencies of foreign banks, retailers, other credit card issuers, and finance companies, shall maintain the special deposit with the Federal Reserve Bank in whose District the reporting office is located.

Where and When To Report

The first monthly report (covering the period beginning March 15 and ending April 30) shall be filed by May 12. Thereafter, each monthly report shall be filed by no later than the second Monday following the reporting month.

Members of the Federal Home Loan Banks and all other savings and loan associations should file their reports with the Federal Home Loan Bank where the deposit will be maintained.

All credit unions should file their reports with the Central Liquidity Facility of the National Credit Union Administration.

All other creditors should file their reports with the Federal Reserve Bank in whose District the reporting office is located.

How To Report

The special deposit requirement (Item 4) should be reported in dollars. All other amounts should be reported to the nearest thousand dollars.

In computing the average amount of covered consumer credit outstanding during the reporting month, use balances as of the close of business each day on which offices were open.

Amounts of covered consumer credit outstanding denominated in foreign currencies should be valued in U.S. dollars at the prevailing exchange rate at the time the transaction originally is entered into.

General Definitions

Base: The larger of $2 million or the amount of covered credit outstanding as of the close of business on the base date.

Base date: For a creditor that has daily credit data available, March 14, 1980, or the last day immediately before March 14, 1980 for which such data are available; for a creditor that does not have daily credit data available, the period immediately before March 14, 1980 for which credit data are available.

Board: The Board of Governors of the Federal Reserve System.

Closed-end credit: All consumer credit except open-end credit.

Consumer credit: Credit extended in the U.S. primarily for personal, family, or household purposes. Credit extended for business or agricultural purposes is excluded.

Covered credit: Consumer credit that is (1) open-end credit and (2) closed-end credit which is unsecured or in which the proceeds of the credit are not being used to purchase the collateral. Covered credit that is sold or otherwise transferred after March 14, 1980 to any office located outside the U.S. of the same or another entity shall remain the covered credit of the transferor until such credit is repaid. Covered credit that is sold or otherwise transferred on a recourse basis to any U.S. office of the same or another entity shall remain the covered credit of the transferor; covered credit that is transferred on a nonrecourse basis to any U.S. office of the same or another entity shall be treated as covered credit of the transferee.

Covered credit does *not* include insurance company policy loans; credit extended by federal, state, or local governments, or by providers of utility, health, or educational services; state or federal government guaranteed loans; or loans secured by savings deposits [1] held at the lending institution.

Covered creditor: Any creditor which extends covered credit. For purposes of determining the amount of a creditor's outstanding covered credit, the covered credit of all U.S. offices of (1) the same company, (2) U.S. subsidiaries of the same parent company, and (3) non-U.S. subsidiaries of the same parent company shall be combined. A subsidiary is a company that is more than 50 percent owned, directly or indirectly, by another company.

Credit: The right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

Credit transaction: See "Extension of credit."

Creditor: Any person who extends, or arranges for the extension of, credit, whether in connection with a loan, a sale of property or services, or otherwise.

Extension of credit (or "credit transaction"): Loans, credit sales, or other supplying of funds.

Loan: Any type of credit, including credit extended in connection with a credit sale.

Open-end credit: Consumer credit extended on an account pursuant to a plan under which (1) the creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in instalments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

Subsidiary: Any company in which more than 50 percent of the outstanding voting stock is owned directly or indirectly by another.

U.S.: The 50 states of the United States and the District of Columbia.

Non-U.S.: Any geographic area located outside the 50 states of the United States and the District of Columbia. Thus, for purposes of this report, non-U.S. includes Puerto Rico and U.S. territories and possessions.

Examples

As noted above under "General Definitions," covered credit consists of (1) all open-end consumer credit, whether secured or unsecured, and (2) closed-end consumer credit that is either unsecured or secured by collateral that is not being purchased with the proceeds of the credit.

Examples of open-end credit that is covered are:

Credit card plans, such as cards issued by financial institutions, retailers, and oil companies.

Overdraft and special check-type plans offered by financial institutions.

Other revolving credit plans.

Examples of closed-end consumer credit that is covered are:

Unsecured personal loans.

Loans for which the collateral provided is already owned by the borrower.

Open account and 30-day credit without regard to whether a finance charge is imposed, such as travel and entertainment card plans and retail merchant credit.

Credit secured by financial assets, other than savings deposits, when the collateral is not purchased with the loan proceeds.

Credit extended through the use of credit cards will be presumed to be consumer—that is, non-business—credit unless the creditor establishes otherwise.

A creditor will also be required to treat as covered consumer credit any such credit that is sold or otherwise transferred to any non-U.S. office of the same or another entity and any such credit that is sold or otherwise transferred with recourse to another entity, wherever located.

Examples of consumer credit that is not covered are:

Secured credit where the collateral is purchased with the proceeds of the loan, such as automobile, mobile home, and other chattel-secured loans (see uniform Commercial Code § 9–107, including Official Comments 1 and 2).

Credit secured by financial assets when the collateral is purchased with the proceeds.

Credit secured by savings deposits held at the lending institution.

Mortgage loans where the proceeds are used to purchase the collateral or for home improvements or "bridge" loans.

Insurance company policy loans.

Credit extended by providers of utility, health, and educational services.

Credit extended under state or federal government guaranteed consumer loan programs, such as student loans.

Instructions

Include all covered consumer credit that is on the creditor's books that is not actually written off, even if during the reporting period the credit is past due and collection is doubtful. Also, report the aggregate book value of covered credit net of unearned income and before deduction of allowance for loan losses. Depositary institutions should report covered credit outstanding net of deposits accumulated for the payment of personal loans (hypothecated deposits).

Each creditor should include the amount of its share of participation loans, including participations in pools of loans, if such loans meet the definition of covered credit. Participation loans are loans made in cooperation with other financial institutions. The creditor should report only the dollar amount outstanding of its share of the participation loans even if it is the "lead" institution in the participation arrangement.

Participations in pools of loans are described as follows: (1) A "pass-through" participation, when issued by a bank or other private institutions, represents a pro-rata share in the pooled loans. In this case, the terms of the participation (e.g., maturity, interest rate, etc.) are identical to the terms of the underlying loans. Consequently, the issuing institution incurs *no* obligation other than to pass on proportional shares of whatever payments of principal and interest are collected from the obligors of the underlying assets in the pool. The creditor *purchasing* such a participation should report the underlying loans as covered consumer credit. (2) In other types of participations (i.e., those other than "pass-through" participations), the instrument of participation bears terms (e.g., maturity, interest rate, etc.) that differ from the terms of the loans comprising the pool. Consequently, the institution issuing the participation *does incur* an obligation on the instrument of participation itself. A creditor *issuing* these participations should report the underlying loans as covered consumer credit.

BILLING CODE 6210-01-M

[1] As defined in § 217.1(e) of Regulation Q.

FR 2061b
OMB No. 55-R-0270
Approved by Federal Reserve Board and OMB March 1980

Monthly Report of Covered Consumer Credit Outstanding Subject to Special Deposit Requirement

As of _____

This report is required by law (12 U.S.C. §§1901-1909, as implemented by Executive Order 12201).

The information provided by each respondent is regarded as confidential. If it should be determined subsequently that any information collected on this form must be released, respondents will be notified.

PLEASE READ INSTRUCTIONS PRIOR TO COMPLETION OF THIS REPORT

	Bils.	Mils.	Thous.
1. Average amount of covered consumer credit outstanding during the reporting month . . .			
2. *Base:* Amount of covered consumer credit outstanding during the base period or $2 million, whichever is larger . . .			
3. Amount by which the average amount of covered consumer credit outstanding during the reporting month exceeds the base (Item 1 minus Item 2) . . .			

If Item 3 is zero or negative, no special deposit is required during the maintenance period. Please sign below and return this form to the institution designated below.

If Item 3 is greater than zero, a special deposit is required during the maintenance period. Item 4 must be completed for calculation of the special deposit requirement.

	Bils.	Mils.	Thous.	Hunds.
4. 15% of Item 3: **Special noninterest-bearing deposit required to be held during the maintenance period.** (NOTE: Report this amount in *dollars*.) . . .				

MEMORANDA

1. Amount of covered consumer credit sold or otherwise transferred to non-U.S. offices of the same or other institutions (must be included in Item 1 above) . . .			
2. Amount of covered consumer credit sold or otherwise transferred with recourse to U.S. offices of the same or other institutions (must be included in Item 1 above) . . .			
3. Amount of covered consumer credit sold or otherwise transferred without recourse to U.S. offices of the same or other institutions (must *not* be included in Item 1 above) . . .			
4. Amount of covered consumer credit purchased without recourse from U.S. offices of the same or other institutions (must be included in Item 1 above) . . .			

METHOD OF ACCOUNTING

Data on covered consumer credit are maintained on the following basis (check one):

- ☐ Daily
- ☐ Other (please specify) _____

This report reflects data computed on the following basis (check one):

- ☐ Daily
- ☐ One-day (please specify the date) _____
- ☐ Other (please specify) _____

NOTE: If your institution maintains data on a daily basis, you must report on a daily average basis.

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I certify that the information shown on this report is correct.

Name of Respondent

Authorized Signature

Address

Title

City, State, and Zip Code

Area Code and Telephone Number

Please return by the second Monday of the following month, as follows:

All members of the Federal Home Loan Banks and all other savings and loan associations should return this report to the Federal Home Loan Bank.

All credit unions should return this report to the Central Liquidity Facility of the National Credit Union Administration.

All other respondents should return this report to the Federal Reserve Bank in whose District the reporting office is located.

PENALTIES. For each willful violation of 12 C.F.R. 229 Subpart A, the Board may assess against any creditor, or officer, director or employee thereof who willfully participates in the violation, a maximum civil penalty of $1,000. In addition, a maximum criminal penalty of $1,000 and imprisonment of up to one year may be imposed for willfull violation of this subpart.

[FR Doc. 80-10658 Filed 4-8-80; 8:45 am]
BILLING CODE 6210-01-C

Anna Bancshares, Inc.; Formation of Bank Holding Company

Anna Bancshares, Inc., Anna, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Anna, Anna, 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 May 2, 1980. 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10678 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice 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)(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 the 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.

The 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 25, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (consumer finance and insurance activities; Florida): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc. in conducting previously approved activities including: the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; and purchasing for its own account and servicing sales finance contracts. The service area of the additional office located in Tampa, Florida, will be expanded to include the entire State of Florida.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 27, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-10654 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; 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 § 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, soley 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 effeciency, 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 May 2, 1980.

A. *Federal Reserve Bank of New York* (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, each of London, England (travelers checks; South Carolina): to engage through their subsidiary, BarclaysAmericanCorporation ("BAC"), and a subsidiary of BAC, BarclaysAmerican/Credit, Inc. ("BACI"), in selling at retail travelers checks issued by Barclays Bank International Limited. This activity would be conducted from exisiting consumer finance offices of BAC and BACI in the following cities/towns in South Carolina: Aiken, Anderson (two offices), Barnwell, Beaufort, Camden (two offices), Charleston (two offices), Charleston Heights, Chester, Clinton, Columbia (four offices), Conway, Florence (two offices), Fort Mill, Gaffney, Greenville (four offices), Greenwood (two offices), Greer, Hartsville (two offices), Lancaster, Laurens, Leesville, Newberry, Ninety Six, Orangeburg (two offices), Rock Hill (two offices), Seneca Spartanburg (five offices), Sumter (two offices), and Walterboro; each such office serving portions of the county in which such office is located and in certain cases portions of contiguous counties.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (financing and insurance activities; New Jersey): to engage through its subsidiary Security

Pacific Finance Corp. (formerly American Finance Corporation of New Jersey), in making or acquiring for its own account or for the account of others, loans and extensions of credit, including consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit as would be made by a factoring company or a consumer finance company, and acting as a broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office in Trenton, New Jersey, serving New Jersey.

C. *Other Federal Rerserve Banks:* None.

Board of Governors of the Federal Reserve System, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10680 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

CreditBank Shares, Inc.; Formation of Bank Holding Company

CreditBank Shares, Inc., Hollywood, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of CreditBank, Miami, Florida, formerly known as Bank of Cutler Ridge, Miami, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 2, 1980. 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10675 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Monday, April 28, and Tuesday, April 29. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The April 28 session is expected to begin at 1 p.m. and to continue until 5 p.m. The April 29 session is expected to begin at 9 a.m. and to conclude at 3 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that, time permitting, the April 28–29 meeting of the Council will include consideration of the following topics:

1. *Consumer credit restraint program.* A discussion of the Board's program to limit the expansion of certain classes of consumer credit after March 14, 1980.

2. *Federal pre-emption of State usury ceilings.* A discussion of whether state usury ceilings should be pre-empted by federal law.

3. *Privacy protections.* A discussion of whether pending legislation (the Fair Financial Information Practices Act and the Privacy of Electronic Fund Transfer Act) should be enacted.

4. *Recent trend of changing method used to compute finance charges on revolving accounts.* An explanation of the "Average Daily Balance (with current debits)" method of computing finance charges, which is being increasingly used by credit card issuers. A discussion of: (1) whether Truth in Lending disclosure requirements adequately ensure consumer understanding of this new method; (2) whether competitive imbalance may be caused by state laws differing on whether to allow this method; and (3) whether the trend toward this method reflects problems with state interest rate ceilings.

5. *Truth in Lending simplification and reform.* An update on the Truth in Lending Simplification and Reform Act and the Board's proposal to simplify Regulation Z.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10676 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Farmers & Traders Bancorp of Mt. Olivet, Inc.; Formation of Bank Holding Company

Farmers & Traders Bancorp of Mt. Olivet, Inc., Mt. Olivet, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers & Traders Bank of Mt. Olivet, Inc., Mt. Olivet, Kentucky. 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 Cleveland. 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 25, 1980. 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 27, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-10655 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of February 4–5, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on February 4–5, 1980.[1]

The information reviewed at this meeting suggests that real output of goods and services expanded somewhat

[1] The Record of Policy Actions of the Committee for the meeting of February 4–5, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

in the final quarter of 1979 and that prices on the average continued to rise rapidly. In December retail sales strengthened, industrial production edged up, and nonfarm payroll employment continued to rise, while private housing starts remained at the reduced level of November. Nonfarm payroll employment rose substantially further in January, but the unemployment rate rose from 5.9 to 6.2 percent. Producer prices of finished goods and consumer prices continued to rise rapidly toward the end of 1979, in part because of the spreading effects of earlier increases in energy costs. Over the past several months the rise in the index of average hourly earnings has remained close to the rapid pace recorded earlier in 1979.

The trade-weighted value of the dollar against major foreign currencies changed little in January, and exchange market pressures were relatively slight in spite of increased international political tensions. The U.S. foreign trade deficit rose in December, in large part because of an increase in imports of petroleum.

Growth of the major monetary aggregates, which had subsided in the final months of 1979, remained at reduced rates in January. Most market interest rates, especially long-term rates, have risen since the Committee's meeting in early January.

Taking account of past and prospective economic developments, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions.

The Committee agreed that these objectives would be furthered by growth of M–1A, M–1B, M–2, and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6, 4 to 6½, 6 to 9, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth over the first quarter of 1980 at an annual rate of about 4½ percent for M–1A and 5 percent for M–1B, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 11½ to 15½ percent. The Committee believes that, consistent with this short-run policy, M–2 as newly defined should grow at an annual rate of about 6½ percent over the first quarter.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

On February 22, the Committee modified the domestic policy directive to raise the upper limit of the range for the federal funds rate to 16½ percent. On March 6 and on March 7, the Committee further modified the directive to raise the upper limit of the range for the federal funds rate first to 17½ percent and then to 18 percent.

By order of the Federal Open Market Committee, March 21, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80–10653 Filed 4–8–80; 8:45 am]

BILLING CODE 6210–01–M

First Missouri Banks, Inc.; Acquisition of Bank

First Missouri Banks, Inc., Creve Coeur, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of First Missouri Bank of Ellisville, Ellisville, Missouri, a *de novo* 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 2, 1980. Any comment on an application that requests a hearing must inlcude 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80–10674 Filed 4–8–80; 8:45 am]

BILLING CODE 6210–01–M

Green Country Bancorporation, Inc.; Formation of Bank Holding Company

Green Country Bancorporation, Inc., Ketchum, Oklahoma, 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 of the voting shares of The First State Bank, Ketchum, Oklahoma. 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 May 2, 1980. 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80–10673 Filed 4–8–80; 8:45 am]

BILLING CODE 6210–01–M

Marbanco, Inc.; Formation of Bank Holding Company

Marbanco, Inc., Marengo, 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 Marengo State Bank, Marengo, 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 Reserve Bank, to be received not later than May 2, 1980. 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, April 2, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80–10679 Filed 4–8–80; 8:45 am]

BILLING CODE 6210–01–M

Nebanco, Inc.; Proposed Retention of Wallace Agency, Wallace, Nebr.

Nebanco, Inc., Wallace, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain ownership of Wallace Agency, Wallace, Nebraska.

Applicant states that the subsidiary would engage in the activity of offering a full line of commercial insurance in a community with a population less than 5,000. These activities would be performed from an office of Applicant's subsidiary in Wallace, Nebraska, serving that community. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question 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 Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 21, 1980.

Board of Governors of the Federal Reserve System, March 27, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-10656 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

Second Security Corp.; Formation of Bank Holding Company

Second Security Corporation, Jackson, Mississippi, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 99.7 per cent of the voting shares of the Security Bank, Corinth, Mississippi. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Second Security Corporation, Mississippi has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act as an insurance agent or broker for the purpose of writing credit related insurance. These activities would be performed from offices of bank in Corinth, Mississippi, and the geographic area to be served includes Alcorn County Mississippi. Such activities have been specified by the Board in 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question 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 St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, DC, 20551, not later than May 1, 1980.

Board of Governors of the Federal Reserve System, April 1, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-10677 Filed 4-8-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; 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 April 2, 1980 (CAB), and April 3, 1980 (FCC). 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 CAB and FCC 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 28, 1980, 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

Civil Aeronautics Board

The CAB requests clearance of a new, single-time survey requesting data covering on-demand operations by the air taxi operators for the calendar year 1979. The data reported by the 600 carriers, selected out of a universe of 3,680, will be used by the National Transportation Safety Board in making its future air taxi safety reports more meaningful. Submission of the data is mandatory under section 407(a) of the Federal Aviation Act of 1958, as amended. The CAB estimates respondent burden will average 2 hours per response.

Federal Communications Commission

The FCC requests an extension-without-change clearance of Form 323, Ownership Report. Form 323 is used to determine qualifications of broadcast applicants and in making determinations whether public interest, convenience, and necessity is being served. The form is required by §§ 73.34, 73.240, 73.636, and 73.3615 of the Commission's Rules and Regulations and Section 308 of the Communications

Act of 1934, as amended. Respondent burden is estimated to vary from 48 hours to ½-hour per response, based on the size of the corporation/company and the complexity of the records the data must be extracted from. A company may be owned by one individual which would require a small amount of burden or it could be owned by many stockholders which would require greater burden to extract the data. FCC estimates there are approximately 7,530 licensees and that reporting burden for licensees with over 50 stockholders averages 40 hours for an annual report and 8 hours for a supplemental report; for licensees with under 50 stockholders a report must be filed every three years and reporting burden averages 18 hours therefor and 30 minutes for a supplemental report. Supplemental reports must be filed within 30 days of any change in the information filed previously.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-10740 Filed 4-8-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 112]

American Telephone & Telegraph Co., Federal Communications Commission; Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Federal Communications Commission concerning the application of the American Telephone and Telegraph Company for an increase in its annual telephone rates. GSA represents the interest of the executive agencies of the U.S. Government as users of telecommunications service.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, telephone 202-566-0750, on or before May 9, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. [Section 201(a)(4), Federal Property and Administration Services Act, 40 U.S.C. 481(a)(4).]

Dated: March 31, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-10659 Filed 4-8-80; 8:45 am]

BILLING CODE 6820-25-M

Automated Data and Telecommunications Service

Freedom of Information Act (FOIA); Information Available to the Public/ Pilot Test

The Brooks Bill, Pub. L. 89-306, tasks the General Services Administration (GSA) to provide, directly or by delegation, for the economic and efficient acquisition of automatic data processing (ADP) resources. Vital to this end is GSA's responsibility to promote open competition, wherever practicable, by ensuring a ready exchange of information while still protecting information critical to the Federal procurement process.

Since the use of individual requests under the Freedom of Information Act (FOIA) is costly and time-consuming to both requestors and to the Federal Government, GSA has decided to make certain ADP procurement information promptly and routinely available to the public. The information to be posted is:

1. Weekly listings of Agency Procurement Requests (including requesting agency, GSA control number, and brief description of planned acquisition.),
2. Copies of synopses of major procurements, and
3. Copies of Delegations of Procurement Authority.

Portions of the documents which contain information which would normally be withheld under FOIA procedures will also be withheld under these procedures.

These procedures will be established as a 90 day pilot program in GSA's Region W Business Service Center (7th and D Streets, SW, Washington, DC) effective April 15, 1980.

Dated: April 2, 1980.

Robert A. Coyer,

Acting Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 80-10660 Filed 4-8-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Planning and Evaluation

Privacy Act of 1974; Report of a New System of Records

AGENCY: Office of the Assistant Secretary for Planning and Evaluation (ASPE), DHEW.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with 5 U.S.C. 552a(e) (4), we are issuing public notice of our intent to establish a new system of records: Pennhurst Longitudinal Study (also called the Longitudinal Study of the Court Ordered Deinstitutionalization of Pennhurst), HEW/OS/ASPE, 09-90-0082. We are also proposing to include routine uses of the system in accordance with 5 U.S.C. 552a(e) (11). The proposed new system will permit the initiation of a longitudinal study of the Court Ordered community placement of the severely and profoundly retarded residents of Pennhurst Institution in Pennsylvania. The purpose of creating this system of records is to gather data on the communities' reactions to their new mentally retarded neighbors the attitudes of the parents of the mentally retarded residents of Pennhurst toward the court-ordered closing of a long-term institution and the impact of the Order on the residents in terms of the individuals' satisfaction both in the Institution and later in the alternative community living arrangement.

We invite public comments on these proposals, including the routine use disclosures described in the routine use section of the notice. The comments must be received on or before May 9, 1980.

DATES: We filed a report of new system of records with the President of the Senate, the Speaker of the House of Representatives, and the Director, Office of Management and Budget (OMB) on March 27, 1980. This system will become effective, except for the routine use disclosures, April 9, 1980. The proposed routine uses will become effective May 9, 1980, without further notice unless we receive comments which would result in a contrary determination. If OMB does not grant the waiver, the system will not become effective until 60 days after this report was sent to OMB.

ADDRESSES: Address comments to the ASPE Privacy Officer, Department of Health, Education, and Welfare, 200

Independence Ave., S.W., Washington, D.C. 20201. We will make comments received available for public inspection in Room 432E, Hubert Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT:
Mr. John DeWilde, Project Monitor, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Ave., S.W., Washington, D.C. 20201, telephone (202) 245-6172.

SUPPLEMENTARY INFORMATION:
Recognizing the national significance of the Pennhurst case, and the possibility that other communities seeking legal alternatives to institutionalization will use Pennhurst as a model, DHEW has funded a longitudinal study that will measure the costs involved in establishing a community comprehensive service delivery system for a large number of severely retarded persons and the impact that such a relocation will have on the mentally retarded clients and their families. The proposed new system will permit the longitudinal study of the residents as they are relocated in the community, the validation of data collected from respondents, and the following of respondents from year to year. Non-individually identifiable data are used for analysis by the contractor for this study, any agency of government, and any member of the public who wishes to conduct statistical analysis of such data.

We will collect data from about 1,260 respondents: Community Attitudes Survey—450 Family Impact Survey—750 and Resident Satisfaction Survey—60. This is the minimum number of respondents that is necessary in a study of this type to yield reliable estimates for longitudinal quantitative and qualitative analysis. We are proposing to establish this system to permit the initiation of a longitudinal data collection on the impact of relocating severely mentally retarded persons from Pennhurst Institution in Pennsylvania to alternative community living arrangements. In order to conduct a study which returns year after year to the same individuals, it is necessary to maintain a list of the names, current addresses and telephone numbers of respondents in the sample. Furthermore, because of the study design for following persons who leave the Institution for alternative community living arrangements, it is necessary to maintain a list of the names, current addresses, and telephone numbers of respondents in the study. Furthermore, because the study design calls for following persons who leave one living arrangement for another, it is necessry to add new addresses and telephone numbers to the list. Also, it is necessary to link current data collected from respondents through interviews with data previously collected from the same respondents. This is made possible by unique identification numbers common to the list of names, addresses, and telephone numbers and to non-individually identifiable data that are collected from the respondents through interviews. Thus, the file that contains the names of respondents also contains each of the yearly identification numbers assigned to individuals in the study. The link between this year's and previous years' non-individually identifiable data (Data used in non-identifiable form) is through these identification numbers.

The Privacy Act of 1974 allows us to disclose information without the consent of the individual for "routine uses", that is, disclosure for purposes which are compatible with the purposes for which the data are collected. Accordingly, we are establishing two routine uses of information in this system. These routine uses provide for disclosure in response to congressional inquiries made at the request of an individual included in the system of records for his/her own records and to the Department of Justice to defend any employee or component of DHEW who may be involved in litigation that is likely to directly affect the operations of DHEW, provided the disclosures are compatible with the purposes for which we collected the information.

Individually identifiable data are maintained at Temple University, a contractor for this study. The contractor safeguards the identifiable data according to the Department's ADP *Systems Manual*, "Part 6, ADP System Security." The contractor maintains identifiable data on other than magnetic tape or disk in locked cabinets in a limited access area. Access to identifiable data is obtained only with the specific permission of the contractor's project monitor and only for purposes consistent with the conduct of a longitudinal study. We further protect magnetic data with special account numbers and passwords. Since we propose to establish this system in accordance with the requirements of the Privacy Act, we anticipate no untoward affect on the privacy or other personal rights of individuals.

Dated: March 24, 1980.

John L. Palmer,
Assistant Secretary for Planning and Evaluation, Designate.

09-90-0082

SYSTEM NAME:
Pennhurst Longitudinal Study (also called the Longitudinal Study of the Court Ordered Deinstitutionalization of Pennhurst), HEW/OS/ASPE.

SECURITY CLASSIFICATION:
None.

SYSTEM LOCATION:
Temple University, Developmental Disabilities Center, 963 Ritter Hall Annex, Philadelphia, Pennsylvania 19122.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Approximately 1,260 respondents including: 450 community residents, of the Southeastern Region of Pennsylvania, 750 family members of the retarded residents of Pennhurst State Center, and 60 retarded residents of Pennhurst State Center.

CATEGORIES OF RECORDS IN THE SYSTEM:
The contractor maintains two separate sets of files. One contains identifiable information necessary to conduct the study. The second contains the data the study was designed to collect.

The identifiable information is a list of names, addresses, and current telephone numbers of respondents where necessary. This file also contains unique identification numbers used to link this year's non-individually identified data with similar data from past years. Non-individually identified information includes: demographic characteristics, data on the communities' reactions to their new mentally retarded neighbors, the attitudes of the parents of the mentally retarded residents of Pennhurst toward the court-ordered closing of a long-term institution and, the impact of the Court Order on the residents in terms of the individuals' satisfaction both in the institution and later in the alternative community living arrangement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
Section 232 of the Community Services Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Disclosure may be made:

1. To a congressional office from the record of an individual in reponse to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to

directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc, paper and card records.

RETRIEVABILITY:

The contractor performs linkage between the data sets through a number common to both the identified data and the non-individually identified statistical data for purposes of validating and linking the year to year data.

SAFEGUARDS:

The contractor stores cover sheets containing individual identifiers separately from the questionnaires that contain other non-individually identified information. Magnetic tapes that contain non-individually identified information are stored in a locked safe, and the cover sheets are stored in locked file cabinets in a limited access area. Magnetic data are further protected by special account numbers and passwords.

The contractor conforms to the Department's ADP *Systems Manual*, "Part 6, ADP System Security." Access to the numbers associated with the identifiable data and the non-individually identified statistical data (which could be used to link the identifiable data—a list of names, addressed, and telephone numbers—with the data collected on the questionnaires) is subject to the specific approval of the Project Director at Temple University.

Temple University: Non-individually identifiable data are used for analysis of the communities' reactions to their new mentally retarded neighbors, the attitudes of the parents of the mentally retarded residents of Pennsylvania toward the court-ordered closing of a long-term institution and the impact of the Order on the residents in terms of the individuals' satisfaction both in the institution and later in the alternative community living arrangement.

Temple University uses information with individual identifiers to validate data and to locate respondents from year to year. Only persons at Temple University perform these analyses and then only on a "need to know" basis. The data without personal identifiers is available to any member of the public or to any agency of government.

Assistant Secretary for Planning and Evaluation: The Office of the Assistant Secretary for Planning and Evaluation conducts analyses of non-individually identifiable data similar to those conducted by Temple University.

The government project monitor may have access to the identified data only to monitor the contractor's performance of the study.

RETENTION AND DISPOSAL:

It is anticipated that the cover sheets that contain individually identifiable information will be destroyed by shredding or erasing three years after field work on this study ceases or at such time as it is determined that no further validation of the data will be undertaken. There are no plans for the destruction of the non-individually identifiable statistical data that have been collected on respondents over the life of this study.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Secretary for Planning and Evaluation, U.S. Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Research Director, Temple University, Developmental Disabilities Center, 963 Ritter Hall Annex, Philadelphia, Pennsylvania 19122.

An individual requesting notice as to whether the system of records contains information pertaining to him or her should write to the Temple University project director at the above address, indicating his or her full name, and address.

RECORD ACCESS PROCEDURES:

Individuals who have established that the system of records contains information pertaining to them may inspect and copy those portions of the records pertaining to them at the Temple University project officer's place of business, or the project officer will establish a date after which the records will be available at a place requested by the individual.

CONTESTING RECORD PROCEDURES:

Contact the project officer at Temple, reasonably identify the record, specify the information being contested, and supply the correct information.

RECORD SOURCE CATEGORIES:

Information is obtained either from telephone or face-to-face interviews with the respondents each year.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-10772 Filed 4-8-80; 8:45 am]
BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6984-A and AA-6984-B]

Alaska Native Claims Selections

On May 6, 1974, Klawock Heenya Corporation for the Native village of Klawock, filed selection application AA-6984-A, later amended, and on December 12, 1974, filed selection application AA-6984-B under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615(b)) (ANCSA), for the surface estate of certain lands in the vicinity of Klawock.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating approximately 3,905.20 acres, is considered proper for acquisition by Klawock Heenya Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA.

Copper River Meridian, Alaska (Unsurveyed)

T. 73 S., R. 81 E.
Sec. 12, S½;
Sec. 13, all;
Sec. 24, N½.
Containing approximately 1,280 acres.

T. 73 S., R. 82 E.
Sec. 18, N½, N½SE¼, SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, N½, N½S½, S½SE¼;
Sec. 21, S½;
Sec. 27, SW¼;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 33, NE¼NE¼;
Sec. 34, N½, NE¼SW¼, SE¼N½SW¼, SE¼;
Sec. 35, SW¼;
Containing approximately 2,625.20 acres.
Aggregating approximately 3,905.20 acres.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–6984–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

One Acre Site—The uses allowed for a site easement are: Vehicle parking, (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping and loading or unloading. Temporary camping and loading or unloading shall be limited to 24 hours.

100 Foot Road—The uses allowed on a one-hundred (100) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles and trucks.

a. (EIN 4 D9) A one (1) acre site easement, upland of the ordinary high-water mark, in Sec. 34, T. 73 S., R. 82 E., Copper River Meridian, on the northeasterly shore of Klawock Lake. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 4a C5) An easement, one hundred (100) feet in width, for a proposed road from the Klawock-Hollis Road in Sec. 34, T. 73 S., R. 82 E., Copper River Meridian, to site EIN 4 D9. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

c. (EIN 13 G) An easement, one hundred (100) feet in width, for a proposed road from the Klawock-Hollis Road in Sec. 12, T. 73 S., R. 81 E., Copper River Meridian, easterly to public land. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. The following third-party interest, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)). Special Use Permit Issued to:

City of Klawock for water transmission, dam and reservoir consisting of two (2) pipes 10" x 1,000' and 8" x 9,000', one (1) dam 8½' 140', one (1) storage tank (wooden) 100M–150M gallons, one (1) chlorinator station, a road 650' long running from the highway to tank and chlorinator station and a reservoir covering 0.13 acres. This permit covers 5.75 acres and/or 1.93 miles and is located in S½ Sec. 12, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

5. A right-of-way, AA–5955, located in S½ Sec. 12, T. 73 S., R. 81 E., Copper River Meridian, Alaska for a Federal Aid Highway, Act of August 27, 1958, as amended (23 U.S.C. 317), granted by the Federal Highway Administration to State of Alaska, Department of Highways by Highway Easement Deed, dated the 13th day of February 1967;

6. A right-of-way, AA–16139, for a Federal Aid Highway, Act of August 27, 1958, as amended (23 U.S.C. 317), granted by the Federal Highway Administration, Bureau of Public Roads to the State of Alaska, Department of Highways by Highway Easement Deed, dated the 6th day of March, 1968, located in:

Copper River Meridian, Alaska

T. 73 S., R. 81 E.
Sec. 12, S½;
Sec. 13, NE¼.
T. 73 S., R. 82 E.
Sec. 18, N½, N½SE¼;
Sec. 20, N½, SE¼;
Sec. 21, SW¼;
Sec. 27, SW¼;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 33, NE¼NE¼;
Sec. 34, N½, N½SE¼, SE¼SE¼;
Sec. 35, SW¼.

7. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Klawock Heenya Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 21,191.789 acres. The remaining entitlement of approximately 1,848.211 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of NACSA, conveyance to the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Klawock Heenya Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, there are no inland water bodies considered navigable.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Ketchikan Daily News. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to

sign the return receipt shall have until May 9, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be a strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Klawock Heenya Corporation, Box 25, Klawock, Alaska 99925.
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Ricky M. Elliott,

Chief, Branch of Adjudication.

[FR Doc. 80-10710 Filed 4-8-80; 8:45 am]
BILLING CODE 4310-84-M

[AA-6984-A and AA-6984-B]

Alaska Native Claims Selections

On May 6, 1974, Klawock Heenya Corporation for the Native village of Klawock, filed selection application AA-6984-A, later amended, and on December 12, 1974, filed selection application AA-6984-B under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615(b)) (ANCSA), for the surface estate of certain lands in the vicinity of Klawock.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating approximately 17,286.589 acres, is considered proper for acquistion by Klawock Heenya Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA.

Lands Within the Tongass National Forest

(Proclamation No. 846, February 16, 1909)

U.S. Survey 1958 of the Klawak Cemetery, situated on Peratovich Island, Alaska.
Containing 8.39 acres.
U.S. Survey 2602, lots A, B, C and D of the Klawak Group of Homesites situated on right bank of Klawak River about 2 chains east of Survey No. 1569, Prince of Wales Island, Alaska.
Containing 18.81 acres.
Mineral Survey No. 2201, Alaska, known as the Wadleigh 10/53/D, Wadleigh 10/53/E, Wadleigh 10/53/F, 10/53/J, Wadleigh 3/54/K, Wadleigh 3/54/L, Wadleigh 4/54/M, Wadleigh 4/54/N, Wadleigh 4/54/O, Wadleigh 6/54/R, 7/54/1 Wadleigh, 7/54/2 Wadleigh, Wadleigh 8/54/3, Wadleigh 8/54/4, Wadleigh 10/54/8, Wadleigh 11/54/9, Wadleigh 12/54/12, Wadleigh 1/55/13, Wadleigh 2/55/16, Wadleigh 3/55/17, Wadleigh 4/55/20, Wadleigh 4/56/23, Wadleigh 6/56/26 and Wadleigh 7/56/27 placer mining claims, situate on unsurveyed public land, Ketchikan Mining District, at latitude 55°34'N, longitude 133°08'W at corner No. 3 of the 7/54/1 Wadleigh placer.
Containing 461.309 acres.
Mineral Survey No. 2204, Alaska, known as the Wadleigh 40, 41 and 43 Placers, situate on unserveyed public land, Ketchikan Mining District, Wadleigh Island, at latitude 55°34'N, longitude 133°08'W at corner No. 1 of the Wadleigh 40 placer.
Containing 45.958 acres.
Mineral Survey No. 2224, Alaska, known as the Wadleigh 42 Placer, situate on unsurveyed public land, Ketchikan Mining District, Wadleigh Island, at latitude 55°34'N, longitude 133°08'W at corner No. 1 of the Wadleigh 42 placer.
Containing 3.442 acres.
Copper River Meridian, Alaska
(Unsurveyed)

T. 73 S., R. 80 E.
Sec. 36 (fractional), all.
Containing approximately 213.25 acres.
T. 73 S., R. 81 E.
Secs. 1 and 2, all;
Sec. 3 (fractional), excluding U.S. Survey 2216;
Sec. 4 (fractional), excluding U.S. Surveys 1958 and 1569;
Sec. 5 (fractional), excluding Mineral Surveys 2201 and 2204;
Secs. 6 and 7 (fractional), excluding Mineral Survey 2201;
Sec. 8 (fractional), excluding Mineral Surveys 2201, 2204, and 2224;
Sec. 9 (fractional), excluding U.S. Surveys 923, 1101 and 1569, Native allotment applications AA-7542 Parcel A, and AA-7957 Parcel B, Klawock Island (excluded from the Tongass National Forest by Executive Order 4712) and Alaska Native Claims Settlement Act Sec. 3(e) applications identified by the U.S. Coast Guard as (a) Highwater Rock Daybeacon, AA-26430, (b) Klawock Island Light No. 8, AA-26433, (c) Klawock Ledge Daybeacon No. 9, AA-26434;
Sec. 10 (fractional), excluding U.S. Survey 923, 1569 and 2602, Native allotment applications AA-2874, AA-7542 Parcel B and AA-7957 Parcel A and the Klawock River;
Sec. 11 (fractional), excluding Native allotment applications AA-2874 and AA-7957 Parcel A and the Klawock River;
Sec. 12, N½;
Sec. 14, excluding Native allotment application AA-7957 Parcel A and the Klawock River;
Sec. 15 (fractional), excluding Native allotment applications AA-7542 Parcel B and AA-7957 Parcel A;
Sec. 16 (fractional), excluding Native allotment application AA-7542 Parcel A and Klawock Island (excluded from the Tongass National Forest by Executive Order 4712);
Sec. 17 (fractional), all;
Sec. 18 (fractional), excluding Native allotment application AA-7541 Parcel B;
Sec. 19 (fractional), excluding Native allotment application AA-7541 Parcel A;
Secs. 20 and 21 (fractional), all;
Secs. 22 and 23, all;
Sec. 24, S½
Secs. 25 to 28, inclusive, all;
Sec. 29 (fractional), all;
Sec. 30 (fractional), excluding Native allotment application AA-7541 Parcel A;
Sec. 31 (fractional), all;
Sec. 32 (fractional), excluding Native allotment application AA-7919 Parcel B;
Secs. 33 to 36, inclusive, all.
Containing approximately 13,291.43 acres.
T. 73 S., R. 82 E.
Sec. 9, SE¼SE¼;
Sec. 10, S½SW¼;
Sec. 15, W½, SE¼;
Sec. 16, E½, SW¼;
Sec. 17, S½;
Sec. 21, N½;
Sec. 22, all;
Sec. 27, N½, SE¼;
Sec. 35, W½NW¼, SE¼;
Sec. 36, N½SW¼.
Containing approximately 3,160 acres.

Lands Outside of the Tongass National Forest

(Executive Order 4712, August 30, 1927)
Copper River Meridian, Alaska
(unsurveyed)
T. 73 S., R. 81 E.
Sec. 9, that portion identified as Klawock Island, excluding Native allotment application AA-7957 Parcel B, and U.S. Survey 1101;
Sec. 16, that portion identified as Klawock Island.
Containing approximately 84 acres.
Aggregating approximately 17,286.589 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in casefile AA-6984-EE, is reserved to the United States. The easement is

subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

100 Foot Road—The uses allowed on a one hundred (100) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

(EIN 14 C4) An easement, one hundred (100) feet in width, for an existing road from Klawock, northeasterly to Sec. 29, T. 72 S., R. 81 E., Copper River Meridian, where it connects with road EIN 30 G, on the Sealaska selection. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. The following third-party interests, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)). Special Use Permits Issued to:

a. Alaska Timber Corporation, for constructing, operating and maintaining a pipeline for water transmission for domestic and commercial purposes. Improvements allowed shall consist of one (1) prefab metal collection box, 6' x 5' x 3' and one (1) 12" fiberglass pipeline, 250' long. This permit covers 0.02 acres and 0.05 miles and is located in Sec. 16, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

b. Alaska Timber Corporation/ Ketchikan Pulp Company, for a sawmill consisting of butler type steel buildings containing one (1) head rig (band saw), band resaw, two (2) edgers, planing mill, generator and machine shop, deep water dock, office and four residences covering approximately 35.2 acres in Sec. 16, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

c. Cities of Craig and Klawock for the Crab Creek disposal area (sanitary land fill) 200' x 200' and access road 200' long, located in Sec. 32, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

d. City of Klawock for water transmission, dam and reservoir consisting of two (2) pipes 10" x 1,000' and 8" x 9,000', one (1) dam 8½' x 140', one (1) storage tank (wooden) 100M–150M gallons, one (1) chlorinator station, a road 650' long running from the highway to tank and chlorinator station and a reservoir covering 0.13 acres. This permit covers 5.75 acres and/or 1.93 miles and is located in Secs. 10, 11 and N½ Sec. 12, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

e. Town of Klawock for a cemetery located on approximately 3 acres in U.S. Survey 1958 and Sec. 4, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

f. State of Alaska, Department of Highways, Project S0924(5), for a road right-of-way 5.604 miles in length from the Craig Townsite elimination boundary to the Klawock townsite elimination boundary covering 90.282 acres and traversing Secs. 9, 16, 20, 21, 29 and 32, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

g. Alaska Department of Highways, for a road right-of-way one hundred (100) feet in width from the Klawak townsite elimination boundary to where it intersects with Klawock Airport access road. This permit covers 3.007 miles in length and contains approximately 36.448 acres and crosses in Secs. 2, 3 and 10, T. 73 S., R. 81 E., Copper River Meridian, Alaska.

5. A right-of-way, AA–5955, located in U.S. Survey 2602 and S½ of Secs. 10, 11 and N½N½ Sec. 14, T. 73 S., R. 81 E., Copper River Meridian, Alaska for a Federal Aid Highway, Act of August 27, 1958, as amended (23 U.S.C. 317), granted by the Federal Highway Administration to State of Alaska, Department of Highways by Highway Easement Deed, dated the 13th day of February 1967;

6. A right-of-way, AA–16139, for a Federal Aid Highway, act of August 27, 1958, as amended (23 U.S.C. 317), granted by the Federal Highway Administration, Bureau of Public Roads to the State of Alaska, Department of Highways by Highway Easement Deed, dated the 6th day of March, 1968, located in S½ Sec. 17, T. 73 S., R. 82 E., Copper River Meridian, Alaska.

7. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Klawock Heenya Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 17,286.589 acres. The remaining entitlement of approximately 5,753.411 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance to the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Klawock Heenya Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water body is considered to be navigable.

Klawock River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the KETCHIKAN DAILY NEWS. Any party claiming a property interest in lands affected by this decison may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 9, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decison shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Klawock Heenya Corporation, Box 25, Klawock, Alaska 99925
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801

Ricky M. Elliott,

Chief, Branch of Adjudication.

[FR Doc. 80-10711 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

[C-22777]

Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Colorado State office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Notice is hereby given that certain resources in the lands hereinafter described in Jackson County, Colorado will be offered for lease by sealed bid of $25 or more per acre to the qualified bidder submitting the highest bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will held at 2:00 p.m., May 13, 1980, in Room 708 Colorado State Bank Building, Denver, Colorado. No bids received after 1:00 p.m., May 13, 1980, will be considered.

Coal Offered: The coal resource to be offered is limited to a maximum of 4,875,120 tons of coal recoverable by surface mining methods from the Sudduth coal seam and any overlying coal seams in the following lands located approximately 10 miles east-southeast of Walden, Colorado:

T. 9 N., R. 78 W., 6th P.M. (Jackson County)
Sec. 22: NE¼, E½NW¼, SE¼
Sec. 23: SW¼SW¼
Sec. 26: W½SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, W½NW¼SE¼
Sec. 27: NE¼NE¼NE¼
containing 770 acres.

The coal quality is as follows: Btu—10,180; Sulfur—0.3%, Ash—6.4%; and varies between 40–70 feet in thickness under 300 feet of overburden. The coal is classified as sub-bituminous "B," and dips from 50 to 82 degrees toward the east.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Room 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 80-10718 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

Intergovernmental Planning Program; Gulf of Mexico and South Atlantic Regional Technical Working Groups; Meeting

As authorized by the Secretary of the Interior and pursuant to 43 CFR 1784 and 43 U.S.C. 1739(d), a meeting of the Intergovernmental Planning Program's (IPP) Gulf of Mexico and South Atlantic Regional Technical Working Groups will be held on May 14, 15, and 16, 1980. The meeting will be held in Rooms 631 and 648 of the F. Edward Hebert Building, 600 South Street, New Orleans, Louisiana. Meeting times are as follows:

A. May 14: 1:00 pm—4:00 pm C.S.T.
B. May 15: 8:30 am—4:00 pm C.S.T.
C. May 16: 8:30 am—11:30 am C.S.T.

The purpose of the meeting is to develop the New Orleans OCS Office Preliminary Draft Regional Studies Plan for FY 1982.

The meeting is open to the public and interested persons may make oral or written presentations. Summary minutes and a taped transcript of the meeting will be available for public inspection not later than 60 days after the meeting at the New Orleans OCS Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

Further information in regard to this meeting can be obtained from Sydney H. Verinder at the above office, telephone number (504) 589–6541.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

March 31, 1980.

[FR Doc. 80-10662 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Update on Wilderness Inventory Decisions Made on the Overthrust Belt Accelerated Wilderness Inventory

By publication in the February 8, 1980 **Federal Register**, pages 8731 and 8732, the BLM announced the decision on an accelerated wilderness inventory conducted on lands within the "Overthrust Belt" in Nevada, an area of high interest for oil and gas exploration. On March 18, 1980, the decisions on the following units were implemented:

Areas found to lack wilderness characteristics and removed from further wilderness review under Section 603 of the Federal Land Policy and Management Act are: NV–050–0118, 0121, 0122, 0123, 0124, 0125, 0136, 0137, 0143, 0144, 0145, 0157, 0159, 0162, 0163, 0164, 0220, 0221, 0222, 0223, 0224, 0225, 0226, 0230, 0232, 0422, 0428, 0440, 0441, and 0447.

Areas determined to possess wilderness characteristics, and identified as wilderness study areas, under Section 603 of the Federal Land Policy and Management Act are: NV–050–0139, 0156, 0166, and 0425. These areas will receive additional studies and be managed to maintain wilderness values.

A decision that the following units are wilderness study areas was protested, and the effective date of the decision for these areas is deferred until a determination and decision on each protest is issued: NV–050–0161, 0231, 0233, 0235, 0236, 0238, 0411, 0412, 0423, 0438, 04R–15. The State Director's decision on these areas protested will be published in the **Federal Register** on or about April 24, 1980. All of these units protested continue to be managed under Section 603 of the Federal Land Policy and Management Act.

Dated: March 31, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80-10663 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Update on Wilderness Inventory Decision on Pueblo Mountain Area

By publication in the February 15, 1980 **Federal Register**, page 10461, the BLM announced the decision for an accelerated wilderness inventory conducted in the Pueblo Mountains area of northwestern Nevada, units NV–020–642A and NV–020–642B. The decision on March 20, 1980 to remove the entire 5,680 acres of NV–020–642A and 3,880 acres of NV–020–642B from further wilderness consideration under Section 603 of the Federal Land Policy and Management Act, and to identify 600 acres of NV–020–642B as a wilderness study area was implemented on March 20, 1980. The wilderness study area will receive additional study and be managed to maintain its wilderness values.

This inventory was also conducted on lands in Oregon, administered by the Oregon State Office, Bureau of Land Management. A future **Federal Register** notice will address the Oregon portion of the inventory unit.

Dated: March 31, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–10664 Filed 4–8–80; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Update on Wilderness Inventory Decision on Cedar Ridge Area of Elko County, Nev.

By publication in the February 14, 1980 **Federal Register**, page 10038, the BLM announced the decision for an accelerated wilderness inventory conducted on unit NV–010–088A, a subdivision of the original boundary of the Cedar Ridge wilderness study area, NV–010–088. The decision published was that unit NV–010–088A does not have wilderness values and is removed from further consideration under Section 603 of the Federal Land Policy and Management Act. That decision was implemented on March 20, 1980.

Dated: March 31, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–10665 Filed 4–8–80; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Update on Wilderness Inventory Decision of Five Natural Areas

By publication in the February 14, 1980 **Federal Register**, pages 10037 and 10038, the BLM announced the decision on accelerated wilderness inventories conducted on five natural areas in Nevada. The decision issued in that **Federal Register** notice was implemented on March 20, 1980. It stated that the designated lands known as the Pine Creek Natural Area within NV–050–0414, Pinyon-Joshua Transition Natural Area within NV–050–0337 and NV–050–0338A, Heusser Mountain Bristlecone Pine Natural Area within NV–040–048A, Goshute Natural Area within NV–040–015, and Lahontan Cutthroat Trout Natural Area within NV–020–622 and NV–020–617 do not contain wilderness values. Natural area status will remain on these lands.

Dated: March 31, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–10666 Filed 4–8–80; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Update on Wilderness Inventory Decisions on "Hickison" and "Macks Canyon" Areas

By publication in the February 14, 1980 **Federal Register**, page 10038, the BLM announced the decision for two accelerated wilderness inventories in Nevada. The "Hickison" unit, NV–060–386 and the "Macks Canyon" unit, NV–050–0408 were both found not to contain wilderness values. The decisions published were that both units do not contain wilderness values and that they are removed from further consideration under Section 603 of the Federal Land Policy and Management Act. Those decisions were implemented on March 20, 1980.

Dated: March 31, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80–10667 Filed 4–8–80; 8:45 am]

BILLING CODE 4310–84–M

[Bitter Creek (MT–064–356)]

Montana Wilderness Inventory Final Decision; Lewistown BLM District

March 28, 1980.

This notice announces the final wilderness inventory decision for the Bitter Creek Unit (MT–064–356) in the Lewistown District. This decision is issued under the authority of Section 603 of the Federal Land Policy and Management Act of October 21, 1976, and in accordance with the guidelines in the September 27, 1978, BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78–61, Change 3.

The Bitter Creek Unit is located entirely within the Lewistown BLM District, approximately twenty-five (25) miles northwest of Glasgow, Montana.

The wilderness inventory for this unit was conducted in advance of the Statewide schedule because of potential conflicts with the proposed Northern Border Leg of the Alaska Natural Gas Transportation System. These lands were intensively inventoried during the 1979 field season for the presence or absence of wilderness characteristics as set forth in Section 2(c) of the 1964 Wilderness Act.

A proposed inventory decision was published in October 25, 1979, FR 61464. That announcement indicated that the unit was believed to possess wilderness characteristics and was proposed to become a Wilderness Study Area (WSA).

The October 25 **Federal Register** notice established a 60-day public comment period beginning October 22, 1979, and ending December 20, 1979.

During the public comment period, one public meeting was held in Glasgow, Montana, to discuss inventory findings with the public. All comments, whether mailed in or presented at a public meeting in writing or verbally, as well as late comments received in time to be reviewed before a final decision was made, were treated equally. They have been read, recorded, analyzed and, where appropriate, field checked. The final intensive wilderness inventory report, including maps, is available upon request from the Lewistown District BLM Office, Airport Road, P.O. Drawer 1160, Lewistown, Montana 59457. The public comment record is also on file at this location and the Montana State BLM Office, 222 North 32nd Street, Billings, Montana 59101.

Final Intensive Inventory Decision

The following unit is identified as a wilderness study area:

Bitter Creek Wilderness Study Area #356—59,112 Acres (Lewistown, Montana District)

The 80,144 acre Bitter Creek Unit #356 has been divided into five parcels A through E. The following parcels are identified as a wilderness study area #356.

Parcel B—8,615 acres
Parcel C—11,091 acres
Parcel D—39,406 acres
Total—59,112 acres

The Northern Border Pipeline is proposed to follow a road corridor separating WSA units D and B. Detailed maps delineating this corridor are available for inspection at the Montana State BLM Office, Billings, the Valley Resource Area Office, Glasgow, and the Lewistown District BLM Office, Airport Road, Lewistown.

On the basis of public comments relating to roads and other impacts of man, two portions of the Bitter Creek Unit, as delineated on the final wilderness study area decision maps on file, are hereby dropped from further wilderness consideration:

Parcel A—16,882 acres
Parcel E—4,150 acres
Total—21,032 acres

This decision will become final at 4:30 p.m., Friday, May 9, 1980, unless timely protests are received by the Montana State Director. Persons wishing to protest this decision must file a written protest with the Montana BLM State Director (931), P.O. Box 30157, 222 North 32rd Street, Billings, Montana 59107, on or before close of business May 9, 1980. Only those protests received by the Montana State Office by the time and date specified will be accepted. Protests must include a clear and concise statement of reasons for the protests, including any supporting data available. Should protests be filed, the Montana State Director will consider such protests and issue a decision which will be subject to appeal under 43 CFR, Part 4, to the Department of the Interior, Board of Land Appeals.

Jack A. McIntosh,

Acting State Director.

[FR Doc. 80-10690 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

Ward, Colo., Vehicle Use Designation Order

Notice is hereby given in accordance with the provisions of Title 43 CFR 8364, Recreation Management, and in conformance with principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, that approximately 132 acres of land located south of Ward, Colorado, in north central Colorado are designated in the "closed" category. The entire area is closed to all motorized vehicles including snowmobiles. These restrictions do not apply to emergency, law enforcement and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized by the authorized officer or otherwise officially approved by BLM.

The area affected by this designation lies approximately one half mile south and west of the town of Ward, Colorado. The specific boundaries include all public lands administered by the Bureau of Land Management that lie immediately east of State Highway 72 in Section 12.

Maps of this designation are posted along with this notice in the Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212, and in the Northeast Resource Area Office, 10200 West 44th Avenue, Wheatridge, Colorado 80033. Maps of designated area are also available in these offices. The legal description of this area includes all public lands administered by the Bureau of Land Management with the areas described as follows:

Sixth Principal Meridian

T. 1N., R. 73W.—All of south half of Section 12 that lies east of Colorado Highway 72.

1. The purpose of this closure is to limit vehicle use in order to prevent further resources damage, protect the scenic and historic resources and limit trespass upon adjoining private lands.

2. Continued use of this area by motorized vehicles will cause excessive erosion, threaten the historic Switzerland Mt. Railroad rail bed and create a hazard to the public.

3. Adjoining land-owners have requested the BLM to restrict ORV use on BLM lands since indiscriminate use is causing trespass problems and damage to adjoining private lands.

4. Signs will be posted at all access points leading into the closed area.

This interim designation will become effective immediately and will remain in effect until further notice.

Gene R. Keith,

Acting District Manager.

[FR Doc. 80-10661 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mid-Atlantic Region of the Appalachian National Scenic Trail Advisory Council will be held at Camp Swatara in Bethel, Pennsylvania on May 9 from 9:00 a.m.–5:00 p.m. The agenda of the meeting will include the Trail protection program, the cooperative management system and Trail planning.

The Council has been re-established by Pub. L. 95–248 to meet the consult with the Secretary of the Interior on general policies and specific matters relating to administration of the Appalachian National Scenic Trail. The Council was originally established by Pub. L. 90–543.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers, Ferry, West Virginia 25425, at Area Code (304) 535–2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above adress. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, NW., Washington, DC and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia.

Dated: March 24, 1980.

David A. Richie,

Project Manager.

[FR Doc. 80-10634 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-70-M

Pictured Rocks National Lakeshore Michigan; Availability of Assessment of Alternatives and Review of Alternatives for General Management Plan; Public Meetings

Notice is hereby given that the National Park Service, in compliance with Pub. L. 91–190 (83 Stat. 853), the National Environmental Policy Act of 1969, has prepared an assessment of the environmental impacts of several alternative means for the preservation, public use, development, and management of Pictured Rocks National Lakeshore.

The preferred alternative will be presented for review at a series of public meetings to be held at 7:00 p.m. as follows, with all dates in 1980:

April 28—Cafeteria, Munising High School, Munising, Michigan
April 29—Grand Marais High School, Grand Marais, Michigan
April 30—Don H. Bottum University Center, Northern Michigan University, Marquette, Michigan
May 1—Room 221, Natural Resources Building, Michigan State University, Lansing, Michigan

Copies of the Assessment of Alternatives and the Review of Alternatives are available at the Office of the Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, and at the Office of the Regional Director, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Comments pertaining to the alternatives should be submitted to the Superintendent within fifteen (15) days after the conclusion of the public meetings. All comments received will be considered in the General Management Plan which will be prepared subsequent to the public review period.

Dated: March 28, 1980.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 80-10633 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-70-M

Cap Cod National Seashore

Cape Code National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Public Law 92-464 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 2, 1980, at 1:30 p.m. at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: 1) Presentation by the Tranquility Lobby; 2) request by Provincetown Airport Commission for proposed Instrument Landing System; and 3) status report on Supplement to Assessment of Alteratives for Eastham Area, Cape Cod National Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts, 02663, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: March 31, 1980.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 80-10734 Filed 4-8-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Leases No. D-044240 and C-076713]

Availability for Public Review of a Major Modification to a Mining and Reclamation Plan for a Surface Coal Mine Proposed by Northern Coal Co. for the Rienau No. 2 Mine, Rio Blanco and Moffat Counties, Colo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for public review of a proposed major modification to a coal mining and reclamation plan.

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations notice is hereby given that the Office of Surface Mining has received an application from Northern Coal Company for use of a facility to load Federal coal mined at the Rienau No. 2 Mine. A brief description of the location follows:

Location of Lands To Be Affected

Applicant: Northern Coal Company
Mine Name: Rienau No. 2
State: Colorado
County: Moffat
Township, Range, Section: T. 6N, R. 91W: 29 and 30
Office of Surface Mining Reference No.: CO-0008

The proposed modification includes use of a coal loadout facility, which is referred to as the "Wilson Loadout." The loadout facility is located approximately eight (8) miles southwest of Craig, Colorado and 37 miles northeast of the Rienau No. 2 Mine. The facility is immediately adjacent to State Highway 13/789 which connects Craig and Meeker, Colorado. Coal is proposed to be hauled from the Rienau No. 2 Mine by highway-rated trucks to this location, stockpiled, and loaded into railroad cars for shipment.

Presently, coal is trucked from the mine to a loadout and rail yard in Craig. Northern Coal Company is under an order from the Moffat County Planning Commission to abandon this existing loadout facility in Craig by December 31, 1980. The Wilson Loadout facility included in the proposed modification has been used in the past by the Colowyo Coal Company. (A rail line has been constructed to the Colowyo Mine, and as a result, Colowyo Coal Company no longer plans to use this loadout facility.) A notice, which appeared in the **Federal Register** on December 6, 1979, described Colowyo Coal Company's plan to retain a portion of the loadout facility for emergency use and to initiate reclamation on the remainder of the area. Northern Coal Company and Colowyo Coal Company have reported that a letter of intent to allow Northern Coal Company to actively use the Wilson Loadout facility is to be submitted to OSM. This notice serves to modify the **Federal Register** notice of December 6, 1979.

The proposed modification involves the use of approximately 16.2 acres which has been previously disturbed. Northern Coal Company proposes to use the existing facilities at the Wilson Loadout and to add equipment and additional facilities such as a portable office and tool shed, a fuel tank, a portable loading conveyor, and a portable crushing and screening plant. The coal loadout facility will be capable of loading approximately 500,000 tons per year and will have a stockpile capacity of approximately 100,000 tons.

The proposed modification to the mining and reclamation plan has been determined to be complete in terms of providing the major information necessary for a technical analysis (TA), and this notice is issued to inform the public of the availability of the plan for review. The Office of Surface Mining (OSM) will prepare a technical analysis to determine whether the proposed modification meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior may take on the plan. During the analytical review, it is possible that OSM will request additional information from the company. Any further information obtained would also be available for public review.

No action on the modified plan will be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the **Federal Register.** Prior to making a final decision on this proposed modification, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to Section 211.5(c)(2) of Title 30, Code of Federal Regulations.,

This plan is available for public review at the Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, and at the Bureau of Land Management Office in Meeker, Colorado. Comments on the proposed modification to the mine plan may be addressed to the Regional

Director, Office of Surface Mining, at the above address.

FOR FURTHER INFORMATION CONTACT:
Dan Kimball or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,
Regional Director.

[FR Doc. 80-10716 Filed 4-8-80; 8:45 am]
BILLING CODE 4310-17-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under 49 U.S.C. § 10928 of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 20

March 27, 1980.

MC 730 (Sub-480TA), filed August 23, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 N. Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Petroleum crude oil,* in bulk, in tank vehicles, from Trapp Springs, NV to Fruita, CO. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Oil Company, 600 S. Cherry Street, Denver, CO 80222. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 730 (Sub-500TA), filed January 18, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94595. Representative: Edgar E. Reddick (same address as applicant). *Chemicals, agricultural chemicals and plastic materials other than expanded flakes, pellets, granules, or powder NOI,* between the plant site, or warehouse facilities, of BASF Wyandotte, Corporation, Great Meadows, NJ; Cranbury, NJ; or South Brunswick, NJ, on the one hand, and on the other, all points in the United States, except Alaska and Hawaii, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BASF Wyandotte Corporation, 100 Cherry Hill Rd., Parsippany, NJ 07054. Send protests to: A. J. Rodriquez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 38921 (Sub-13TA), filed January 22, 1980. Applicant: KMA LEASING, INC., 1345 N. Mascher St., Philadelphia, PA 19122. Representative: James Rutherford (same address as applicant). *Malt beverages and materials and supplies used in the production and sale of malt beverages (except in bulk), including the return of empty malt beverage containers,* between the facilities of C. Schmidt & Sons, Inc., at or near Cleveland, OH and Philadelphia, PA, on the one hand, and, on the other, points in CT, DE, MA, MI, NH, NC, NJ, OH, RI, SC, VA, WV, for 180 days. Supporting shipper(s): C. Schmidt & Sons, Inc., 127 Edward St., Phila., PA 19123. Send protests to: ICC, 620 Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106.

MC 107841 (Sub-4TA), filed January 3, 1980. Applicant: CONTAINERFREIGHT TRANSPORTATION COMPANY; 2300 East Sepulveda, Wilmington, CA 90744. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *General commodities in containers having a prior or subsequent movement by water and empty containers with prior or for subsequent movement by water,* between points in CA, OR and WA, on the one hand, and, on the other hand, points and places in AZ, CA, NV, OR and WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 4 shippers. The statements may be examined at the office listed below and headquarters. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 115841 (Sub-759TA), filed January 18, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Such merchandise as is dealt in by discount and variety stores (except commodities in bulk and explosives),* from Savannah, GA to points in WI, OH, TX, MI, IN, KY, MN, NY, PA, TN and IL, for 180 days. Supporting shipper(s): K Mart Corporation, 3100 W. Big Beaver, Troy, MI 48084. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124511 (Sub-58TA), filed October 15, 1979. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223. East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago. IL 60603. *Iron and steel and iron and steel articles* from the facilities of United States Steel Corporation at or near Gary. IN to points in IL on and south of Interstate Hwy 74, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Vernon V. Coble, DS, I.C.C., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 134150 (Sub-23TA), filed December 26, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Contract carrier:* irregular routes: *Paper and paper products,* from the facilities of Container Corp. of America at or near St. Louis, MO to points in the United States in and west of MT, WY, CO and NM, for 180 days. Restriction: Restricted to a transportation service to be performed under a continuing contract or contracts with Container Corp. of America. Supporting shipper(s): Container Corporation of America, P.O. Box 1441, Ft. Worth, TX 76101. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 135621 (Sub-5TA), filed February 1, 1980. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth

Drive, Billings, MT 59102. Representative: John L. Mohr, 111 West Main, Laurel, MT 59044. *General commodities;* except those of unusual value, dangerous explosives, commodities in bulk, and those injurious or contaminating to other lading, serving all points and places along US Hwy 90 between Bozeman, MT and Billings, MT, excluding all points and places between Livingston, MT and the junction of US Hwy 90 and US Hwy 89; all points and places along US Hwy 89 between the junction of US Hwy 89 and US Hwy 90 and the junction of US Hwy 89 and US Hwy 12, excluding all points and places between the junction of US Hwy 90 and US Hwy 89 and Wilsall, MT; all points and places along US Hwy 12 between the junction of US Hwy 89 and US Hwy 12 and Roundup, MT; all places and points along US Hwy 191 between Big Timber, MT and Moore, MT: all points and places along US Hwy 87 and State Hwy 200 between Moore, MT and Roundup, MT; all points and places along US Hwy 3 between Lavina, MT and Billings, MT; all points and places along US Hwy 90 between Billings, MT and Hardin, MT; all points and places along US Hwy 90 from Hardin, MT to the Montana/Wyoming border, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Town and Country GMC, 1415 1st Avenue North, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 142941 (Sub-47TA) (republication), filed May 7, 1979, previously noticed in the **Federal Register** of July 10, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. *Paper and paper products,* from the facilities of American Can Co., located at or near Menasha and Neenah, WI to points in AZ and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Co., P.O. Box 702, Neenah, WI 54956. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Avenue, Phoenix, AZ 85025.

Note.—The purpose of this republication is to reflect CA as destination state in lieu of GA.

MC 146671 (Sub-11TA), filed March 30, 1979. Applicant: PRODUCE SERVICE INC., d.b.a. PSI, 1120 Erie Street, North Kansas City, MO 64116. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. *Charcoal, charcoal briquets, fireplace logs, wood chips, lighter fluid and all related products* (except liquid commodities in bulk), from Meta, MO, to AZ, CA, CO, FL, GA, KS, NE, MS, NM, OK, OH, SD, TX, UT, and WA, for 180 days. An underlying ETA was granted for 20 days. Supporting shipper(s): Standard Milling Company, P.O. Box 410, Kansas City, MO 64141. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 148291 (Sub-7TA), filed January 11, 1980. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *Commodities* as are dealt in or used by discount, variety and grocery stores, between Harrison, AR on the one hand, and, on the other, points in AL, AR, KS, LA, MO, MS, OK, TN, and TX, restricted to transportation of shipments originating at or destined to the facilities of Mass Merchandisers, Inc. in Harrison, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mass Merchandisers, Inc., Highway 43 East, Harrison, AR 72601. Send protests to: William H. Lund, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148720TA, filed November 8, 1979. Applicant: JAMES R. and SHARON ANN AMESTOY, d.b.a. RIC AMESTOY TRUCKING CO., 14203 East Fanning Road, Stockton, CA 95205. Representative: Walter H. Walker III, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract carrier,* irregular routes, *steel and steel products* between points in CA on the one hand, and, points in NV, OR WA, AZ, NM, ID, and UT on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aliance Pipe & Steel, Inc., 1533 East Waterloo Road, Stockton, CA; Cozad Trailers, Inc., 4907 Waterloo Road, Stockton, CA. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 149071TA, filed December 12, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Rd., Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. *Paper and paper products,* and *materials, supplies and equipment used in the manufacture and distribution thereof except commodities in bulk, between points in the U.S. east of the western boundaries of MI, IN, KY, TN, and MS, (except NY, ME, NH, VT, CT, MA, and RI), limited to transportation to and from the facilities of Scott Paper Company, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza II, Phila., PA 19113. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 149260 (Sub-TA), filed January 30, 1980. Applicant: ASSOCIATED COURIERS, INC., 18806 13th Place, South, Seattle, WA 98148. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Commercial papers, documents, written instruments, audit media and other business records, film audit media and graphic arts material, office material, cancelled checks, cash letters, time perishable items, computer tapes, computer printouts, office media, payroll, emergency medical items,* between points in the Seattle, WA commercial zone and U.S.-Canada boundary line in Whatcom County, WA, for 180 days. Restricted to courier service. An underlying ETA seeks 90 days authority. Supporting shipper(s): Washington Logging Equipment, Inc., 3402 C St. N.E., Auburn, WA 98002; Pacific National Bank of Washington, The Financial Center FC–8, Seattle, WA 98161; Seattle-First National Bank, 1551 Eastlake Ave. East, Seattle, WA 98102; BCS Co., 507 Industry Drive, Tukwila, WA 98188. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 149291 (Sub-1TA), filed January 28, 1980. Applicant: GARRY JAMES WILEY and GLEN MURRAY WILEY, t.a. WILEY BROS., R.R. No. 2, Tottenham, Ontario LOG 1WO. Representative: Thomas F. X. Foley, State Hwy. 34, Colts Neck, NJ 07722. Contract carrier—irregular routes. *Wheat by-products, in bulk and in bags,* between ports of entry on the International Boundary line between the United States and Canada in NY and MI, on the one hand, and, on the other, Battle Creek, MI; Chicago, IL; and Minneapolis, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hayhoe Mills, Ltd., Town of Vaughan, Ontario, Canada. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 149390 (Sub-1TA), filed December 18, 1979. Applicant: WY-TEX LIVESTOCK TRUCKING, INC., P.O. Box 30476, Amarillo, TX 79120. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Dry livestock feed and feed ingredients,* between points in AR, AZ, CO, KS, LA, NE, NM, OK, TX, MO, WY, ID and IA, for 180 days. Underlying ETA filed. Supporting shipper(s): Wilber-Ellis Co., P.O. Box 370, Clovis, NM 88101. Send protests to: Marianne Minnich, TCS, ICC, 411 W. 7th Suite 600, Ft. Worth, TX 76102.

Passengers

MC 141460 (Sub-5TA), filed January 2, 1980. Applicant: THE GRAY LINE TOURS COMPANY, 1207 W. Third St., Los Angeles, CA 90017. Representative: Knapp Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Passengers and their baggage, in special operations, in round trip sightseeing and pleasure tours beginning and ending in Beaumont, Banning, Palm Springs, Hemet, Calimesa, Yucaipa, Thousand Palms, Indio, Rancho Mirage and Indian Wells, California, and extending to the port of entry on the United States—Mexico boundary line located at or near the southern-most terminus of Interstate Highway 5, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 8 shippers. The statements may be examined at the office listed below and Headquarters. Send protests to: Irene Carlos, T/A, ICC, 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 145990 (Sub-3TA), filed October 30, 1979. Applicant: LAWRENCEBURG TRUCKING, INC., 21 Catalpa Avenue, Lawrenceburg, IN 47025. Representative: John R. Bagileo, 918 16th Street, NW., Washington, DC 20006. *Alcoholic Beverages, except in bulk* from Lawrenceburg, IN to Waukegan, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lake Shore Distributors, Inc., 900 Lincoln, Waukegan, IL 60085. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

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April 2, 1980.

MC 149299TA, filed October 4, 1979. Applicant: ATLANTIC METRO TRANSPORT, INC., 3501 Sinclair Lane, Baltimore, MD 21213. Representative: Robert B. Pepper, Highland Park, NJ 08904. *Contract Carrier:* Irregular Routes: *Concrete planks,* from Baltimore, MD, and Morrisville, PA to pts. in DE, DC, MD, NJ, PA and VA under a continuing contract or contracts with Strescon Industries, Inc., for 180 days. Supporting shipper(s): Strescon Industries, Inc., P.O. Box 67, Morrisville, PA 19067. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 149428TA, filed December 3, 1979. Applicant: HARLAND QUACKENBUSH, an individual d.b.a. H & D TRUCKING, 500 Dew Drop Cove, Casselberry, FL 32707. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. *Contract carrier,* irregular routes, *transporting paper and paper products* between points in ME, NH, VT, NY, MA, CT, NJ, PA, MD, WV, DE, DC, VA, NC, SC, GA, FL, IN, and OH, for 180 days. Restricted to traffic moving under contract(s) with Anderson Box Company, Inc., Indianapolis, IN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Box Company, Inc., 151 No. Delaware St., Indianapolis, IN 46206. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

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The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

MC 93980 (Sub-3-1TA), filed February 5, 1980. Republication—originally published in **Federal Register** of February 27, 1980, page 12923, volume 45, No. 40. Applicant: VANCE TRUCKING COMPANY, P.O. Box 1119, Henderson, NC 27536. Representative: Edward G. Villalon, Suite 1032, Pennsylvania Bldg., Pennsylvania Ave. and 13th St., NW., Washington, DC 20004. *Boards, building wall or insulating, fibre board or pulpboard of vegetable wood and/or mineral fibre* from Woodstock, VA to NC, SC, GA, FL, KY and TN. Supporting shipper: Johns Manville Sales, Inc., 200 No. Main St., Manville, NJ 08835.

MC 1455596 (Sub-3-1TA), filed March 17, 1980. Applicant: A & M EXPRESS, INC., 1136 Haley Rd., Murfreesboro, TN 37130. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Furniture, furniture parts, and materials used in the production, sale, and distribution of furniture,* between Murfreesboro, TN, and Fort Smith, AR, on the one hand, and, on the other, points in and east of KS, OK, NE, ND, SD, and TX. Supporting shipper: Samsonite Corp., Samsonite Blvd., Murfreesboro, TN.

MC 111545 (Sub-3-2TA), filed March 17, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as applicant). *(1) Trailers designed to be drawn by passenger automobiles, and (2) buildings, in sections, mounted on wheeled undercarriages,* from Louisville, KY, to points in the US (except AK and HI). Supporting shippers: Hall Contracting Co., 918 Grade Ln., Louisville, KY 40213, Mobile Office Equipment Co., 8202 Tolls Ln., Louisville, KY 40214, Trading Post Mobile Homes Inc., 8103 Dixie Hwy., Louisville, KY 40258, E. H. Hughes Co., P.O. Box 1062, Jeffersonville, IN 47130.

MC 119777 (Sub-3-7TA), filed March 26, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., HIGHWAY 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *(1) Aluminum and aluminum products, and (2) parts and accessories used in the installation of the commodities in (1) above,* from the facilities of V.A.W. of America, Inc. in St. Johns County, FL to points in IL, IN, IA, KS, MI, MO, OH, and NV. Supporting shipper: V.A.W. of America, Inc., P.O. Box 367, Riviera Blvd., St. Augustine, FL 52084.

MC 150211 (Sub-3-2TA), filed March 17, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Edward F. Schiff, Suite 400, 1333 New Hampshire Ave., NW., Washington, DC 20036. *Commodities used by, manufactured by, or distributed by International Paper Company and its subsidiaries,* except commodities in bulk in tank vehicles, between the facilities utilized by International Paper Company on the one hand, and on the other points in the states east of ND, SD, NE, CO, NM. Supporting shipper: International Paper Company, 220 E. 42nd St., New York, NY 10017.

MC 138882 (Sub-3-9TA), filed March 26, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). *Store furnishing and fixtures, and materials, equipment and supplies used in their manufacture, sales or distribution* between the facilities of Maytex, Inc., located at or near Terrell, TX, and points in the states of CO, IL, IN, IA, MD, MI, MN, NJ, NY, ND, OH, PA, SD, UT, and WI. Supporting shipper: Maytex, Inc., P.O. Box 729, Terrell, TX 75160.

MC 134105 (Sub-3-2TA), filed March 24, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Avenue, Chattanooga, TN 37408. Representative: Garfield P. Raymond, Attorney at Law, Blanshan & Summerfield, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Shortening, lard, cooking oil, and oleomargarine* from the facilities of Bunge Edible Oil Corporation at Chattanooga, Tennessee to points in WV, VA, NC, SC, GA, AL, MS, and LA, restricted to traffic originating at the named origins and destined to the named destinations. Supporting shipper: Bunge Edible Oil Corp., P.O. Box 192, Kankakee, IL 60901.

MC 147787 (Sub-3-1TA), filed February 20, 1980. Applicant: SOUTHERN DRAYAGE, INC., 4223 Space Center Drive, P.O. Box 1983,

Jackson, Mississippi 39205. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Mississippi 39205. *Furniture, uncrated and crated,* from the facilities of Madison Furniture Industries at or near Canton, MS to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MA, MI, NJ, NY, NC, OH, PA, SC, TN, VA, and WI, under a continuing contract or contracts with Madison Furniture Industries. Supporting shipper: Madison Furniture Industries, P.O. Drawer 111, Canton, MS 39046.

MC 134017 (Sub-3–1TA), filed March 14, 1980. Applicant: R. M. HENDERSON, d.b.a. H & M MOTOR LINES, 500 Pine Knoll Drive, P.O. Box 3585, Greenville, South Carolina 29608. Representative: Gerald K. Gimmel, Gimmel & Weiman, Suite 145, 4 Professional Drive, Gaithersburg, Maryland 20760. *Water (except in bulk)* from Jackson County, NC to points in FL, GA, AL, VA, SC, NC, LA, and MS, under a continuing contract with White Water Mountain Products, Inc. Supporting shipper: White Water Mountain Products, Inc., P.O. Box 391, Cashiers, NC 28717.

MC 107002 (Sub-3–3TA), filed March 24, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O Box 1123, Jackson, Mississippi 39205. Representative: Larry M. Ford, P.O. Box 1123, Jackson, MS 39205. *Gasoline and diesel fuel, in bulk,* from the facilities of Texaco, Inc., at or near Baton Rouge, LA to points in Warren County, MS. Supporting shipper: Harris Oil Company, P.O. Box 388, Vicksburg, MS 39180.

MC 138882 (Sub-3–8TA), filed March 24, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: Carl T. Meyer, P.O. Box 22601, Tampa, FL 33622. *Construction materials, and materials, equipment and supplies used in the manufacture of construction materials (except commodities in bulk in tank vehicles)* between the Celotex Corp., Russellville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Jim Walter Corp., P.O. Box 22601, Tampa, FL 33622.

MC 150343 (Sub-3–1TA), filed March 24, 1980. Applicant: GARRISON HAULING CO., INC., P.O. Box 594, Thorsby, AL 35171. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *(1) Sand, gravel, slag, rock, fly ash, stone, fill dirt, and other coarse aggregates, (2) concrete products, finished and unfinished, and other cementitious products, (3) materials, equipment and supplies used in connection with the installation, distribution, and manufacture of the commodities in (1), and (2)* between AL, GA, SC, NC, TN, AR, LA, MS, KY, and FL. Restriction: restricted to traffic moving to, from or between the facilities of Sherman Industries, Inc., its affiliated companies and customers. Supporting shipper: Sherman Industries, Inc., 3240 Fayette Ave., Birmingham, AL 35208.

MC 148183 (Sub-3–2TA), filed March 21, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Meat and meat products, in mechanically refrigerated vehicles, in cans, containers, cartons, or packages* from Hall and Jackson Counties, GA to points in AL, DC, FL, IL, IN, KY, LA, MD, MI, MN, MO, MS, NC, NY, OH, PA, SC, TN, VA, and WI. Supporting shipper(s): DAK Foods, Inc., 2975 Memorial Park Rd., Gainesville, GA 30501, Diane's Foods of Georgia, Inc., 1133 Aviation Blvd., Gainesville, GA 30501, Dutch Quality House, P.O. Box 2397, Gainesville, GA 30503, Gold Kist, Inc., P.O. Box 2210, Atlanta, GA 30301.

MC 112520 (Sub-3–1TA), filed March 24, 1980. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. *Fertilizer liquid sulfur, in bulk, in tank vehicles,* from Pelham, GA, to Charleston, Batesville, Clarksdale, and Rolling Ford, MS; Covington, Mason, Brownsville, Whiteville and Memphis, TN; Clarendon, Stuttgart, Forrest City, Jonesboro, Bes Arc, Carlisle, England, DeWitt, Newport, Searcy, Helena and Dermott, AR. Supporting shipper: Pelham Phosphate Company, Box 468, Pelham, GA 31779.

MC 150373 (Sub-3–1TA), filed March 24, 1980. Applicant: GUY H. DONALD, JR., d.b.a. CONTAINER TRANSPORT, INC., 3410 Edgewood Ave., Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. *General commodities (but not to include Classes A and B explosives),* between points in the commercial zone of Jacksonville, FL, restricted to traffic having a prior or subsequent movement by water. Supporting shipper: Puerto Rico Marine Management, Inc., P.O. Box 26483, New Orleans, LA 70186.

MC 138882 (Sub-3–6TA), filed March 24, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). *Dry dog food (except commodities in bulk, in tank vehicles)* from Tupelo, MS, and Red Bay, AL to points in the states of NC, SC, FL, IL, IN, KY, AR, MI, and WI. Supporting shipper: Sunshine Mills, Inc., P.O. Box 1483, Tupelo, MS 38801.

MC 150282 (Sub-3–1TA), filed March 21, 1980. Applicant: SUBURBAN HAULERS, INC., P.O. Box 451, Lithonia, GA 30058. Representative: Mark C. Ellison, Suite 329, 300 Interstate North Parkway, Atlanta, GA 30339. (1) *Crushed stone* from Fulton, Bibb, DeKalb, Newton, Warren, Muscogee, Forsyth and Douglas Counties, GA to points in AL, FL, SC, NC, TN, KY, MS, and LA, (2) *gravel, in bulk, in dump vehicles,* from Montgomery, AL and Chattanooga, TN to Atlanta, GA and its commercial zone, (3) *coal, in bulk, in dump vehicles,* from London and Manchester, KY, Chattanooga, Jellico, and La Follete, TN, Jasper and Birmingham, AL to Atlanta, GA and its commercial zone, and (4) *sand, in bulk, in dump vehicles,* from Montgomery, AL to Atlanta, GA and its commercial zone. Supporting shipper(s): Hybro-Tite Sales Co., P.O. Box 527, 6466 B Main St., Lithonia, GA 30058; Falcon Coal and Sand Co., 3319 Colony Dr., Conyers, GA 30208; J & B Slurry Seal Co., P.O. Box 1113, Stone Mtn., GA 30086.

MC 56679 (Sub-3–8TA), filed March 18, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, P.O. Box 6985, Atlanta, GA 30315. *Canned goods:* (1) from Arlington and Ortonville, MN to points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, MO, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, and VA; and (2) from Bloomer, WI, to points in AR, CT, IL, IN, IA, KS, MD, MA, MI, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TX, and VT. Supporting shipper: Big Stone, Inc., 125 Columbia Court, Jonathon Industrial Center, Chaska, MN 55318.

MC 56679 (Sub-3–7TA), filed March 18, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, P.O. Box 6985, Atlanta, GA 30315. *Cheese and cheese food,* from the facilities of Pace Dairy Foods, at or near Rochester, MN, to points in GA, WV, OH, IL, TX, MI, IN, AR, KY, TN, VA, and MO. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, OH 45201.

MC 59583 (Sub-3–1TA), filed March 18, 1980. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Common carrier:* regular routes: *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 Shenandoah Industrial Park in Coweta County, GA as an off-route point in connection with applicant's otherwise authorized regular-route operations Supporting shipper: Jack Eckerd Corporation, 2120 U.S. Highway 19 South, Clearwater, FL 33518.

MC 120910 (Sub-3–2TA), filed March 21, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Richard Davis (same address as applicant). (1) *Household liquid bleach and dish detergents;* and (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1),* between the facilities of National Marketing Associates, Inc., located at or near New Orleans, LA, and points in AL, FL, GA, MS, and TN. Supporting shipper: National Marketing Associates, Inc., 1501 S. Louis Avenue, New Orleans, LA 70112.

MC 148784 (Sub-3–1TA), filed March 21, 1980. Applicant: EDWARD C. COMER, d.b.a. COMER TRUCK LINES, Route 1, Box 263, Morris, AL 35116. Representative: John R. Frawley, Jr., Attorney-at-law, 5506 Crestwood Blvd., Birmingham, AL 35212. *Welding wire and welding rods for machine welders; materials and components used in the manufacture, sale and distribution of welding wire and welding rods,* between the facilities of the Alabama State Docks located in or near Mobile, AL, and the facilities of ACCO Industries located in or near Bowling Green, KY. Supporting shipper: ACCO Industries, Inc., P.O. Box 1829, Bowling Green, KY 42101.

MC 58923 (Sub-3–1TA), filed March 24, 1980. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., Atlanta, Georgia 30315. Representative: William W. West (same as applicant). *Common carrier: regular* routes: (1) *general commodities, with the usual exceptions,* from Valdosta, GA, to Ft. Myers, FL, over U.S. Highway 41 (also, over U.S. Hwy 41 to junction over U.S. Hwy 301, then over U.S. Hwy 301 to junction FL Hwy 675, then over FL Hwy 675 to junction Hwy 70, then over FL Hwy 70 to junction FL Hwy 31, then over FL Hwy 31 to junction FL Hwy 80, then over FL Hwy 80; also, over U.S. Hwy 4 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction FL Hwy 29, then over FL Hwy 29 to junction FL Hwy 80, then over FL Hwy 80). Serving no intermediate points north of Glades, Hardee, Palm Beach, and Sarasota Counties. Serving points in Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Lee, Palm Beach, and Sarasota Counties as off-route points in connection therewith; (2) *General commodities, with the usual exceptions,* from Ft. Myers, FL, to Valdosta, GA, over U.S. Hwy 41 (also, over FL Hwy 80 to junction FL Hwy 31, then over FL Hwy 31 to junction FL Hwy 70, then over FL Hwy 70 to junction FL Hwy 675, then over FL Hwy 675 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 41, then over U.S. Hwy 41; also, over FL Hwy 80 to junction FL Hwy 29, then over FL Hwy 29 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 41, then over U.S. Hwy 41). Serving all intermediate points and points on, east, and north of U.S. Hwys 19 and 41 as off-route points in connection therewith; (3) *General commodities,* with the usual exceptions; and commodities, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) in mixed loads with general commodities, from Ft. Myers, FL, to Valdosta, GA, over U.S. Hwy 41 (also, over FL Hwy 80 to junction FL Hwy 31, then over FL Hwy 31 to junction FL Hwy 70, then over FL Hwy 70 to junction FL Hwy 675, then over FL Hwy 675 to junction U.S. Hwy 301, then over U.S. Hwy 301 to junction U.S. Hwy 41, then over U.S. Hwy 41; also, over FL Hwy 80 to junction FL Hwy 29, then over FL Hwy 29 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 41, then over U.S. Hwy 41). Serving all intermediate points and points on, east, and north of U.S. Hwys. 19 and 41 as off-route points in connection therewith. Also, with the authority to deliver said commodites to otherwise certificated points in Alabama and Georgia. Applicant intends to tack and combine all of the above referenced authority with its authorized operations, and to interline with other carriers. There are 34 statements of support attached to the application which may be reviewed at the Regional Office.

MC 144041 (Sub-3–1TA), filed March 24, 1980. Applicant: DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *Such commodities as are dealt in or used by manufacturers and distributors of electric appliances,* between the facilities of Hamilton Beach Division-Scoville, Inc. at Washington, Clinton, and Farmville, NC and Byesville, OH on the one hand, and points in the United States (except AK and HI) on the other hand, restricted to the transportation of traffic originating at or destined to the facilities of Hamilton Beach Division-Scoville, Inc. Supporting shipper: Hamilton Beach Division-Scoville, Inc., P.O. Box 1158, Washington, NC 27889.

MC 146402 (Sub-3–2TA), filed March 24, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same address as applicant). (1) *Paper and paper articles; plastic film, machinery NOI (except commodities that because of size or weight require specialized equipment) and chemicles NOI (except commodities, in bulk, in tank vehicles) and (2) equipment, materials, and supplies used in the manufacture and distribution of the commodities in (1) above (except commodites, in bulk, in tank vehicles),* from the facilities of NCR Corp. at Humboldt, TN, Morristown, TN, and Mt. Joy, PA, to Brea, CA, Ogden, UT, and points in AL, AR, CT, DE, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, OH, PA, RI, TN, WV, WI, and DC. Supporting shipper: NCR Corp., 9095 Washington Church Rd., Miamisburg, OH 45342.

MC 106401 (Sub-3–1TA), filed March 24, 1980. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash (same address as applicant). *Foodstuffs (except in bulk) in vehicles equipped with mechanical refrigeration* from the facilities owned or utilized by the Nestle Company, Inc. at or near Charlotte, NC, to points in TN on and east of Interstate Hwy 75 and points in VA. Supporting shipper: The Nestle Company Inc., 100 Bloomingdale Rd., White Plains, NY 10605.

MC 150389 (Sub-3–1TA), filed March 24, 1980. Applicant: STRICKLAND TRANSPORT-LEASING CO., INC., P.O. Box 416, Claxton, GA 30417. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Wood shavings, wood sawdust, wood chips and bark,* from the plant site of Georgia-Pacific Corporation at Belleville, GA to the plant site of Georgia-Pacific Corporation at Russellville, SC. Supporting shipper: Georgia-Pacific Corp., P.O. Box 1808, Augusta, GA 30903.

MC 56799, filed March 18, 1980. Applicant: CLAXON TRUCK LINE, INC., P.O. Box 678, Frankfort, KY 40602. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601.

Materials, equipment, and supplies used in the manufacture of appliance parts between the facilities of General Electric Company at or near Frankfort, KY, on the one hand, and, on the other, the facilities of General Electric Company at or near Bloomington, IN, restricted to the handling of the traffic originating at and destined to the above named points. Supporting shipper: General Electric Company, P.O. Box Y, Industrial Park Rd., Frankfort, KY 40602.

MC 107818 (Sub-3–2TA), filed March 20, 1980. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Ave. (P.O. Box 608), Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Tires and articles handled and distributed by wholesale and retail tire distributors,* from Frazer, Conshohocken and Royersford, PA, Camden, NJ, Chicago, IL, Baltimore, MD, Akron, Findley and Rossford, OH, and Gadsden and Birmingham, AL, to points in FL. Supporting shipper(s): Ray's Tires, Inc., 901 NW 8th Ave., Ft. Lauderdale, FL 33311.

MC 11207 (Sub-3–1TA), filed March 21, 1980. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Iron and steel articles* between points in TX, on the one hand, and, on the other, points in AL, GA, KY, LA, MS, and SC. There are no supporting shippers. The purpose of this application is to eliminate the Natchez, MS gateway.

MC 135895 (Sub-3–2TA), filed March 21, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *(1) Fertilizer and fertilizer ingredients (except in bulk) and (2) materials, equipment and supplies used in the manufacture, distribution and sale of the commodities in (1) above (except in bulk)* between the facilities of Southeastern Chemical, Inc., at or near Jackson, MS, on the one hand, and, on the other, points in AL, AR, LA, TN and TX. Supporting shipper: Southeastern Chemical, Inc., 7 Lakeland Circle, Suite 600, Jackson, MS 39216.

MC 143594 (Sub-3–1TA), filed March 21, 1980. Applicant: NATIONAL BULK TRANSPORT, INC., 624 Holcomb Bridge Rd., Suite 13, Roswell, GA 30075. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Chemicals, in bulk in tank vehicles,* from the facilities of Reichhold Chemicals at or near Houston, TX to points in WI, OH, SC, CO, FL, IL, LA, MN, AR, OK, KS, AL, and VA. Supporting shippers: Reichhold Chemicals, Inc., 2800 N. Loop West, Houston, TX 77018.

MC 99208 (Sub-3–1TA), filed March 21, 1980. Applicant: SKYLINE TRANSPORTATION, INC., P.O. Box 3569, Knoxville, TN 37917. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. *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 because of size and weight,* (1) Between Newport, TN and Charlotte, NC, and points in its commerial zone; serving no intermediate points: From Newport over Interstate Hwy 40 to its Junction with US Hwy 74 at or near Asheville, NC, then over US Hwy 74 to Charlotte, and return over the same route. (2) Alternate Route: Between Newport, TN and Charlotte, NC, and points in its commerical zone; serving no intermediate points: From Newport over Interstate Hwy 40 to Junction with Interstate Hwy 26 at or near Asheville, NC, then over Interstate Hwy 26 to its Junction with Interstate Hwy 85 at or near Spartanburg, SC, then over Interstate Hwy 85 to Charlotte, and return over the same route. The described routes to be joined at Newport to present routes authorized under MC 99208 and sub numbers so as to provide through service between Charlotte, NC and points in its commerical zone and all points authorized in MC 99208 and Sub numbers, in the States of AL, KY, and TN. For 180 days. Supporting shippers: There are 96 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

Note.—Applicant proposes to tack the authority sought here at Newport, TN with its existing operating authority and operate a through service between Charlotte, NC and all of applicant's present operating authority. Applicant proposes to interline with other carriers at Charlotte, NC, Knoxville, TN, and Birmingham, AL.

MC 147474 (Sub-3–2TA), filed March 19, 1980. Applicant: SOUTHWIRE COMPANY, Transportation Division, 126 Fertilla St., Carrollton, GA 30117. Representative: Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. *PVC plastic resin* from Houston, TX and Baytown, TX to all points in GA. Applicant does not hold permanent motor contract, or common carrier authority. Supporting shipper: Sun Products Corp., P.O. Box 1280, Carrollton, GA 30117.

MC 126574 (Sub-3–1TA), filed March 21, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., 3818 Patterson St., Greensboro, NC 27407. Representative: Peter R. Gilbert, 1919 Pennsylvania Ave., NW., Suite 850, Washington, DC 20006. *Pre-cast architectural stone, pre-stressed structual concrete products and pre-stressed, pre-cast concrete products* from the facilities of Carolina Cast Stone Co., Inc. at or near Greensboro, NC, to Tysons Corner, Va. Supporting shipper: Carolina Cast Stone Co., Inc., P.O. Box 8967, Greensboro, NC 27410.

MC 126574 (Sub-3–2TA), filed March 21, 1980. Applicant: M. L. HATCHER PICKUP AND DELIVERY SERVICES, INC., 3818 Patterson St., Greensboro, NC 27407. Representative: Peter R. Gilbert, Esq., 1919 Pennsylvania Ave., NW., Suite 850, Washington, DC 20006. *Pre-cast architectural stone, pre-stressed structural concrete products and pre-stressed, pre-cast concrete products* from the facilities of Carolina Cast Stone Co., Inc., at or near Greensboro, NC, to Richmond, VA. Supporting shipper: Carolina Cast Stone Co., Inc., P.O. Box 8967, Greensboro, NC 27410.

MC 140898 (Sub-3–1TA), filed March 20, 1980. Applicant: KENDRICK TRUCKING CORP., 728 Upsliner Rd., P.O. Box 19097, Louisville, KY 40219. Representative: William P. Whitney (same address as applicant). *Repair and maintenance parts for mining, earthmoving, quarrying equipment and vehicles used in mining, earthmoving and quarrying* from the facilities of Lakeshore, Inc. at Louisville, KY, to points in the states of GA, IA, LA, MD, MA, NY, PA, and VT. Supporting shipper: Lakeshore, Inc., 7749 National Turnpike, Louisville, KY 40214.

MC 148695 (Sub-3–4TA), filed March 19, 1980. Applicant: BOB BENNETT ENTERPRISES, INC., d.b.a., BOB BENNETT TRUCKING CO., Special Commodities Division, 966 Ashby Street, Atlanta, GA 30318. Representative: Frank J. Shannon, Suite 601, Flatiron Bldg., 84 Peachtree St., Atlanta, GA 30303. *New furniture* from Rome, GA and Dothan, AL to all points in the states of WI, NY and PA. Supporting shipper: Fox Manufacturing Co., P.O. Drawer A, Rome, GA 30161.

MC 61403 (Sub-3–1TA), filed March 17, 1980. Applicant: MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: James P. Ray (same address as applicant). *Can coatings, latex, paints, resins, and materials and supplies used in the manufacture thereof, in bulk, in tank vehicles,* between the plant sites of SCM Corp. at Huron, OH, and Carrollton, TX, on the one hand, and, on the other, points in

the U.S. (except AK and HI). Supporting shipper: SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115.

MC 114391 (Sub-3–1TA), filed March 17, 1980. Applicant: MEADORS MOTOR LINES, INC., 141 West Carolina Ave., Memphis, TN 38101. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. *General commodities (except household goods, commodities in bulk, articles which because of size or weight require the use of special equipment, articles of unusual value, and Class A and B explosives),* from the junction of TN State Hwys 57 and 125, over Hwy 125 to the MS state line, then over MS Hwy 15 to Walnut, MS and return over the same route. Supporting shipper: Dover Corp., Elevator Div., Horn Lake, MS 38637.

MC 144069 (Sub-3–3TA), filed March 17, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, 2501 North Tryon St., Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). *Iron and steel articles* (1) from the facilities of Florida Steel Corp. at or near Charlotte, NC to the facilities of Florida Steel Corp. at or near Tampa and Jacksonville, FL, (2) from Tampa and Jacksonville, FL to points in AL, GA, KY, NC, SC, TN, VA, and WV. Supporting shipper: Florida Steel Corp., P.O. Box 31067, Charlotte, NC 28231.

MC 138465 (Sub-3–1TA), filed March 17, 1980. Applicant: TOWNSEND HAULING, INC., Route 1, Box 19, Live Oak, FL 32060 Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Fertilizer, in bags or in bulk,* from Clyo and Cordele, GA to points in FL on and north of Florida Highway 40. Supporting shipper(s): Gold Kist, Inc., 244 Perimeter Center Parkway, Atlanta, GA 30346.

MC 150221 (Sub-3–2TA), filed March 17, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. (1) *Fiberglass materials and products, fibrous glass textile materials and products, and plastic materials and products;* and (2) *Raw materials, supplies, machinery and equipment used in the manufacture, packing and installation of the commodities in (1) above (except commodities in bulk, in tank, hopper or dump vehicles),* between the facilities of Owens-Corning Fiberglas Corporation at or near Anderson, SC, on the one hand, and, on the other, the facilities of Owens-Corning Fiberglas Corporation at or near Huntingdon, PA and Ashton, RI, under a continuing contract(s) with Owens-Corning Fiberglas Corporation. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 123613 (Sub-3–1TA), filed March 21, 1980. Applicant: CLAREMONT MOTOR LINES, INC., 2800 North Tryon, Charlotte, NC 28206. Representative: D. R. Beeler, Claremont Motor Lines, Inc., P.O. Box 22168, McBride Lane Knoxville, TN 37922. *General Commodities (except those of unusual value, requiring the use of special equipment because of size or weight, Class A and B explosives, and household goods as described by the Commission),* from the facilities utilized by Empire State Shippers Association, located at or near Buffalo, NY, to points in TX and to Birmingham, AL. Supporting shipper: Empire State Shippers Association, P.O. Box 1185, Niagra Falls, NY 14240.

MC 138157 (Sub-3–10TA), filed March 24, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, 2931 S. Market St., P.O. Box 9596, Chattanooga, TN 37412. *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission and commodities in bulk),* from points in Los Angeles County, CA to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restrictions: restricted to traffic originating at the facilities of Bostrum-Warren, Inc. Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore, dual operations may be involved. Supporting shipper: Bostrum-Warren, Inc., 110 W. Ocean Blvd., Long Beach, CA 90802.

MC 146927 (Sub-3–1TA), filed March 24, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Printing paper and wood pulp,* from the facilities of SCM Allied Paper, Inc., at or near Jackson, AL, to points in FL. Supporting shipper: SCM Allied Paper, Inc., 307 Industrial Rd., Jackson, AL 36545.

MC 138882 (Sub-3–7TA), filed March 24, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema, P.O. Drawer 707, Troy, Alabama 36081. (1) *Such commodities as are dealt in by manufacturers and distributors of smali electric appliances* from facilities of Hamilton Beach at Washington, NC; Clinton, NC; Farmville, NC and Byesville, OH to points in the United States (except Alaska and Hawaii), and (2) *Such materials, equipment and supply commodities as are dealt in by maufacturers and distributors of small electric appliances* from points in the US (except Alaska and Hawaii), to facilities of Hamilton Beach Division at Washington, NC; Clinton, NC; Farmville, NC and Byesville, OH. Supporting shipper: Hamilton Beach Division, Scoville Inc., P.O. Box 1158, Washington, NC 27889.

MC 115841 (Sub-3–3TA), filed March 17, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: D. R. Beeler, McBride Lane, P.O. Box 22168, Knoxville, TN 37922. (1) *Frozen Foods* from the facilities of Pure Packed Foods, Inc., located at or near Arlington, TN, to points in MN, NE, WI, KS, and CO; and (2) *Materials, equipment and supplies used in the maufacture, sale and distribution of the commodities in (1) above,* from points in DE, IL, GA, IA, MD, MA, MI, NH, and NJ, to the facilities of Pure Packed Foods, Inc., located at or near Arlington, TN for 180 days. Supporting shipper: Pure Packed Foods, Inc., Arlington, TN 38002.

MC 115841 (Sub-3–4TA), filed March 17, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: D. R. Beeler, McBride Lane, P.O. Box 22168, Knoxville, TN 37922. *(a) Such merchandise as is dealt in by wholesale, retail and chain grocery stores and food business houses, and in connection therewith, and equipment, material and supplies used in the conduct of such business; and (b) Toilet preparations, Viz: Catalogs, candles, shampoos, shaving cream and soap, bath salt, bubble bath and water softener compounds, medicated or perfumed, deodorants or disinfectants, dye stuffs, perfumery powder, sachet or toilet; tooth brushes, plastic trays, advertising display material, brushes, combs, compacts, toys, glassware, jewelry, and permanent hair waving kits; and (c) Household items, Viz: Cleaning compounds, soaps, softeners, textiles, bleaches, laundry starches, mops, brooms, brushes, waxing and polishing compounds, shampoo, permanent hair waving kits and air fresheners,* from Chicago, IL and its Commerical Zone to Charlotte, NC; Savannah, GA; Jackson, MS and Mobile, AL for 180 days. Supporting shipper: Topco Associates, 7711 Gross Road, Skokie, IL 60077.

MC 112617 (Sub 3–4 TA) filed March 24, 1980. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., Louisville, KY 40221 Representative: Larry W. Thompson,

P.O. Box 21395, Louisville, KY 40221. *Sodium aluminum silicate, in bulk, in tank vehicles,* from Mobile, AL to Jeffersonville, IN. Supporting shipper: Colgate-Palmolive Company, State and Worner Streets, Jeffersonville, IN 47130.

MC 138956 (Sub-3–1TA), filed March 17, 1980. Applicant: ERGON TRUCKING, INC., 202 East Pearl St., Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628. *Barite, in bulk, in tank vehicles,* from Malvern, AR to Mobile, AL; Houma, Bossier City, Dulac and Monroe, LA; and Laurel, MS. Supporting shipper: N L Baroid/ N L Industries, Inc., P.O. Box 1675, Houston, TX 77001.

MC 135895 (Sub-3–3TA), filed March 17, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. (1) *paper and paper articles* and (2) *equipment, materials and supplies used in the manufacture of paper and paper articles (except commodities in bulk and those requiring special equipment);* between the facilities of Continental Forest Industries, a Division of Continental Can Company, Inc. (a) at or near Harahan, LA and points in AL, AR, FL, GA, LA, MS, TN and TX; and (b) at or near Atlanta, GA and points in AL, AR, FL, GA, KY, LA, MO, MS, NC, OK, SC, TN and TX, for 180 days. Supporting shipper: Continental Forest Industries, a Division of Continental Can Co., Inc., Harahan, LA, and Atlanta, GA.

MC 104683 (Sub-3–1TA), filed March 17, 1980. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, MS 39401. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Kackson, MS 39205. *Petroleum and liquid petroleum products,* in bulk, in tank vehicles, from the facilities of Exxon Company, USA at or near Baton Rouge, LA to points in AL, AR, FL, GA, IL, IN, KS, KY, MS, MO, NC, OK, SC, TN, and TX. Supporting shipper: Exxon Company, USA, P.O. Box 2180, Houston, TX 77001.

MC 140330 (Sub-3–1TA), filed March 17, 1980. Applicant: DEPENDABLE TANK LINES, INC., Route 1, Box 94, Red Level, AL 36474. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *(1) Wax Emulsion and Defoamer* from Columbus, GA to points in AL, FL, SC, LA, AR, MS, and TN; and *(2) Materials and supplies used in the manufacture and distribution of wax emulsion and defoamer* from points in AL, FL, SC, LA, AR, MS, and TN to Columbus, GA, for 180 days, under continuing contract or contracts executed and in force with South States Chemical Company, Inc. of Andalusia, AL. Supporting shipper: South States Chemical Company, Inc., 3961 Cusseta Road, Columbus, GA 31903.

MC 150319 (Sub-3–1TA), filed March 17, 1980. Applicant: WILMINGTON EXPRESS, INC., Post Office Box 540, Wilmington, North Carolina 28401. Representative: Ralph McDonald, Attorney at Law, Post Office Box 2246, Raleigh, North Carolina 27602. *Dry fertilizer and dry fertilizer ingredients (except in bulk in tank vehicles)* between points in NC, SC and VA. Supporting Shipper(s): There are four (4) statements in support attached to the application which may be examined at the Interstate Commerce Commission at the field office named below.

MC 146343 (Sub-3–1TA), filed February 29, 1980. Applicant: SOUTHERN EXPRESS CORP., 308 S. Ocean Blvd., Pompano, FL 33062. Representative: Daniel Sumner, 131 Airport Rd., Warwick, RI 02889. *Assorted wooden handles* from Conroe, TX to points in AL, AZ, AR, CA, CO, FL, GA, IL, KS, LA, MA, MD, MI, MN, MS, NJ, NC, NY, OH, PA, RI, SC, and TN. Supporting shipper: Owens Handle Company, Inc., 4200 North Fraziier, Conroe, TX 77303.

MC 140389 (Sub-3–1TA), filed March 5, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *Bakery goods,* from Louisville, KY, to points in AL, AR, FL, GA, IL, IN, IA, KS, LA, MI, MN, MS, MO, NE, NC, OH, SC, TN, and WI for 180 days. Supporting shipper: Mother's Cookie Company, 2287 Ralph Avenue, Louisville, KY 40216.

MC 150221 (Sub-3–1TA), filed February 19, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Synthetic pellets, chips, fiber, staple, and non-woven fabrics, and chemicals,* between Spartanburg, SC, and points in its commercial zone, Charlotte, NC, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, PA, and RI under a continuing contract(s) with Hoechst Fibers Ind. Supporting shipper: Hoechst Fibers Industries, P.O. Box 5887, Spartanburg, SC 29304.

MC 150217 (Sub-3–1TA), filed February 22, 1980. Applicant: C & N EVANS TRUCKING CO., INC., R.F.D. 2, Box 39–E, Stoneville, NC 27048. Representative: Clarence B. Evans (same address as applicant). *Wearing apparel* from Alexander City, AL, Griffin, GA, Asheboro, Madison, Mayodan and Statesville, NC, and Martinsville, VA to Appleton, WI and Dallas, TX. Supporting shipper: Downers Inc., P.O. Box 535, Appleton, WI 54911.

MC 121664 (Sub-3–3TA), filed February 27, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. *Poles, piling, and posts* from Brownville, Tuscaloosa County, AL to points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Brownwood Preserving Company, Route 3, Box 389, Northport, AL 35478.

MC 121664 (Sub-3–4TA), filed February 27, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. *Lumber* from Rome, GA to points in and east of the Mississippi River. Supporting shipper: Smith Evans Lumber Company, P.O. Box 81, Rome, GA 30161.

MC 121664 (Sub-3–5 TA), filed March 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. *Poles, piling, and posts* from Huxford and Beatrice, AL and Windfield, LA to points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616; Stalworth Timber Company, Beatrice, AL.

MC 135812 (Sub-3–1TA), filed March 11, 1980. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Rd., Nashville, TN 37210. Representative: Boyd Adams (same address as applicant). *New trucks, new trucks chassies* in initial and/or secondary movement in drive-away service from Wilmington, DE and its commercial zone to Allentown, PA. Supporting Shipper: Neely Coble Company, Inc., 1111 Polk Ave., Nashville, TN 37210.

MC 144140 (Sub-3–2TA), filed March 21, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). (1) *Such commodities as are dealt in by manufacturers and distributors of electric appliances* from the facilities of Hamilton Beach at Washington, NC; Clinton, NC; Farmville, NC; and Byesville, OH to points in the US in and east of MN, IA, MO, KS, OK, and TX, and (2) *such materials, equipment and supply commodities as are dealt in by manufacturers and distributors of*

electric appliances from points in the US in and east of MN, IA, MO, KS, OK, and TX, to the facilities of Hamilton Beach at Washington, NC; Clinton, NC; Farmville, NC; and Byesville, OH. Supporting shipper: Hamilton Beach Division, Scoville, Inc., P.O. Box 1158, Washington, NC 27889.

MC 140389 (Sub-No. 3–3TA), filed March 18, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. (1) *Such commodities as are dealt in by manufacturers and distributors of electric appliances,* from the facilities of Hamilton Beach Division . . . Scoville, Inc. at Washington, NC, Clinton, NC, Farmville, NC and Byesville, OH to points in the United States (except AL and HI), and (2) *such material, equipment and supplies as are dealt in by manufacturers and distributors of electric appliances,* from points in the United States (except AL and HI) to the facilities of Hamilton Beach Division . . . Scoville, Inc., at Washington, NC, Clinton, NC, Farmville, NC and Byesville, OH. Supporting shipper: Hamilton Beach Division, Scoville, Inc., P.O. Box 1158, Washington, NC 27889.

MC 114334 (Sub-3–1TA), filed March 17, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel, hot roll wire rod unfinished material for further processing* from Beaumont, TX to the plant site of Davis Walker Steel & Wire Corporation in Memphis, TN. Supporting shipper: Davis Walker Steel & Wire Corp., P.O. Box 18733, Memphis, TN 38118.

MC 148183 (Sub-3–1TA), filed March 14, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline Myers, Suite 348, Penn. Bldg., Pennsylvania and 13th St., NW., Washington, DC 20004. *Malt beverages and empty malt beverage containers* from the facilities of Stroh's Brewery Company at or near Toledo, OH to points in GA, Aiken, SC (and its commercial zone). Supporting shipper: The Stroh Brewery Company, One Stroh Brewery Company, Detroit, MI 48226.

MC 14490 (Sub-3–1TA), filed March 18, 1980. Applicant: STORY, INC., Route 1, Box 265, Henagar, AL 35978. Representative: David Story (same address as applicant). *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)* which are at the time moving on bills of lading issued by ABC–TNT, a freight forwarder as defined in Section 10102(8) of the Interstate Commerce Act, between points in: WA, OR, ID, NV, UT, AZ, CA, CO, NM, and TX, and points in MN, IA, MO, AR, LA, MI, IN, KY, TN, MS, AL, GA, FL, NC, SC, VA, WV, OH, MD, PA, NY, NJ, MA, CT, DE, RI, WI, IL, and DC. Supporting shipper: ABC–TNT, 2110 Alhambra Ave., Los Angeles, CA 90031.

MC 150366 (Sub-3–1TA), filed March 20, 1980. Applicant: BIG BEAR TRANSPORTATION CO., 326 11th Avenue, North, P.O. Box 23174, Nashville, TN 37202. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Avenue, NW., Washington, DC 20006. *Foodstuffs (except ice cream)* from the facilities of Polar Refrigerated Services, Inc. at Nashville, TN to points in AL, GA, KY, and TN, under a continuing contract or contracts with Polar Refrigerated Service, Inc., located at Nashville, TN. Supporting shipper: Polar Refrigerated Services, Inc., 326 11th Ave. North, Nashville, TN 37202.

MC 143621 (Sub-3–5TA), filed March 20, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue, North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Machinery and equipment moving on bills of lading of W. A. Nabors Company, Inc.* between points in the United States, except AK and HI. Supporting shipper: W. A. Nabors Company, Inc., Post Office Box 8056, Northeast Station, Nashville, TN 37207.

MC 111485 (Sub-3–1TA), filed March 20, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *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 used by Deena Lamp Company at or near Arlington, KY as an off-route point in connection with existing regular route authority, restricted to traffic originating at or destined to the named facilities. Applicant intends to tack with regular route general commodity authority in MC 111485 and interline with other carriers at Memphis, Nashville and Paris, TN, St. Louis, MO, and Louisville and Paducah, KY. Supporting shipper: Deena Lamp Company, Bertha Davis, Operations Manager, P.O. Box 158, Arlington, KY 42021.

MC 921 (Sub-3–1TA), filed March 20, 1980. Applicant: DEAN TRUCK LINE, INC., P.O. Drawer 631 (Fulton Drive), Corinth, MS 38834. Representative: William W. Odom, Jr., Dean Truck Line, Inc., P.O. Drawer 631 (Fulton Drive), Corinth, MS 38834. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined in 17 M.C.C. 467, livestock, commodities in bulk and articles which because of size or weight require special equipment,* to serve the facilities of Union Camp Corporation at or near Huston, MS, as an off-route point in conjunction with its existing authority in MC 921 (Sub-21), between Montgomery, AL, and Tupelo, MS. Supporting shipper(s): Union Camp Corp., P.O. Box 326, Montgomery, AL 36101.

MC 121081 (Sub-3–1TA), filed March 20, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Iron and steel articles,* (1) from the facilities of Florida Steel Corporation in Mecklenburg County, NC to points in AL, DC, FL, GA, KY, MD, OH, SC, TN, VA, and WV, (2) from the facilities of Florida Steel Corporation at Raleigh, NC to points in DC, MD, SC, TN, and VA, (3) from the facilities of Florida Steel Corporation in Aiken County, SC to points in GA and SC; *Iron and steel articles; equipment; and materials and supplies used in the fabrication, distribution, and sales of iron and steel articles;* (4) from points in AL, DC, FL, GA, KY, MD, OH, SC, TN, VA, and WV, to the facilities of Florida Steel Corporation in Aiken County, SC, Mecklenburg County, NC, and Raleigh, NC. Supporting shipper: Florida Steel Corporation, P.O. Box 31067, Charlotte, NC 28231.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 142920 (Sub-4–2TA), filed March 17, 1980. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract,* irregular: *Such commodities as are dealt in or used by manufacturers and distributors of sound, communication, educational and entertainment materials (except in bulk),* (1) from Hawthorne and Pitman, NJ, to Laurel, MD; and (2) from Laurel, MD, to Terre Haute, IN. An underlying

ETA seeks 90 days authority. Supporting shipper(s): CBS, Inc., 51 West 52nd Street, New York, NY 10019.

MC 128860 (Sub-4–2TA), filed March 10, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, Wisconsin 54660. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, Wisconsin 53719. *Contract,* irregular *Malt beverages and related advertising materials, premiums, and malt beverage dispensing equipment, in mixed loads with malt beverages,* from LaCrosse, WI, and St. Paul, MN, to points in MD, NJ, NY, and PA. Restricted to transportation to be performed under a contract(s) with G. Heilman Brewing Company, Inc., LaCrosse, WI. Supporting shipper: G. Heileman Brewing Company, Inc. 925 South Third Street, La Crosse, WI 54601.

MC 147680 (Sub-4–1TA), filed March 11, 1980. Applicant: RICHARD TARVIN, INC., Rural Route No. 1, Dewey, IL 61840. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703, Telephone (217) 528–8476. *Soya meal* from Champaign, IL to the facilities of Bernard Schmitt & Sons at Poseyville, Indiana. Bernard Schmitt & Sons, Rural Route No. 1, Roseyville, IN 47633.

MC 128030 (Sub-4–1TA), filed March 10, 1980. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 98, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Advertising displays for animal feed; animal feed, animal feed ingredients, and materials and supplies used in the manufacture and distribution of animal feed;* from points in NY to Columbus, OH, Memphis, TN, Minneapolis, MN; Kansas City, MO, Dallas, TX, Snyrni, GA; Jacksonville, FL, Baltimore, MD, and Boston, MA. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058.

MC 119702 (Sub-4–1TA), filed March 10, 1980. Applicant: STAHLY CARTAGE CO., 119 S. Main Street, Edwardsville, IL 62025. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Ammonium nitrate and fertilizers (dry and in solutions), in bulk,* from Selma, MO to points in IL. Supporting shipper: USS-Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree Street, NE., Atlanta, GA 30303.

MC 107012 (Sub-4–1TA), filed March 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as above). *Recreational Equipment and Sporting Goods,* from the facilities of Kransco Manufacturing, Inc. at or near Virginia Beach, VA, to points in CT, DE, GA, IL, IN, KY, ME, MD, MA, MI, NH, JH, NY, NC, OH, PA, RI, SC, TN, VT, WV and WI. Supporting shipper: Kransco Manufacturing, Inc., 5816 Ward Court, Virginia Beach, VA 23455.

MC 107295 (Sub-4–5TA), filed February 29, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as above). *Vermiculite and perlite* (other than crude), *plant bed media,* and *cement products, dry* (except commodities in bulk), from Pine Bluff, AR, to all points in the U.S. (except AK and HI), an underlying ETA seeks up to 90 days authority. Supporting shipper: Strong-lite Products Corp., P.O. Box Pine Bluff, AR 71611.

MC 150227 (Sub-4–1TA), filed March 5, 1980. Applicant: SAM R. HEDGE, d.b.a. HEDGE FREIGHT LINES, Rt. 1, Amerit, MN 56112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract carrier* over *irregular routes,* (1) *automobile parts and accessories and* (2) *materials, supplies and equipment* (except commodities in bulk), between Huron, SD and Savage, MN on the one hand, and points in the U.S. (except AK and HI) on the other hand. Supporting shipper: Master Motive, Inc., 5440 W. 125th St., Savage, MN.

MC 110988 (Sub-4–13TA), filed March 3, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Chemicals,* in bulk from the facilities of Stauffer Chemical Company in the Chicago, IL commercial zone to points in VA, GA, TN, FL, SC, and NC, an underlying ETA seeks up to 90 days authority. Supporting shipper: Stauffer Chemical Company, Nyala Farms Road, Westport, CT 06880.

MC 107323 (Sub-4–2TA), filed March 7, 1980. Applicant: GILLILAND TRANSFER CO., 7180 W. 48th St., Fremont, MI 49412. Representative: Donald B. Levieme, 39 S. LaSalle St., Chicago, IL 60603. *Such commodities as are used, manufactured, sold or distributed by manufacturers of baby foods, baby food products and baby supplies (except commodities in bulk)* between Chicago, IL and its commercial zone on the one hand, and, on the other, facilities of Gerber Products Company at or near Three Oaks, MI and Indianapolis, IN. Restricted to the transportation of traffic originating at or destined to the named Gerber Products Company facilities. Supporting shipper: Gerber Products Company, 445 State St., Fremont, MI 49412.

MC 133689 (Sub-4–8TA), filed March 4, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.E., Blaine, Minnesota 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minnesota 55118. *Lamp Ballast* from Danville, IL to points in MD, MA, NJ, NY, and PA. Supporting shipper: General Electric Company, 1430 E. Fairchild, Danville, IL 61832.

MC 150246 (Sub-4–1TA), filed March 10, 1980. Applicant: BENTON TRUCKING SERVICE, INC., 13331 Inkster Road, Livonia, MI 48150. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Frozen meats and seafoods* from Dublin, CA, to Chicago, IL; Detroit, MI; Pittsburgh and Philadelphia, PA; Houston, TX; Atlanta, GA; Tampa, FL; Newark and Patterson, NJ; New York City, NY; Boston, MA; and points within the Commercial Zone of each of said points. Supporting shipper: Lemoing and Sons Land and Cattle Co., 6085 Scarlett Court, Dublin, CA 94566.

MC 134493 (Sub-4–1TA), filed March 13, 1980. Applicant: CHICAGO-ST. LOUIS TRANSPORT, INC., 800 S. Joliet Street, Joliet, IL 60435. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Such commodities as are dealt in or used by wholesale grocery or food business houses* (except commodities in bulk), from Chicago, IL and its commercial zone to Wright City, MO. Supporting shipper: ALDI's Incorporated, 515 W. Pearce Blvd., Wentzville, MO 63385.

MC 146643 (Sub-4–8TA), filed March 13, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., formerly known as David Creech Transportation Systems, Inc., 655 E. 114th St., Chicago, IL 60628. Representative: Joel H. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier, irregular routes, empty cans,* from Kansas City, KS to Momence, IL. Supporting shipper: Strongheart Products, Inc., P.O. Box 2009, 300 So. 55th St., Kansas City, KS 66110.

MC 124170 (Sub-4–1TA), Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, P.C., 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Meats, meat products and meat by-products, and articles distributed by meat packinghouses (except hides and commodities in bulk),* from points in the New York, NY commercial zone to points in IL, IN and OH, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shippers: Thomas Borthwick & Sons, U.S.A., Ltd; Atalanta Corp.; The

Tupman Thurlow Co.; Pierce Trading Corp.; Farrell Brokerage Co.

MC 138144 (Sub-4–2TA), Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 10 South LaSalle Street, Chicago, IL 60603. *Face brick* from Endicott, NE and Concordia, KS to points in WI, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shippers: Butler Lime & Cement Company; South Milwaukee Lime & Cement Co.; Tews Lime & Cement; West Allis Lime & Cement Co.; Milwaukee, WI 53209.

MC 108185 (Sub-4–2TA), filed February 20, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 215 So. 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Common,* regular, *Flat bar, roll wire* and *steel tubing,* to the site of Federal Mogul Corporation at or near Hamilton, AL as an off route point in connection with presently authorized regular route operations. Supporting shipper: Federal Mogul Corporation, P.O. Box 1966, Detroit, MI 48235.

MC 128951 (Sub-4–1TA), filed February 22, 1980. Applicant: Robert H. DITTRICH d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). *Fertilizer and fertilizer ingredients* (except hazardous or placarded commodities), between Clear Lake, Mason City, and Sioux City, Iowa and their respective commercial zones, on the one hand, and, on the other hand, points in Minnesota. Supporting shipper: Land O'Lakes, Inc., 2827 8th Avenue, Dodge, IA.

MC 144527 (Sub-4–4TA), filed February 21, 1980. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn Street, Chicago, IL 60602. Representative: Patrick H. Smyth, Smyth & Guth, P.C., Suite 521, 19 South LaSalle Street, Chicago, IL 60603. *Such commodities as are used in the manufacture and distribution of new furniture,* from points in IL, IN, KY, MA, MI, NC, NJ, SC, and WI to Archbold, OH. Supporting shipper: Sauder Woodworking Co., 502 Middle Street, Archbold, OH 43502.

MC 145577 (Sub-4–1TA), filed February 21, 1980. Applicant: GULLETT-GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. (1) *Compressors, liquid or gas and evaporator coils* from Fostoria, Wapokenetta and West Union, OH, Rushville, IN and Hartselle, AL to points in CA, AZ, NM, TX and CO and (2) *used compressors for reconditioning* from points in CA, AZ, NM, TX and CO to Fostoria, Wapokenetta, and West Union, OH, Rushville, IN and Hartselle, AL, for 180 days. Supporting shipper(s): Copeland Corporation, Campbell Road, Sidney, OH 45365.

MC 1494 (Sub-4–1TA), filed February 21, 1980. Applicant: GROSS COMMON CARRIER, INC., 660 West Grand Avenue, Wisconsin Rapids, WI 54494. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Common, regular, 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 Green Bay, WI and junction U.S. Hwy 10 and WI Hwy 54 at or near Waupaca, WI, over WI Hwy 54, serving no intermediate points; 2) Between Appleton, WI and junction U.S. Hwy 10 and WI Hwy 54 at or near Waupaca, WI over U.S. Hwy 10, serving no intermediate points; 3) Between Green Bay, WI and Milwaukee, WI: From Green Bay, WI over U.S. Hwy 141 to junction with Interstate Hwy 43, then over Interstate Hwy 43 to Milwaukee, WI and return over the same route; 4) Between Appleton, WI and Manitowoc, WI over U.S. Hwy 10; 5) Between Appleton, WI and Milwaukee, WI over U.S. Hwy 41; 6) Between Milwaukee, WI and junction U.S. Hwy 10 and WI Hwy 57, over WI Hwy 57, and 7) Between Appleton, WI and Green Bay, WI over U.S. Hwy 41. Serving all intermediate points in connection with routes (3), (4), (5), (6) and (7) and further serving as off-route points those points in WI bounded by a line beginning at Green Bay, WI and extending along U.S. Hwy 141 to junction with WI Hwy 23, then along WI Hwy 23 to junction WI Hwy 22, at or near Montello, WI, then along WI Hwy 22 to junction with U.S. Hwy 41, and then along U.S. Hwy 41 to the point of beginning, except no service to be provided at Larsen, Omro, Winchester, Wild Rose, Winneconne and points on U.S. Hwy 10 between Appleton, WI and junction WI Hwy 22 and U.S. Hwy 10, and serving the commercial zones of all service points; for 180 days. An underlying emergency temporary authority application seeks 90 days authority. Applicant intends to tack and interline. Supporting shippers: There are 41 supporting shippers.

MC 150106 (Sub-4–1TA), filed February 14, 1980. Applicant: GOLDEN ARCH EXPRESS, INC., One McDonald's Plaza, Oak Brook, IL 60521. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Such commodities as are dealt in by restaurants* (exept commodities in bulk) between all points in the U.S. (Except AK and HI), restricted to traffic destined to the facilities of or used by McDonald's Corporation, its affiliates, franchises, and distributors. Supporting shipper: McDonald's Corp., Oak Brook, IL.

MC 106674 (Sub-4–6TA), filed February 21, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Iron and Steel articles and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles (except* commodities *in tank* vehicles) between Perth Amboy, NJ on the one hand, and, on the other, points in the U.S. in and East of MN, IA, MO, AR, and LA. Supporting shipper: Raritan River Steel Co., 225 Elm Street, P.O. Box 309, Perth Amboy, New Jersey 08862.

MC 145359 (Sub-4–1TA), filed January 24, 1980. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Don Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Lawn and garden equipment and supplies,* from the facilities of O.M. Scott & Son at or near Marysville, Columbus, and Vermillion, OH to points in Los Angeles, San Bernardino, Orange, Ventura, Kern, Madera, Fresno, Sacramento, San Mateo, Santa Clara, Imperial, San Joaquin, Solano, Alameda, Contra Cost, Marin, Napa, Riverside, Counties, CA, Clackamas, Multnomah, Yamhill and Washington, Counties, OR, Hartford, County, CT, DuPage, Will, Cook, and Lake, Counties, IL, Waukesa, Kenosha, and Dane, Counties, WI, Dallas, Tarrant, and Harris, Counties, TX, Middlesex, Essex, and Norfork, Counties, MA, Salt Lake, Morgan, Utah, and Wasatch, Counties, UT, Douglas, County, NE, King, Pierce, Snohomish, Mitsap, Spokane, Yakima, Kititas, Counties, WA. An underlying ETA seeks 90 days authority. Supporting shipper: O.M. Scott & Son, Marysville, OH.

MC 149415 (Sub-4–2TA), filed January 31, 1980. Applicant: WARCO TRANSPORTATION, INC., R.R. No. 2, Cassville, WI 53806. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Passengers* and their baggage, newspapers, and express, over regular routes as follows: From Bloomington, WI over WI Hwy 35 to junction WI Hwy 81. Then over WI Hwy 35 and 81 to Lancaster, WI, then over US Hwy 61 to junction State Hwy 35 serving Dickeyville and off route point Kieler,

WI, then over State Hwy 35 to junction US Hwy 20, serving East Dubuque, IL, then over US Hwy 20 to Dubuque, IA, then over US Hwy 52 to junction IA Hwy 386, then over IA Hwy 386 to the plant site of John Deere Dubuque Works, and return. over the same route. From Cassville, WI over WI Hwy 133 to junction US Hwy 61 serving intermediate point Potosi, WI, then over WI Hwy 133 to junction US Hwy 61, then over US Hwy 61 to junction State Hwy 35, serving Dickeyville, WI and off route point Kieler, WI, then over State Hwy 35 to junction US Hwy 20 serving East Dubuque, IL, then over US Hwy 20 to Dubuque, IA, then over US Hwy 52 to junction IA Hwy 386. Then over IA Hwy 386 to the plant site of John Deere Dubuque works, and return over the same route. From Bloomington, WI over WI Hwy 35 to junction US Hwy 18; then over US Hwy 18 to Fennimore, WI. Then over US Hwy 61 to junction State Hwy 35 serving Dickeyville and off route point Kieler, WI, then over State Hwy 35 to junction US Hwy 20 serving East Dubuque, IL, then over US Hwy 20 to Dubuque, IA. Then over US Hwy 52 to junction Hwy 386, then over IA Hwy 386 to the plant site of John Deere Dubuque Works, and return over the same route. Supporting shippers: Twenty-four supporting shippers.

MC 12655 (Sub-4–3TA), filed January 17, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Galen Meek (same as applicant). *Masonary supplies* from Pueblo and Denver, CO to WY and MT. Supporting shipper: WYO-Ben Supply, 3044 Hsper Road, P.O. Box 20317, Billings, MT 59104.

MC 908 (Sub-4–1TA), filed February 15, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., 4528 South McDowell Ave., Chicago, Illinois 60609 (Corporate Mailing Address: P.O. Box 171, Argo, IL 60501). Representative: Eugene L. Cohn, One North La Salle St., Chicago, IL 60602. *Cabinets, radio, phonograph tape or wire play or recorder, television amplifier or loud speaker, NOI, separate or combined without mechanism or electrical apparatus, SU or KD, Box type, portable or console materials, equipment and supplies used in the manufacture of cabinets.* Between the facilities of the Zenith Radio Corp. in the Chicago, IL., Commercial Zone on the one hand, And, on the other hand, Evansville, IN., An underlying ETA seeks 90 days authority. Supporting shipper: Zenith Radio Corporation, Albert S. Gleba, Section Mgr. Domestic Freight, 1900 No. Austin Ave., Chicago, IL 60639.

MC 108937 (Sub-4–1TA), filed January 17, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. *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 St. Paul, MN and Litchfield, MN: From St. Paul over MN Hwy. 7 to junction MN Hwy. 22, thence over MN Hwy. 22 to Litchfield and return over the same route. Serving the intermediate point of Hutchinson, MN. (2) Between Hutchinson, MN and Glencoe, MN. over MN Hwy. 22, serving no intermediate points. Supporting shippers: 31.

MC 99565 (Sub-4–2TA), filing date January 28, 1980. Applicant: FORE WAY EXPRESS, INC., 204 S. Bellis Street, Wausau, WI 54401. Representative: Nancy J. Johnson, P.O. Box 218, 103 East Washington Street, Crandon, WI 54520. *Common, regular, General Commodities* (with the usual exceptions), Between Wausau, WI and St. Paul-Minneapolis, MN and its Commercial Zone: From Wausau, WI, over WI Hwy 29 to junction US 94, Then over to U.S. Hwy 94 to MN State Line, then MN US 12 to St. Paul-Minneapolis, MN and return over the same. Applicant intends to tack this authority with its regular route authority and interline at St. Paul-Minneapolis, MN. An underlying ETA seeks 90 days authority. Supporting shipper: There are (52) supporting shippers.

MC 148318 (Sub-4–1TA), filed January 22, 1980. Applicant: ROBINSON'S FAIRWIND TRANSPORT, LTD., 17850 Princeton, Country Club Hills, IL 60477. Representative: Eric D. Robison (same address as applicant). *General commodities,* (except those of unusual value, Classes A or B explosives, household goods as defined by the Commission, Commodities bulk and those requiring special equipment) between East Chicago, IL and points in IA, IL, IN, MI, MO, OH and WI, restricted to shipment originating at or destined to their facilities of Tri-State Fabricating and Welding, Co. An underlying ETA seeks 90 days authority. Supporting shipper: Tri-State Fabricating and Welding Co., 1520 E. Chicago, Ave., East Chicago, IL 46312.

MC 111496 (Sub-4–2TA), filed January 11, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Raymond E. Caturia (same address as applicant). Common; regular; *General Commodities, (with the usual exceptions) between St. Cloud, and Minneapolis/St. Paul, MN serving the intermediate point of Hutchinson, MN, from St. Cloud over MN Hwy 15 to Jct. MN Hwy 7, thence over MN Hwy 7 to Minneapolis/St. Paul and return over the same route. Supporting shipper: Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55101.*

MC 116273 (Sub-4–2TA), filed February 12, 1980. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Illinois. Representative: Robert G. Paulich (address same as applicant). *Petroleum grease in bulk, in tank vehicles,* from St. Paul, MN to Saginaw, MI. Supporting shipper: Metal Cote Grease and Oil Co., P.O. Box 16435, St. Paul, MN 55116.

MC 76266 (Sub-4–1TA), filed January 20, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 215 So. 11th Street, Minneapolis, MN 55403. Representative: Robert P. Stack, P.O. Box 6010, West St. Paul, Minnesota. (1) *Iron and steel articles,* from the facilities of North Star Steel Company at Monroe, MI to points in CO, IL, IN, IA, KS, MN, MO, NE, OH, and WI; and (2) *materials, equipment and supplies (except in bulk) used in the manufacture and distribution of iron and steel articles.* From the destination points in (1) above to the facilities of North Star Steel Company at Monroe, MI. Supporting shipper: North Star Steel Company, 2901 Metro Drive, Minneapolis, MN 55420, Leonard Huberty, Corporate Traffic Manager.

MC 128837 (Sub-4–1TA), filed February 28, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Canned goods (except in bulk) and supplies and materials used in the selling. Distribution and manufacture of canned goods* from the facilities of Joan of Arc Company, Inc. at Hoopeston and Princeville, IL to points in FL and TX. An underlying ETA application seeks 90 days authority. Supporting shipper: Joan of Arc Company, Inc., 2231 West Altorfer Drive, Peoria, IL 61614.

MC 150137 (Sub-4–1TA), filed February 25, 1980. Applicant: J & M TRUCKING, INC., Box 81, Stewardson, IL 62463. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract Carrier* Irregular routes, *Feed, feed ingredients and flour* between Teutopolis, IL on the one hand, and on the other, points in IN, IA, MN, KY, MO, SD and TN. Under contracts with Siemer Milling Company. An underlying ETA application seeks up to

90 days authority. Supporting shipper: Seimer Milling Company, 108 South Green Street, Teutopolis, IL 62467.

MC 115821 (Sub-4–1 TA), filed February 10, 1980. Applicant: BEELMAN TRUCK CO., P.O. Box 93, St. Libory, Illinois 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Missouri 63101. *Flue dust, in bulk,* from Norfolk, NE, to facility of Frit Industries at Humboldt, IA. Supporting shipper: Frit Industries, Inc., P.O. Box 850, Ozark, AL 36360.

MC 19945 (Sub-4–1TA), filed March 7, 1980. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Joseph R. Behnken (same as applicant). *Zinc oxide,* in bulk, from Hillsboro, IL., to La Platte, NE. Supporting shipper: Eagle Picher Industries, Inc., P.O. Box 550, Joplin, MO 64801.

MC 149744 (Sub-4–2TA), filed March 13, 1980. Applicant: ARCTIC AIR TRANSPORT, INC., 103 North Eau Claire St., Mondovi, WI 54755. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Meat, meat products, meat by-products, and related products distributed by meat packinghouses,* from Chicago, IL., to Carrolton, MO. An underlying ETA seeks up to 90 days authority. Supporting shipper: RKN Enterprises, 3851 Minges Road, Battle Creek, MI 49015.

MC 107012 (Sub-4–10TA), filed March 11, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Appliance parts,* between the facilities of Speed Queen Company located at or near Searcy, AR on the one hand and Ripon, WI on the other. Supporting shipper: Speed Queen Company, Doty Street, Ripon, WI 54971.

MC 148023 (Sub-4–1TA), filed January 29, 1980. Applicant: HACKE TRUCKING, 3742 Wadsworth Rd., Waukegan, IL 60085. Representative: Joel H. Steiner, 39 S. LaSalle St., Chicago, IL 60603. Contract; irregular; *Radioactive waste and radioactive waste shipping containers,* between radioactive waste disposal sites at or near Beatty, NV and Richland, WA, on the one hand, and, on the other, Zion, Morris and Cordova, IL; Palo, IA; and Bridgeman, MI. Supporting shipper: Hittman Nuclear and Development Corp., 2700 Kesslinger Rd., Geneva, IL 60134.

MC 125708 (Sub-4–4TA), filed March 3, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. (1) *iron and steel articles* from the facilities of North Star Steel Co. at or near Monroe, MI, to points in the U.S. (except AK and HI), and (2) *materials, equipment and supplies used in the manufacture and distribution of iron and steel articles* in the reverse direction. Supporting shipper: North Star Steel Co., 2901 Metro Drive, Minneapolis, MN 55420.

MC 15975 (Sub-4–1TA), filed March 17, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Alcoholic liquors,* in glass and/or in bulk in barrels, and *materials equipment and supplies used in the manufacture and distribution of alcoholic liquors* (except commodities in bulk in tank vehicles, and those requiring the use of special equipment), between Peoria, IL, Plainfield, IL and Bardstown, KY, on the one hand, and, on the other, points in IL, IN, KY, MO, IA, OH, MI, PA, WV and WI. Restricted to traffic originating at or destined to the facilities of Hiram Walker & Sons, Inc. An underlying ETA seeks up to 90 days authority. Supporting shipper: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61606.

MC 147039 (Sub-4–2TA), filed March 13, 1980. Applicant: TSI, 21055 West Road, Trenton, MI 48183. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, Virginia 22030. *Toys, hobby kits, model kits, oil, water or crayon paint kits, pre printed canvas for painting, wall panels or plaques for do it yourself pictures, and games,* from the facilities of the Fundimensions plant at Mt. Clemens, MI and Toledo, OH to points in AL, AZ, CA, CO, CT, DE, DC, FL, GA, IL, IA, KS, LA, MD, MA, MS, MO, NV, NH, NJ, NM, NY, NC, OK, OR, PA, RI, SC, TN, TX, VA, and WA. Supporting shipper: Fundimensions, Div. of CPG Products Corp., 26750 Twenty-Three Mile Rd., Mt. Clemens, MI 48043.

MC 107295 (Sub-4–7TA), filed March 17, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as above.) *Insulation materials,* from Sedalia, MO, to points in NE, KS, OK, TX, LA, MS, AL, FL, GA, SC, PA, and MN. An underlying ETA seeks up to 90 days of authority. Supporting shipper: Pittsburg Corning, P.O. Box 716, Sedalia, MO 65301.

MC 107295 (Sub-4–8TA), filed March 17, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as above.) *Fencing, and fence parts,* from Stephenson and Gladstone, MI, to points in the U.S. (except AK and HI). Supporting shipper: Habitant Fence Co., P.O. Box 111, Bay City, MI 48707.

MC 107295 (Sub-4–6TA); filed March 17, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as above). *Prefabricated metal building parts, panels, and accessories,* from Bristol, CT, to all points in KY, OH, MI, IN, IL, WI, AR, WY, WA, CA, TN, FL and NV for 180 days. Supporting shipper: Morin Building Products, P.O. Box 503, 685 Middle Street, Bristol, CT 06010.

MC 117644 (Sub-4–1TA), filed March 17, 1980. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: David Rubenstein (same address as applicant). *Contract, Irregular, Motor Vehicle Parts, components, machinery, equipment or parts, materials and advertising matter,* From Center Line, Warren and Marysville, MI, and Chicago, IL, to Plymouth, MN. Restricted to shipments moving to, from, or between facilities used by Chrysler Corporation. Supporting shipper: Chrysler Corporation, Center Line, MI.

MC 114194 (Sub-4–3TA), filed March 10, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., E. St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Products of corn,* dry, from Atchison, KS, to points in the U.S. (except AK and HI). Supporting shipper: Lincoln Grain Company, P.O. Box 436, Atchison, KS 66002.

MC 114194 (Sub-4–5TA), filed March 17, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., E. St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Liquid orange juice concentrate, in bulk, in tank vehicles,* from Chicago, IL, to Bonner Springs, KS. An underlying ETA seeks 90 days authority. Supporting shipper: Bodine's Inc., 5757 W. 59th St., Chicago, IL 60638.

MC 114194 (Sub-4–6TA), filed March 17, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., E. St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Sugar,* bulk, from Goodland, KS, to points in MO. An underlying ETA seeks 90 days authority. Supporting shipper: International Distributing Corp., 4240 Utah, St. Louis, MO 63116.

MC 146314 (Sub-4–3TA), filed March 17, 1980. Applicant: G & T TRUCKING CO., Route No. 1, County Road 2 and 35 South, Elko, MN 55022. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Used construction equipment,* between points in IL, IA, KS, MN, MO, ND, SD and WI. Restricted to transportation of traffic originating at and destined to points in the named states. An underlying ETA application seeks authority for 30 days. There are four supporting shippers.

MC 105045 (Sub-4–2TA), filed March 17, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, P.O. Box 3277, Evansville, IN 47731. *Decking, bar joists and accessories,* from Vulcraf Div. of Nucor Corp., Grapeland, TX to AL, AR, AZ, FL, LA, MS, NM, OK and TN for 180 days. Underlying ETA seeks up to 90 days authority. Supporting shipper: Vulcraf Div. of Nucor Corp., P.O. Box 186, Grapeland, TX 75844.

MC 148705 (Sub-4–3TA), filed March 15, 1980. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat byproducts, and* articles distributed by meat packing houses, from Sioux City, IA and Buffalo Lake, MN to Jacksonville and Miami, FL. An underlying ETA seeks 90 days authority. Supporting shipper: Weinstein International Corp., 5738 Olson Highway, Minneapolis, MN 55422.

MC 144927 (Sub-4–2TA), filed March 7, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 W., Remington, IN 47977. Representative: Warren Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. (1) *Pulpboard,* in rolls, from Piermont, NY, to Eaton, IN; (2) *Printing paper,* other than newsprint, from West Carrollton, OH, to points in CT, IL, IN, MD, MO, NJ, NY, PA, and VA; (3) *Printed matter and finished books,* from Saddlebrook, NJ, Chicago, IL, Rockville, MD, Kansas City, MO, to points in MN, IA, MO, AR, LA, and all points in the U.S. east thereof; (4) *Finished books,* between points in NJ, NY, MA, and PA; (5) *Printed matter, magazines, paper and paper products, and materials, equipment and supplies used in the manufacture, processing, sale and distribution of printed matter, magazines, paper and paper products,* between Chicago (and its commercial zone), Dwight, Elk Grove Village, Broadview, Itasca, Mattoon, Melrose Park, Peoria, Elgin, and Wooddale, IL, Crawfordsville, Berne and Warsaw, IN, Willard, OH, Lancaster, PA, Old Saybrook, CT, Spartanburg, SC, Harrisonburg, VA, Glasgow, KY, Gallatin, TN, and Berlin and New Berlin and Milwaukee, WI, on the one hand, and, on the other, points and places in the US in and east of MN, IA, MO, AR, and LA; (6) *Paper and printed matter and paper products and materials, equipment and supplies used in the manufacture and distribution of paper and printed matter and paper products,* between Chicago, IL; Lexington, KY; Versailles, KY; Taunton, MA; Indianapolis and Hammond, IN; Nashville, TN; Ossining, NY; and Muscatine, IA; on the one hand, and, on the other, points in MN, MO, NJ, NY, OH, PA, RI, IN, VA, WI, DE, DC, IL, IA, KY, CT, and MA. An underlying ETA seeks 90 days authority. There are thirty-one supporting shippers.

MC 114457 (Sub-4–5TA), filed March 12, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same as applicant). *(1) Snowthrowers and lawnmowers, (2) accessories, attachments, and parts for snowthrowers and lawnmowers,* from Johnson Creek, WI to points in the Unites States. (Except AK and HI). Supporting shipper: Wisconsin Marine, Inc., 1 Bobcat Lane, Johnson Creek, WI 53038.

MC 128837 (Sub-4–2TA), filed March 10, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Robert Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Lumber, lumber products and particle board,* from points in AL, AR, LA, and MS to points in IA, IL, IN, MO, OH and KY. An underlying ETA seeks 90 days authority. Supporting shipper: Georgia Pacific Corporation, P.O. Box 520, Crossett, AR 71635.

MC 138367 (Sub-4–1TA), filed March 12, 1980. Applicant: TMI TRANSPORT CORP, 050 3rd Ave. W., Dickinson, ND 58601. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract; irregular; New furniture,* from the facilities of Armstrong Furniture at Appomattox, VA, to points in IL, IA, MN, MO, MT, NE, ND, SD, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Thomasville Furniture Industries, Inc. (Armstrong Furniture Division), Box 339, Thomasville, NC 27360.

MC 120737 (Sub-4–1TA), filed March 13, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Cast iron pipe, fittings, and accessories,* from Radford, VA to points in the U.S. (Except AR, HI, CT, MA, ME, NH, NJ, NY, PA, RI and VT). Supporting shipper: Griffin Pipe Products Co., 2000 Spring Rd., Oakbrook, IL 60521.

MC 113651 (Sub-4–7TA), filed March 14, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggins Rd., Muncie, IN 47305. Representative: Henry Higgs (address same as applicant). *Such commodities as are manufactured or dealt in by manufacturers of safety razors and razor blades, toilet preparations, home security equipment, cigarette lighters, personal care products, and stationery products (except in bulk),* from Andover, MA to Louisville, KY. An underlying ETA seeks 90 days authority. Supporting shipper: The Gillette Co., Prudential Tower Bldg., Boston, MA 02199.

MC 150322 (Sub-4–1TA), filed March 18, 1980. Applicant: WILLIAM NOEL d.b.a. GREGORY MOTOR EXPRESS, 1221 W. Madison St., Chicago, IL 60607. Representative: Albert Andrin, 180 N. LaSalle St., Chicago, IL 60601. *Store, tavern and restaurant fixtures and equipment,* between Chicago, IL on the one hand and, on the other, points in IN, WI and MI. An underlying ETA seeks 90 days authority. Supporting shipper: Eagle Store Fixture Co., 1233–35 W. Madison, Chicago, IL, IL.

MC 150312 (Sub-4–1TA), filed March 17, 1980. Applicant: HAROLD A. WALKER, d.b.a. TRANSAMERICAN DISTRIBUTORS, 4956 101st St., Grand Junction, MI 49056. Representative: Patrick Smyth, Suite 521, 19 S. LaSalle St., Chicago, IL 60603. *Contract; Irregular; Such commodities as are dealt in by retail department stores and mail-order houses, and materials, supplies and equipment for these commodities,* between points in IL, IN, MI, and OH, under continuing contract(s) with Aldens, Inc. An underlying ETA seeks 90 days authority. Supporting Shipper: Aldens, Inc., 500 W. Roosevelt Rd., Chicago, IL 60607.

MC 115651 (Sub-4–3TA), filed February 28, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, Illinois 61102. Representative: E. Stephen Heisley, Ames, Hill & Ames, P.C., 666 11th Street, Washington, D.C. 20001. *Solvents,* in bulk, in tank vehicles from (1) Watertown, WI to points in IA and IL, and (2) from points in IA and IL to Watertown, WI. Supporting Shipper: Do Corp, P.O. Box 476, Watertown, WI. 53094.

MC 134665 (Sub-4–3TA), filed February 8, 1980. Applicant: ATKINS TRUCKING, P.O. Box 4, Tea, SD 57064. Representative: Claude Stewart, 5301

North Cliff Avenue, P.O. Box 480, SD 57101. *Animal and poultry feed ingredients* from plant sites of International Mineral and Chemical Company, at or near Carlsbad, NM; To Sioux Falls, and Huron, SD. Supporting shipper: Zip Feed Mills, 304 East Eighth Street, Sioux Falls, SD 57102.

MC 140615 (Sub-4–1TA), filed February 22, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, Wisconsin 54494. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, D.C. 20006. *liquid soap, ammonia, bleach, fabric softeners and detergents,* from the facilities of Manhattan Products, Inc. and Laundry Aids, Inc. at Carlstadt, NJ to points in IL, IN, KY, MA, MI, NY, OH and PA. Supporting shipper: Manhatten Products, Inc., 333 Starkes Rd., Carlstadt, New Jersey 07072.

MC 29745 (Sub-4–1TA), filed February 21, 1980. Applicant: BODGE LINES, INC., 501 South West Street, P.O. Box 546, Indianapolis, IN 46206. Representative: Phillip Price, Attorney at Law, 1444 Consolidated Bldg., Indianapolis, IN 46204. *General commodities, except articles of unusual value, classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment,* serving the facilities of Eli Lilly and Co. at or near Clinton, IN as an off route point in connection with carrier's regular route authority North at Terre Haute, IN on IN Hwy 63 to facilities of Eli Lilly and Company at or near Clinton, IN and return to regular route authority. Supporting shipper: Eli Lilly and Company, 307 East McCarty Street, Indianapolis, IN 46285.

MC 126133 (Sub-4–1TA), filed February 28, 1980. Applicant: GENERAL LEASING, INC., 1621 South 15th Street, Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. *Contract carrier, malt beverages,* from Omaha, NE, St. Paul, MN, and Monroe, WI to Dubuque, IA, under a contract with Best Beers Corp., Dubuque, IA. An underlying ETA seeks 90 days authority. Supporting shipper: Best Beers Corporation, 2554 Rockdale Road, Dubuque, IA 52001.

MC 51146 (Sub-4–19TA), filed February 19, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *General Commodities (except commodities in bulk)* between the facilities of, Central Ohio Shippers Coordinated Corporation at Columbus, OH on the one hand, and, on the other, New York, NY and its commercial zone; Philadelphia, PA; Boston, MA; Chicago, IL; and Manchester, VT. Restricted to traffic originating at or destined to the above-named points. Supporting shipper: Central Ohio Shippers Coordinated Corp., P.O. Box 2622, Columbus, OH 43216.

MC 107012 (Sub-4–8TA), filed February 22, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, same as applicant. *Paper,* from the facilities of Scott Paper Company located at or near Winslow, ME to the facilities of Scott Paper Company located at or near Rogers, AR. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 30937 (Sub-4–1TA), filed February 21, 1980. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4314–39th Avenue, Kenosha, Wisconsin 53142. Representative: Paul F. Sullivan, Attorney, 711 Washington Bldg., N.W., Washington, D.C. 20005. *Automotive Leaf Springs* from the International Boundary at Eagle Pass, TX to Detroit, MI. Supporting shipper: Chrysler Corporation, 6334 Lynch Road, Detroit, MI 48231.

MC 150068 (Sub-4–1TA), filed February 5, 1980. Applicant: A & M EXXON, 300 East Chestnut, Corydon, Indiana 47112. Representative: William H. Davis, 102 N. Capitol Ave., Corydon, Indiana 47112. *Motor vehicles and all things incidental to the operation of a Wrecker* from, to or between points in the US. Supporting shipper: Bush Trucking Co., Inc., New Salisbury, IN 47161.

MC 127811 (Sub-4–2), filed February 13, 1980. Applicant: BRYNWOOD TRANSFER, INC., 175-8th Ave. S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *(1) Iron and steel articles* and *(2) materials, supplies and equipment used in the manufacture of iron and steel articles (except commodities in bulk).* (1) From the facilities of North Star Steel Company at or near Monroe, MI to points in the US (except AK and HI) and (2) from points in the US (except AK and HI) to the facilities of North Star Steel Company at Monroe, MI. Supporting shipper: North Star Steel Company, 2901 Metro Drive, Minneapolis, MN 55420.

MC 123048 (Sub-4–1TA), filed February 28, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Iron and steel articles,* from the facilities of Nucor Steel, A Division of Nucor Corp., at or near Norfolk, NE to points in the States of AL, AR, LA, GA, MX, OK, TN and TX. Supporting shipper: Nucor Steel, a Division of Nucor Corp., Rural Route 1, Norfolk, NE.

MC 139697 (Sub-4–1TA), filed February 27, 1980. Applicant: WAGONER TRANSPORTATION COMPANY, INC., P.O. Box 2975, South Bend, IN 46680. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *4-wheel drive equipped trucks and vans, in secondary movements, in driveaway and truckaway service,* from the facilities of Pathfinder Equipment Company in Warren, OH to points in the US (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper(s): Pathfinder Equipment Company, 1265 Johnson Drive, City of Industry, CA 91745.

MC 135052 (Sub-4–1TA), filed March 3, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 47176. Representative: Warren C. Moberly, Attorney at Law, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. *Mineral wool and insulation products and materials, and materials and supplies used in the manufacture of mineral wool and insulation products and materials,* from points in the States of AL, AR, CT, DE, FL, GA, IA, IL, KS, KY, LA, MD, ME, MA, MI, MN, MO, MS, NE, NH, NJ, NC, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, to Shelbyville and Indianapolis, IN.

MC 118696 (Sub-4–6TA), filed February 28, 1980 Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Materials, equipment and supplies* used in the manufacture and distribution of television sets, from Bryan, OH; Columbus, IN; Edinburgh, IN and Jonesville, MI to Lebanon, TN and Nashville, TN; (2) *Television sets,* from the facilities of Toshiba America, Inc. at Lebanon, TN to New York City, NY and its commercial zone, and Chicago, IL and its commercial zone. Supporting shipper: Toshiba America, Inc., 1420 Toshiba Drive, Lebanon, TN.

MC 142848 (Sub-4–2TA), filed February 25, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Glass containers, cartons, caps and closures,* from Parkersburg, WV to points in IL,

IN, MI, OH, KY; (2) *Materials, equipment and supplies* used in the manufacture, distribution or sale of glass containers, cartons, caps and closures, (except in bulk), in the reverse direction. Restricted to traffic originating at or destined to the facilities of the National Bottle Manufacturing Company. Supporting shipper: National Bottle Company, 1 Bala Plaza, Bala Cynwyd, PA 19004.

MC 51146 (Sub-4–22TA), filed February 28, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Such commodities as are dealt in, or used by, manufacturers and distributors of school and office furniture from Temple and Henderson, TX to Appleton, WI,* an underlying ETA seeks up to 90 days authority. Supporting shipper: Valley School Suppliers, Inc., 1000 N. Blue Mound Drive, Appleton, WI 549111 (Dave Tiedt).

MC 145042 (Sub-4–1TA), filed February 4, 1980. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Street, Zeeland, Michigan 49464. Representative: James R. Neal, Loomis, Ewert, Ederer, Parsley, Davis & Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. (1) *such merchandise as is dealt in by agricultural feed business houses and (2) materials, ingredients, equipment and supplies used in the manufacture, distribution and sale of the items in (1) above* from Lafayette, IN to Lansing, MI. Restricted to shipments originating at or destined to the facilities of Ralston Purina Company. Supporting shipper: Ralston Purina, St. Louis, MO.

MC 124078 (Sub-4–15TA), filed March 13, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Clay,* in bulk, in tank vehicles from Andersonville, GA to Port St. Joe, FL. Supporting shipper: Allied Chemical Corporation, Chemical Co., Joseph D. Guittari, Senior Analyst—Traffic, P. O. Box 1139R, Morristown, NJ 07960.

MC 107012 (Sub-4–12TA), filed February 28, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, (same as applicant). *Toys and games* from the facilities of Fisher-Price Toys located at or near Brownsville, TX to the facilities of Fisher-Price Toys located at or near Murray, KY. Supporting shipper: Fisher-Price Toys, East Aurora, NY 14052.

MC 107012 (Sub-4–13TA), filed February 28, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, (same as applicant). *Barbecue grills and parts and accessories for barbecue grills* from the facilities of Turco Manufacturing Company at or near DuQuoin, IL to Phoenix and Glendale, AZ; Denver, CO; Salt Lake City, UT; and points in CA, OR and WA. Supporting Shipper: Turco Mfg. Co., 501 South Line, DuQuoin, IL 62832.

MC 148148 (Sub-4–1TA), filed March 10, 1980. Applicant: UNION MILLS TRANSPORT, INC., 2017 West 1000 South, Union Mills, IN 46382. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Castings,* from the facilities of Teledyne Casting Service at LaPorte and Kingsbury, IN, to points in IL, MI, WI, OH, TN, KY, and IA, (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of castings,* in the reverse direction for 180 days. Restricted to a contract(s) with Teledyne Casting Service. An underlying ETA seeks up to 90 days of authority. Supporting shipper: Teledyne Casting Service, 200 Philadelphia Street, LaPorte, IN 46350.

MC 150066 (Sub-4–2TA), filed February 27, 1980. Applicant: MULTI-STATES TRANSPORT, INC., 12800 South Butler Drive, Chicago, Illinois 60633. Representative: Maxwell A. Howell Esquire, 1100 Investment Building, 1511 K Street, N.W., Washington, D.C. 20005. *Contract carrier, Irregular routes; iron and steel articles, refractories, alloys, scrap,* and *materials and supplies* used in the manufacture thereof, betwen Alton, Chicago, Madison, and East St. Louis, IL, and Gary, IN, on the one hand, and, on the other, points in IL, IA, IN, KY, MI, MN, NE, NJ, OH, PA, TN, and WI, MS, NC, WV, and TX, under contracts with Century Steel Corporation, Chicago Heights, IL; Hyman-Michaels Co., Division of Azcon, Chicago, IL; Action Metals, Inc., Gary, IN; and Steel Mill, Inc., Gary, IN. Supporting shippers: Century Steel Corp., Chicago Heights, IL, Hyman-Michaels Co., Div. of Azcon, Chicago, IL; Action Metals, Inc., Gary, IN; and Steel Mill, Inc., Gary, IN.

MC 146886 (Sub-4–1TA), filed March 11, 1980. Applicant: CONLAN TRUCK LINES, INC., 6160 South 116th Street, Hales Corners, Wisconsin 53130. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *Laundry care products, home care products, beauty care toiletry products, stainless steel cookware, cutlery and food supplements (except commodities in bulk)* from the facilities of Amway Corporation, at or near Des Moines, IA to points in WI, MN and the Upper Peninsula of MI. An underlying ETA seeks up to 90 days. Supporting shipper: Amway Corporation, 7575 East Fulton Road, Ada, Michigan 49355.

MC 136899 (Sub-4–3TA), filed February 19, 1980. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Show displays and exhibits and machinery, equipment, materials and supplies* used in connection therewith, for display and show purposes only, between Elk Grove Village, IL and it's commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Exhibitgroup Chicago, Inc., 2800 Lively Boulevard, Elk Grove, IL 60007.

MC 150127 (Sub-4–1TA), filed February 19, 1980. Applicant: Commanche Express Lines, Inc., Suite 132, 4585 Representative: South Harding St., Indianapolis, IN 46217. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Agricultural gypsum and limestone, except in bulk,* from Irvington, KY to points in the U.S. in and east of MN, IA, MO, AR, and TX. An underlying ETA seeks 90 days authority. Supporting shipper: American Pelletizing Corp., P.O. Box 3628, Des Moines, IA 50322.

MC 147264 (Sub-4–1TA), filed February 19, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood, Muncie, IN 47302. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Bananas and agricultural commodities exempt from regulation under Section (b)(6) of the Act when transported in mixed loads with bananas,* from Gulfport, MS to points in OH, IN, IL, MI, KY, MO, KS and WI. An underlying ETA seeks 90 days authority. Supporting shippers: Chiquita Brands, Inc., 15 Mercedes Dr., Montvale, NJ 07645, Gentille Bros., 316 Produce Dr., Cincinnati, OH, Crossett Company, Inc., 205 Central Ave., Cincinnati, OH 45202, Top Distributing Co., 1317 Terminal Cro. FW., Grand Rapids, MI 49502.

MC 135052 (Sub-4–2TA), filed February 15, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren Moberly, 320 N. Meridian St., Indianapolis, IN 46204. *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts,*

insulating products and materials, glass fibre rovings, yarn and strands, glass fibre mats and mattings, flexible air ducts, except in bulk between Memphis, TN, Shelby, Marion, OH, Bensenville, IL, New Haven, IN, and Williamstown Junction, PA, and AR, IL, IN, IA, KY, MI, MN, MO, OH, PA, TN, WI, and WV. An underlying ETA seeks 90 days authority. Supporting shipper: CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482.

MC 142715 (Sub-4–1TA), filed February 19, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K.O. Petrick (same address as applicant). *Meat, meat products and meat by-products, and articles distributed by meat packinghouses (with the usual exceptions),* from the facilities of Landy Packing Company, Inc. at or near St. Cloud, MN to points in CY, DE, IL, IN, IA, KY, MD, MA, MI, NE, NJ, NY, OH, PA, WI, RI, and DC. An underlying ETA seeks 90 days authority. Supporting shipper: Landy Packing Company, Inc., 3rd Av. South, St. Cloud, MN 56301.

MC 720 (Sub-4–1TA), filed February 15, 1980. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman, PO Box 227, Waupun, WI 53963. *Rough iron castings,* from the facilities of Neenah Foundry Co. at or near Neenah, WI to Rockford, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Neenah Foundry Company, P.O. Box 729, Neenah, WI 54956.

MC 149170 (Sub-4–1TA), filed February 14, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st St., Sioux Falls, SD 57105. Representative: Carl Steiner, 39 LaSalle St., Chicago, IL 60603. *Foodstuffs (except in bulk),* from the facilities of Thomas J. Lipton, Inc., in Kansas City & Independence, MO, to Denver, CO, Chicago, IL, Minneapolis, MO, and Milwaukee, WI. Supporting shipper: Thomas J. Lipton, Inc., 800 Sylvan Ave., Englewood Cliffs, NJ 07632.

MC 145680 (Sub-4–2TA), filed February 14, 1980. Applicant: C & R TRUCKING, LTD., 2955 Packers Avenue, Madison, WI 53704. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Sewage treatment plant covers and fiberglass products,* from facilities used by Clow Corporation in Janesville, WI to points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Clow Corporation, 1211 West 22nd Street, Oak Brook, IL 60521.

MC 136899 (Sub-4–1TA), filed February 11, 1980. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Such merchandise as is dealt in by discount and variety stores (except commodities in bulk),* from Minneapolis, MN to the facilities of K mart Corporation in IA. An underlying ETA seeks 90 days authority. Supporting shipper: K mart Corporation, 3100 West Big Beaver, Troy, MI 48084.

MC 119654 (Sub-4–1TA), filed February 13, 1980. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Malt beverages,* from Detroit, MI to Anderson, IN. An underlying ETA seeks 90 days authority. Supporting shipper: Broadway Beverage, 1420 Chase St., P.O. Box 558, Anderson, IN 46015.

MC 143500 (Sub-4–1TA), filed February 13, 1980. Applicant: R. B. CARRIERS, INC., 4425 Highway 31 E., Jeffersonville, IN 47130. Representative: James E. Savitz, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. (1) *Steel doors and hardware used in their framing and installation and related equipment and supplies and (2) plumbing fixtures and fittings and related equipment and supplies,* from (1) Cincinnati, OH and (2) Kokomo, IN to points in and west of MT, WY, CO, and NM under continuing contract(s) with American Standard, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903.

MC 150103 (Sub-4–1TA), filed February 11, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 W. Washington St., Jefferson, WI 53549. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Contract; irregular; expanded cellular plastic products* from the facilities of Tenneco Chemicals, Inc. at or near East Rutherford, Rockaway and Carlstadt, NJ, and Hazleton, PA to OH, IN, KY, IL, MI, WI and MN, under continuing contract(s) with Tenneco Chemicals, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Tenneco Chemicals, Inc. Foam Division, Division of Tenneco, Inc., West 100 Century Road, Paramus, NJ 07652.

MC 139663 (Sub-4–1TA), filed February 14, 1980. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, Michigan 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Michigan 48933. *Scrap plastics, in dump vehicles,* from the facilities of Dow Chemical U.S.A. located at Midland, MI to points in OH. An underlying ETA seeks 90-day authority. Supporting shipper: Dow Chemical U.S.A., 47 Bldg., Midland, MI 48640.

MC 126346 (Sub-4–2TA), filed February 4, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. *Contract; irregular; such commodities as are dealt in or used by manufacturers of lawn and garden products,* betwen the facilities of AMF Lawn & Garden Division at Des Moines, IA and points in the United States, under contract with AMF. Underlying ETA seeks 90 days authority. Supporting shipper: AMF Lawn & Garden Products, P.O. Box 357, Des Moines, IA 50302.

MC 123294 (Sub-4–1TA), filed February 7, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Insulation and materials used in the manufacture and installation of insulation* between St. Louis, MO, on the one hand, and, on the other, points in IA, MN, WI, IN, IL, MI, OH, WV, and PA. Supporting shipper: Foam Products Corporation, 2525 Adie Road, St. Louis, MO 63404.

MC 123407 (Sub-4–12TA), filed February 7, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Flat glass in crates* from Houston, TX, to Orange, San Bernardino, and Los Angeles Counties, CA. Suppporting shipper: Chromalloy Mirror, 17015 Park Row, Houston, TX 77084. An underlying ETA seeks 90 days authority.

MC 105269 (sub-4–1TA), filed February 5, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., P.O. Box 986–2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., One Vandenberg Ctr., Grand Rapids, MI 49503. *(1) Agricultural insecticides or fungicides, weed killing compounds medicinal feeding compounds, chemicals, drugs, medicines, and related articles and materials, equipment, and supplies used or useful in the manufacture, processing, sale and distribtuion of all such commodities,* between Kalamazoo, MI and its commercial zone, on the one hand, and on the other, Carle Place, Long Island, NY, Chamblee, GA, Cheektowaga, NY, Cincinnati, OH, Dallas, TX, Denver, CO, Hollywood, CA, Kansas City, MO, Memphis, TN, Miami, FL, Minneapolis, MN, Needham Heights, MA, Portlant OR and Washington, D.C. *(2) Equipment, materials and supplies as*

are used or useful in the manufacture, processing, sale and distribution of agricultural insecticides or fungicides, weed killing compounds, medicinal feeding compounds, chemicals, drugs, medicines, and related articles, from points in the United States (except AK and HI) to Kalamazoo, MI and its commercial zone, restricted to shipments either from or destined to The Upjohn Company. An underlying ETA seeks 90 days authority.

MC 51146 (Sub-4–2TA), filed February 4, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Matthew J. Reid,. Jr. Representative: (same address as applicant). *foodstuffs* (1) from the facilities of The Creamette Company at New Hope, MN to points in IL, IN, OH, PA, and WI; and (2) from Carnegie, PA and Fairlawn, NJ to New Hope, MN, An underlying ETA seeks up to 90 days authority. Supporting shipper: The Creamette Company, 428 North First Street, Minneapolis, MN 55401.

MC 110988 (Sub-4–3TA), filed February 5, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Mattew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Titanium sulfate* from Baltimore, MD to Appleton, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Dresser Industries, Inc., P.O. Box 6504, Houston, TX 77005.

MC 124078 (Sub-4–1TA), filed February 4, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Hexamethylene diamine,* in bulk, in tank vehicles, from Orange and Victoria, TX to Seaford, DE; Camden, SC; Chattanooga, TN; Martinsville, VA; Richmond, VA; and Waynesboro, VA, An underlying ETA seeks 90 days authority. Supporting shipper: E. I. DU PONT DE NEMOURS & CO., INC., 1007 Market Street, Wilmington, DE 19898, Mr. Fred M. Bevans, Transportation Coordinator.

MC 145102 (Sub-4–1TA), filed February 4, 1980. Applicant: FREYMILLER TRUCKING INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such commodities as are manufactured or distributed or used by manufacturers or distributors of plastic, wooden, and health care products* from points in OK and TX to the facilities of Bemis Mfg. Co. at or near Sheboygan Falls, WI. Supporting shipper: Bemis Manufacturing Company, 300 Mill Street, Sheboygan Falls, WI 53085.

MC 150369 (Sub-4–1TA), filed March 25, 1980. Applicant: M. W. ETTINGER, INC., 2711 North Fairview Avenue, St. Paul, MN 55113. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Contract* Irregular: *Building materials and supplies and supplies and material, equipment and supplies used in the manufacture of building materials and supplies,* between St. Paul and Roseville, MN, on the one hand, and, on the other, IL, IN, IA, KS, MI, MO, MT, NE, SD and WI. Restricted to service under a continuing contract or contracts with Cole Sewell Corporation supporting shipper.

MC 150279 (Sub-4 IT/A), filed March 10, 1980. Applicant: DONALD W. PUSTINA, d.b.a. Pustina Trucking, Route 2, Dodgeville, WI 53533. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier,* irregular routes, *liquid animal feeds,* in bulk, in tank trucks, from Muscatine, IA, to points in IL and WI. Restriction: restricted to transportation performed under a continuing contract(s) with Quality Liquid Feeds, Inc. Supporting shipper: Quality Liquid Foods, Inc., 101 E. Division, Dodgeville, WI 53533.

MC 150250 (Sub-4–1TA), filed March 7, 1980. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Hts., MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract; Irregular; 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), having prior or subsequent transportation by air and/or on shipments moving via motor common carrier in lieu of transportation by air carrier, on air freight forwarders, or air line bills of lading, between points in the United States (except AK and HI). Supporting shipper: Forwarders Forwarding, Incorporated, 4644 IDS Center, Minneapolis, MN 55402.

MC 123407 (Sub-4–25TA), filed March 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Metal products* from the facilities of Steel King Industries, Inc., at New London, WI, and Stevens Point, WI, to U.S. points in and east of MN, IA, NE, KS, OK, and TX. Supporting shipper: Steel King Industries, Inc., 2700 Chamber St., Stevens Point, WI 54481.

MC 144298 (Sub-4–1TA), filed March 3, 1980. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract,* irregular, (1) *Food processing and packaging machinery, equipment and supplies,* from Clio, MI, to points in CA, FL, MD, MO, NJ, NY, OH, TX and WA; and (2) *Materials and supplies* used in the manufacture of the foregoing commodities in the reverse direction. Supporting shipper: I&H Conveying And Machinery Co., 11533 Liberty St., Clio, MI 48420.

MC 146643 (Sub-4–7TA), filed March 10, 1980. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier; irregular routes; Flour and bakery mixes, in bags,* from Alton, IL, and Hastings, MN, to points in IL, IN, MI, IA, KY, OH, and MN. The supporting shipper is Peavey Flour Company, 730 Second Avenue S, Minneapolis, MN 55402.

MC 24379 (Sub-4–4), filed March 17, 1980. Applicant: LONG TRANSPORTATION COMPANY, 14650 West Eight Mile Road, Oak Park, MI 48237. Representative: Donald G. Hichman (same address as applicant). *Cleaning compounds, bath salts, drugs and toilet preparations, water softening compounds, and textile softeners* (except commodities in bulk) from the facilities of Beecham Products Co. at, or near, Rockwood, MI to Minneapolis, MN and Milwaukee and Stevens Point, WI. Underlying ETA filed seeking 90 days authority. Supporting shipper: Beecham Products Co., P.O. Box 1467, Pittsburgh, PA 15205.

MC 103993 (Sub-4–3TA), filed March 14, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda, Attorney at Law, 28651 U.S. 20 West, Elkhart, IN 46515. *Lumber, lumber products, and wood products,* from the facilities of Shenandoah Hardwoods, Inc., at or near Belington, WV, to points in AL, AR, DE, FL, GA, IN, IL, IA, KS, KY, LA, MD, MI, MS, MN, MO, NE, NJ, NC, OH, OK, PA, SC, TN, TX, VA, and WI. Underlying ETA seeks 90 day authority. Supporting shipper: Shenandoah Hardwoods, Ind., 1510 10th Street, Elkins, WV.

MC 133689 (Sub-4–9), filed March 13, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street N.E., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN

55118. *Plastic containers, lids, and plastic foam products, and materials, equipment, and supplies useful in the manufacture thereof.* Between the facilities of Airlite Plastics Company at or near Omaha, NE on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Airlite Plastics Company, 13724 Industrial Road, Omaha, NE 68137.

MC 133689 (Sub-4–10), filed March 13, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.E., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Containers and lids, metal* from Baltimore, MD and Ft. Madison, IA to points in IL, IN, IA, MI, MN, NE, ND, SD and WI. Supporting shipper: Independent Can Company, 1001 South Lakewood Avenue, Baltimore, MD 21224.

MC 124383 (Sub-4–1TA), filed March 17, 1980. Applicant: STAR LINE TRUCKING OF WISCONSIN, INC., 18460 West Lincoln Avenue; New Berlin, WI 53151. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Salt products,* in bulk, from Chicago, IL to Oak Creek, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Cargill, Inc., Salt Division, P.O. Box 9300, Minneapolis, MN 55440.

MC 103993 (Sub-4–2TA), filed March 7, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda, Attorney at Law, 28651 U.S. 20 West, Elkhart, IN 46515. *Lumber, lumber products and wood products,* from the facilities of Bel Bar Corporation, at or near Belington, WV to points in AL, AR, DE, FL, GA, IN, IL, IA, KS, KY, LA, MD, MI, MS, MN, MO, NE, NJ, NC, OH, OK, PA, SC, TN, TX, VA and WI. Supporting shipper: Bel Bar Corporation, Box 133, Belington, WV 26250.

MC 119619 (Sub-4–2), filed March 4, 1980. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd St., Chicago, IL 60609. Representative: Arthur J. Piken, Esq., Queens Office Bldg., 95–25 Queens Blvd., Rego Park, NY 11374. *Foodstuffs (except in bulk)* from the facilities of Portion Products, Inc. at Danbury, CT to Chicago, IL; Detroit, MI; Cleveland and Columbus, OH; Pittsburgh, PA; and Milwaukee, WI including points in the commercial zones thereof. Supporting shipper: Position Products, Inc., 18–24 E. Franklin St., Dan Bury, CT 06810.

MC 150210 (Sub-4–3), filed March 10, 1980. Applicant: CULTURED FOODS, INC., 370 University Ave., St. Paul, MN 55103. Representative: John B. Van de North, Jr., Attorney at Law, 2200 First National Bank Bldg., St. Paul, MN 55101. *Fiberboard cartons,* from the facilities of International Paper Company at Golden Valley, MN to the facilities of Consolidated Badger Cooperative at DePere, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Consolidated Badger Cooperative, P.O. Box 129, DePere, WI 54115.

MC 150242 (Sub-4–1), filed March 7, 1980. Applicant: BRIAN-DAWN TRUCKING, INC., Box 164, Tremont, IL 61568. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Salt, in bulk* from Pekin, IL to points in IN, MI and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Diamond Crystal Salt Co., 916 South Riverside, St. Clair, MI 48079.

MC 108393 (Sub-4–1), filed March 19, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Illinois 60521. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036. *Contract carrier, irregular routes, general commodities* (except commodities in bulk, in tank vehicles, Class A and B explosives, household goods as defined by the Commission and commodities requiring special equipment) restricted to the transportation or originating at or destined to the facilities of Terminal Freight Cooperative Association between Alexandria, VA; Atlanta, GA; Baltimore, MD; Boston, MA; Buffalo, NY; Cincinnati, Cleveland and Columbus, OH; Chicago, IL; Chula Vista, CA; Dallas, TX; Denver, CO; Fort Smith, AR; Greensboro, NC; Houston, TX; Jacksonville, FL; Lenior, NC; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; North Bergen, NJ; Oakland, CA; Philadelphia, PA; Pocatello, ID; Portland, OR; Sacramento, CA; San Antonio, TX; Seattle, WA; St. Louis, MO; and Spokane, WA. Supporting shipper: Terminal Freight Cooperative Association, 1430 Branding Lane, Downers Grove, IL 60515.

MC 150381 (Sub-4–1), filed March 24, 1980. Applicant: SOUTH EAST TRANSFER, LTD., PTH No. 12, Steinbach, Manitoba ROa 2A0. Representative: Mike Miller, Attorney at Law, P.O. Box 1897, Fargo, ND 58107. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and automobiles, trucks and buses in sealed intermodal containers,* between points of entry on the international boundary line between Manitoba, Canada, and the United States, on the one hand, and on the other, MN, ND and SD. An underlying ETA seeks 90 days authority. Supporting shippers: Kuehne and Nagel, Ltd., 10 Hutchings St., Winnipeg, Manitoba and Allworld Shipping, Ltd., 302—960 Portage Ave., Winnipeg, Manitoba R3G OR4.

MC 150262 (Sub-4–1TA), filed March 10, 1980. Applicant: S AND Q TRUCK AND TRACTOR SERVICE, INC., P.O. Box 477, Odin, Illinois 62870. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Panels used in the construction of earthen-covered structures and component parts and machinery for the construction and erection of such structures, when carried in conjunction with such panels* from the facilities of American Solartron Corp., at Centralia, Illinois, to points in the states of WA, TX, AZ, NE, MO, IA, IN, MN, AL, TN, PA, NY, CO, CA and CT. Underlying ETA seeks 90 days authority. Supporting shipper: American Solartron Corp., Box 170, Centralia, IL 62801.

MC 111310 (Sub-4–3TA), filed March 17, 1980. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, Wisconsin 53703. (1) *Paper products and plastic products* from the facilities of Holiday Cups, Inc. (a) at Menomonee Falls, WI to points in AR, GA, IL, IN, KS, MI, MN, MS, MO, NJ, NY, OH, OK, PA, TX and Anaheim, CA; and (b) from Anaheim, CA to points in AZ and Menomonee Falls, WI; (2) *Materials, equipment and supplies* used in the manufacture, sale and distribution of paper products and plastic products (a) from Texarkana, TX; Covington, VA; Crossett, AR, and Chicago, IL to Menomonee Falls, WI, Beaver Dam, WI and Anaheim, CA; and (b) from Beaver Dam, WI to Anaheim, CA. Supporting shipper: Holiday Cups, Inc., P.O. Box 497, Menomonee Falls, WI.

MC 107012 (Sub-4–15TA), filed March 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, Indiana 46801, (219) 429–2110. *Fireplaces and parts and accessories for fireplaces,* from the facilities of Tem Tex Products, Inc. at or near Terrell, TX to points in AZ, AR, CA, CO, IA, KS, LA, MS, MN, MO, MT, NE, NM, ND, OK, SD, TN, UT and WY. Supporting shipper: Tem Tex Products, Inc., 4101 Charlotte Ave., Nashville, TN 37202.

MC 143532 (Sub-4–1TA), filed March 14, 1980. Applicant: AUMAN TRUCKING, R.R. No. 2, Walnut Road,

Walkerton, IN 46574. Representative: Theresa L. Auman, R.R. No. 2, Walnut Road, Walkerton, IN 46574. Contract, irregular, (1) *canned or preserved foodstuffs,* from Heinz U.S.A. at or near Holland, Michigan to points in the states of DE, MD, NJ, NY, PA, VA and WV, under a continuing contract with Heinz U.S.A., Division of H.J. Heinz Company. Supporting shipper: Heinz U.S.A., P.O. Box 57, Pittsburgh, PA 15230.

MC 110420 (Sub-4–6TA), filed March 17, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Liquid fertilizer, in bulk, in tank vehicles,* from Ottawa, IL to points in IN, IA, KY, MI, MN, MO, NE, NC, OH, SC, TN, and WI. Supporting shipper: Texas Sulfur Products Co., 204 Bryan, Borger, TX 79007.

MC 118202 (Sub-4–1), filed March 17, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Such commodities as are used in the manufacture of valves and valve control systems;* from Coffeeville, KS, Muskegon, MI, the Minneapolis-St. Paul Commercial Zone and Winona, MN, St. Louis, MO, Blackwell and Tulsa, OK, Lebanon and Myerstown, PA and Milwaukee and Waukesha, WI to Marshalltown, IA. Supporting shipper: Fisher Controls Co., Inc., 205 S. Center St., Marshalltown, IA 50158.

MC 149170 (Sub-4–3TA), filed March 17, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 So. LaSalle St., Chicago, IL 60603. *General commodities,* between the plant sites of Coast-To-Coast Stores (Central Organization) Inc., located at Brookings, SD; Kansas City, MO; and Crawfordsville, IN. Supporting shipper: Coast-To-Coast Stores, 10801 Red Circle Drive, Minnetonka, MN 55440.

MC 135590 (Sub-4–1TA), filed March 14, 1980. Applicant: KERN TRUCKING, INC., R.R. 1, Box 162, Bedford, IN 47421. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Gypsum, calcinated, crude, crushed, ground, and pulverized,* from the facilities of U.S. Gypsum Co., near Shoals, IN to points in KY, TN, IL, MO, WV, OH, MI, PA, NY, NH, and IA. An underlying ETA seeks 90 days authority. Supporting shipper: U.S. Gypsum, 101 S. Wacher Dr., Chicago, IL 60606.

MC 14502 (Sub-4–2TA), filed March 17, 1980. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Foodstuffs, in vehicles equipped with mechanical refrigeration,* from Beaver Dam, WI to Santa Clara, CA. Supporting shipper: Specialties, Inc., 121 Industrial Drive, Beaver Dam, WI 53916.

MC 123272 (Sub-4–2TA), filed March 20, 1980. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. (1) *Malt beverages* (except commodities in bulk), from the facilities of Stroh's Brewery Company at or near Detroit, MI and Perrysburg, OH to points in GA; and (2) *Containers and dunnage,* from points in GA to the facilities of Stroh's Brewery Company at or near Detroit, MI and Perrysburg, OH. Supporting shipper: Stroh's Brewery Company, 1 Stroh's Drive, Detroit, MI 48226.

MC 135052 (Sub-4–3TA), filed March 19, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 46204. *Expanded plastic articles or plastic materials, except commodities in bulk, in tank vehicles,* from Indianapolis, IN, to points in the states of AL, AR, GA, IL, IA, KY, LA, MI, MN, MS, MO, NE, OH, TN, TX, VA, WV, and WI. Supporting shipper: W. R. Grace & Co., P.O. Box 295, Reading, PA 19603.

MC 150372 (Sub-4–1TA), filed March 24, 1980. Applicant: DALE C. FINCK, P.O. Box 263, Black Hawk, SD 57718. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Contract irregular, *Merchandise as is dealt in by retail and catalogue order stores* between Rapid City, SD on the one hand, and on the other hand, points in Crook and Campbell Counties, WY under a continuing contract or contracts with Sears Roebuck and Co., Rapid City, SD. Supporting shipper: Sears Roebuck and Co., 2200 North Maple, Rapid City, SD 57701.

MC 139482 (Sub-4–6TA), filed March 21, 1980. 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. *Meat, meat products, meat by-products,* and *articles distributed by meat packinghouses, (except hides and commodities in bulk),* from the facilities of or utilized by Armour and Company at or near Huron, SD, Worthington, MN and Madison, NE to points in the United States (except AK and HI). An underlying ETA application seeks authority for 30 days. Supporting shipper: Armour Fresh Meat Company, 111 W. Clarendon, Greyhound Tower, Phoenix, AZ 85077.

MC 139482 (Sub-4–8TA), filed March 24, 1980. 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. *Glass and glass product* from Jeannette, PA to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Any underlying ETA application seeks authority for 30 days. Supporting shipper: General Glass International Corporation, 270 North Avenue, New Rochelle, NY 10801.

MC 149170 (Sub-4–4TA), filed March 17, 1980. Applicant: ACTION CARRIERS, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. (1) *Bags, envelopes, packets, pouches, wrappers and bag ties, and parts and accessories thereto,* from Sioux Falls, SD, to all points in the U.S. (except AK and HI); and (2) *Commodities used in the manufacture, sale and distribution of (1) above, except commodities in bulk,* from all points in the U.S. (except AK and HI) to Sioux Falls, SD. The above authority is restricted to traffic originating at or destined to the facilities of American Western Corporation at Sioux Falls, SD. Supporting shipper: American Western Corp., Boyce-Greenley Bldg., Sioux Falls, SD 57101.

MC 145042 (Sub-4–2), filed March 14, 1980. Applicant: ZEELAND FARMS SERVICE, INC., 2468 84th Street, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. *Foundry supplies and materials used in foundry production (not in bulk)* between various points in AL, FL, IL, IA, KS, MI, MN, MS, NC, OH, PA, SD, TN, WV, WI, restricted to shipments moving for the account of Carpenter Brothers, Inc. An underlying ETA seeks 90 day authority., Supporting shipper: Carpenter Brothers, Inc., 793 W. Western Ave., Muskegon, MI 49440.

MC 110420 (Sub-4–5TA), filed March 10, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *Petroleum products, in bulk, in tank vehicles,* between points in IL, IN, and WI. Restricted to traffic originating at or destined to the facilities of Amoco Oil Co., Energy Cooperative, Inc.,

Lubricants, Inc. and RTE-ASEA Corporation. Supporting shipper: Amoco Oil Company, Energy Cooperative, Inc., Lubricants, Inc. and RTE–ASEA Corporation.

MC 107012 (Sub-4–14TA), filed March 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, Indiana 46801, (219) 429–2110. *Such commodities as are dealt in by retail department stores (except commodities in bulk)* from the facilities of Montgomery Ward and Co., located at or near Baltimore, MD, to the facilities of Montgomery Ward and Co., located at or near Dothan, Huntsville, Mobil, and Montgomery, AL; Pensacola and Tallahassee, FL; and Columbus, GA. Supporting shipper: Montgomery Ward & Co., 1 Montgomery Ward Plaza, Chicago, IL 60671.

MC 150329 (Sub-4–2TA), filed March 12, 1980. Applicant: BALTIC TRUCKING COMPANY, INC., 2540 Orchard Lane, Excelsior, MN 55331. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses,* from the facilities of Armour and Co. at or near Huron, SD, Worthington, MN, Madison, NE, Mason City and Britt, IA to points in the U.S. in and east of MI, IN, KY, TN, MS, and LA. An underlying ETA seeks 90 days authority. Supporting shipper: Armour Fresh Meat Company, 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077.

MC 150344 (Sub-4–1), filed March 13, 1980. Applicant: STEVE HORN d.b.a. HORN FARMS, R.R. No. 3, Charleston, IL 61920. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Gravel, limestone and sand* from Clinton, IN to the facilities of LaBarge, Inc. at Charleston, IL. An underlying ETA seeks 90 days authority. Supporting shipper: LaBarge, Inc., 20 South Fourth Street, St. Louis, MO 63102.

MC 150368 (Sub-4–1), filed March 14, 1980. Applicant: BURKLUND TRANSPORTATION, INC., Route 1, Vulcan, MI 49892. Representative: Nancy J. Johnson, Attorney, 103 East Washington St., Box 218, Crandon, WI 54520. (1) *Cheese and cheese products* from Lena, WI to SAlt Lake City, UT; Las Vegas, NV; and Los Angeles, CA (including the Los Angeles commerical zone); and (2) *Materials, equipment and supplies* used in the manufacture and/or distribution of cheese and cheese products from Los Anglese and La Palma, CA; Big Stone, SD; and Bongards, MN to Lena, WI, restricted to traffic originating at and/or destined to the facilities of Frigo Cheese Corp. An underlying ETA seeks 90 days authority. Supporting shipper: Frigo Cheese Corporation, Lena, WI 54139.

MC 150334 (Sub-4–1TA), filed March 12, 1980. Applicant: ASA NOLTENSMEIER, Box 109A, Chandlerville, IL 62627. Representative: Robert Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract; Irregular; Irrigation systems and parts and attachments for irrigation systems* from Havana, IL to points in FL, GA, MI, OR and WA, under continuing contract(s) with Ag-Rain, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Ag-Rain, Inc., 600 S. Schrader, Havana, IL 62644.

MC 150294 (Sub-402), filed March 13, 1980. Applicant: HAROLD A. CORBIN, R.R. No. 2, Manhattan, IL 60442. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603. *Equipment, materials and supplies, used or useful in the construction, relocation, maintenance or repair of pipe lines, pipe line facilities or refineries* between the facilities of W. E. Hancock, Inc at or near Joliet, IL on the one hand, and, on the other, points in AR, FL, IL, IN, IA, KY, MI, MN, MO, OH, OK, PA, TN, TX and WI. An underlying ETA seeks 90 days authority. Supporting shipper: W. E. Hancock, Inc., Route 52, Cherry Hill Road, Joliet, IL 60433.

MC 150367 (Sub-4–1), filed March 14, 1980. Applicant: GLENDELL L. HARPER L. HARPER d.b.a. G & G TRUCKING, 766 East Rosedale, E. Alton, IL 62024. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Meats, meat products, and meat by-products, and articles distributed by meat packing houses,* as described in Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), between points in CO, KS, MO, IL, IN, OH and KY. An underlying ETA seeks 90 days authority. Supporting shippers: There are eight supporting shippers.

MC 150233 (Sub-4–1TA), filed March 14, 1980. Applicant: NATIONAL TRUCK LINES, INC., 700 21st Street S.W., Watertown, SD 57201. Representative: James B. Hovland, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. *Contract; Irregular;* (1) *Prefabricated metal buildings, knocked down, and materials, equipment and supplies used in the erection thereof,* (a) from the facilities of Miracle Span Corporation at or near Watertown, SD to points in CO, IL, IN, IA, KS, KY, MN, MI, MO, NE, ND, OH, OK, TX, TN, WI AND WY; and (b) from the facilities of Aztec Steel Corporation at or near Fort Madison, IA to points in CO, IL, IN, KS, KY, MI, MN, MO, NE, NY, ND, OH, OK, PA, SD, TX and WI; and (2) *Materials, equipment and supplies used in the manufacture of the commodities named in part (1) above,* from (a) the respective commercial zones of Chicago, IL and Minneapolis, MN to the facilities named in part (1) above; and (b) St. Louis, MO; Michigan Center, MI; Plymouth, IN: San Antonio and Mineral Wells, TX; Montgomery and Peoria, IL and the commercial zone of Chicago, IL to the facilities named in part (1)(b) above. An underlying ETA seeks 90 days authority. Supporting shippers: Miracle Span Corp., 700 21st Street S.W., Watertown, SD 57201; Aztec Steel Corp., Highway 61 south and Henry Layden Drive, Fort Madison, IA 52627.

MC 150082 (Sub-4–2), filed March 13, 1980. Applicant: JOHNSON TRANSFER & FUEL COMPANY, 401 South Center St., Bloomington, IL 61701. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract; Irregular; Commodities as are sold in discount stores* from Memphis, TN to Vandalia, Decatur and Bloomington, IL under contract with Lowell Supply Company. An underlying ETA seeks 90 days authority. Supporting shipper: Lowell Supply Co., P.O. Box 2635, 530 North Center St., Bloomington, IL 61701.

MC 3468 (Sub-4–1TA), filed January 21, 1980. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Hwy., P.O. Box 308, Flint, MI 48501. Representative: Harry Ames, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, DC 20001. *Automobiles, trucks,* and *chassis,* in truckway movements, in secondary service (1) from Baltimore, MD, to points in CT, ME, NH, NC, RI, VT, and VA; (2) from Newark, NJ, to points in CT, ME, NH, RI, and VT; (3) from Orange, CT, to points in DE, MA, MD, MI, NJ, NY, NC, OH, PA, WV, and DC; (4) from Providence, RI to points in NC and VA; and (5) from Wilmington, DE, to points in CT, ME, NH, RI, and VT. An underlying ETA seeks up to 90 days of authority. Supporting shippers: BMW of North America, Inc., 155 Chestnut Ridge Road, Montvale, NJ 07645; Mazda Motors of America Inc. (East) 8313 Baycenter Road, Jacksonville, FL; and Mercedes Benz of North America, Inc., 1 Mercedes Drive, Montvale, NJ 07645.

MC 120364 (Sub-4–2TA), filed January 25, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: Robert Kraske (same address as

applicant). *General Commodities* (with the usual exceptions), between Clinton, Dubuque and Davenport, IA and Morrison, IL on the one hand, and on the other, points in IL bounded by a line beginning at the IL–WI State Line and extending southerly on IL Hwy 78, then to junction with IL Hwy 88, then on IL Hwy 88 to junction IL Hwy 92, easterly on IL Hwy 92 to junction with U.S. Hwy 34, then easterly on U.S. Hwy 34 to junction with IL Hwy 59, then northerly on IL Hwy 59 to junction with IL Hwy 83 to IL–WI State Line, then west on the State Line to the place of beginning. An underlying ETA seeks 90 days authority. Supporting shipper: Kane International, Inc., 702 N. Madison, Rockford, IL 61109.

MC 142423 (Sub-4–1TA), filed January 29, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Dr., Mt. Clemens, MI 48043. Representative: Robert McFarland, 999 W. Big Beaver Rd. Troy, MI 48084. (1) *Pickles, pickle products, pickle relishes, and pepper products,* from the facilities of Safie Bros. Farm Pickle Co., Inc. at or Near New Baltimore, MI, to points in MN, WI, IA, IL, MO, TN, AR, LA, MS, IN, KY, OH, IN, GA, AL, SC, NC, VA, WV, PA, NY, NJ, MA, CT, and DE; and (2) *Materials, equipment and supplies used in the processing and packaging of commodities in (1),* in the reverse direction. Supporting shipper: Safie Bros. Farm Pickle Co., Inc., 52365 N. Gratiot, P.O. Box 531, New Baltimore, MI 48047.

MC 13777 (Sub-4–1TA), filed March 24, 1980. Applicant: AAA TRANSPORTATION, INC., 2957 S. East St., Indianapolis, IN 46206. Representative: David Turano, 100 E. Broad St., Columbus, OH 43215. *Roofing and building materials and materials, equipment and supplies used in the manufacture, distribution and installation of* (except in bulk), between the facilities of Georgia-Pacific Corporation at or near Franklin, OH, on the one hand, and, on the other, points in GA, IL, IN, IA, KY, MI, MO and TN. An underlying ETA seeks 90 days authority. Supporting shipper: Georgia-Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, Pa. 19010.

MC 150301 (Sub-4–1TA), filed March 17, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 3653 Lake Eastbrook Blvd. SE, Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract; irregular: Household and personal care products and materials and supplies used in the manufacture and distribution thereof* between Ada, MI, on the one hand, and, on the other, facilities of Amway Regional Distribution Centers located at or near Norcross and Atlanta, GA, Dayton, Metuchen and New Brunswick, NJ, Arlington, TX, Santa Ana and Santa Fe Springs, CA, Kent and Seattle, WA, Aurora, Co and Des Moines, IA, under continuing contract(s) with Amway Corporation. Supporting shipper: Amway Corporation, 7575 E. Fulton Rd. Ada, MI 49355. An underlying ETA seeks 90 days authority.

MC 150341 (Sub-4–1TA), filed March 19, 1980. Applicant: HOOVESTOL, INC., 3110 Mike Collins Dr., St. Paul, MN 55121. Representative: Charles Johnson, P.O. Box 1982, Bismarck, ND 58501. *Contract; Irregular; Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except in bulk),* from St. Paul, MN to points in IA, IL, NE, SD, and WI; and from points in AZ, CA, IL, WI, and Omaha, NE to St. Paul, MN, under continuing contract(s) with Gourmet Foods, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Gourmet Foods, Inc., 860 Vandalia, St. Paul, MN 55114.

MC 145437 (Sub-4–1TA), filed March 19, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Av, Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E Gilman St., Madison, WI 53703. *Contract; Irregular:* (1) *Footwear* from Milwaukee, WI to points in the U.S. (except AK and HI). (2) *Materials, equipment and supplies used or useful in the manufacture, sale or distribution of footwear,* from Boston, MA to Milwaukee, WI, under continuing contract(s) with Weyenberg Shoe Manufacturing Company. Supporting shipper: Weyenberg Shoe Manufacturing Company, 234 East Reservoir, Milwaukee, WI. An underlying ETA seeks 90 days authority.

MC 145337 (Sub-4–1TA), filed March 19, 1980. Applicant: P.M.E., LTD., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Plastic, plastic products, and materials used in the manufacture of plastic and plastic products (except commodities in bulk),* (1) from ports of entry along the International Boundary Line between the U.S. and Canada located in MN and ND to Fullerton and Salinas, CA, Atlanta, GA, Boise, ID, Chicago and East Dundee, IL, Harahan, LA, Elmwood Park and Riverton, NJ, New York City, NY, Holly Ridge, NC, Portland, OR, Philadelphia and Pottsville, PA, Columbia, SC, Brownsville, El Paso and Houston, TX, Salt Lake City, UT, King George, VA, and Kent and Spokane, WA, and (2) from Salinas, CA, Chicago, IL, Elmwood Park and Riverton, NJ, New York City and Port Chester, NY, Holly Ridge, NC, Philadelphia, PA, Columbia, SC, Houston, TX, and Kent and Spokane, WA, to ports of entry along the International Boundary Line between the U.S. and Canada located in MN and ND. An underlying ETA seeks 90 days authority. Supporting shippers: Canadian Garden Products Supply, 132 James Ave. E., Winnipeg, Manitoba R3B 0N8, and Winpak Limited, 100 Saulteaux Cresc., Winnipeg, Manitoba R3J 3T3.

MC 150107 (Sub-4–1TA), filed March 19, 1980. Applicant: MARVIN C. VAN KAMPEN, d.b.a., M.C. VAN KAMPEN TRUCKING, 4495 Herman, S.W., Wyoming, MI 49509. Representative: Paul D. Kratz, of Stern & Becker, P.C., Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Paper, on rolls,* from Mobile, AL to Livonia MI. Underlying ETA seeks 90 days authority. Supporting Shipper: George F. Valassis & Co., 35955 Schoolcraft Road, Livonia, MI 48150.

MC 41347 (Sub-4–1TA), filed March 20, 1980. Applicant: DE BACK CARTAGE COMPANY, INC., 4841 W Burnham St, Milwaukee, WI 53219. Representative: William C. Dineen, 412 Empire Bldg., 710 N Plankinton Av, Milwaukee, WI 53203. *Contract; Irregular; Unfinished machine parts, and iron and steel articles,* from Columbus, WI, to Bellair, MI; *and finished machine parts,* from Bellaire, MI, to Columbus, WI, under a continuing contract with Enerpac Division of Applied Power, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Enerpac Division of Applied Power, Inc., 12121 W. Feerick St., Wauwatosa, WI 53222.

MC 150331 (Sub-4–1TA), filed March 18, 1980. Applicant: RPH, INC., 801 West Pioneer St, Champaign, IL 61820. Representative: Wayne Wilson, 150 E Gilman St, Madison, WI 53703. *Contract; Irregular; Malt beverages and malt beverage dispensing equipment when shipped therewith,* from Evansville and Fort Wayne, IN, Newport, KY, La Crosse and Milwaukee, WI, Cincinnati, OH, and St. Paul, MN to Champaign, Redmon, and Alton, IL, under continuing contract(s) with H & I Distributing Company, Inc., C & H Distributing Company, Inc., R & H Distributing Co., Inc., Champaign Distributing Company, Inc. and Twin Rivers Distributing Co. Inc. An underlying ETA seeks 90 days authority Supporting shipper: Champaign Distributing Company, Inc., C & H Distributing Co., Inc., R & H Distributing Co., Inc., H & I Distributing Company, Inc., 801 West Pioneer Street, Champaign, IL 61820, H & I Distributing

Company, Inc., Redmon, IL 61949, and Twin Rivers Distributing Co., Inc. 1430 East Broadway, Alton, IL 62002.

MC 150337 (Sub-4–1TA), filed March 19, 1980. Applicant: JIM HOLLEWELL d.b.a., JIM HOLLEWELL TRUCKING, 510 S. 10th St., Oregon, IL 61061. Representative: Abe Diamond, 29 S La Salle St, Chicago, IL 60603. *Sands and Sand with additives,* between Oregon, IL and Points in AR, IN, IA, KS, KY, MI, MN, MO, NE, NY, OH, PA, TN AND WI. An underlying ETA seeks 90 days authority. Supporting shipper: Acme Resin Corporation, P.O. Box 130, Oregon IL 61061.

MC 113651 (Sub-4–9TA), Filed March 19, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Rd., Muncie, IN 47305. Representative: Henry Higgs (same address as applicant). *Cleaning, washing, buffing or polishing compounds, textile softeners, lubricants, hypochlorite solutions, deodorants or disinfactants, paints, dishwashing machinery, and coffee filters (except in bulk),* from Avenel, NJ to points in FL and NC; from Joliet, IL to points in NC and TN; and from Dallas, TX to New Orleans, LA, Memphis, TN, and Little Rock, AR. An underlying ETA seeks 90 days authority. Supporting shipper: Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102.

MC 124247 (Sub-4–2TA), filed March 20, 1980. Applicant: DAN LODESKY TRUCKING, INC., P.O. Box 236, Gurnee, IL 60031. Representative: Edward Bazelon, 39 S. La Salle St., Chicago, IL 60603. A. (1) *Construction materials,* and (2) *cement and asbestos products and insulating materials not embraced in (1) above, including such commodities when moving in bulk:* From the facilities of Johns-Manville Sales Corporation at Waukegan, IL, to points in Dodge County, WI; B. *Equipment, materials and supplies used in the manufacture and distribution of products listed in A above, including such commodities when moving in bulk:* From points in Kenosha, Racine, Milwaukee, Osaukee, Washington, Waukesha, Walworth, Jefferson, Rock, Green, Dane, Columbia, Sauk, Richland, Crawford, Iowa, Grant, Lafayette and Dodge Counties, WI, to the facilities of Johns-Manville Sales Corporation at Waukegan, IL. Supporting shipper: Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, IL 60521.

MC 134477 (Sub-4–18TA), Filed March 21, 1980. Applicant: Schanno Transportation, Inc., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Printing paper (except in bulk),* from Benton Harbor, MI to points in IL, MN, and WI. Supporting shipper: Thelamco, Inc., 1202 Territorial Road, P.O. Box 456, Benton, Harbor, MI 49022. An underlying ETA seeks 90 days authority.

MC 150323 (Sub-4–1–TA), filed March 17, 1980. Applicant: BAER OF LAKE PARK, INC., Rural Route #1, Lake Park, MN 56554. Representative: William Keppel, 2300 First National Bank Bldg., Minneapolis, MN 55402. *Bulk coal,* from all points in ND to points on or west of U.S. Hwy. 71. An underlying ETA seeks 90 days authority. Supporting shipper: Spring Prairie Hutterian Brethren, Inc., Rural Route #2, Hawley, MN 56549.

MC 150327 (Sub-4–2–TA) Filed March 19, 1980. Applicant: AMANON, INCORPORATED, 38294 Rickam Ct., Westland, MI 48185. Representative: John Barbour, 2711 E. Jefferson, Suite 202, Detroit, MI 48207. *Contract; Irregular; Industrial paint finishing equipment and materials, equipment and supplies (except in bulk) used in the installation thereof,* between Plymouth, MI and all points in the U.S. (except AK and HI), under continuing contract(s) with Otto Durr, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Otto Durr, Inc., 40600 Plymouth Rd., Plymouth, MI 48107.

MC 134551 (Sub-4–1TA), filed March 24, 1980. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Dr., Madison, IL 62060. Representative: Ernest Brooks, 1301 Ambassador Bldg., St. Louis, MO 63101. *Meats, (with the usual description),* between points in the St. Louis, MO-East St. Louis, IL, Commercial Zone, on the one hand, and, on the other, Memphis, TN, and its commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper: Royal Packing Company, Inc., Box 156, St. Clair Ave. & Ice Plant Rd., National Stock Yards, IL 62071.

MC 2754 (Sub-4–1TA), filed March 19, 1980. Applicant: NEUENDORF TRANSPORTATION CO., 121 South Stoughton Road, P.O. Box 7730, Madison, WI 53714. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Common carrier; regular routes: General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between Madison, WI and Manitowoc, WI: from Madison over U.S. Hwy. 151 to Manitowoc, and return over the same route, serving the intermediate or off-route points of Columbus, Beaver Dam, Waupun, Fond du Lac, Taycheedah, Peebles, Calumetville, Brothertown, Hayton and Valders, WI. (2) Between Fond du Lac, WI and Green Bay, WI: from Fond du Luc, over U.S. Hwy. 41 to Green Bay, and return over the same route, serving all intermediate points and the off-route points of Menasha, Kimberly, Combined Locks, Kaukauna and Little Chute, WI. (3) Between Green Bay, WI and Milwaukee, WI: from Green Bay, over I–43/U.S. Hwy. 141 to Milwaukee, and return over the same route, serving all intermediate points and the off-route points of Kohler, Oostburg, Gibbsville and Cedar Grove. (4) Between Manitowoc, WI and Two Rivers, WI: from Manitowoc, over WI Hwy. 42 to Two Rivers, and return over the same routes serving all intermediate points. (5) Between Sheboygan, WI and Chilton, WI: from Sheboygan, over WI Hwy. 42 to junction WI Hwy. 32, then over WI Hwy. 32 to Junction WI Hwy. 57, then over WI Hwy. 57 to chilton, and return over the same route, serving all intermediate points. (6) Between Sheboygan, WI and Plymouth, WI: from Sheboygan, over WI Hwy. 23 to Plymouth, and return over the same route, serving all intermediate points and the off-route point of Sheboygan Falls, WI. (7) Between Stevens Point, WI and Manitowoc, WI: from Stevens Point, over U.S. Hwy. 10 to Manitowoc, and return over the same route, serving the junction of U.S. Hwy. 41 and U.S. Hwy. 10 for the purpose of joinder only, as an alternate route for operating convenience only. (8) Between the junction of I–43/U.S. Hwy. 141 and WI Hwy. 57 and the junction of WI Hwy. 57 and WI Hwy. 32: from the junction of I–43/U.S. Hwy. 141 and WI Hwy. 57 over WI Hwy. 57 to the junction of WI Hwy. 57 and WI Hwy. 32, and return over the same route, as an alternate route for operating convenience only. (9) Between Sheboygan, WI and Fond du Lac, WI: from Sheboygan, over WI Hwy. 23 to Fond du Lac, and return over the same route, as an alternate route for operating convenience only. Authority sought in this application is intended to be tacked with the applicant's current regular route authority MC–2754 and subs thereto. Applicant also intends to interline with other carriers at interchange points of Chicago and Rockford, IL; Minneapolis and St. Paul, MN; and Milwaukee, WI under its current authority. Supporting shippers: Please see actual Certificates of Support for names and addresses. There are 120 supporting shippers.

MC 115975 (Sub-4–1TA), filed March 19, 1980. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62095.

Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Contract, irregular: Pipeline interface mixture,* liquid, in bulk, from Grand Haven, Niles, Detroit and Jackson, MI; Cleveland, Dayton, Mogadore, Lima, Columbus and Toledo, OH; Milwaukee and Madison, WI; and E. Chicago, IN, to the facilities of Shell Oil Company at Roxana, IL, under continuing bilateral contract(s) with Shell Oil Company. An underlying ETA seeks 90 days authority. Supporting shipper: Shell Oil Company, P.O. Box 2099, Houston, TX 77001.

MC 116915 (Sub-4–4TA), filed March 20, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. No. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. *Aluminum and aluminum articles and material, equipment, and supplies* used in the manufacturing thereof (except commodities in bulk), between the facilities of Martin Marietta Aluminum, Inc., located at or near Lewisport, KY, on the one hand, and, on the other, all points in the United States. Supporting shipper: Martin Marietta Aluminum, 6802 Rockledge Drive, Bethesda, MD 20033.

MC 123194 (Sub-4–1TA), filed March 24, 1980. Applicant: ENTERPRISE TRUCK LINE, INC., 1336 W. 15th Ave., Gary, IN 46406. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Authority sought (1) *Such commodities as are dealt in by wholesale, retail and chain grocery, drug and food business houses* and (2) *materials, equipment and supplies* used in the manufacture sale and distribution of the commodities in (1) above (except in bulk) Between the facilities of Hunt-Wesson Foods, Inc. at or near Northlake and Chicago, IL, and Rossford, OH on the one hand, and, on the other, points in IN and KY. Supporting shipper: Mr. E. T. Bergfeld, Divisional Traffic Manager, Hunt-Wesson Foods, Inc. Box 127 Rossford, OH 43460.

MC 123885 (Sub-4–1TA), filed March 24, 1980. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Scrap, Waste and Recyclable, Materials* from points in Pennington County, SD to points in IA, KS, NE, ND, TX, UT, WI, and WY. Supporting shipper: Ace Salvage Co., R.R. 3, Box 207–J, Rapid City, SD.

MC 128205 (Sub-4–2TA), filed March 20, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, Illinois 60628. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Illinois 60601. (1) *Foundry Sand Additives, Foundry Facings and Foundry Core Compounds* from the facilities of The Hill and Griffith Co., at or near Burbank, OH, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC: and (2) *Equipment, Materials and Supplies* used in the production and manufacture of the commodities listed in (1) above from points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC, to the facilities of The Hill and Griffith Co., at or near Burbank, OH. Supporting shipper(s): The Hill and Griffith Co., 1262 State Ave., Cincinnati, OH 45204.

MC 142245 (Sub-4–1TA), filed March 20, 1980. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract; irregular: Products of Knape & Vogt Manufacturing Co., including but not limited to builders hardware, channels, tubing, bars, rods, door track, boards, panels, sheets, drawer slides, brackets, display racks or stands, standards, hangers, shelf and rod supports, furniture and component parts of the above-named articles and materials and supplies* used or useful in the production or sale of the above-described articles or products between the plantsite and facilities of Knape & Vogt Manufacturing Co. of Grand Rapids, MI, on the one hand, and on the other, points in CA and FL under continuing contract(s) with Knape & Vogt Manufacturing Co. Supporting shipper: Knape & Vogt Manufacturing Co., 2700 Oak Industrial Dr. NE., Grand Rapids, MI 49505.

MC 145454 (Sub-4–1TA), filed March 19, 1980. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, 7336 West 15th Avenue, Gary, Indiana 46406. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, Illinois 60603, (312) 782–8880. *Bakery goods and materials, equipment and supplies used in the manufacture and distribution of bakery goods* between Battle Creek, MI, on the one hand, and, on the other, points in WI, IL, MO, AR, LA, MS, MI, IN, OH, KY, WV, VA, TN, AL, GA, FL, NC, MN, IA, ND, SD, NE, KS, OK, TX, and SC. Supporting shipper: Interbake Foods, Inc., Ross Elliot, P.O. Box 158, Battle Creek, Michigan 49018.

MC 146355 (Sub-4–1TA), filed March 19, 1980. Applicant: P–N–J KORNACKER, INC., 3050 West 10th Street, Waukegan, Illinois 60085. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Foodstuffs, canned, preserved or prepared, and materials and supplies* used in the manufacture and distribution thereof. Between Eau Claire, MI on the one hand, and, on the other points in AL, MI, KY, IN, IL, MN, MO, WI, OH, TN, and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ocean Spray Cranberries, Inc., 7800 S. 68th Ave., Kenosha, WI 53142.

MC 147574 (Sub-4–1TA), filed March 20, 1980. Applicant: MARINE TRUCKING, INC., 47595 South Gratiot Avenue, Mt. Clemens, MI 48043. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Boats,* between points in Bay, Charlevoix, Emmet, Macomb, Ottawa, St. Clair, and Wayne Counties, MO, on the one hand, and, on the other, points in FL, GA, KY, OH and TN. Supporting shipper(s): Blue Lagoon Marine & Sales, 41700 Conger Bay, Mt. Clemens, MI 48045; John B. Slaven, Inc., P.O. Box 864, 30077 S. River Road, Mt. Clemens, MI 48043; Colony Marine Sales & Service, Inc., 6509 M–29, Algonac, MI 48001; Scrimshaw Yacht Agency, 31663 S. River Road, Mt. Clemens, MI 48045; Sailboat Services, Inc., 30077 South River Rd., Mt. Clemens, MI 48045.

MC 150365 (Sub-4–1TA), filed March 21, 1980. Applicant: UNITED LIMO, INC., 12495 McKinley Hwy., Mishawaka, IN 46544. Representative: Robert Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Passengers and their baggage,* between South Bend, Mishawaka, and Elkhart, IN on the one hand, and on the other, O'Hare International Airport at or near Chicago, IL. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eleven supporting shippers.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 600, Fort Worth, TX 76102.

MC 150311 (Sub-5–3TA), filed March 27, 1980. Applicant: P&L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. *Meats, meat products, meat by products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles),* from Dodge City, KS to points in the US (except AK & HI). Supporting shipper: Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, KS.

MC 531 (Sub-5–5TA), filed March 25, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, (P.O. Box 14048), Houston, TX 77021. Representative: Wray E. Hughes (same

address as applicant). *Petroleum and Petroleum Products,* in bulk, in tank vehicles, from Witco Chemical Corporation, at Petrolia, Pennsylvania to points in Texas. Supporting shipper: Witco Chemical Corp., Bradford, PA 16701.

MC 2229 (Sub-5–3TA), filed March 25 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). *Machinery and Machine Parts,* from Riverside, CA to the facilities of Jim Walter Metals at or near Mt. Holly, SC Supporting shipper: Jim Walter Corporation, 1500 N. Dale Mabry Tampa, FL 33622.

MC 2392 (Sub-5–2TA), filed march 24 1980. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, Nebraska 68124. Representative: Keith D. Wheeler, Wheeler Transport Service, Inc., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, Nebraska 68124. *Phosphatic Solution, in Bulk, and in Tank Vehicles.* From the facilities of Texasgulf, Inc., at or near Weeping Water, Nebraska to points in Illinois Iowa, Kansas, Minnesota, Missouri, North Dakota and South Dakota. Supporting shipper: Texasgulf, Inc., 4509 Creedmoor Road, Raleigh, North Carolina 27622.

MC 22509 (Sub-5–1TA), filed March 26, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, P.O. Box 939, St. Joseph Missouri 64502. Representative: E. Wayne Farmer, Attorney, 27th Floor City Center Square, P.O. Box 26010, Kansas City, Missouri 64196. *Glass containers and closures therefor,* from Streator, IL to Kansas City, MO and its commercial zone. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, Ohio 43666.

MC 22509 (Sub-5–2TA), filed March 26, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, P.O. Box 939, St. Joseph Missouri 64502. Representative: E. Wayne Farmer, Attorney, 27th Floor, City Center Square, P.O. Box 26010, Kansas City, Missouri 64196. *Containers, container ends, container closures and accessories, and materials and supplies used in the manufacture and or distribution thereof,* from the facilities of Continental Can located in Denver and Golden, CO, on the one hand, and, on the other, Des Moines, IA; Chicago, IL; Kansas City, MO; Minneapolis/St. Paul MN; Milwaukee, WI; and Omaha, NE; and their respective commercial zones Supporting shipper: Continental Can Co., a member of the Continental Group 10050 Regency Circle, Omaha, NE 68114

MC 22509 (Sub-5–4TA), filed March 26, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, P.O. Box 939, St. Joseph Missouri 64502. Representative: E. Wayne Farmer, Attorney, 27th Floor City Center Square, P.O. Box 26010, Kansas City, Missouri 64196. *Containers, container ends, container closures and accessories, and coatings, lacquers, varnishes, compounds and solvents, not in bulk,* between Chicago, Rockford and Waukegan, IL; Gary, LaPorte and Marion, IN; Green Bay and Oak Creek, WI; Oklahoma City, OK; St. Louis and St. Joseph, MO; and St. Paul, MN, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, MN, MO, NE, OK and WI, restricted to those shipments originating at or destined to the facilities of National Can Corporation and/or Foster Forbes Glass Co. Supporting shippers: National Can Corporation, 8101 West Higgins Road, Chicago, Illinois 60631; Foster Forbes Glass Co. East Charles Street, Marion, Indiana 46952.

MC 53965 (Sub-5–1TA), filed March 20, 1980. Applicant: GRAVES TRUCK LINE, INC., Post Office Box 1387, Salina Kansas 67401. Representative: Bruce A Bullock, Vice President and General Counsel (same address as applicant). *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 Kansas City, MO, on the one hand, and, on the other, points in MO. Authority is sought to serve all points in the Kansas City, MO Commercial Zone. Applicant intends to tack to its existing authority. Applicant proposes to interline at St. Louis and Kansas City, MO. Supporting shipper: Graves Truck Line, Inc., Post Office Drawer 1387, Salina, Kansas 67401.

MC 107496 (Sub-5–8TA), filed March 24, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, Iowa 50309. *Petroleum products, in bulk, in tank vehicles,* from North Kansas City, MO to points in Arizona. Supporting shipper: Jescoe Lubricants, 1437 Gentry, North Kansas City, MO 64116.

MC 107496 (Sub-5–9TA), filed March 24, 1980. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, Iowa 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, Iowa 50309. *Alum, in bulk, in tank vehicles,* from Wisconsin Rapids, WI to points in Iowa. Supporting shipper: Allied Chemical Corporation, P.O. Box 1139 R, Morristown, NJ 07960.

MC 112713 (Sub-5–2TA), filed March 21, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: R. E. DeLand, P.O. Box 7270, Overland Park, KS 66207. Common; Regular. *General Commodities (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment),* serving the mines sites and milling facilities of Duval Sales Corp., Asarco, Inc., Cyprus Pima Mining Company, and Anamax Mining Co. located in Pima County, AZ as off-route points in connection with carrier's otherwise authorized operations. Applicant intends to tack the authority sought with its authority in MC–112713 at Tucson, AZ. Supporting shippers: Duval Sales Corp., P.O. Box 2967, Houston, TX 77001; Asarco Incorp., Mission Unit, W. Pima Mine Rd., Sahuarita, AZ 85629; Anamax Mining Co., P.O. Box 127, Sahuarita, AZ 85629; Cyprus Pima Mining Company, P.O. Box 7187, Pima Mine Road, Tucson, AZ 85725.

MC 114274 (Sub-5–2TA), filed March 17, 1980. Applicant: VITALIS TRUCK LINES, INC., 137 N. E. 48th St. Pl., Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Suite 3520, Chicago, IL 60601, Phone 312–332–5106. *Carbonated and Non Carbonated Beverages (except commodities in bulk)* From the facilities of Mid Continent Bottlers, Inc. at or near Des Moines, IA to the facilities of the Dr. Pepper Co. at or near St. Louis, MO. Supporting shipper: Mid Continent Bottlers, 1679 N. E. 51st Ave., Des Moines, IA 50304.

MC 116004 (Sub-5–1TA), filed March 26, 1980. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes, P.O. Box 47112, Dallas, TX 75247. *Common* regular *general commodities,* (except those of unusual value, Classes A & B Explosives, Household Goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Ft. Worth and Dallas, TX, (a) over IS Hwy. 30, (b) over U.S. Hwy 80, and (c) over TX Hwy. 183, (2) Between Dallas and Houston, TX and its commercial zone, over IS Hwy 45 and (3) Between Jct. IS Hwy 45 and U.S. Hwy 75 near Conroe, TX, over U.S. Hwy 75, serving no intermediate points in (1), (2), and (3), and serving Ft. Worth and Dallas, TX as points of joinder only, and

return over the same route. Note: Tacking and interlining are requested in connection with carriers present regular route operations. Restriction: This authority is restricted against transportation of shipments where the carrier's point of origin and destination are both within the state of Texas. Supporting shipper: 111 supporting shippers.

MC 116063 (Sub-5–1TA), filed March 26, 1980. Applicant: WESTERN–COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). *Tallow, in bulk, in tank vehicles,* from Oakland, IA, to points in IL, MN and MO. Supporting shipper: Spencer Foods, Inc., P.O. Box 518, Oakland, IA 51560.

MC 118959 (Sub-5–3TA), filed March 24, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick, Cape Girardeau, MO. 63701. Representative: Jack Gleason, 130 S. Frederick, Cape Girardeau, MO. 63701. *Paper, Paper Products and Cellulose Products.* Between the facilities utilized by the Procter and Gamble Paper Products Company at or near New Madrid, Missouri, on the one hand, and on the other, points in the United States (except Alaska and Hawaii). Supporting shipper: Procter & Gamble Paper Products Company, PO Box 599, Cincinnati, Ohio.

MC 119489 (Sub-5–3TA), filed March 24, 1980. Applicant: CENTRAL TRANSPORTATION CO., INC., P.O. Box 249, Norfolk, NE 68701. Representative: Dennis L. Hardt, 1331 South 33rd Street, Suite F, Lincoln, NE 68510. *Inedible animal by-products* and such other commodities as are dealt in by rendering plants between points in NE, IA, MN, ILL, MO and AK. Supporting shipper: Norfolk Rendering Co., Norfolk, NE 68701.

MC 119789 (Sub-5–8TA), filed March 25, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Commodities of the type dealt in or used by manufacturers of heating and cooling systems (except commodities in bulk) and solar energy heating and cooling systems* between points in the U.S. (except AK and HI). Restricted to shipments originating or destined to facilities used by Lennox Industries, Inc. Supporting shipper: Lennox Industries, Inc., P.O. Box 400450, Dallas TX 75240.

MC 120761 (Sub-5–2TA), filed March 24, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. *Farm and ranch supplies, and wood products,* from points in the United States (except AK and HI) to Fort Worth and Dallas, TX. Supporting shipper: Burly Fence & Hdwe., Inc., N. Burleson Blvd., Burleson, TX 76028.

MC 121509 (Sub-5–1TA), filed March 24, 1980. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, IA 52671. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Liquid weed killing compounds, in bulk, in tank vehicles* from the facilities of Monsanto Company at or near Muscatine, IA, to points in MN, NE, SD and WI. Supporting shipper: Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166.

MC 123987 (Sub-5–2TA), filed March 17, 1980. Applicant: JEWETT SCOTT TRUCK LINE, INC., P.O. Box 267, Mangum, Oklahoma 73554. Representative: Jewett Scott Jr., P.O. Box 267, Mangum, Oklahoma 73554. *Scrap metal and crushed car bodies,* between points in CA, CO, KS, NM, OK, TX, UT and WY. Supporting shipper: Century Enterprises, 234 Columbine, Denver, CO 80206.

MC 126118 (Sub-5–9TA), filed March 24, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Paper, paper products and printed matter,* from Broadview, IL and points in its commercial zone to points in IA, MN, NE and UT. Supporting shipper: Burgess Envelope Company, William L. Hayes, Sales Representative, 2525 Braga Drive, Broadview, IL 60153.

MC 126822 (Sub-5–10TA), filed March 24, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 HIghway, Olathe, Kansas 66061. Representative: John T. Pruitt, 15580 South 169 Highway, Olathe, Kansas 66061. *Materials, supplies, and machinery used in the manufacture and distribution of toilet preparations, household and industrial cleaning articles, insect repellents, grooming aids, food products, clothes hangers, medicated sprays, and promotional materials* from points in CT, IL, MA, MO, NY, NJ, PA, OH, and VT to the facilities of The Fuller Brush Company, at or near Great Bend, KS. Supporting shipper: The Fuller Brush Company, P.O. Box 729, Great Bend, KS.

MC 129576 (Sub-5–1TA), filed March 3, 1980. Applicant: HORNER TRUCK SERVICE, INCORPORATED, P.O. Box 5097, Coralville, IA 52241. Representative: Melvin M. Porter, P.O. Box 5097, Coralville, IA. *Liquid fertilizer in bulk in tank vehicles* from Ft. Madison, IA and points within 10 miles of Ft. Madison, IA to points in IL, IN, IA, KS, KY, MI, MN, MO, NB, ND, OH, SD, WI. Supporting shippers: First Miss Inc., P.O. Box 328, Ft. Madison, IA 52627.

MC 129908 (Sub-5–10TA), filed March 24, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Okla. City, OK 73107. Representative: T. J. Blaylock, 8125 S.W. 15th Street, Okla. City. OK 73107. *Plastic bathtubs, hydrotherapy baths, power pumps, wooden tanks and parts and accessories thereof* from Benicia, Costa Mesa and Santa Ana, CA to AL, AZ, AR, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI and WY. Supporting shipper: Jacuzzi Whirlpool Bath, Inc., 298 North Wiget Lane, Walnut Creek, CA 94596.

MC 134134 (Sub-5–3TA), filed March 24, 1980. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. (1) *Non-alcoholic beverages,* and (2) *containers used in the bottling, sale, and distribution of non-alcoholic beverages,* from points in IN, IL, MI, and MO to the facilities of Popco, Inc. d.b.a. Vess Beverage Co., Omaha, NE. Supporting shipper: Popco, Inc. d.b.a. Vess Beverage Co., 915 North 24th Street, Omaha, NE 68102.

MC 136786 (Sub-5–11TA), filed March 24, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Roasted peanuts and other peanut products,* from points in GA to points in AL, CA, GA, IL, IN, KY, MA, MD, MI, MN, MO, NC, ND, NE, NJ, NY, OH, PA, TN, TX, VA, WA and WI. Supporting shipper: Seabrook Blancing Corp., P.O. Box 609, Edenton, NC 27932.

MC 136786 (Sub-5–12TA), filed March 24, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Attorney for Applicant, Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55345. (1) *Malt beverages* and (2) *empty beverage containers and materials and supplies used in and dealt with by breweries* between points of entry on the International Boundary Line between the United States and Canada located at points in MI, NY and VT, on the one hand, and, on the other, points in AZ,

CA, CO, FL, ID, MT, NV, NM, OR, WA and WY. Supporting shipper: Molson's Brewery (Ontario) Limited, 640 Fleet Street, Toronto, Canada M5V 1B2.

MC 139193 (Sub-5–1TA), filed March 24, 1980. Applicant: ROBERT & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, D.C. 20006. *Contract;* Irregular. *Beverage bases, syrups, canned and preserved fruits, ice cream and dessert toppings, sauces, flavoring extracts and compounds and salad dressings,* from the plantsite and facilities of J. Hungerford Smith Company at or near Humboldt, TN to Hayward, CA. Supporting shipper: J. Hungerford Smith, Division of Hunt-Wesson Foods, 1500 N. Central Avenue, Humboldt, TN 38343.

MC 139495 (Sub-5–3TA), filed March 24, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Representative: Herbert, Alan, Dubin, Baskin, and Sears, 818 Connecticut Avenue, N.W., Washington, D.C. 20006. *Floor coverings and material, equipment and supplies used in the installation and maintenance of floor coverings (except in bulk, in tank vehicles)* from Orange County, CA, to points in AZ, CO, ID, MT, NV, NM, OK, OR, TX, UT, WY and WA. Supporting shipper: William Volker Co., Inc., P.O. Box 529, Burlingame, CA 94010.

MC 140475 (Sub-5–1TA), filed March 17, 1980. Applicant: HOLCOMB TRUCKING COMPANY, INC., 313 North Campbell Street, Holcomb, MO 63852. Representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, MO 65102. *Ammonium nitrate and fertilizers (dry and in solution)* from Selma, MO to points in IL, KY, TN and AR. Supporting shipper: USS Agri-Chemicals Division, United States Steel Corporation, 223 Peachtree Street, N.E., Atlanta, GA 30303.

MC 140665 (Sub-5–9TA), filed March 25, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Food products, dry fruit, fruit syrup, mixtures of dry fruits, nuts, soybeans prepared, and foodstuffs,* in vehicles equipped with mechanical refrigeration, from the facilities utilized by Sun-Land Marketing, Inc. at points in California to points in the United States (except AK and HI). Supporting shipper: Sun-Land Marketing, Inc., 3000 Sand Hill Rd., Menlo Park, CA 94025.

MC 141197 (Sub-5–1TA), filed March 24, 1980. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Animal and poultry feed and ingredients,* in bulk, from St. Joseph and Springfield, MO to Lowell, AR. Supporting shipper: Ralston Purina Company, 2334 Rochester Avenue, Kansas City, MO 64120.

MC 142277 (Sub-5–2TA), filed March 24, 1980. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 2058 Concourse, St. Louis, MO 63141. Representative: Douglas E. Tonkinson, 2058 Concourse, St. Louis, MO 63141. *Contract,* irregular, *merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics* (under a continuing contract or contracts with Avon Products, Inc. of Morton Grove, IL) to points and places in the MO Counties of Audrain, Bollinger, Boone, Callaway, Cape Girardeau, Cole, Cooper, Crawford, Franklin, Gasconade, Howard, Iron, Jefferson, Lincoln, Madison, Maries, Marion, Montieau, Monroe, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Ralls, St. Charles, St. Francis, Ste. Genevieve, St. Louis, Scott, Stoddard, Warren, Washington, and Wayne and the IL Counties of Adams, Bond, Christian, Calhoun, Clinton, Effingham, Fayette, Franklin, Greene, Jackson, Jefferson, Jersey, Macoupin, Madison, Marion, Monroe, Montgomery, Perry, Pike, Randolph, St. Clair, Scott, Shelby, Washington, and Williamson. Supporting shipper: Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053.

MC 142508 (Sub-5–15TA), filed March 24, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Table syrup and mouthwash, in equipment equipped with mechanical temperature control devices,* from the facilities of Gem, Inc., in Byhalia, MS to Dallas and Houston, TX. Supporting shipper: Gem, Inc., W. L. Ferguson, Executive Vice President, 1 Gem Boulevard, Byhalia, MS 38611.

MC 142672 (Sub-5–4TA), filed March 26, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Such merchandise as is dealt in or used by wholesale and retail grocery stores* between the facilities of Griffin Wholesale Grocery Distributors, at or near Van Buren, AR, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Griffin Wholesale Grocery Distributors, P.O. Box 126, Van Buren, AR 72956.

MC 142508 (Sub-5–16TA), filed March 26, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Paper and paper products* between the facilities of National Envelope Corporation in Kansas City, KS and points in NJ, NY, and PA (except New York City, NY). Supporting shipper: National Envelope Corporation, Neil Brennan, Plant Manager, 11 Lincoln Street, Kansas City, KS.

MC 145152 (Sub-5–4TA), filed March 26, 1980. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *BBQ equipment NOI, electrical appliances NOI, and recreational equipment* from the facilities of Neosho Products Company, at or near Neosho, MO to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. Supporting shipper: Neosho Products Company, Division of Sunbeam Corporation, P.O. Box 622, Neosho, MO 64850.

MC 146668 (Sub-5–1TA), filed March 26, 1980. Applicant: MICHAEL BENNETT TRUCKING, INC., 16 E. Amador, Seneca, KS 66538. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Feed grade limestone, in bulk,* from the facilities of Kerford Limestone Company and American Cyanamid Company, at or near Weeping Water, NE, to points and places in KS, MO and OK. Supporting shippers: American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Kerford Limestone Company, 6000 Cornhusker Hwy, Lincoln, NE 68507.

MC 146853 (Sub-5–1TA), filed March 24, 1980. Applicant: FRANK F. SLOAN d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *Wood windows, sliding glass doors, wood folding doors, partitions, and lumber,* and (2) *materials and supplies (except in bulk) used in the manufacture, sale or distribution of the commodities in (1)* from Pella, IA, to points in UT, MT, WY, CO, and SD. Supporting shipper: Pella Rolscreen Company, Pella, IA 50219.

MC 148437 (Sub-5–1TA), filed March 24, 1980. Applicant: BORK TRANSPORT, INC., 8555 Harbach Boulevard, Des Moines, IA 50311. Representative: William L. Fairbank,

1980 Financial Center, Des Moines, IA 50309. *Alcohol, in bulk,* from points in the Chicago, IL, commercial zone to points in IA. Supporting shipper: Bro Oil Co., Inc., 606 S.E. 18th, Des Moines, IA 50317.

MC 148548 (Sub-5–1TA), filed March 26, 1980. Applicant: KEIM TRANSPORTATION, INC., 420 N. Sixth, RFD 2, Box 10, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Contract,* Irregular, *Iron and steel articles* (except "Mercer" commodities as defined in 74 MCC 459, 543 or earth drilling commodities as described in Roy L. Jones et al, 103 MCC 825, 832), from the Port of Catoosa, the Commercial zone of Muskogee, OK; the Commercial zone of Norfolk, NE and the Commercial zone of Houston, TX to points and places in KS on and east of U.S. Hwy 81. Supporting shipper: Steel & Pipe Supply Co. Inc., P.O. Box 703, Osage St., Manhattan, KS.

MC 148832 (Sub-5–2TA), filed March 26, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Blvd., P.O. Box 1083, Poplar Bluff, MO 63901. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. *Common carrier,* over regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and those injurious to other lading), between Poplar Bluff, MO and its commercial zone, on the one hand, and, on the other, Memphis, TN and its commercial zone, as follows: (1) from Poplar Bluff over U.S. Hwy 67 to its junction with U.S. Hwy 63; then over U.S. Hwy 63 to its junction with Interstate Hwy 55; then over Interstate Hwy 55 to Memphis, and return over the same route; (2) from Poplar Bluff over MO Hwy 53 to its junction with MO Hwy 25; then over MO Hwy 25 to its junction with MO Hwy 84; then over MO Hwy 84 to its junction with Interstate Hwy 55; then over Interstate Hwy 55 to Memphis, and return over the same route.

Note.—Applicant proposes to tack the authority sought with its authority in MC–FC–78298 and proposes to interline with other motor carriers. There are 38 supporting shippers.

MC 148919 (Sub-5–1TA), filed March 17, 1980. Applicant: HEARTLAND EXPRESS, INC., P.O. Box 129, St. Clair, MO 63077. Representative: Richard Howard, President, P.O. Box 129, St. Clair, MO 63077. Commodity—*Lump charcoal, charcoal briquettes, NOI or charcoal pellets in paper bags or in cloth bags or in barrels or boxes.* Request Authority to operate between the plant site of Cupples Company at Howes, MO and points in AL, AR, IL, IN, IA, KS, KY, MI, MO, NE, OH, OK, TN, VA, W. VA, and WI. Supporting shipper: Cupples Company, 1034 S. Brentwood Blvd., Richmond Heights, MO 63117, Mr. Harold Boswell, Vice President.

MC 150033 (Sub-5–1TA), filed March 17, 1980. Applicant: THOMAS ROLAND DuBOSE, d.b.a. ROLAND DuBOSE TRUCKING, Route 2, Box 335, Atlanta, TX 75551. Representative: G. William Lavender, 507 Hickory, P.O. Box 1938, Texarkana, AR 75501. *Wood chips,* which are a by-product of a sawmill operation, the chips being approximately 1" x 1¼" in size, which are to be used in the making of paper, and wood waste from sawmill operation including sawdust, bark and lumber remnants, for use as fuel to fire boilers at paper mill. From Miller Lumber Company, Texarkana, AR to International Paper Company, Domino, TX; Weyerhaueser, Valiant, OK; Olinkraft, West Monroe, LA. Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616.

MC 150115 Sub-5–1TA) filed March 24, 1980. Applicant: PRICE TRANSFER & STORAGE, P.O. Box 369, Winfield, Kansas 67156. Representative: Glaves, Weil & Evans, 600 One Twenty Building, 120 South Market, Wichita, Kansas 67202. *General Commodities.* Restricted to the transportation of traffic contained in top-of-flat-car trailers having an immediate, prior subsequent movement by rail in interstate traffic; from, to, or between the following points or areas: To all points and places in Sumner County, Cowley County and Sedgwick County. Supporting shippers: Gott Corporation, 1616 Wheat Road, P.O. Box 652, Winfield, Kansas 67156; Morton Buildings, Inc., P.O. Box 649, Winfield, Kansas 67156.

MC 150330 (R5–2), filed March 17, 1980. Applicant: BELCO, INC., 2101 West Main Street, Jacksonville, AR 72076. Representative: Ron Harvey, 2101 West Main Street, Jacksonville, AR 72076, (501) 982–6511. Contract, irregular *Paper, paper products, paper bags, plastic bags, and bags constructed of paper and plastic combined* between the facilities of Great Plains Bag Corporation at Hodge, LA; Jacksonville, AR; and New Philadelphia, OH; on the one hand and to points in the states of Illinois, Indiana, Ohio, and Kentucky on the other hand. Supporting shipper: Great Plains Bag Corporation, 2201 Bell Avenue, Des Moines, IA 50321.

MC 150371 (Sub-5–1TA), filed March 24, 1980. Applicant: RICHARD DYKES, d.b.a. RICHARD DYKES TRUCKING, Mechanicsville, Iowa 52306. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Iron castings,* from the facilities of Crane Company at or near Washington, IA, to Romeo, MI and Fargo, ND. Supporting shipper: Crane Company, P.O. Box 530, Washington, IA 52306.

MC 150376 (Sub-1TA), filed March 24, 1980. Applicant: C & M CARTAGE COMPANY, 1911 N.W. 1st Street, Oklahoma City, Oklahoma 73106. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Merchandise dealt in by wholesale, retail, chain and feed business houses, dairy based products, flour and soy products, paste ingredients, and materials and supplies used in the distribution, manufacture, and sale thereof (except commodities in bulk),* between the facilities of the Ralston Purina Company, at or near Oklahoma City, OK, on the one hand, and, on the other, points in AR, CO, KS, LA, MO and TX. Supporting shipper: Ralston Purina Company; 13700 N. Lincoln Blvd.; Edmond, OK 73034.

MC 150405 (Sub-1TA), filed March 24, 1980. Applicant: HOMER JONES, d.b.a. HOMER JONES, SCENIC TOURS, Route 4, Box 1065, Minden, LA 71055. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Passengers and their baggage, in round-trip charter operations* beginning and ending at Shreveport, Monroe, Minden, Ruston, Homer, and Springhill, LA, and extending to points in the U.S. (except AK and HI). Supporting shipper(s): Ten Supporting Shippers.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–10706 Filed 4–8–80; 8:45 am]

BILLING CODE 7035–01–M

Mail Directed to Office of Proceedings; Section of Applications Evaluation and Authorities—Operating Rights Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Mail directed to the Office of Proceedings, Section of Applications Evaluation and Authorities—Operating Rights Proceedings.

SUMMARY: The reorganization of the units handling procedural pleadings, status inquiries, and applications has given us better control of the workload but has created a problem in handling the mail and pleadings associated with

the applications being processed. It would be most helpful if persons filing certain pleadings in operating rights proceedings would direct them to the room indicated next to the digits listed. Last digit in the lead docket number 0 or 1—room 2160; 2 or 3—room 2379; 4 or 5—room 2158; 6 or 7—room 5337; 8 or 9—room 2367. Pleadings involved are: petitions to intervene filed under the procedures set forth in Ex Parte 55 (Sub-No. 26) (protest standards); verified statements; status inquiries during the evidentiary phases of the proceedings; shipper support; restrictive amendments, etc. *All other mail/pleadings will be processed under the normal procedures presently in use.*

It would also be helpful when persons submit notifications of consummation in MC-F and MC-FC proceedings that both the finance docket number and the surviving MC docket number (if known) be reflected and the notices be sent directly to room 5349.

With your cooperation, it is anticipated that less mail will be misrouted and all mail will be handled more quickly and efficiently.

EFFECTIVE DATE: None.

COMMENTS: No comments are required.

FOR FURTHER INFORMATION CONTACT: Rita McGee or Pat Lindsey (202) 275-7020 or Charles Renninger (202) 275-6001.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10707 Filed 4-8-80; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Government Traffic; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of general commodities, (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the United States Government), between points in the United States (including Alaska and Hawaii), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the government contractor (consignee or consignor), is directly reimbursed by the government for the transportation costs, under the Commission's regulations (49 CFR 1062.4), pursuant to a general finding made in Ex Parte No. MC-107, *Government Traffic*, 131 M.C.C. 845 (1979).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before April 28, 1980. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication's effective date, or the filing of an effective tender pursuant to 49 U.S.C. 10721.

GT-26-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: L. D. SMOCK AND E. G. SMOCK, a partnership, d.b.a. D. & L. E. TRANSIT CO., 1502 Augusta St., Zanesville, OH 43701. Representative: Stephen J. Habash, Baker & Hostetler, 100 E. Broad St., Suite 1800, Columbus, OH 43215. Government Agency involved: Department of Defense, and General Services Administration.

GT-27-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: CHARLES McALPIN, d.b.a. CHARLES McALPIN TRUCKING, 1420 Danville Rd. SW, Decatur, AL 35601. Representative: David Earl Tinker, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036. Government Agency involved: Department of Defense.

GT-28-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: BELKNAP VAN & STORAGE OF SAN ANTONIO, INC., 7902 Webbles Dr., San Antonio, TX 78218. Representative: David Earl Tinker, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036. Government Agency involved: Department of Defense, National Aeronautics and Space Administration, General Services Administration, Veterans' Administration, San Antonio and Kerrville, TX.

GT-29-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: CONGRESSIONAL MOVERS, INC., 8901 D'Arcy Rd. (Forestville), Upper Malboro, MD 20870. Representative: David Earl Tinker, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036. Government Agency involved: Department of Defense.

GT-30-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: FRANK & SON, INC., Route 1, Box 1084, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT-31-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT-32-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: David Earl Tinker, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036. Government Agency involved: Department of Defense.

GT-33-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT-34-80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: PERRYSBURG TRUCKING CO., INC., 24892 Thompson Rd., Perrysburg, OH 43551. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and

Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT–35–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: R.M.E. INC., 1820 N. Bloomington St., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT–36–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT–37–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. Government Agency involved: General Services Administration, United States Departments of Defense, Agriculture, Transportation, Energy, and Interior, National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, United States Postal Service, and U.S. Government Printing Office.

GT–38–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: CARRIER TRANSPORT SERVICE, 479 S. Airport Blvd., South San Francisco, CA 94080. Representative: Daniel W. Baker, Handler, Baker, Greene & Taylor, P.C., 100 Pine St., Suite 2550, San Francisco, CA 94111. Government Agency involved: Department of Defense, and General Services Administration.

GT–39–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Government Agency involved: Agencies listed in the U.S. Government Manual (1979–1980 edition).

GT–40–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: KAW TRANSPORT CO., P.O. Box 8510, Sugar Creek, MO 64054. Representative: Harold D. Holwick, Vice President-Traffic Mgr. (address same as applicant). Government Agency involved: Defense Fuel Supply Center, Alexandria, VA.

GT–41–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: R. P. THOMAS TRUCKING CO., INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Government Agency involved: Department of Defense.

GT–42–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 54801. Representative: A. N. Jacobs (address same as applicant.) Government Agency involved: Department of Defense, National Aeronautics and Space Administration, and General Services Administration.

GT–43–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: F–B TRUCK LINE CO., 1945 S. Redwood Rd., Salt Lake City, UT 84104. Respresentative: Alan R. Wilson, President (address same as applicant). Government Agency involved: General Services Administration, Bureau of Indian Affairs, Bureau of Reclamation and Mines, U.S. Surplus Property Office, Department of Defense, and Military Traffic Management Command.

GT–44–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: MERCER TRANSPORTATION CO., 12th and Main Sts., P.O. Box 35610, Louisville, KY 40232. Representative: Edward G. Villalon, Pennsylvania Bldg., 13th St. & Pennsylvania Ave, NW, Suite 1032, Washington, DC 20004. Government Agency involved: Department of Defense and General Services Administration.

GT–45–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Dr. NE, Suite 107, Atlanta, GA 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Government Agency involved: Federal Prison Industries, Department of Energy, Department of Defense, Tennessee Valley Authority, Nuclear Regulatory Commission, General Services Administration, and United States Department of Agriculture.

GT–46–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Government Agency involved: Federal Prison Industries, Department of Energy, Department of Defense, Tennessee Valley Authority, Nuclear Regulatory Commission, General Services Administration, and United States Department of Agriculture.

GT–47–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Ken E. McLinn (address same as applicant). Government Agency involved: Veterans Administration, U.S. Postal Service, General Services Administration, Department of Defense, Department of Energy, Health, Education and Welfare, Housing and Urban Development, U.S. Government Printing Office, Departments of Interior, Agriculture, Commerce and Transportation, U.S. Treasury, Federal Maritime Commission, National Aeronautics and Space Administration, Nuclear Regulatory Commission.

GT–48–80 (Special Certificate—Government Traffic), filed March 18, 1980. Applicant: GENERAL CARRIERS CORP. P.O. Box 3642, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. Government Agency involved: Department of Defense, General Services Administration.

GT–49–80 (Special Certificate—Government Traffic), filed March 20, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, Baker & Hostetler, 100 East Broad St., Suite 1800, Columbus, OH 43215. Government Agency involved: Department of Defense, and General Services Administration.

GT–50–80 (Special Certificate—Government Traffic), filed March 19, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 N. 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollings, P.O. Box 11086, Birmingham, AL 35202. Government Agency involved:

General Services Administration, Departments of Defense, Agriculture and Interior, Military Traffic Management Command, Bureau of Indian Affairs, Bureau of Reclamation and Mines, United States Surplus Property Offices, Department of Energy, U.S. Postal Service, Tennessee Valley Authority,

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-10706 Filed 4-8-80; 8:45 am]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Advisory Committee Annual Comprehensive Review Justification Statement; Request for Public Comment

In compliance with the February 14, 1980 directive of the Committee Management Secretariat (General Services Administration), Office of Management and Budget Circular A-63, Transmittal Memorandum No. 5, and with section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the Joint Board for the Enrollment of Actuaries (Joint Board) is conducting its annual review of the Advisory Committee on Actuarial Examinations (Committee). The Committee's purpose is to assist the Joint Board is fulfilling its responsibility imposed by 29 U.S.C. 1242(a) to insure that individuals enrolled to perform actuarial services with respect to pension plans to which the Employee Retirement Income Security Act of 1974 applies, meet certain standards and qualifications. The specific functions performed by the Committee in this respect are:

1. Recommends topics for inclusion on the Joint Board's examinations in basic actuarial mathematics and methodology;

2. Recommends questions for inclusion on the Joint Board's examinations in basic actuarial mathematics and methodology;

3. Recommends topics for inclusion on the Joint Board's examinations in actuarial mathematics and methodology relating to pension plans; and

4. Recommends questions for inclusion on the Joint Board's examinations on actuarial mathematics and methodology relating to pension plans.

As part of the Joint Board's annual review of the Committee, a justification statement is prepared in order to explain and demonstrate the necessity for the continuation of the Committee. The justification statement is set forth below. Interested persons are invited to participate in this review process by submitting their comments by May 8, 1980 to the Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220.

Dated: April 4, 1980.

Rowland E. Cross,

Chairman, Joint Board for the Enrollment of Actuaries.

Justification Statement

1. Committee Function

The Joint Board for the Enrollment of Actuaries (Joint Board) is responsible for the enrollment of individuals who wish to perform actuarial services with respect to pension plans to which the Employee Retirement Income Security Act of 1974 (ERISA) applies. The standards and qualifications for enrollment, as set forth in 29 U.S.C. 1242(a)(1), include education and training in actuarial mathematics and methodology as evidenced by:

1. A degree in actuarial mathematics or its equivalent from an accredited college or university,

2. Successful completion of an examination in actuarial mathematics and methodology to be given by the Joint Board, or

3. Successful completion of other actuarial examinations deemed adequate by the Joint Board.

The Committee renders valuable and unique assistance to the Joint Board in the discharge of its responsibility to administer examinations in actuarial mathematics and methodology to individuals wishing to demonstrate that they satisfy the standards and qualifications required for enrollment. Specifically, the Committee considers topics to be covered and questions to be included in the Joint Board's examinations. Further, the Committee considers and evaluates other issues relating to the Joint Board's examinations as the Joint Board deems necessary.

2. Need for Continuation of the Committee

The Joint Board is comprised of five Federal employees, three from the Department of the Treasury and two from the Department of Labor. Each member of the Joint Board has a full-time government position which is unrelated to the work of the Joint Board. In accordance with its bylaws, only three of the Joint Board members are actuaries. Further, staff provided the Joint Board is minimal. While the Director of Practice (Office of the Secretary, Department of the Treasury) serves as the Joint Board's Executive Director, he has no actuarial expertise at his disposal. The actuary members of the Joint Board have determined that shouldering the entire responsibility for the design and preparation of examinations would entail too great a sacrifice of their other governmental responsibilities. Further, their expertise in the area of examination preparation is limited. It also has been established that there is no known expertise for this purpose within the government. Accordingly, a need exists to employ the technical expertise of an advisory committee of actuaries outside the government to assist the Joint Board in preparing future examinations. To operate without an advisory committee would severely impair the Joint Board's efforts to discharge its statutory responsibilities.

Because the Joint Board has neither created nor uses an advisory committee other than the Committee discussed herein, the Committee's efforts do not duplicate the work of another advisory committee within the agency. And because the Joint Board is the only Federal agency responsible for writing actuarial examinations or setting other criteria to determine actuaries' qualifications for enrollment pursuant to ERISA, the work of the Committee is not duplicated elsewhere in the Federal Government.

In addition, other means to fulfill the responsibilities of the Committee are not feasible. Public hearings are not the kind of forum in which sophisticated tests of actuarial knowledge can be developed. Moreover, breeches of the security necessary for prospective examination materials are obviously unavoidable in the context of public hearings. The Joint Board considered the possibility of obtaining examination materials from consultants in the educational testing field. However, it determined that consulting firms do not have the expertise or background necessary to provide examination questions in the highly specialized field of actuarial science related to the Joint Board's mandate.

In the past year, the Committee met seven times. These meetings produced recommendations on the topics covered and questions included on the Joint Board's examination in basic actuarial mathematics and methodology, given on November 14, 1979, and the examination of actuarial mathematics and methodology relating to pension plans, given on November 15, 1979. Further, at the Committee's December 17, 1979 meeting, the November 1979

examinations' results were reviewed and recommendations relative thereto, including the minimum acceptable pass scores, were made to the Joint Board.

In 1979, the Committee submitted three reports to the Joint Board—the Advisory Committee Syllabus Report, the Advisory Committee Report on the 1979 Pension Actuarial Examination, and the Advisory Committee Report on the 1979 Basic Actuarial Examination. These reports were essential in assisting the Joint Board in preparing the examinations administered in November 1979.

The total operating cost for the Committee in 1979 was $16,637. The Joint Board believes this cost is extremely inexpensive considering the time that is required to prepare two comprehensive licensing examinations of a highly technical nature.

The Committee is currently in the process of formulating topics and questions to be recommended for inclusion in the three 1980 Joint Board examinations. The Committee will meet approximately the same number of times in 1980 as it did in 1979 in order to complete the tasks of formulating topics and questions for the 1980 examinations. Costs for 1980 will be slightly higher than 1979 due in part to increased transportation costs and the fact a third examination is being offered.

3. Balanced Membership

The Federal Advisory Committee Act requires that the membership of an advisory committee be fairly balanced in terms of the points of view represented and the functions to be performed. To meet this requirement, the Joint Board published an invitation to submit applications for Committee membership in the **Federal Register.** Invitations for membership also were made at public meetings and in professional organization publications.

In accordance with the statutory requirements of the Federal Advisory Committee Act and because of the Joint Board's own desire to have a balanced advisory committee, the selection of Committee members reflects a broad range of actuarial expertise and experience.

There are nine members on the Advisory Committee. All United States actuarial organizations are represented. Further, the work experience of the Committee's members represents diverse backgrounds. It is comprised of employment by consulting firms (4), insurance companies (3), an accounting firm (1) and a university (1). It is believed these wide ranges of experience and disciplines are desirable to utilize the input of as many forms of actuarial experience as possible to reflect an appropriate blend of questions on the Joint Board's examinations. The Advisory Committee also represents, to the extent feasible, a geographic cross-section of the enrolled actuary community.

It is the intent of the Joint Board to employ a similar selection process with respect to its successor Advisory Committee.

[FR Doc. 80-10637 Filed 4-8-80; 8:45 am]

BILLING CODE 4810-25-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-26]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

The Informal Subcommittee On Energy Technology of the NAC SSTAC will meet April 29–30, 1980, in Room 225, Building 3 (Administration Building), Lewis Research Center, Cleveland, Ohio. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

The Subcommittee was established to provide advice and recommendations on the overall objectives, approach, content, structure and balance of NASA energy technology efforts. The Chairperson is Dr. Robert L. Hirsch. There are currently eight Subcommittee members. Following is the approved agenda for the meeting:

Agenda

April 29, 180

8:30 a.m.—Introductory Remarks
8:40 a.m.—Welcome by Center Director
9:00 a.m.—Energy Program Overview
9:30 a.m.—NASA Center Presentations on Energy Activities Jet Propulsion Laboratory, Marshall Space Flight Center, Lewis Research Center (LeRC)
1:30 p.m.—Tour of Energy Facilities at LeRC
3:30 p.m.—NASA/LeRC Presentation on Automotive R&D
4:30 p.m.—NASA/LeRC Presentation on Wind Energy

April 30, 1980

8:30 a.m.—Advanced Conversion Technology Coal to Gas Generation Power Plant
9:30 a.m.—Magnetohydrodynamics (MHD)
10:00 a.m.—Fuel Cells
10:30 a.m.—Photovoltaic Stand Alone
11:00 a.m.—Energy Storage
11:30 a.m.—Subcommittee Discussions and Formulation of Recommendations

For further information contact Mr. Donald A. Beattie, Executive Secretary of the Subcommittee, Code RE-1, NASA Headquarters, Washington, DC 20546. Telephone 202/755-3127.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

April 3, 1979.

[FR Doc. 80-10668 Filed 4-8-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Central Liquidity Facility; Policy Regarding Protracted Adjustment Credit

AGENCY: National Credit Union Administration.

ACTION: Notice.

SUMMARY: This notice announces the policy of the National Credit Union Administration Central Liquidity Facility with regard to extensions of "protracted adjustment credit." The notice discusses the types of long-term liquidity needs that the Facility will meet under its authority to provide protracted adjustment credit, and the basic conditions which must be met for approval of a protracted loan.

EFFECTIVE DATE: April 10, 1980.

ADDRESS: National Credit Union Administration Central Liquidity Facility, 1776 G Street, NW., Washington, DC. 20456.

FOR FURTHER INFORMATION CONTACT: Mark S. Medvin, Assistant to the President, Central Liquidity Facility, at the above address. Telephone (800) 424-3205.

IRPS No. 80-4

The Central Liquidity Facility will provide "protracted credit" for periods in excess of 90 days to credit unions with liquidity problems resulting from national, regional, or local difficulties. The statutory provision authorizing CLF to provide protracted credit [1] is modeled after § 201.2(e) of Federal Reserve Regulation A, and it is reasonable that CLF should extend protracted credit to credit unions suffering essentially the same types of liquidity problems as are met by the Federal Reserve System under its authority to provide long-term emergency credit to its members. The Federal Reserve Board has never issued formal guidelines for its long-term emergency lending, but the Federal Reserve's operational guidelines have been determined through discussions with Federal Reserve discount officers and other offficials and a review of certain relevant documentary materials

[1] 12 U.S.C. 1795a(1)(C); section 302(1)(C) of the Federal Credit Union Act.

bearing on discount policy. [2] On the basis of these investigations, the CLF is promulgating the following policy on providing protracted credit:

The CLF has a clear responsibility to lend to its members in unusual and emergency circumstances resulting from national, regional, or local difficulties which give rise to long-lived liquidity needs. This is one of the benefits of CLF memberhip and the CLF is prepared to give prompt and sympathetic consideration to providing such assistance to a troubled credit union finding itself in these circumstances.

CLF protracted credit is available to meet a broad range of unusual or emergency funding needs which, if not met, may threaten the ability of credit unions to meet contractual obligations for payment over an extended period. CLF's authority is limited to meeting only such needs as result from local, regional, or national difficulties. In general, this means that protracted credit will be provided in situations where a significant contributing cause of the liquidity problem is external to the credit union or largely beyond its control. The cause may be isolated, affecting only one or a small number of credit unions, or it may be widespread with regional or national implications. In either case, the key factor is that unforeseen or uncontrollable conditions, as opposed to mere mismanagement, has meaningfully contributed to the liquidity problem. Examples of such external factors are strikes; local or regional disasters such as fires, floods tornadoes, or similar unpredicatable problems; unforeseen changes in economic conditions; and unusual or emergency circumstances which might cause an otherwise sound credit union to experience persistent problems.

In addition, the stress placed upon the credit union by external difficulties must be of some significance to its present or future viability. In order to grant protracted adjustment credit, the officers of the CLF must find that the failure to fund the credit union's needs might ultimately result in the failure of the credit union or in its inability to serve its members in an effective manner.

The financial condition of the credit union requesting assistance is also significant in the decision of whether to extend CLF protracted credit. Protracted credit will not be extended to support a failing credit union; nor will it be provided to sustain for a time a credit union which is unlikely to return to viability because of problems running deeper than an interim need for funds. On the other hand, even sound credit unions may experience liquidity problems in the event of an emergency or other unforeseen situations, and the CLF in considering whether to extend protracted credit distinguishes between a credit union's present difficulties and its future prospects.

This determination of financial condition, focusing primarily on the future, is necessarily judgmental. Information supplied by the credit union, NCUA, and by appropriate State supervisory authorities plays a significant role in the decision of whether to lend, as does evidence that the credit union has a plan for resolving its problems and is taking appropriate steps to achieve that end. The critical factor in approval of an appropriate request for protracted assistance is a reasonable expectation that the credit union will, with the help of CLF funds, be able to regain its feet as a viable going concern, repay its loans, and ultimately be able to operate without CLF support (other than short-term and seasonal support of a routine nature).

Consistent with the prohibition on CLF from making loans to expand portfolios, the amount of credit available from CLF for protracted assistance is limited to amounts just sufficient to enable the credit union to resolve its difficulties. The rate of interest and terms on protracted loans will be established on a case-by-case basis in order to meet the particular needs of the situation.

All protracted credit requests will be reviewed by the NCUA Board under procedures to be prescribed which will permit the CLF to meet its statutory responsibility to make decisions within five days.

Dated: April 4, 1980.

Beatrix D. Fields,

Secretary of the Board.

[FR Doc. 80-10762 Filed 4-8-80; 8:45 am]

BILLING CODE 7535-01-M

[2] Report of a System Committee, *Reappraisal of the Federal Reserve Discount Mechanism*, Volume 1 Board of Governors of the Federal Reserve System, August, 1971, was particularly valuable in this respect.

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Policy Research and Analysis and Science Resources Studies, Subcommittee on Industrial R. & D. and Innovation Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies; Subcommittee on Industrial R. & D. and Innovation Processes.

Date and Time: April 28, 1980—9:00 a.m. to 4:30 p.m.

Place: 1800 G Street, N.W.—Room 1224, National Science Foundation, Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Ms. Sharon Dyer, Division of Science Resources Studies, Directorate for Scientific, Technological, and International Affairs, Room L–611, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550. Telephone number is 202/634–4666. Anyone who plans to attend should contact Ms. Dyer by April 25, 1980.

Summary Minutes: May be obtained from the contact person, Ms. Dyer, at the above address.

Purpose of Committee: To provide advice, recommendations and oversight concerning program emphases and directions of the IPM (Innovation Processes and Their Management) Working Group within the Division of Policy Research and Analysis.

Agenda:

9:00–11:45 a.m. Progress Report on Innovation Processes Program Planning; subcommittee critique of Program Planning Documents.

11:45 a.m.–1:15 p.m. Lunch. 1:15–4:30 p.m. Presentation of Innovation Processes Research Priorities; current Research Projects.

4:30 p.m. Adjournment.

M. Rebecca Winkler,

Committee Management Coordinator.

April 4, 1980.

[FR Doc. 80-10645 Filed 4-8-80; 8:45 am]

BILLING CODE 7555-01-M

Executive Committee of the Advisory Committee for Environmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Environmental Biology.

Date and Time: April 28 & 29, 1980, 8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Frank B. Golley, Division Director, Environmental Biology, Room 336, National Science Foundation, Washington, D.C. 20550, (202) 632–9873.

Purpose of Executive Committee: To provide advice and recommendations concerning support of research in systematic biology and biological research resources.

Agenda: Review and comparison of declined proposals (and supporting documentation) with successful awards under the Systematic Biology Program and the Biological Research Resources Program.

Reason for Closing: The Executive Committee will be reviewing grants & declinations which contain the names of applicants, institutions and principal investigators and priviledged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to the applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer, in accordance with the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 4, 1980.

[FR Doc. 80–10642 Filed 4–8–80; 8:45 am]

BILLING CODE 7555–01–M

Advisory Council Task Group No. 11; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 11 of the NSF Advisory Council.

Place: Room 536, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Wednesday, April 30, 1980.

Time: 4:00 p.m. to 6:00 p.m.

Type of meeting: Open.

Contact person: Dr. Alan Leshner, NSF Liaison, Task Group No. 11 of NSF Adivisory Council, National Science Foundation, Room 320, 1800 G Street NW., Washington, D.C. 20550. Telephone (202) 632–4264.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to study and review available information on the state of the research opportunities in alternate academic institutions, to consider what conditions are necessary to foster develoment of competitive research and to recommend ways that both the NSF and the institutions might help to create the necessary conditions.

Dated: April 4, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–10647 Filed 4–8–80; 8:45 am]

BILLING CODE 7555–01–M

Availability of Advisory Committee Reports

The National Science Foundation has filed with the Library of Congress reports of those advisory committees which held any closed or partially closed meetings in 1979. The reports were filed in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Room 256, Washington, D.C. and at the National Science Foundation, Committee Management Office, Room 248, Washington, D.C. The names of the committees submitting reports are:

Advisory Committee for Applied Science and Research Applications Policy
Advisory Committee for Atmospheric Sciences
Advisory Committee for Behavioral and Neural Sciences
Advisory Committee for Chemistry
Advisory Committee for Earth
Advisory Committee for Engineering
Advisory Committee for Engineering and Applied Science
Advisory Committee for Environmental Biology
Advisory Committee for Materials Research
Advisory Committee for Mathematical and Computer Science
Advisory Committee for Ocean Sciences
Advisory Committee for Physics
Advisory Committee for Physiology, Cellular and Molecular Biology
Advisory Committee for Polar Programs
Advisory Committee for Policy Research and Analysis and Science Resources Studies
Advisory Committee for Science and Society
Advisory Committee for Science Education
Advisory Committee for Social and Economic Science
Advisory Committee for Post-International Phase of Ocean Drilling (IPOD) Science
Advisory Committee for Special Research Equipment (2-Year and 4-year Colleges)
Alan T. Waterman Award Committee
DOE/NSF Nuclear Science Advisory Committee
President's Committee on the National Medal of Science

Dated: April 4, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 10650 Filed 4–8–80; 8:45 am]

BILLING CODE 7555–01–M

Directorate for Scientific, Technological, and International Affairs

AGENCY: National Science Foundation.

ACTION: Program for the analysis of science resources.

SUMMARY: The National Science Foundation is continuing its Program For The Analysis of Science Resources. A limited number of grants will be awarded for studies focusing on:

(1) Training and employment of scientific and technical personnel.

(2) Funding of scientific and technical activities.

(3) Outputs and impacts of scientific and technical activities.

Proposals may be submitted at any time. Those received by November 14, 1980 qualify for consideration for possible funding in fiscal year 1981. Most awards will be for one to two person-years effort.

You may obtain the Program Announcement for the *Program for the Analysis of Science Resources* from: Division of Science Resources, Studies, National Science Foundation, 1800 G Street, D.C. 20550, Room L–611. For further information please contact Morris Cobern, Division of Science Resources Studies, at (202) 634–4655.

Joseph P. Gannon,

Senior Program Analyst.

April 4, 1980.

[FR Doc. 80–10649 Filed 4–8–80; 8:45 am]

BILLING CODE 7555–01–M

Executive Committee of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Ocean Sciences.

Date and time: April 30 and May 1, 1980—9:00 a.m. to 5:00 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, DC.

Type of meeting: Open.

Contact person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9639.

Summary minutes: May be obtained from the Contact Person, Dr. Dirk Frankenberg at the above stated address.

Purpose of committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF's Division of Ocean Sciences.

Agenda:

1. Discussion and Approval of November Meeting Minutes—R. Dugdale.
2. FY 1980, FY 1981 Budget and Status Reports—D. Frankenberg.
3. Funding of the UNOLS Fleet—Discussion—D. Frankenberg and M. K. Johrde.
4. Long-Range Planning—FY 1982–1986—Staff.
5. Industry-University Cooperative Research—F. Betz.
6. Oversight Reviews—

Oceanography Section—Discussion.
Oceanographic Facilities and Support—G. Ross Heath.
7. Election of New Chairperson—D. Frankenberg.

M. Rebecca Winkler,
Committee Management Coordinator.
April 4, 1980.
[FR Doc. 80-10648 Filed 4-8-80; 8:45 am]
BILLING CODE 7555-01-M

Executive Subcommittee of the Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Executive Subcommittee of the Materials Research Advisory Committee.
Place: Room 543, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.
Date: Thursday, May 1, and Friday, May 2, 1980.
Time: 9:00 a.m.-5:00 p.m., both days.
Type of meeting: Part Open—May 1, 9-4 (Open); May 1, 4-5 (Closed); May 2, 9-5 (Open).
Contact Person: Dr. Ronald E. Kagarise, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, D.C., Telephone: (202) 632-7412.
Summary Minutes: May be obtained from the Contact Person, Dr. Ronald E. Kagarise, at the above stated address.
Purpose of Subcommittee: To provide advice and recommendations concerning support of materials research.
Agenda: *Thursday, May 1, 1980-9:00 a.m. to 4:00 p.m. (open).*
9:00 a.m.—Introductory remarks and overview of Mathematical and Physical Sciences Directorate and Division of Materials Research (DMR).
10:30 a.m.—Reports of Condensed Matter Sciences, Metallurgy & Materials, and Materials Research Laboratories Subcommittees.
12:00 noon—Lunch.
1:00 p.m.—Continuation of Reports.
2:30 p.m.—General Discussion of Subcommittee Reports.
3:15 p.m.—DMR Oversight Review Plans for FY 1981.
4:00 to 5:00 p.m.—Closed session—Review of problem and marginal proposals.

Friday, May 2, 1980-9:00 a.m. to 5:00 p.m. (open)

9:00 a.m.—Long-range Needs, Opportunities and Priorities in Materials Research.
12:00 noon—Lunch.
1:00 p.m.—Status reports on IUC, CARP and Microstructures Research.
2:30 p.m.—Discussion of topics suggested by subcommittee reports.
4:00 p.m.—Future Executive Subcommittee Activities.
5:00 p.m.—Adjourn.
Reasons for closing: The Subcommittee will be reviewing grants and/or declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review of documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
April 4, 1980.
[FR Doc. 80-10648 Filed 4-8-80; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee for Oversight and Evaluation; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Oversight and Evaluation of the Advisory Committee for Ocean Sciences.
Date and time: April 29, 1980, 9:00 a.m. to 5:00 p.m.
Place: Room 523, National Science Foundation, 1800 G St., NW., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, DC 20550, Telephone (202) 357-9639.
Purpose of subcommittee: To provide expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance, and selection of awards.
Agenda: Oversight and evaluation of the Office of Oceanographic Facilities and Support.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.
Authority to close meeting: This determnation was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-423. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
April 4, 1980.
[FR Doc. 80-10641 Filed 4-8-80; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee on Facilities of the Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Facilities of the Materials Research Advisory Committee.
Date: April 30, 1980.
Time: 9:00 a.m.—5:00 p.m.
Place: National Science Foundation, 1800 G Street, NW, Washington, DC. 20550, Room 543.
Type of meeting: Open.
Contact person: Dr. William T. Oosterhuis, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, DC 20550. Telephone (202) 632-7408.
Summary minutes: May be obtained from the Contact Person, Dr. William T. Oosterhuis, at the above stated address.
Purpose of subcommittee: To provide advice and recommendations concerning the user facilities supported by the Division of Materials Research.
Agenda: General discussion of the current status and future plans of the user facilities supported by the Division of Materials Research

M. Rebecca Winkler,
Committee Management Coordinator.
April 4, 1980.
[FR Doc. 80-10644 Filed 4-8-80; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee on Population Biology and Physiological Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Population Biology and Physiological Ecology of the Advisory Committee for Environmental Biology.
Date and time: May 1 and 2, 1980; 8:30 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Donald W. Kaufman, Associate Program Director, Population Biology and Physiological Ecology Program,

Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7317.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 4, 1980.

[FR Doc. 80-10643 Filed 4-8-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold an open meeting on April 24–25, 1980, at the Oak Ridge National Laboratory (ORNL), Oak Ridge, TN to review the Heavy Section Steel Technology (HSST) Program. Notice of this meeting was published March 19, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for this meeting shall be as follows:

Thursday and Friday, April 24 and 25, 1980

8:30 a.m. Until the Conclusion of Business Each Day

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of ORNL, the NRC Staff, their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted for the presentations can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio G. Igne (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 2, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-10477 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on Natural Circulation and Feed and Bleed Heat Removal; Meeting

An ACRS Ad Hoc Subcommittee on Natural Circulation and Feed and Bleed Heat Removal will hold a meeting on April 24, 1980 in Room 1046, 1717 H St., N.W., Washington, DC to continue its review of information presently available on natural circulation and feed and bleed heat removal systems. Also, areas where inadequate information exists will be examined, and planned NRC (or other) tests that will be run to obtain needed information will be studied and the possible need for other tests will be explored. Notice of this meeting was published March 19, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for this meeting shall be as follows:

Thursday, April 24, 1980

8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittees will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Futher information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted for the presentations can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 2, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-10476 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–282 and 50–306]

Consideration of Proposed Increase in Spent Fuel Storage Capacity; Corrections

On February 28, 1980, a "Notice of Proposed Issuance of Amendments to Facility Operating Licenses" was published on page 45. FR 16059 without the name and address of the attorney of the Licensee. The name and address of the licensee's attorney is Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

The Notice related to the proposed increase in spent fuel storage capacity at the Prairie Island and Nuclear

Generating Plant Unit Nos. 1 and 2 located in Goodhue County, Minnesota.

Dated at Bethesda, Maryland, this 2nd of April 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 80-10639 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482A]

Kansas Gas & Electric Co., Kansas City Power & Light Co.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated March 28, 1980, with respect to the construction permit application for Wolf Creek Generating Station, Unit No. 1:

"You have requested our advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, regarding the acquisition by Kansas Electric Power Cooperative, Inc. (KEPCO) of an ownership interest in the above referenced unit. KEPCO has been negotiating for a 17 percent interest in the unit, or approximately 195 megawatts. This power will be blended in with hydroelectric power from the Southwestern Power Administration and supplemental power purchased from neighboring utilities and used by KEPCO to supply its cooperative members.

"The Department rendered antitrust advice with regard to the Wolf Creek Generating Station, Unit No. 1, by letter of December 10, 1974. Kansas Gas and Electric Company and Kansas City Power and Light Company, the original owners of the unit, agreed to accept license conditions that, in the view of the Department, made an antitrust hearing unnecessary. The purchase of an ownership interest in the Wolf Creek Generating Station, Unit 1, by KEPCO is pursuant to the license conditions agreed to in 1974.

"Our review of the information submitted, as well as other relevant information available to us, has disclosed no basis upon which to conclude that an antitrust hearing is necessary regarding KEPCO's ownership of a 195 megawatt share in Wolf Creek Unit 1."

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by May 9, 1980 either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street NW., Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

Argil Toalston,

Acting Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 80-10638 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Unit 2), Request for Action

Notice is hereby given that by petition dated March 12, 1980, Wisconsin's Environmental Decade, Inc. requested that an order to show cause and an order enjoining operation of Point Beach Nuclear Plant, Unit 2 be issued to Wisconsin Electric Power Company because of steam generator tube degradation. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the local public document room at University of Wisconsin's Stevens Point Library, Stevens Point, Wisconsin 54481.

Dated at Bethesda, Maryland, this 2nd day of April, 1980.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-10640 Filed 4-8-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of the Act of September 25, 1962 (76 Stat. 593: 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been determined to represent the reasonable cost of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics, administered by any of the three Federal agencies—Department of Defense, Veterans Administration, or Department of Health, Education, and Welfare—with the exception of Canal Zone Government hospitals.

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment.

(c) For such care and treatment at Canal Zone Government hospitals, the rates shall be those established, and in effect at the time the care and treatment is furnished, by the Canal Zone Government for such care and treatment furnished to beneficiaries of other United States Government agencies.

	Effective Apr. 7, 1980, and thereafter		
	DOD	VA	HEW
Hospital care per inpatient day:			
General medical, surgical, and tuberculosis care	$254	$170	$175
Psychiatric care	.....	110	.....
Nursing home care	.....	74	.....
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Houston, Tex.	713	.....	.....
Outpatient medical and dental treatment:			
Per outpatient visit.	26	51	43

For the period beginning April 1, 1980, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on June 1, 1979 (42 FR 54480).

Dated: March 28, 1980.

J. T. McIntyre, Jr.,

Director, Office of Management and Budget.

[FR Doc. 80-10721 Filed 4-8-80; 8:45 am]

BILLING CODE 3110-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing—Chicago, Ill.

The Select Commission on Immigration and Refugee Policy will hold the tenth of 12 regional hearings on:

Date: April 21, 1980.
Time: 9 a.m.—5 p.m.; 7 p.m.—9 p.m.
Place: Ceremonial Courtroom (Room 2525), Dirksen Federal Building, 219 S. Dearborn, Chicago, Illinois.

The Chicago hearing will be chaired by Rep. Robert McClory.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to illegal aliens and the labor supply, methods of inhibiting future illegal flows, family reunification provisions of the current preference system, immigrant and refugee acculturation, and INS functions.

There will be an "Open Mike" in the evening from 7 p.m.—9 p.m. available to anyone wishing to address any immigration issue before the Commission.

The public is cordially invited to attend both the day and evening discussions.

Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to ensure that a wide range of views are heard and considered by the Commission. Other hearings are being held in Albany, Baltimore, Boston, Denver, Los Angeles, Miami, New Orleans, New York, Phoenix, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the Chicago hearing or about testifying at the evening session should contact: Elaine Daniels, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, NW., Washington, D.C. 20506, telephone (202) 395–5615.

Dr. Lawrence H. Fuchs,
Executive Director.

[FR Doc. 80–10651 Filed 4–8–80; 8:45 am]
BILLING CODE 6820–AR–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02–5393]

Medallion Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Medallion Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Alvin Murstein, 215 Birch Drive, East Hills, NY 11576—President, General Manager, Director and 10% Stockholder.
Michael A. Miller, 199 Temple Street, West Newton, MA 02165—Treasurer, Director and 7½% Stockholder.
Myron Cohen, 7 West 96th Street, New York, NY 10025—Secretary, Director and 5% Stockholder.

No other stockholders will own 10% or more of the company's common stock.

The Applicant, a New York corporation, with its principal place of business at 86 Glen Cove Road, East Hills, New York 11577, will begin operations with $1,050,000 of paid-in capital and paid-in surplus derived from the sale of 1,000 shares of common stock to a maximum of 35 investors.

The Applicant will conduct its activities primarily in the State of New York.

Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns who are considered "mini-fleet" taxicab corporations doing business in the city of New York and licensed by the New York Taxi and Limousine Commission.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

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 operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before April 24, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy 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 in a newspaper of general circulation in East Hills, New York.

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

Dated: April 3, 1980.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–10742 Filed 4–8–80; 8:45 am]
BILLING CODE 8025–01–M

Pilot Export Program

The Small Business Administration ("SBA") is putting a pilot export program into operation effective March 1, 1980 under which eligible small business exporters and export management companies will be able to obtain revolving lines of credit. The pilot program will operate only in designated regions with the participation of designated lenders, and will be limited to loan guarantees not to exceed 75% of the outstanding balance of the revolving line of credit. Further information may be obtained from SBA offices, or from Robert H. Bartlett, Chief, Program Operations Division, Office of Finance, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, Telephone (202) 653–6470.

(Catalog of Federal Domestic Assistance Nos. 59.003 Economic Opportunity Loans for Small Businesses and 59.012 Small Business Loans)

Dated: April 2, 1980.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 80–10741 Filed 4–8–80; 8:45 am]
BILLING CODE 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., Friday, May 2, 1980, at the

Syracuse Hilton Inn, 1308 Buckley Road, North Syracuse, New York, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

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: April 3, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-10744 Filed 4-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02–5397]

W & D Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.)*, has been filed by W & D Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Elias H. Debbas, 300 East 40th St., New York, NY 10017—President and Director.
William Wallach, 940 Midway, Woodmere, NY 10017—Secretary, Director and 50% Shareholder.
All State Credit Corp., 300 East 40th Street, New York, NY 10017—50% Shareholder.

Elias H. Debbas is the sole shareholder of All State Credit Corp.

The Applicant, a New York corporation, with its principal place of business at 860 Tenth Avenue, New York, New York 10019, will begin operations with $504,000 of paid-in capital and paid-in surplus.

The Applicant will conduct its activities primarily in the County and City of New York and will primarily finance concerns considered mini-fleet taxicab corporations licensed by the New York Taxi and Limousine Commission.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

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 operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before April 24, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published 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: April 3, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-10743 Filed 4-8-80; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Radioactive Waste Management at the Browns Ferry Nuclear Plant, Limestone County, Ala.; Notice of Negative Determination (Finding of No Significant Impact)

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), and section V–B–1 of the Tennessee Valley Authority's Procedures for Environmental Planning and Assessment (39 FR 5671–75 (1974)) and consistent with section 1501.4 of the Council on Environmental Quality Provisions for Implementing NEPA (43 FR 55,978–56,007 (1978)), the Tennessee Valley Authority (TVA) hereby gives notice that it has determined that the construction and operation of temporary low-level radioactive waste (LLRW) storage facilities, a permanent onsite storage facility and a volume reduction/solidification facility at the Browns Ferry Nuclear Plant site (located in Limestone County, near Decatur, Alabama), is not a major Federal action significantly affecting the quality of the human environment and an environmental statement is not necessary for this proposed action. TVA has prepared an environmental evaluation of the impacts related to this proposal and has identified measures to minimize the effects of construction and operation on the environment. The proposal is compatible with both regional and local planning.

TVA's environmental evaluation considers, among other areas, the potential for impacts to air, land, and water, impacts from noise, radiation, and solid waste generation and impacts to the operation of the Browns Ferry Nuclear Plant related to siting and during construction and operation of the facilities. The evaluation addresses alternatives to the proposal, including taking no action or delaying action. There are no potentially significant adverse environmental impacts associated with this proposal. During construction some siltation may occur and construction noise will emanate from the project. Small amounts of radioacting and nonradioactive gaseous emissions will occur during operation of the facilities. The cumulative dose rates from these facilities and the Browns Ferry Nuclear Plant under worst case conditions at the site boundary would be much less than that allowed under regulatory guidelines.

Copies of the environmental evaluation are available to the public by calling TVA's toll-free Citizen Action Line at 1–800–362–9250 (inside Tennessee), 1–800–251–9242 (outside Tennessee), and 632–4100 in Knoxville or by contacting TVA's Information Office, 400 Commerce Avenue, Knoxville, Tennessee 37902.

Any questions or comments concerning this proposal should be directed to: Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Forestry Building, Norris, Tennessee 37828.

Although TVA's Board of Directors has given its approval, no further action will be taken on this proposal for 30 days from the date of publication of this notice (May 9, 1980) pending receipt of public comment.

W. F. Willis,

General Manager.

[FR Doc. 80-10669 Filed 4-8-80; 8:45 am]

BILLING CODE 8120-01-M

Residential Energy Conservation Plan; Hearing

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Public hearing on the content of a proposed TVA plan.

TVA is considering submitting to the Department of Energy a plan (TVA Plan) for the Residential Conservation Service programs of the TVA power distributors covered by Part 1 of Title II of the National Energy Conservation Policy Act (Pub. L. No. 95–619) and the regulations issued thereunder. The Residential Conservation Service programs are to encourage and facilitate the installation of residential energy conservation measures. A copy of the proposed TVA Plan may be obtained from Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB20, Knoxville, Tennessee 37902.

TVA will hold a public hearing on May 5, 1980, at which interested persons are invited to comment on the content of the proposed TVA Plan. The hearing, with a morning session beginning at 10 a.m. and an evening session beginning at 7 p.m., will be held in Room 239A of the Central YMCA, 301 West Sixth Street, Chattanooga, Tennessee 37402.

Anyone may request time to make an oral presentation at the hearing by notifying Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB20, Knoxville, Tennessee 37902, (615) 632–4402. Such requests should be made by April 28, 1980. The request should include the amount of time and the session (morning or evening) desired. The hearing will be conducted by a presiding officer, and comments will be heard by a hearing panel. Persons making presentations may be questioned by the hearing panel, but will not be subject to questioning by the public. The presiding officer will ensure that the hearing is conducted in an orderly manner and in accordance with these procedures. In so doing, the presiding officer shall make any parliamentary rulings and establish such supplemental procedures, including setting time limits, as may be appropriate in the presiding officer's discretion to afford all interested parties a reasonable opportunity to be heard. A verbatim transcript will be made of the hearing.

Written data, views, and comments on the proposed TVA Plan are also requested from the public. Written comments should be sent to Presiding Officer, RCS Hearing, Tennessee Valley Authority, Division of Energy Conservation and Rates, Power Service Center-6, Chattanooga, Tennessee 37401. All written material should be received by TVA before 5 p.m. on May 16, 1980, to ensure consideration.

The transcript of the hearing, copies of all written materials submitted, and a summary of the comments will be transmitted to the TVA Board of Directors for its use in considering this matter.

Individual copies of the comments will be available to the public at cost of reproduction. Copies will also be kept on file for public inspection at the Technical Library, Tennessee Valley Authority, 400 Commerce Avenue, E2B7, Knoxville, Tennessee 37902 and at the Technical Library, Tennessee Valley Authority, 401 Chestnut Street, 100 401B, Chattanooga, Tennessee 37402.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB20, Knoxville, Tennessee 37902, (615) 632–4402.

Dated: March 28, 1980.

W. F. Willis,

General Manager.

[FR Doc. 80–10719 Filed 4–8–80; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committees; Meetings

Correction

In FR Doc. 80–9961 appearing at page 21759 in the issue for Wednesday, April 2, 1980, third column, second paragraph, last line, "April 20" should read "April 29".

BILLING CODE 1505–01–M

Customs Service

[521414]

Soliciting Public Comments on a Proposal to Incorporate by Reference Riders to all Term Bonds in the Automated Bond Information System

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice requesting public comments.

SUMMARY: This document gives notice that the Customs Service has under consideration a proposal which would amend each of the term bonds currently in the Automated Bond Information System (ABIS), to permit the addition of any of the approved ABIS bond riders when a bond is submitted to a district director of Customs.

DATES: Comments must be received on or before June 9, 1980.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

It is generally held that an insurance contract with an attached rider, in which the contract and rider refer to each other, constitute a single agreement. However, bonds in the Automated Bond Information System (ABIS) do not refer to their bond riders. Although a rider may refer to a bond, it does not become part of the contract simply by being fastened to the bond. An intent to treat the rider as being part of the bond can be shown by having the parties to the bond sign the rider.

However, the acceptance of ABIS bond and bond rider packages in which only the bond itself is properly signed may affect the validity of the rider, thus rendering the transaction covered by the rider unsecured. Moreover, the acceptance of ABIS bond and bond rider packages in which only the bond is properly signed is administratively burdensome to Customs inasmuch as ABIS computer printouts do not show how the bond or any rider was signed. Consequently, Customs requires that principals on all ABIS bonds sign and, in the case of corporate principals, authenticate the signature on all riders, whether submitted with the bond or separately.

To insure uniformity in the acceptance of ABIS bond and bond rider packages, and for the convenience of persons submitting such packages, the Customs Service is considering the addition of language to all ABIS bond forms to allow principals on these bonds to incorporate by reference any of the approved ABIS bond riders when a bond is submitted to the district director of Customs in accordance with section 113.26, Customs Regulations (19 CFR 113.26). Principals would add a rider or riders simply by indicating in the space provided on the bond form the appropriate letter of the rider and the corresponding T.D. number or Headquarters memorandum which incorporates the text of the rider. The approved ABIS bond riders are set forth in T.D. 73–198 (riders A–L), T.D. 73–284 (rider M), T.D. 73–329 (rider N), T.D. 76–246 (rider O), T.D. 78–140 (rider P), and Headquarters memorandum, dated November 20, 1978, BON–3–O:D:EAO (rider R).

Principals on ABIS bonds would continue to have the option of adding one or more riders during the term of the

underlying bond by submitting a signed and authenticated bond rider and Bond Transcript, Customs Form 53, to the district director who approved the bond.

Proposed Action

Under Customs proposal the following language would be added to each ABIS bond form immediately after the last WHEREAS clause and before the list of conditions:

Whereas, the above-bounden principal expects to engage in activities covered by the following bond riders set forth in ————————;

Whereas, the principal and surety intend to be bound to the same extent as if they had executed each of the listed riders;

The following language would be added after the last Condition and immediately before the phrase "Then this obligation shall be void; * * *":

If the above-bounden principal complies with every condition and obligation contained in each listed bond rider in connection with the principal's activities;

Comments

The Customs Service invites written comments (preferably in triplicate) on its proposal to amend all ABIS bond forms to permit the addition of any of the approved bond riders when a bond is submitted to a district director of Customs, and what changes, if any, should be made.

All comments received in response to this notice will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Drafting Information

The principal author of this notice was James A. Seal, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices within the Customs Service participated in its development.

Dated: April 2, 1980.

Harvey B. Fox,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 80-10712 Filed 4-8-80; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 70
Wednesday, April 9, 1980

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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1

[M-276; April 3, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., April 10, 1980.

PLACE: Room 1027 (Open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Petition for reconsideration of Order 79-12-98, cancelling Rule 1(G) in the domestic passenger rules tariff, CAB No. 352, and withdrawing approval of part of Agreement CAB 21511. (Memo No. 8503-B, BDA, OGC, OEA)

3. Revision of Board-prescribed airline counter signs and ticket notices. (Memo No. , BCP)

4. Docket 34772, Petition of the Air Transport Association for discussion authority. (Memo No. , BDA, OGC, BCP)

5. Docket 34625, Agreement CAB 5044-A253, Petition for review of staff action filed by Air Traffic Conference of America concerning requirements for the reproduction of tour folders. (Memo No. 9470-A, BDA)

6. Docket 34802, Petition of Wien Air Alaska, Inc. for increased intra-Alaska final service mail rates; Docket 37165, Great Northern Airlines Service Mail Rate Investigation. (Memo No. , BDA)

7. Dockets 36317 and 36797, Reeve Aleutian Airways, Inc. Petition for Fuel Surcharge applicable to the carriage of mail. (Memo No. , BDA)

8. Dockets 37871 and 37872, Courier-accompanied baggage charges proposed by British Airways. DHL and Gelco, air couriers, complain that proposal is not cost-justified, discriminatory, and anti-competitive. (Memo No. , BDA)

9. Docket 37831, Increased excess baggage charges proposed by Pan American. DHL, an air courier, complains that the proposed charges are in excess of those permitted under the *Excess Baggage Case*. (Memo No. , BDA)

10. Docket 33830, Final rule extending the Board's fare flexibility policy to the Puerto Rico/Virgin Islands markets. (Memo No. , BDA)

11. Travel Committee, Inc.—Petition for review of staff action denying waiver of the major change provisions of Part 380. (Memo No. 9568, BDA)

12. Dockets 33218 and 33405, Termination of inactive investigations regarding boarding priority rules and Eastern's suspended tag-end fare provision prohibiting the cabination of tag-end and through fares. (Memo No. 9576, BDA)

13. Dockets 31783, Pacific Aero, Inc.; and Docket 31919, Commercial Air Transport Inc.—Revocation of Section 418 All-Cargo Air Service Certificates. (Memo No. 9073-B, BDA)

14. Docket 37274, Boise-Burbank/Fresno/Las Vegas/Los Angeles/Long Beach/Phoenix/San Diego/Stockton Sacramento Show-Cause Proceeding; new applications of Air California (Docket 37394) and Hughes Airwest (Docket 37393). (Memo No. 9569, BDA)

15. Docket 33789, Petition of Air Florida for reconsideration of Order 79-11-103; to add Marathon, Fla. to its certificate. (Memo No. 8931-B, BDA)

16. Docket 36816, Review of communities eligible for designation of essential air service under Section 419(b). (Memo No. 9193-B, BDA, OCCR)

17. Dockets EAS-489, 490, and 499, Appeal of Essential Air Transportation Determinations filed by Alliance, Chadron and Sidney, Nebraska, and the Nebraska Aeronautics Commission. (Memo No. , OGC, OCCR, BDA)

18. Docket EAS-436, Essential Air Service Determination at Presque Isle, Maine. (Memo No. 9560, BDA, OCCR)

19. Docket 36862, EAS-669, Western Air Lines' notice of intent to terminate service at Pocatello, Idaho, under section 401(j)(1) of the Act. (Memo No. , BDA)

20. Docket 37877, AeroMech's notice to terminate service at Elkins. (Memo No. , BDA)

21. Dockets 36508, EAS-341, Air Illinois' notice of intent to terminate service at El Dorado/Camden, Arkansas. (Memo No. , BDA)

22. Docket 37440, Texas International's notice to terminate service at Wichita Falls, Texas. (Memo No. , BDA, OCCR)

23. Dockets 37849 and 37850, Alaska Airlines' notice and exemption request to suspend service at Middleton Island, Alaska, effective April 15, 1980. (Memo No. , BDA)

24. Docket 37439, Texas International's (TI) ninety day notice of suspension of all service at Brownsville, Texas. (Memo No. 9590, BDA, OCCR)

25. Docket 37524, Trans World Airlines' notice to suspend service at Knoxville, Tennessee. (Memo No. 9571, BDA, OCCR)

26. Docket 37601, TWA's notice to suspend service at Minneapolis/St. Paul. Docket 37728, TWA's exemption application to suspend service at Minneapolis/St. Paul before termination of 90-day notice period. (Memo No. 9588, BDA, OCCR)

27. Docket 37630, Piedmont's notice to terminate service at Columbia, S.C. (Memo No. 9574, BDA, OCCR)

28. Docket 37876, Application of Western for advance compensation for losses. (Memo No. , BDA, OCCR)

29. Annual Review of Outstanding Delegations to the Office of General Counsel—MOO66 (OGC)

30. Part 387, Emergency Succession. SO188. (Memo No. 9583, BDA, OGC)

31. Docket 36639, Prohibition of age discrimination in air transportation. (Memo No. , OGC, BCP)

32. Docket 36294, Revised NPRM on whether denied boarding compensation must be paid to passengers transferred to an extra section of a flight. (Memo No. , OGC)

33. Docket 37063, Petition by the Performance Incentives Company for rulemaking to remove the limitation on the commission that carriers can pay to travel agents for pro rata and single entity charters. (Memo No. , OGC)

34. Docket 33095, Petition by Globus, Gateway Tours, Ltd. to remove the "name condition" from the permits of foreign indirect air carriers. Registration of foreign charter operators. SO160 (Memo No. , OGC, BIA)

35. Docket 28298, et al., Application of Action on Smoking on Health for compensation, and SO179, *Compensation of Participants in Board Proceedings*. (Memo No. , OGC)

36. Docket 35042, extension of payment period for political candidates on credit indebtedness owed to airlines; replacement of semi-monthly billing with monthly billing during last 2 months of campaign. (Memo No. 9057-A OGC)

37. Docket 37009, *Trans World Air Lines, Discount Fair Advertising*. Petition for review of order granting intervention to World Airways. (Memo No. 9585, OGC)

38. Docket 35784, *World Airways v. American Airlines et al.* Petition for review of BCP dismissal of Third-Party complaint. (Memo No. , OGC)

39. Docket 34941, Bahamasair Holdings Limited's application to renew and amend its foreign air carrier permit to operate scheduled services between The Bahamas and eight coterminal U.S. points, including four new U.S. points, subject to conditions and limitations. (Memo No. 9295-A, OGC, BIA)

40. Docket 36932, Application of Toronto Airways, Ltd. (d/b/a Torontair) for an initial foreign air carrier permit to operate

scheduled passenger and cargo service. (Memo No. 9575, BIA)

41. Docket 35516, Trans-Mediterranean Airways, S.A.L. (TMA)—application to renew and amend its foreign air carrier permit to operate New York-Lebanon all-cargo operations via Basel, Amsterdam, Copenhagen, Stockholm, Frankfurt, Paris and London. (Memo No. , BIA)

42. GOO99, Application of Jugoslovenski Aerotransport (JAT) for 18 additional nonstop frequencies between June and September. (Memo No. 9577, BIA, OGC)

43. Docket 35167, Application of Braniff Airways, Inc., for amendment of its certificates of public convenience and necessity for Routes 151 and 153 to delete all references to "Balboa and Canal Zone/Panama City, Panama," and substitute "Panama City, Panama." (Memo No. 9582, BIA, OGC, BLJ)

44. Docket 32660, IATA agreements, relating to currency matters and Japan-Canada fares. (Memo No. 9587, BIA)

45. U.S. Czechoslovakia fare increases proposed by CSA. (Memo No. , BIA, BDA)

46. Dockets 35634 and 32660, IATA agreements proposing a mechanism for fuel-related increases in worldwide fares and rates. (Memo No. 9567, BIA, BDA)

47. Docket 35634, IATA agreements proposing a fourth round of worldwide fuel-related cargo rate increases as well as establishing a number of general cargo-related resolutions many of which also apply on a worldwide basis. (Memo No. , BIA, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S–720–80 Filed 4–7–80; 4:01 pm]

BILLING CODE 6320–01–M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, April 14, 1980, 10–12 a.m.—1:30–5 p.m.

PLACE: 1121 Vermont Avenue, N.W., 5th Floor Conference Room, Washington, D.C.

STATUS: All portions open to public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Directors' Report—
A. Status of Funds
B. Personnel Report
C. Office Directors' Report
D. Correspondence
1. Letter from Senator DeConcini re S. 10
E. Consideration of H.R. 100, a bill to prohibit insurance discrimination
IV. Civil Rights Developments in the Midwestern Region
V. Interim appointment to Indiana Advisory Committee
VI. Rhode Island Advisory Committee Re-charter
VII. Review of National Immigration Report
VIII. Review of Analysis of Congressional Exemption from Federal EEO Laws
IX. Review of Analysis of Federal Criminal Code Revision
X. Approval of Voting Rights project design

FOR FURTHER INFORMATION PLEASE CALL: Charles Rivera or Barbara Brooks, Press and Communications Division, (202) 254–6697.

[S–715–80 Filed 4–9–80; 2:52 pm]

BILLING CODE 6335–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, April 18, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–716–80 Filed 4–7–80; 2:56 pm]

BILLING CODE 6351–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, April 14, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of Rainier National Bank, Seattle, Washington, and Bank of Everett, Everett, Washington.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Francis, Doval, Munoz, Acevedo, Otero & Trias, San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 7, 1980.

Federal Deposit Insurance Corporation.

Hannah R. Gardiner,

Assistant Secretary.

[S–717–80 Filed 4–7–80; 3:32 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, April 14, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

First Beverly Bank, a proposed new bank, to be located at the northwest corner of Brighton Way and Rodeo Drive, Beverly Hills, California, for Federal deposit insurance.

Maritime Bank of California, a proposed new bank, to be located at 131 West Anaheim Street, Los Angeles (Wilmington), California, for Federal deposit insurance.

Ripley County State Bank, a proposed new bank, to be located at the southwest corner of Highways 142 and 160, Doniphan, Missouri, for Federal deposit insurance.

Request for modification of a minimum capital requirement:

United Orient Bank, New York, New York.

Request for extension of time pursuant to Section 215.6(b) of Regulation O of the Board of Governors of the Federal Reserve System:

Wood County Bank, Parkersburg, West Virginia.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,273–L—Franklin National Bank, New York, New York.
Case No. 44,282–L—State Bank of Clearing, Chicago, Illinois.
Case No. 44,286–L—Northeast Bank of Houston, Houston Texas.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 7, 1980.

Federal Deposit Insurance Corporation.

Hannah R. Gardiner,

Assistant Secretary.

[S–718–80 Filed 4–7–80; 3:32 pm]

BILLING CODE 6714–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 23575, April 7, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 9, 1980, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

M–12.—RM80 , Definition of Agricultural use in Section 282.202(a) of the Commission's Regulations on Incremental Pricing.

CAG–38.—RP78–88, Transwestern Pipeline Company.

Kenneth F. Plumb,

Secretary.

[S–719–80 Filed 4–7–80; 4:01 pm]

BILLING CODE 6450–85–M

7

FEDERAL RESERVE SYSTEM. Board of Governors.

TIME AND DATE: 10 a.m., Monday, April 14, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: April 4, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–714–80 Filed 4–7–80; 10:52 am]

BILLING CODE 6210–01–M

federal register

Wednesday
April 9, 1980

Part II

Department of Health, Education, and Welfare

Public Health Service

Health Maintenance Organization Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 110

Health Maintenance Organization Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities

AGENCY: Public Health Service, HEW.

ACTION: Interim regulations.

SUMMARY: This notice sets forth the requirements for qualified health maintenance organizations (HMOs) to obtain loans or loan guarantees for the acquisition or construction of ambulatory health care facilities and the acquisition of equipment for those facilities. It also sets forth project requirements and procedures to be followed for repayment of the loan and in the event of a default. These rules implement Section 1305A of the Public Health Service Act, as amended.

EFFECTIVE DATE: These regulations are effective April 9, 1980. Comments are invited. To be considered, comments must be received by June 9, 1980.

ADDRESS: Written comments should be sent to the Director, Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857. The comments will be made available for public inspection and copying at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, Room 3–10, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106

SUPPLEMENTARY INFORMATION: The Health Maintenance Organization Amendments of 1978 (Pub. L. 95–559) revised and extended the provisions of Title XIII of the Public Health Service Act, as amended, to include, among other changes, a new Section 1305A, 42 U.S.C. 300e–4a, that provides for the Secretary to make and guarantee loans to qualified HMOs for the acquisition and construction of ambulatory health care facilities and for the acquisition of equipment for those facilities. With this authorization, the Secretary may make loan guarantees now without further legislation. However, until an appropriation act is enacted which contains authority to spend funds for direct loans, the Secretary may not make these loans. A delay in the publication of this subpart as final regulations would be detrimental to HMOs which, in order to preserve or enhance their fiscally sound operation, urgently need to acquire or construct ambulatory health care facilities. Since acquisition and construction may now be supported with loan guarantee assistance under Section 1305A, the Secretary has determined that notice and public comment on proposed rulemaking and further delay of the effective date would not be in the public interest and that good cause exists for making these regulations effective upon publication. Accordingly, these regulations are being published as interim regulations so that the Secretary may make loan guarantees authorized by Section 1305A as soon as possible. However, the Secretary invites public comments on these regulations and will consider them if received on or before June 9, 1980 in determining whether revisions are appropriate. After the comment period, the Secretary will revise the regulations, if warranted, in accordance with the comments received.

The Secretary directs attention to the following provisions of the regulations:

The statutory definition of "ambulatory health care facility," which is included in § 110.1002, specifies that diagnostic, treatment, and prevention services must all be provided in a facility if it is to be eligible for loan or loan guarantee assistance.

The statutory definition of "construction," which is also included in the definition section, provides that alteration, expansion, remodeling, renovation, and replacement, as well as new construction, are all eligible types of construction projects.

The definition of "equipment" in § 110.1002, together with an explicit statement in § 110.1008(b), makes clear that, in accordance with Section 1305A of the Act, loans may be made for the acquisition of equipment only if the equipment is for a facility acquired or constructed with assistance under this subpart.

As § 110.1003 states, only qualified public and nonprofit private HMOs are eligible for loan assistance under this subpart. For-profit qualified HMOs are eligible only for loan guarantees and only if 10 percent of the projected membership to be served by the facility to be acquired or constructed will be from a medically underserved population.

Section 110.1004, pertaining to application requirements, requires an applicant to submit additional information if a proposed transaction for which assistance is requested involves a party in interest (as defined in Section 1318 of the Act) or someone who will become a party in interest as a result of the transaction. The Secretary is concerned that parties in interest may participate in HMO management in a way which might be to the detriment of the HMO or its members. The Department is developing further guidance on the role of parties in interest in the management of all qualified HMOs. This guidance will be based on requirements applicable to all qualified HMOs: that they have fiscally sound operations and administrative and managerial arrangements satisfactory to the Secretary (Section 1301(c)(1) of the Act).

With respect to this ambulatory health care facility program, the possible involvement of parties in interest is addressed as follows. Where a party in interest is to be involved in a project for which assistance is requested, § 110.1004(c) requires that the application include the following:

(1) An explanation of the involvement of the party in interest;

(2) A combined financial statement for the HMO and the party in interest;

(3) A second appraisal (in addition to the one normally required) of property to be acquired from the party in interest;

(4) Evidence that each proposed transaction with a party in interest is consistent with prudent management and the fiscal soundness requirement in 42 CFR 110.108(a)(1); and

(5) Evidence that the transaction will not adversely affect the management decisions or fiscal soundness of , or the delivery of services by, the HMO. An example of the evidence which might satisfy this last requirement is a description of procedures which will prevent the party in interest from controlling the HMO's decisions with respect to the facility to be acquired or constructed with assistance under this subpart.

The Secretary will scrutinize this application information. Where she determines that the participation of a party in interest in a proposed transaction is likely to affect adversely the administration and fiscal soundness of the HMO or its delivery of health services, the Secretary will not award the requested loan or loan guarantee.

Section 110.1005 indicates that detailed plans which must satisfy the requirements of certain technical documents pertaining to construction standards, which are incorporated by reference, need not be submitted until an application has been approved. They must, however, be submitted before an approved loan is closed.

Section 110.1006 incorporates the statutory limit on the amount of loan assistance that may be provided for any single facility. This limit is presently $2,500,000 (see Section 1305A(b)(1) of the Act). To encourage the investment of private capital in HMOs, the regulations limit to 90 percent the percentage of project costs for which loans or loan guarantees will be made, although a greater percentage may be approved for good cause, as defined in the regulations.

The Secretary believes that the primary activity of an HMO should be the provision of basic health services as described in Subpart A of this part. Therefore, she believes that a facility acquired or constructed, in whole or in part, with assistance under this subpart should provide basic health services. The Secretary, consequently, has included in § 110.1007 a requirement that a facility acquired or constructed, in whole or in part, with assistance under this subpart must devote at least 50% of its useable space to the provision of basic health services.

Section 110.1007 also sets limits on the portion of a facility, acquired or constructed, in whole or in part, with assistance under this subpart, to be used for administrative functions and on the capacity of the assisted HMO. The maximum capacity of an assisted HMO (the capacity required to serve 110 percent of the projected HMO membership at the end of the 5 years following acquisition or completion of construction) has been established to prevent investment of Federal funds in idle capacity or in facilities which will not be used in the near future for the purpose for which the assistance is awarded. One hundred ten percent of the 5 year projection is permitted both to allow for actual variation from enrollment projections and to permit some services to patients on a fee-for-service basis where appropriate.

Similarly, where assistance is provided under this subpart for facilities to provide laboratory or X-ray services, the maximum capacity of all units of the HMO providing each assisted service is specifically limited to that needed to serve 110 percent of the projected number of HMO members at the end of 5 years. Where assistance is provided under this subpart for facilities to provide optical, pharmacy or dental services, a higher level (the capacity needed to provide the service to 200 percent of the projected number of HMO members for whom the service will be provided on a prepaid basis at the end of 5 years) is established as the maximum capacity for provision of each of the assisted services. The higher levels permit more flexibility with respect to these supplemental services, because projected use by HMO members alone is likely to be inadequate to make the service cost effective. In such cases, the additional capacity might be required to generate necessary fee-for-service revenue to cover service costs.

The restrictions in this section based on projected enrollments (paragraph (b)) apply to the total capacity of the HMO, including portions of the facility, if any, which are not acquired or constructed with assistance under this subpart and facilities, if any, which are located at other sites. The other requirements of this section (paragraph (a) (1) and (2)) apply only to an assisted facility (including portions not acquired or constructed with assistance under this subpart.)

In addition, provision is made for waiver or modification of any of these limitations on capacity for good cause. Good cause might include (a) changed circumstances during the 5 years following the completion of an acquisition or construction project or (b) the inaccessibility of certain services to a portion of the HMO membership.

Section 110.1008, regarding costs which are eligible for loan assistance under this subpart, indicates which costs are eligible with respect to leased property.

Sections 110.1009 through 110.1014 prescribe loan closing procedures and the required documents and terms for all loans or loan guarantees. Under § 110.1014, loans must be repaid over a period not to exceed the lesser of the useful life of the assisted facility or 25 years, except that the Secretary will approve shorter repayment periods where appropriate to the HMO's financial plan and where not inconsistent with the financial interest of the United States. Thus, because under § 110.1004(d), the applicant must give an assurance that it will have title to the facility for at least the repayment period, it usually will be required to have title for 25 years, unless the Secretary approves a shorter repayment period.

Section 110.1015 sets forth procedures to be followed in the event of a default on a guaranteed loan. Under this section, the Secretary may retain in the terms of a guarantee the option to direct the holder of the guaranteed loan to foreclose on its security in event of a default before the Secretary will pay amounts due under the guarantee.

The Assistant Secretary for Health for the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby amends 42 CFR Part 110 by adding a new Subpart J, as set forth below.

Dated: January 11, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: April 2, 1980.

Patricia Roberts Harris,

Secretary.

Subpart J—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities

Sec.

110.1001 To what loans and loan guarantees do these regulations apply?
110.1002 Definitions.
110.1003 What organizations are eligible for loans and loan guarantees?
110.1004 What are the requirements for an application?
110.1005 What information must be submitted by an applicant which has received a commitment for a loan to be made or guaranteed under this supbart before the closing of the loan?
110.1006 What are the limitations on loans and guaranteed loans?
110.1007 What requirements apply to projects assisted under this subpart?
110.1008 What is an eligible cost?
110.1009 What security is required?
110.1010 What evidence of indebtedness must be used?
110.1011 What legal opinions and documents must be furnished?
110.1012 How are loan closing dates determined?
110.1013 What interest must be paid by the borrower?
110.1014 How and over what period are loans and guaranteed loans to be repaid?
110.1015 What are the obligations and rights of the holder of the loan in the event of default on a guaranteed loan?
110.1016 On what basis may the Secretary waive rights of recovery?

Authority: Sec. 215 of the public Health Service Act, as amended, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318 of the Public Health Service Act, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17)

Subpart J—Loans and Loan Guaranteees for Acquisition and Construction of Ambulatory Health Care Facilities

§ 110.1001 To what loans and loan guarantees do these regulations apply?

The regulations of this subpart, in addition to the regulations of Subpart B of this part, apply to loans and loan guarantees awarded to HMOs under section 1305A of the Public Health Service Act. These loans and loan guarantees are for projects for the acquisition of, the construction of, or the acquisition of equipment for, ambulatory health care facilities.

§ 110.1002 Definitions.

In addition to the terms defined in § 110.101 of this part:

"Ambulatory health care facility" or "facility" means a health care facility for the provision of diagnostic, treatment, and prevention services to ambulatory patients. If a facility occupies a portion of a building, the other parts of which are not owned by the HMO, the term does not include those other parts of the building. If an HMO is located in several buildings, each building in which the HMO provides diagnostic, treatment, and prevention services to ambulatory patients is a facility.

"Construction" means (a) the construction of new facilities; (b) the alteration, expansion, remodeling, replacement, and renovation of existing facilities; (c) off-site improvements in connection with an activity described in clause (a) or (b); and (d) the acquisition of land in connection with an activity described in clause (a), (b), or (c).

"Equipment" means those items which are necessary for the functioning of a facility acquired or constructed with a loan or loan guarantee awarded under this subpart, but does not include items of current operating expense such as food, fuel, pharmaceuticals, dressings, paper, printed forms and housekeeping supplies.

"Net assignable square footage" means the sum of all useable floor space measured on a floor plan to the inside faces of all enclosing walls or to lines denoting functional separations. Net assignable square footage includes all rooms to which a specific use can be assigned and excludes corridors, lobbies, toilets, mechanical shafts, ducts, electrical shafts or closets, elevators or elevators shafts, columns, exterior walls or partitions, service rooms, custodial supplies and general storage areas.

"Title" when used with reference to a facility which is proposed to be acquired or constructed with assistance under this subpart, means a fee simple or any other estate or interest (including a leasehold) which the Secretary finds sufficient to assure, for a period of not less than the repayment period of the loan to be made or guaranteed by the Secretary, undisturbed use and possession for the purposes of acquisition, or construction, and operation of the project.

§ 110.1003 What organizations are eligible for loans and loan guarantees?

(a) Any public health maintenance organization which is qualified under Subpart F of this part is eligible to apply for a loan under this subpart.

(b) Any nonprofit private health maintenance organization which is qualified under Subpart F of this part is eligible to apply for a loan or a loan guarantee under this subpart.

(c) Any private (other than a nonprofit private) health maintenance organization which is qualified under Subpart F of this part is eligible for a loan guarantee under this subpart, but only if it demonstrates that at least 10 percent of the members projected to be served in the facility to be acquired or constructed will be from medically underserved populations.

§ 110.1004 What are the requirements for an application?

(a) An applicant shall submit an application for a loan or loan guarantee to the Secretary at the time and in the form and manner that the Secretary prescribes.

(b) An application must contain an appraisal of the property to be acquired with a loan made or guaranteed under this subpart. The appraisal must be prepared by an independent appraiser approved in advance by the Secretary.

(c) (1) An application must identify any party in interest (as defined in § 110.101 of this part) with whom a transaction is proposed and for which transaction assistance is being requested under this subpart. The application must also identify any individual who would become a party in interest as a consequence of a proposed transaction.

(2) Where a party in interest is so identified, the application must include:

(i) An explanation of the involvement of the party in interest;

(ii) A combined financial statement for the HMO and the party in interest. This statement must be prepared by an independent auditor in accordance with generally accepted accounting principles with appropriate opinions and notes, and in the form and manner prescribed by the Secretary;

(iii) A second appraisal of property to be acquired from the party in interest. This second appraisal is in addition to that required under paragraph (b) of this section and must be prepared by another independent appraiser approved in advance by the Secretary;

(iv) Evidence that the cost of each proposed transaction with a party in interest is consistent with prudent management and the fiscal soundness requirements in 42 CFR 110.108(a)(1); and

(v) Evidence that the transaction will not adversely affect the management decisions or the fiscal soundness of the HMO. For example, a description of procedures which will prevent the party in interest from controlling decisions by the HMO will respect to the facility to be constructed or acquired under this subpart would meet this requirement.

(3) The Secretary will disapprove an application where he or she determines that the participation of a party in interest is likely to affect adversely the administration and fiscal soundness of the HMO or its delivery of health services.

(d) An application must include an assurance satisfactory to the Secretary that the HMO will have title (as defined in § 110.1002) to the facility.

(e) An application must include an assurance satisfactory to the Secretary that the HMO will continue to comply with the restrictions on capacity set out in § 110.1007(b) for the five years following completion of acquisition or construction.

(f) An application must include line drawings of the proposed facility demonstrating that the allocation of square footage complies with the requirements of § 110.1007.

(g) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this part, and the terms of the loan documents and the loan guarantee, if any.

§ 110.1005 What information must be submitted by an applicant which has received a commitment for a loan to be made or guaranteed under this subpart before the closing of the loan?

(a) Design, bid, and contract documents for each project must be prepared in accordance with all of Part 2.1 (except sections 5.4, 8.8, 11.2, 11.3, 11.4, Chapter 12, sections 13.2, 13.3 and Exhibits 9 and 10) of DHEW *Technical Handbook for Facilities Engineering and Construction Manual, Federally Assisted Construction,* entitled "2.1 Information for Project Applicants and State Agencies on Design and Construction Related Activities." With these exceptions, Part 2.1 is incorporated into this subpart by reference. This part of the Handbook will be provided to all applicants and is available at cost to any interested person upon request to the Office of Health Maintenance Organizations in any of the Department's Regional Offices. The addresses of Regional Offices are listed in 45 CFR 5.31(b). This part of the Handbook is also available for inspection without charge at these offices. If this handbook is amended, a notice of the amendments will be published in the **Federal Register** and a copy of the amendments will be on file at the Office of the Federal Register. The

design, bid, and contract documents must be submitted to the Secretary for approval before the closing of a loan to be made or guaranteed under this subpart.

(b) The plans and specifications for the design and construction of, and equipment for, a facility submitted to the Secretary must conform with:

(1) State and local codes, laws, and ordinances, and

(2) Chapter 14 of DHEW Publication No. (HRA) 79–14500, *Minimum Requirements of Construction and Equipment for Hospitals and Medical Facilities*, "Small Primary Health Care Centers," except for the last sentence of paragraph 14.1A, the parenthetical phrase "(usually 4)" in paragraph 14.1B(1) and paragraph 14.1B(3) in its entirety. With these three exceptions, Chapter 14 of this document is incorporated into this subpart by reference. This publication will be provided to all applicants and is available for the cost of reproduction to any interested person upon request to the Office of Health Maintenance Organizations in any of the Department's Regional Offices. The addresses of Regional Offices are listed in 45 CFR 5.31(b). This publication is also available for inspection without charge at these offices. If this publication is amended, a notice of the amendments will be published in the Federal Register and a copy of the amendments will be on file at the Office of the Federal Register.

Incorporation by reference provisions approved by the Acting Director of the Federal Register on October 22, 1979.

§ 110.1006 What are the limitations on loans and guaranteed loans?

(a) The aggregate amount of principal of loans made or guaranteed, or both, for an ambulatory health care facility under this subpart may not exceed the amount specified by section 1305A(b)(1) of the Act.

(b) The aggregate amount of loans made or guaranteed under this subpart for a project may not exceed 90 percent of the eligible costs of the project unless the Secretary, for good cause, approves a greater percentage.

(1) In determining whether there is good cause for approving a greater percentage, the Secretary will consider:

(i) The availability of other sources of funds to the applicant;

(ii) The effect on the security for the loan of other borrowing by the applicant to pay for the remainder of the project costs; and

(iii) Any other factors the Secretary determines are consistent with the purposes of the Act.

(2) The applicant may not use any funds provided under other subjects of this part to pay for any portion of the project costs not paid for by the loan made or guaranteed under this subpart.

§ 110.1007 What requirements apply to projects assisted under this subpart?

Projects assisted or to be assisted under this subpart must comply with the following requirements, unless a requirement is waived or modified by the Secretary for good cause.

(a) *Net assignable square footage limitations applicable to a facility.* The following limitations apply to an assisted facility, including any portion of the facility acquired or constructed (or to be acquired or constructed prior to the termination of the 5-year period following acquisition or construction) without Federal assistance under this subpart:

(1) Not more than 25 percent of the net assignable square footage (as defined in 110.1002) may be devoted to administrative functions of the HMO. The remainder must be devoted to clinical use. For the purpose of this paragraph, (i) administrative functions include general administration, marketing, enrollment and claims processing, and (ii) clinical uses of space include medical records storage, clinical administration, and space for the provision of basic health services, health education, and pharmacy, optical, dental, laboratory, X-ray, and other health services.

(2) At least 50 percent of the net assignable square footage must be for the provision of basic health services (as defined in Subpart A of this part).

(b) *Net assignable square footage limitations applicable to an HMO.* The following limitations apply to the net assignable square footage of all the facilities to be available to the HMO during the five year period following the completion of the acquisition or construction to be assisted under this subpart. This includes any net assignable square footage available or to be available to the HMO for the purposes specified below, whether or not acquired or constructed with assistance under this subpart:

(1) The net assignable square footage available to the HMO may not exceed that needed to serve 110 percent of the projected number of HMO members at the end of the 5 year period after the acquisition or construction is to be completed. The applicant shall calculate the amount of net assignable square footage which is needed in accordance with instructions provided by the Secretary.

(2) Where assistance under this subpart is used to acquire or construct facilities for the provision of optical, pharmacy or dental services, the total net assignable square footage available to the HMO for the provision of each of these assisted services may not exceed that needed to serve 200 percent of the projected number of HMO members at the end of the 5-year period after the acquisition or construction is to be completed. Only the HMO members projected to be enrolled to receive these services on a prepaid basis may be counted for purposes of this limitation. The applicant shall calculate the amount of net assignable square footage which is needed in accordance with instructions provided by the Secretary.

(3) Where assistance under this subpart is used to acquire or construct facilities for the provision of laboratory or X-ray services, the total net assignable square footage available to the HMO for the provision of each of these assisted services may not exceed that needed to serve 110 percent of the projected number of HMO members at the end of the 5 year period after the acquisition or construction is to be completed. The applicant shall calculate the amount of net assignable square footage which is needed in accordance with instructions provided by the Secretary.

§ 110.1008 What is an eligible cost?

(a) The Secretary will consider only eligible costs in determining the amount of a loan to be made or guaranteed under this subpart. Eligible costs are those which are reasonable and necessary for the acquisition or construction of, or the purchase of equipment for, a facility or portion of a facility. Costs which the Secretary determines to be inappropriate to the needs of a particular HMO and other costs which the Secretary specifies in materials to be provided to each applicant are not eligible costs.

(b) The cost of acquisition of equipment is an eligible cost only if the equipment is for a facility acquired or constructed, or to be acquired or constructed, with a loan made or guaranteed under this subpart.

(c) Acquisition of land for a facility is an eligible cost only if it is in connection with the acquisition or construction of a facility on that land.

(d) The costs of leasing land, a facility, or equipment for a facility are not eligible costs. The costs of construction on leased land, including renovation of a leased facility, may be eligible costs if adequate security is

available to protect the financial interests of the United States.

(e) The cost of repaying an interim construction loan for a facility is an eligible cost.

§ 110.1009 What security is required?

All loans and guaranteed loans shall be secured in a manner which the Secretary finds sufficient to ensure repayment and to protect the financial interests of the United States. The Secretary will file or require the filing of all documents necessary to perfect the security interests of the United States.

§ 110.1010 What evidence of indebtedness must be used?

The evidence of indebtedness with respect to loans made or guaranteed under this supart shall be in the form of a debt instrument which is acceptable to the Secretary.

§ 110.1011 What legal opinions and documents must be furnished?

At appropriate stages in the application and loan closing process, the applicant, at the request of the Secretary, shall furnish opinions by legal counsel who is acceptable to the Secretary, in the form and manner prescribed by the Secretary.

§ 110.1012 How are loan closing dates determined?

(a) *Loans.* Closing for any loan by the Secretary under this subpart shall be accomplished at a time determined by the Secretary.

(b) *Loan Guarantees.* Closing for any loan for which a guarantee is made under this subpart shall be accomplished at a time agreed upon by the parties to the loan and the Secretary.

§ 110.1013 What interest must be paid by the borrower?

(a) Each loan made by the Secretary shall bear interest at a rate determined by the Secretary.

(b) Each loan guaranteed by the Secretary shall bear interest at a rate approved by the Secretary.

§ 110.1014 How and over what period are loans and guaranteed loans to be repaid?

(a) The principal amount of each loan or guaranteed loan, together with interest thereon, must be repayable in accordance with a repayment schedule which is to be agreed upon by the parties to the loan, or by the parties to the guaranteed loan and the Secretary, prior to or at the time of the closing of the loan. Unless otherwise authorized by the Secretary, each loan made or guaranteed by the Secretary must be repayable in substantially level installments of interest and principal (except as provided in paragraph (b) of this section) sufficient to amortize the loan through the final year of the life of the loan.

(b) Interest on the unpaid principal amount of the loan shall be due and payable not less frequently than semi-annually from the date of the initial disbursement of funds under the loan. Principal repayments shall be paid not less frequently than semi-annually but may be deferred until completion of the project.

(c) Each loan or guaranteed loan shall be repayable over a period approved by the Secretary, not to exceed 25 years beginning on the date of closing of the loan.

(1) The Secretary may approve a repayment period of less than 25 years in particular cases if he or she determines that a shorter repayment period is more appropriate to an applicant's total financial plan and not inconsistent with the financial interests of the United States.

(2) A loan repayment period may not exceed the estimated useful life of the facility to be acquired or constructed with the assistance of the loan. In the case of a loan solely for acquisition of equipment for a facility previously assisted under this subpart, the loan repayment period may not exceed the estimated useful life of the most expensive items of equipment.

(3) Where a leased facility is being constructed (i.e., renovated) with assistance under this subpart, or a facility is being acquired or constructed on leased land with assistance under this part, the loan repayment period may not be longer than the period of the lease.

§ 110.1015 What are the obligations and rights of the holder of the loan in the event of a default on a guaranteed loan?

When the holder of a loan guaranteed by the Secretary under this subpart is the Federal Financing Bank, the obligations and rights of the holder in the event of default will be set forth in the loan documents and in the terms of the guarantee. For other holders, the procedures to be followed in the event of default are set forth below:

(a) If a borrower defaults on a loan guaranteed by the Secretary under this subpart, the holder of the loan shall promptly give the Secretary written notification of this default. The Secretary will, immediately upon receipt of the notice, provide the holder with written acknowledgement of its receipt.

(b) If a default in making periodic payment of the principal and interest on the guaranteed loan is not cured within 90 days after receipt by the Secretary of notice of the default, the holder of the loan shall have the right to make written demand upon the Secretary for payment under the guarantee. Upon receiving this demand, the Secretary will, at his or her option, either:

(1) Pay to the holder of the loan the full amount of all overdue payments (principal, accrued interest, and reasonable late charges if assessed in the form of additional interest) and continue to make payments on the loan when due until the applicant resumes making payments or until the Secretary elects either to purchase the loan under subparagraph (2) or to make payments under subparagraph (3); or

(2) Purchase the loan through the payment to the holder of the full unpaid principal amount together with accrued interest and reasonable late charges (if assessed in the form of additional interest) imposed in accordance with the instrument evidencing or securing the loan; or

(3) Direct the holder to foreclose upon and dispose of the security for the loan (as provided in the security instrument), if the Secretary has reserved the right so to direct the holder under the terms of the loan guarantee. After the foreclosure and disposition, the Secretary will pay to the holder the outstanding balance of the loan (principal, accrued interest, and reasonable late charges if assessed in the form of additional interest) less the net proceeds of the foreclosure and disposition.

(c) If the borrower fails to cure a default on the loan (other than a default in the payment of principal and interest) within 90 days after the Secretary receives the notice of the default, the holder of the laon shall have the right to accelerate payment of the loan.

(1) If the borrower cannot make this payment, the holder may make written demand upon the Secretary for payment under the guarantee.

(2) The Secretary will, upon receiving this written demand; either

(i) Purchase the loan through the payment to the holder of the full unpaid principal amount together with accrued interest and reasonable late charges (if assessed in the form of additional interest) imposed in accordance with the instrument evidencing or securing the loan; or

(ii) Direct the holder to foreclose upon and dispose of the security for the loan (as provided in the security instrument), if the Secretary has reserved the right so to direct the holder under the terms of the loan guarantee. After the foreclosure and disposition, the Secretary will pay to the holder the outstanding balance of the loan (principal, accrued interest, and reasonable late charges if assessed in

the form of additional interest) less the net proceeds of the foreclosure and disposition.

§ 110.1016 On what basis may the Secretary waive rights of recovery?

In determining whether there is good cause for waiver of any right of recovery which the Secretary may have against an HMO, either because of a loan made under this subpart or because of a payment made under a loan guarantee under this subpart, he or she will take into consideration the extent to which:

(a) The recipient of the loan or guaranteed loan or other owner of the facility with respect to which the loan or loan guarantee was made will continue to use it for (1) the purpose for which it was constructed or (2) another public or nonprofit purpose which will promote the purposes of the Act;

(b) There are reasonable assurances that for the remainder of the repayment period of the loan, other public or nonprofit facilities not previously used for the purpose for which the facility was constructed will be so used and are substantially equivalent in nature and extent for that purpose;

(c) The recovery would seriously curtail the provision of medical services to persons in need of these services in the area; and

(d) It is likely that payment can be obtained which would be greater than the costs the government would incur as a result of continuing to pursue collection.

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Part III

Environmental Protection Agency

Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22, 80, 168, 226

[FRL 1337-3]

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rules of practice.

SUMMARY: This document sets forth consolidated rules of practice to be followed by parties litigating administratively assessed civil penalties and revocations or suspensions of permits under certain statutes administered by EPA. These statutes are listed in § 22.01(a) of the consolidated rules. The consolidated rules are designed to accomplish two purposes. The first is the development of a common set of procedural rules for several programs in order to reduce paperwork, inconsistency, and the burden on persons regulated. The second is the improvement of formal administrative adjudicatory procedures through substantive revisions.

DATE: These rules govern all adjudicatory proceedings described in § 22.01(a) for which a complaint is filed after April 9, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Leifer (EN–342), Pesticides and Toxic Substances Enforcement Division, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0970.

SUPPLEMENTARY INFORMATION: These consolidated rules of practice govern all adjudicatory proceedings for the assessment of a civil penalty or for the revocation or suspension of a permit authorized by the statutory provisions listed in § 22.01(a)(1)–(5). The consolidated rules replace existing rules of practice promulgated under section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Part 168, section 211 of the Clean Air Act, 40 CFR Part 80.301–332, and section 105 of the Marine Protection, Research, and Sanctuaries Act (Ocean Dumping Act), 40 CFR Part 226. They are the initial rules of practice promulgated in final form under section 3008 of the Solid Waste Disposal Act (SWDA) as amended by the Resource Conservation and Recovery Act (RCRA) and section 16 of the Toxic Substances Control Act (TSCA).

However, the rules in their final form no longer cover revocation of permits issued under RCRA. This does not reflect any change in EPA's position that a formal evidentiary hearing is required for such revocation. However, since these rules were proposed for comment, EPAhas poposed for comment and is now preparing for final promulgation, consolidated permit regulations under which the permit procedures for four EPA permit programs, including RCRA, will be coordinated as much as possible. One of the permit programs covered, the NPDES program under the Clean Water Act, already provides for revocation of permits through a formal evidentiary hearing.

EPA's current intention is to use the NPDES hearing procedures, with any necessary changes, for revocation of RCRA permits as well. Comments on these regulations will be reconsidered in that context. This will allow all the procedures for changing RCRA permits to be contained in the consolidated permit regulations. In addition, the consolidated permit hearing procedures are more adapted to deal with major policy problems than these regulations, and RCRA revocation proceedings appear likely to raise such issues. EPA will make a final decision on this point when the consolidated permit regulations are promulgated.

RCRA civil penalties will still be assessed through the Part 22 procedures.

The consolidated rules of practice were published in interim and proposed form on August 4, 1978 (43 FR 34730). The rules were interim with regard to TSCA, since there were no rules of practice in place to guide proceedings which were arising under the toxics program. The remaining programs either had rules of practice in place or did not expect to conduct administrative adjudications in the near future. Thus the consolidated rules were proposed with respect to the FIFRA, RCRA, Mobile Sources, and Ocean Dumping programs.

Numerous comments to the August 4 proposal were received from industry, trade associations, and governmental agencies. Responses to the more significant comments are set forth at the end of this preamble.

The consolidated rules are designed to accomplish two purposes. The first is the development of a common set of procedural rules for several programs in order to reduce paperwork, inconsistency, and the burden on persons regulated. The second is the improvement of formal administrative adjudicatory procedures through substantive revisions.

The rules proposed here are similar to the rules which currently guide proceedings under section 14 of FIFRA, section 211(d) of the Clean Air Act, and section 105(a) of the Ocean Dumping Act. The major substantive revision to these rules is a shift in appellate jurisdiction. The responsibility for hearing appeals from initial decisions, default orders, and accelerated decisions has been shifted from the Regional Administrator to the Administrator. This change was made in order to foster consistency in Agency decision-making nationwide. In addition, consolidating appellate responsibility into a single office will facilitate the assembly and publication of civil penalty hearings decisions. The Regional Administrator, however, will retain the authority to issue consent orders finalizing agreements between parties.

Hearings under all but one of the four statutory provisions covered by these rules will be held in conformity with the adjudicatory hearing provisions of the Administrative Procedure Act (APA). The only exception is hearings to assess penalties for violating regulations on fuels or fuel additives under section 211 of the Clean Air Act. The reasons for concluding that the formal APA hearing requirements do not apply to this section were set forth at 40 FR 39963, August 29, 1975, when the original hearing rules under that section were promulgated.

Similarly, the rules providing for a formal hearing in connection with the assessment of penalties for violating FIFRA and for assessing penalties and revoking permits under the Ocean Dumping Act follow the previous EPA position on these questions in 39 FR 27657, July 31, 1974, and 42 FR 60702, November 28, 1977, except that the Ocean Dumping Procedures have been rewritten to conform literally to the APA.

For a further exposition of the reasoning underlying the approach taken in these final rules, see the responses to significant comments below.

Responses to Significant Comments

Qualifications of Office

1. Comment: Several commenters suggested that the Judicial Officer be subject to the same restrictions concerning conflicts of interest as is a Regional Judicial Officer.

Response: The Agency agrees with this comment. Section 22.04(b)(2) has been rewritten to provide that the Judicial Officer and the ten Regional Judicial Officers must all conform to the

Administrative Procedure Act section 554(d) prohibition against blending the prosecutorial and decision-making functions.

Accelerated Decisions

2. Comment: The grounds for granting a motion for an accelerated decision under § 22.20 are unclear. The section confuses summary judgment and involuntary dismissal situations, and contains the vague criterion of "such other reasons as are just."

Response: The Agency agrees with this comment, and has rewritten the section accordingly, separating an accelerated decision from a decision to dismiss. A party will be entitled to an accelerated decision upon a showing that there exists no genuine issue of material fact and that the party is entitled to judgment as a matter of law. The Presiding Officer may dismiss the complaint on the basis of failure to establish a prima facie case or other grounds which show no right to relief on the part of the complainant.

Official Notice

3. Comment: Several commenters took exception to the provision in § 22.22(f) which authorized the trier of fact to take official notice of facts "within the specialized knowledge and experience of the Agency". The commenters argued that the consolidated rules should conform to the more restrictive Federal Rules of Evidence definition of judicial notice (Rule 201).

Response: The Agency believes that official notice under the Administrative Procedure Act was intended to be broader than judicial notice. The Attorney General's Manual on the Administrative Procedure Act (1947), citing the legislative history of the APA, states at pages 79–80, that:

> The process of official notice should not be limited to the traditional matters of judicial notice but extends properly to all matters as to which the agency by reason of its functions is presumed to be expert, such as technical or scientific facts within its specialized knowledge.

There are several cases upholding this interpretation of the APA, particularly within the context of Federal Trade Commission proceedings. (*See*, for example, *Brite Manufacturing Co.* v. *FTC*, 347 F.2d 477 (D.C. Cir. 1965)).

Respondents should not be prejudiced by Agency notice of facts within its specialized knowledge since they will be given adequate opportunity to show that such facts are erroneously noticed.

Excluded Evidence

4. Comment: Several commenters objected to the following language in § 22.23(b) of the August 4 Proposal:

> Where the Administrator decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence or, where appropriate, the Administrator may evaluate such evidence in preparing his final order. If the Administrator in the preparation of his final order relies upon any evidence excluded at the hearing by the Presiding Officer, he shall explicitly identify in the final order any such excluded evidence relied upon and his reasons therefor.

The commenters argued that reliance by the Administrator on excluded evidence would violate section 556 of the APA, since (1) a party would not have the opportunity to explore and/or rebut the excluded evidence, and (2) the Administrator would be relying on evidence outside the record.

Response: The Agency accepts this comment. The language in § 22.23(b) following "* * * permit the taking of such evidence * * *" has been deleted.

Standard of Proof

5. Comment: One commenter took issue with the "preponderance of the evidence" standard prescribed for Agency adjudications in § 22.24 of the Consolidated Rules. The commenter offered that the proper standard is the APA section 556(d) requirement that a sanction be supported by "reliable, probative, and substantial evidence."

Response: The Agency disagrees with this comment. The language in section 556(d) quoted above goes to the scope of judicial review rather than to the degree of proof required at the hearing level. (*See Woodby* v. *Immigration and Naturalization Service*, 385 U.S. 276 (1966), interpreting similar language in the Immigration and Nationality Act).

The preponderance of the evidence standard is the proper yardstick in most non-criminal proceedings, and indeed, the Agency could require no lesser standard here (such as "substantial evidence"). "* * * in American law a preponderance of the evidence is rock bottom at the factfinding level of civil litigation * * * that the proceeding is administrative rather than judicial does not diminish this wholesome demand." *Charlton* v. *FTC*, 543 F. 2d 903, 907–8 (D.C. Cir. 1976), reviewing an order of the FTC suspending an attorney from practice before the Commission.

Amount of a Civil Penalty

6. Comment: Commenters argued, on ground of due process, that the Presiding Officer should not be allowed to raise a civil penalty from the amount recommended to be assessed in a complaint. Further, the Administrator should not be allowed to raise a penalty from the amount recommended to be assessed by the Presiding Officer.

Response: For the most part, the Agency disagrees with these positions. The Agency does agree, however, that neither the Presiding Officer nor the Administrator should raise any penalty in an action where the respondent has defaulted, and the Consolidated Rules have been modified accordingly.

In a contested civil penalty action, the dollar amounts contained in both the complaint and the initial decision are merely recommendations of penalties to be assessed. After an appeal, only the Administrator has the authority to actually *assess* a penalty.

A respondent

> Does not have any vested right to go to trial on the specific charge mentioned in the citation or to be free from exposure to a penalty in excess of that originally proposed.

Long Manufacturing Co, N.C., Inc. v. Occupational Safety and Health Review Commission, 554 F. 2d 903, 907 (8th Cir. 1977).

As long as the penalty imposed by the Administrator is within limits described by the statute and supported by substantial evidence, the penalty may exceed the amount proposed by the Presiding Officer. (*See Nees v. SEC*, 414 F. 2d 211, 217 (9th Cir. 1969).)

One commenter suggested that language in several of the statutes covered by the Consolidated Rules authorizing the Administrator to compromise, modify, remit, or mitigate penalties allowed the Administrator to only decrease penalties upon review of an initial decision. The Agency believes, however, that such language was intended to authorize the Administrator to assess a penalty less than the statutory maximum through settlement proceedings. Moreover, other federal agencies (e.g. the FCC and the CAB), have interpreted the mitigation clauses, such as that contained in TSCA section 16(a)(2)(C), to apply only to collection of those penalties which have already been assessed. Thus the Agency sees no legal obstacle barring either the Presiding Officer or the Administrator from raising a penalty recommended to be assessed at a previous stage in the adjudicatory process.

7. Comment: Numerous commenters objected to the requirement, contained in the Solid Waste Disposal Act Supplemental Rules of Practice (§ 22.36(h) of the August 4 proposal), that Presiding Officers must follow any civil penalty assessment guidelines

promulgated by the Administrator. The commenters argued that the amount of a penalty should rest in the discretion of the Presiding Officer. The commenters also felt that the penalty assessment guidelines should be made available before they submit to a provision such as that contained in § 22.36(h).

Response: Section 22.36(h) has been deleted from the final Consolidated Rules. The Agency may, however, resubmit such a provision for comment after penalty assessment guidelines have been published.

Issues on Appeal

8. Comment: Two comments suggested that the language in § 22.30(c) seemed to allow the Administrator to sua sponte order argument on appeal with respect to issues entirely new to the proceeding.

Response: Section 22.30(c) has been rewritten to more accurately reflect the intent of the Agency. Under the final Consolidated Rules, the Administrator, on appeal, may sua sponte order argument only with respect to those issues raised at the hearing. The Administrator will have the authority to remand the case to receive evidence relating to issues new to the proceeding.

Appellate Jurisdiction

9. Comment: Two commenters contested the shift in appellate jurisdiction from the Regional Administrators to the Administrator. They felt that such a change from existing civil penalty procedures would result in delay and would not allow the appellate decision to adequately reflect the needs of the region.

Response: The Agency disagrees with this comment. The change in jurisdiction will:

(1) Foster consistency in agency decision-making,

(2) Centralize appellate responsibility, so that a small number of EPA personnel become proficient in hearing appeals from administrative adjudications. The centralization should result in a net savings of time and effort to all parties, and

(3) Bring a greater degree of separation of functions to the administrative process.

The increased quality and efficiency of the appellate process should outweigh any small delays which may result from this change. Moreover, parties have ample opportunity to bring issues of a regional nature to the attention of the Administrator.

Staying the Final Order

10. Comment: Two commenters argued that a final order should automatically be stayed upon the filing of a motion to reconsider under § 22.32. The commenters envisioned a scenario in which a respondent would be forced to comply with a final order, and then would later prevail on his motion to reconsider.

Response: Although cognizant of the problem raised by the commenters, the Agency has elected not to provide for automatic stays. The Agency is concerned over the possibility that motions to reconsider will be used to bring about unnecessary delay. The Administrator is authorized, however, to order stays in order to avoid any hardship to the respondent which may result from what proves to be premature compliance.

Deadlines and Time Requirements

11. Comment: Several comments were received which objected to the brevity of the time periods prescribed in the Consolidated Rules.

Response: EPA has agreed to expand the deadline, from 15 days to 20 days:

(1) For filing an answer to an amended complaint under § 22.14(d);

(2) For filing an answer to the original complaint under § 22.15(a); and

(3) For notifying the parties of a hearing prior to the date set for the hearing under § 22.21(b).

The times for filing responses to motions under § 22.16(b) (10 days), proposed findings of fact under § 22.26 (20 days) and motions to reconsider the final order under § 22.32 (10 days) have remained unchanged. These time periods have been found to be satisfactory in cases arising under EPA and other federal agencies' rules of practice, and under the Federal Rules of Civil Procedure.

Permit Issuance

12. Comment: Two commenters took issue with language in the August 4 preamble which suggested that formal hearing procedures are not required for initial permit issuance under the Resource Conservation and Recovery Act (RCRA).

Response: A more detailed analysis of the procedural requirements for RCRA permit issuance can be found in the proposed Consolidated Permit Regulations, 44 FR 34244, 34264, June 14, 1979. Comments on the RCRA permit issuance program will be addressed in the final Consolidated Permit Regulations.

Discovery

13. Comment: Several commenters suggested that the Consolidated Rules spell out procedures for obtaining discovery, rather than relying on the broad language contained in § 22.04(c)(5).

Response: The Agency agrees with this comment, and has set forth rules governing discovery in § 22.19(f). The section is taken from the discovery provisions previously operable under the Clean Air Act section 211 regulation of fuels program (40 CFR Part 80.319(f) (1978)).

Miscellaneous

14. Comment and response: The Agency agrees with the following comments and has modified the Consolidated Rules accordingly:

Section 22.03(h). The definition of "final order" should be more specific.

Section 22.05(c)(5). A party submitting a document which is refused for filing should be allowed to amend and resubmit the document. The notice of refusal should set forth the ground therefor.

Section 22.14(d). The complainant should be allowed to amend the complaint as a matter of right only once before the answer is filed.

Section 22.15(c). The respondent should be the only party who is permitted to request a hearing.

Section 22.17. A party should be given an opportunity to show good cause why he or she committed the action which led to default. (see § 22.17(d)).

Section 22.19(b). EPA should clarify whether witnesses or documents can be introduced at trial without a preview of such evidence at the prehearing conference.

Section 22.19(c). Prehearing conferences which relate to settlement should never be transcribed.

Section 22.22(d). Affidavits should only be admissible in lieu of testimony in cases where the witness is unavailable under the applicable criteria set forth in Rule 804(a) of the Federal Rules of Evidence.

Note.—EPA has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order No. 12044.

Accordingly, the new Part 22 set forth below is hereby added to 40 CFR under the authority of section 16 of the Toxic Substances Control Act, sections 211 and 301 of the Clean Air Act, sections 14 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, sections 105 and 108 of the Marine Protection, Research, and Sanctuaries Act, and sections 2002 and 3008 of the Solid Waste Disposal Act.

Dated: March 17, 1980.

Douglas M. Costle,

Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

§ 80.301–80.332 (Subpart D) [Revoked]

PART 168—RULES OF PRACTICE GOVERNING PROCEEDINGS CONDUCTED IN THE ASSESSMENT OF CIVIL PENALTIES UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, AS AMENDED [REVOKED]

PART 226—ASSESSMENT OF CIVIL PENALTIES AND REVOCATION AND SUSPENSION OF PERMITS UNDER SECTION 105 OF THE ACT [REVOKED]

1. 40 CFR 80.301–80.332 (Subpart D) and 40 CFR Parts 168 and 226 are revoked.

2. 40 CFR Part 22 is added to read as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OR SUSPENSION OF PERMITS

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Authority: Sec. 16 of the Toxic Substances Control Act; secs. 211 and 301 of the Clean Air Act; secs. 14 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act; secs. 105 and 108 of the Marine Protection, Research, and Sanctuaries Act; and secs. 2002 and 3008 of the Solid Waste Disposal Act.

Subpart A—General

§ 22.01 Scope of these rules.

(a) These rules of practice govern all adjudicatory proceedings for:

(1) The assessment of any civil penalty conducted under section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 1361(a));

(2) The assessment of any civil penalty conducted under section 211 of the Clean Act Act as amended (42 U.S.C. 7545);

(3) The assessment of any civil penalty or for the revocation or suspension of any permit conducted under section 105 (a) and (f) of the Marine Protection, Research, and Sanctuaries Act as amended (33 U.S.C. 1415(a));

(4) The issuance of a compliance order or the assessment of any civil penalty conducted under section 3008 of the Solid Waste Disposal Act as amended (42 U.S.C. 6928);

(5) The assessment of any civil penalty conducted under section 16(a) of the Toxic Substances Control Act (15 U.S.C. 2615(a)).

(b) The Supplemental rules of practice set forth in subpart H establish rules governing those aspects of the proceeding in question which are not covered in Subparts A through G, and also specify procedures which supersede any conflicting procedures set forth in those subparts.

(c) Questions arising at any stage of the proceeding which are not addressed in these rules or in the relevant supplementary procedures shall be resolved at the discretion of the Administrator, Regional Administrator, or Presiding Officer, as appropriate.

§ 22.02 Use of number and gender.

As used in these rules of practice, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.

§ 22.03 Definitions.

(a) The following definitions apply to Part 22:

"Act" means the particular statute authorizing the institution of the proceeding at issue.

"Administrative Law Judge" means an Administrative Law Judge appointed under 5 U.S.C. 3105 (see also Pub. L. 95–251, 92 Stat. 183).

"Administrator" means the Administrator of the United States Environmental Protection Agency or his delegate.

"Agency" means the United States Environmental Protection Agency.

"Complainant" means any person authorized to issue a complaint on behalf of the Agency to persons alleged to be in violation of the Act. The complainant shall not be the Judicial Officer, Regional Judicial Officer, or any other person who will participate or advise in the decision.

"Complaint" means a written communication, alleging one or more violations of specific provisions of the Act, or regulations or a permit promulgated thereunder, issued by the complainant to a person under §§ 22.13 and 22.14.

"Consent Agreement" means any written document, signed by the parties, containing stipulations or conclusions of

fact or law and a proposed penalty or proposed revocation or suspension acceptable to both complainant and respondent.

"Final Order" means (a) an order issued by the Administrator after an appeal of an initial decision, accelerated decision, decision to dismiss, or default order, disposing of a matter in controversy between the parties, or (b) an initial decision which becomes a final order under § 22.27(c).

"Hearing" means a hearing on the record open to the public and conducted under these rules of practice.

"Hearing Clerk" means the Hearing Clerk, A–110, United States Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

"Initial Decision" means the decision issued by the Presiding Officer based upon the record of the proceedings out of which it arises.

"Judicial Officer" means the person designated by the Administrator under § 22.04(b) to serve as the Judicial Officer.

"Party" means any person that participates in a hearing as complainant, respondent, or intervenor.

"Permit" means a permit issued under Section 102 of the Marine Protection, Research, and Sanctuaries Act.

"Person" includes any individual, partnership, association, corporation, and any trustee, assignee, receiver or legal successor thereof; any organized group of persons whether incorporated or not; and any officer, employee, agent, department, agency or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

"Presiding Officer" means the Administrative Law Judge designated by the Chief Administrative Law Judge to serve as Presiding Officer, unless otherwise specified by any Supplemental Rules.

"Regional Administrator" means the Administrator of any Regional Office of the Agency or any officer or employee thereof to whom his authority is duly delegated. Where the Regional Administrator has authorized the Regional Judicial Officer to act, the term "Regional Administrator" shall include the Regional Judicial Officer. In a case where the complainant is the Assistant Administrator for Enforcement or his delegate, the term "Regional Administrator" as used in these rules shall mean the Administrator.

"Regional Hearing Clerk" means an individual duly authorized by the Regional Administrator to serve as hearing clerk for a given region. Correspondence may be addressed to the Regional Hearing Clerk, United States Environmental Protection Agency (address of Regional Office—see Appendix). In a case where the complainant is the Assistant Administrator for Enforcement or his delegate, the term "Regional Hearing Clerk" as used in these rules shall mean the Hearing Clerk.

"Regional Judicial Officer" means a person designated by the Regional Administrator under § 22.04(b) to serve as a Regional Judicial Officer.

"Respondent" means any person proceeded against in the complaint.

(b) Terms defined in the Act and not defined in these rules of practice are used consistent with the meanings given in the Act.

§ 22.04 Powers and duties of the Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer, and Presiding Officer; disqualification.

(a) *Administrator and Regional Administrator.* The Administrator and the Regional Administrator shall exercise all powers and duties as prescribed or delegated under the Act and these rules of practice.

(b) *Judicial Officer and Regional Judicial Officer.*—(1) *Office.* One or more Judicial Officers may be designated by the Administrator to perform the functions described below. One or more Regional Judicial Officers may be designated by the Regional Administrator to perform, within the region of their designation, the functions described below.

(2) *Qualifications.* A Judicial Officer or a Regional Judicial Officer shall be an attorney who is a permanent or temporary employee of the Agency or some other Federal agency and who may perform other duties within the Agency. A Regional Judicial Officer shall not be employed by the Region's Enforcement Division or by the Regional Division directly associated with the type of violation at issue in the proceeding. A Judicial Officer shall not be employed by the Office of Enforcement or by any program office directly associated with the type of violation at issue in the proceeding. Neither the Judicial Officer nor the Regional Judicial Officer shall have performed prosecutorial or investigative functions in connection with any hearing in which he serves as Judicial Officer or any factually related hearing.

(3) *Functions.* The Administrator may delegate to the Judicial Officer, or the Regional Administrator may delegate to the Regional Judicial Officer, all or part of his authority to act in a given proceeding. This delegation does not prevent the Judicial Officer or Regional Judicial Officer from referring any motion or case to the Administrator or Regional Administrator when appropriate. The Judicial Officer and Regional Judicial Officer shall exercise all powers and duties prescribed or delegated under the Act or these rules of practice.

(c) *Presiding Officer.* The Presiding Officer shall conduct a fair and impartial proceeding, assure that the facts are fully elicited, adjudicate all issues, and avoid delay. The Presiding Officer shall have authority to:

(1) Conduct administrative hearings under these rules of practice;

(2) Rule upon motions, requests, and offers of proof, dispose of procedural requests, and issue all necessary orders;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine witnesses and receive documentary or other evidence;

(5) For good cause, upon motion or sua sponte, order a party, or an officer or agent thereof, to produce testimony, documents, or other nonprivileged evidence, and failing the production thereof without good cause being shown, draw adverse inferences against that party;

(6) Admit or exclude evidence;

(7) Hear and decide questions of facts, law, or discretion;

(8) Require parties to attend conferences for the settlement or simplification of the issues, or the expedition of the proceedings;

(9) Issue subpoenas authorized by the Act; and

(10) Do all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in proceedings governed by these rules.

(d) *Disqualification; withdrawal.* (1) The Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer or Presiding Officer may not perform functions provided for in these rules of practice regarding any matter in which they (i) have a financial interest or (ii) have any relationship with a party or with the subject matter which would make it inappropriate for them to act. Any party may at any time by motion made to the Regional Administrator request that the Regional Judicial Officer be disqualified from the proceeding. Any party may at any time by motion to the Administrator request that the Regional Administrator, Judicial Officer, or Presiding Officer be disqualified or request that the Administrator disqualify himself from the proceeding. The Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer or Presiding Officer may at any time withdraw from any proceeding in which they deem

themselves disqualified or unable to act for any reason.

(2) If the Administrator, Regional Administrator, Regional Judicial Officer, Judicial Officer, or Presiding Officer is disqualified or withdraws from the proceeding, a qualified individual who has none of the infirmities listed in paragraph (d)(1) of this section shall be assigned to replace him. Assignment of a replacement for the Regional Administrator or Judicial Officer, or for the Regional Judicial Officer shall be made by the Administrator or the Regional Administrator, respectively. The Administrator, should he withdraw or disqualify himself, shall assign the Regional Administrator from the region where the case originated to replace him. If that Regional Administrator would himself be disqualified, the Administrator shall assign a Regional Administrator from another region to replace the Administrator. The Regional Administrator shall assign a new Presiding Officer if the original Presiding Officer was not an Administrative Law Judge. The Chief Administrative Law Judge shall assign a new Presiding Officer from among available Administrative Law Judges if the original Presiding Officer was an Administrative Law Judge.

(3) The Chief Administrative Law Judge, at any stage in the proceeding, may reassign the case to an Administrative Law Judge other than the one originally assigned in the event of the unavailability of the Administrative Law Judge or where reassignment will result in efficiency in the scheduling of hearings and would not prejudice the parties.

§ 22.05 Filing, service, and form of pleadings and documents.

(a) *Filing of pleadings and documents.* (1) Except as otherwise provided, the original and one copy of the complaint, and the original of the answer and of all other documents served in the proceeding shall be filed with the Regional Hearing Clerk.

(2) A certificate of service shall accompany each document filed or served. Except as otherwise provided, a party filing documents with the Regional Hearing Clerk, after the filing of the answer, shall serve copies thereof upon all other parties and the Presiding Officer. The Presiding Officer shall maintain a duplicate file during the course of the proceeding.

(3) When the Presiding Officer corresponds directly with the parties, the original of the correspondence shall be sent to the Regional Hearing Clerk, a copy shall be maintained by the Presiding Officer in the duplicate file, and a copy shall be sent to all parties. Parties who correspond directly with the Presiding Officer shall in addition to serving all other parties send a copy of all such correspondence to the Regional Hearing Clerk. A certificate of service shall accompany each document served under this subsection.

(b) *Service of pleadings and documents*—(1) *Service of complaint.* (i) Service of a copy of the signed original of the complaint, together with a copy of these rules of practice, may be made personally or by certified mail, return receipt requested, on the respondent (or his representative).

(ii) Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name shall be made by personal service or certified mail, as prescribed by paragraph (b)(1)(i) of this section, directed to an officer, partner, a managing or general agent, or to any other person authorized by appointment or by Federal or State law to receive service of process.

(iii) Service upon an officer or agency of the United States shall be made by delivering a copy of the complaint to the officer or agency, or in any manner prescribed for service by applicable regulations. If the agency is a corporation, the complaint shall be served as prescribed in paragraph (b)(1)(ii) of this section.

(iv) Service upon a State or local unit of government, or a State or local officer, agency, department, corporation or other instrumentality shall be made by serving a copy of the complaint in the manner prescribed by the law of the State for the service of process on any such persons, or:

(A) If upon a State or local unit of government, or a State or local department, agency, corporation or other instrumentality, by delivering a copy of the complaint to the chief executive officer thereof;

(B) If upon a State or local officer by delivering a copy to such officer.

(v) Proof of service of the complaint shall be made by affidavit of the person making personal service, or by properly executed return receipt. Such proof of service shall be filed with the complaint immediately upon completion of service.

(2) *Service of documents other than complaint, rulings, orders, and decisions.* All documents other than the complaint, rulings, orders, and decisions, may be served personally or by certified or first class mail.

(c) *Form of pleadings and documents.* (1) Except as provided herein, or by order of the Presiding Officer or Administrator, there are no specific requirements as to the form of documents.

(2) The first page of every pleading, letter, or other document shall contain a caption identifying the respondent and the docket number which is exhibited on the complaint.

(3) The original of any pleading, letter or other document (other than exhibits) shall be signed by the party filing or by his counsel or other representative. The signature constitutes a representation by the signer that he has read the pleading, letter or other document, that to the best of his knowledge, information and belief, the statements made therein are true, and that it is not interposed for delay.

(4) The initial document filed by any person shall contain his name, address and telephone number. Any changes in this information shall be communicated promptly to the Regional Hearing Clerk, Presiding Officer, and all parties to the proceeding. A party who fails to furnish such information and any changes thereto shall be deemed to have waived his right to notice and service under these rules.

(5) The Administrator, Regional Administrator, Presiding Officer, or Regional Hearing Clerk may refuse to file any document which does not comply with this paragraph. Written notice of such refusal, stating the reasons therefor, shall be promptly given to the person submitting the document. Such person may amend and resubmit any document refused for filing upon motion granted by the Administrator, Regional Administrator, or Presiding Officer, as appropriate.

§ 22.06 Filing and service of rulings, orders, and decisions.

All rulings, orders, decisions, and other documents issued by the Regional Administrator, Regional Judicial Officer, or Presiding Officer, as appropriate, shall be filed with the Regional Hearing Clerk. All such documents issued by the Administrator or Judicial Officer shall be filed with the Hearing Clerk. Copies of such rulings, orders, decisions, or other documents shall be served personally, or by certified mail, return receipt requested, upon all parties by the Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer, or Presiding Officer, as appropriate.

§ 22.07 Computation and extension of time.

(a) *Computation.* In computing any period of time prescribed or allowed in these rules of practice, except as otherwise provided, the day of the event from which the designated period begins

to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included. When a stated time expires on a Saturday, Sunday or legal holiday, the stated time period shall be extended to include the next business day.

(b) *Extensions of time.* The Administrator, Regional Administrator, or Presiding Officer, as appropriate, may grant an extension of time for the filing of any pleading, document, or motion (1) upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or (2) upon his own motion. Such a motion by a party may only be made after notice to all other parties, unless the movant can show good cause why serving notice is impracticable. The motion shall be filed in advance of the date on which the pleading, document or motion is due to be filed, unless the failure of a party to make timely motion for extension of time was the result of excusable neglect.

(c) *Service by mail.* Service of the complaint is complete when the return receipt is signed. Service of all other pleadings and documents is complete upon mailing. Where a pleading or document is served by mail, five (5) days shall be added to the time allowed by these rules for the filing of a responsive pleading or document.

§ 22.08 Ex parte discussion of proceeding.

At no time after the issuance of the complaint shall the Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer, Presiding Officer, or any other person who is likely to advise these officials in the decision on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, Regional Administrator, Judicial Officer, Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. The other parties shall be given an opportunity to reply to such memorandum or communication.

§ 22.09 Examination of documents filed.

(a) Subject to the provisions of law restricting the public disclosure of confidential information, any person may, during Agency business hours, inspect and copy any document filed in any proceeding. Such documents shall be made available by the Regional Hearing Clerk or Hearing Clerk, as appropriate.

(b) The cost of duplicating documents filed in any proceeding shall be borne by the person seeking copies of such documents. The Agency may waive this cost in appropriate cases.

Subpart B—Parties and Appearances

§ 22.10 Appearances.

Any party may appear in person or by counsel or other representative. A partner may appear on behalf of a partnership and an officer may appear on behalf of a corporation. Persons who appear as counsel or other representative must conform to the standards of conduct and ethics required of practitioners before the courts of the United States.

§ 22.11 Intervention.

(a) *Motion.* A motion for leave to intervene in any proceeding conducted under these rules of practice must set forth the grounds for the proposed intervention, the position and interest of the movant and the likely impact that intervention will have on the expeditious progress of the proceeding. Any person already a party to the proceeding may file an answer to a motion to intervene, making specific reference to the factors set forth in the foregoing sentence and paragraph (c) of this section, within ten (10) days after service of the motion for leave to intervene.

(b) *When filed.* A motion for leave to intervene in a proceeding must ordinarily be filed before the first prehearing conference or, in the absence of a prehearing conference, before the initiation of correspondence under § 22.19(e), or if there is no such correspondence, prior to the setting of a time and place for a hearing. Any motion filed after that time must include, in addition to the information set forth in paragraph (a) of this section, a statement of good cause for the failure to file in a timely manner. The intervenor shall be bound by any agreements, arrangements and other matters previously made in the proceeding.

(c) *Disposition.* Leave to intervene may be granted only if the movant demonstrates that (1) his presence in the proceeding would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties; (2) the movant will be adversely affected by a final order; and (3) the interests of the movant are not being adequately represented by the original parties. The intervenor shall become a full party to the proceeding upon the granting of leave to intervene.

(d) *Amicus curiae.* Persons not parties to the proceeding who wish to file briefs may so move. The motion shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable. If the motion is granted, the Presiding Officer or Administrator shall issue an order setting the time for filing such brief. An amicus curiae is eligible to participate in any briefing after his motion is granted, and shall be served with all briefs, reply briefs, motions, and orders relating to issues to be briefed.

§ 22.12 Consolidation and severance.

(a) *Consolidation.* The Presiding Officer may, by motion or sua sponte, consolidate any or all matters at issue in two or more proceedings docketed under these rules of practice where (1) there exists common parties or common questions of fact or law, (2) consolidation would expedite and simplify consideration of the issues, and (3) consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

(b) *Severance.* The Presiding Officer may, by motion or sua sponte, for good cause shown order any proceedings severed with respect to any or all parties or issues.

Subpart C—Prehearing Procedures

§ 22.13 Issuance of complaint.

If the complainant has reason to believe that a person has violated any provision of the Act, or regulations promulgated or a permit issued under the Act, he may institute a proceeding for the assessment of a civil penalty by issuing a complaint under the Act and these rules of practice. If the complainant has reason to believe that

(a) A permittee violated any term or condition of the permit, or

(b) A permittee misrepresented or inaccurately described any material fact in the permit application or failed to disclose all relevant facts in the permit application, or

(c) Other good cause exists for such action, he may institute a proceeding for the revocation or suspension of a permit by issuing a complaint under the Act and these rules of practice. A complaint may be for the suspension or revocation of a permit in addition to the assessment of a civil penalty.

§ 22.14 Content and amendment of the complaint.

(a) *Complaint for the assessment of a civil penalty.* Each complaint for the assessment of a civil penalty shall include:

(1) A statement reciting the section(s) of the Act authorizing the issuance of the complaint;

(2) Specific reference to each provision of the Act and implementing regulations which respondent is alleged to have violated;

(3) A concise statement of the factual basis for alleging the violation;

(4) The amount of the civil penalty which is proposed to be assessed;

(5) A statement explaining the reasoning behind the proposed penalty;

(6) Notice of respondent's right to request a hearing on any material fact contained in the complaint, or on the appropriateness of the amount of the proposed penalty.

A copy of these rules of practice shall accompany each complaint served.

(b) *Complaint for the revocation or suspension of a permit.* Each complaint for the revocation or suspension of a permit shall include:

(1) A statement reciting the section(s) of the Act, regulations, and/or permit authorizing the issuance of the complaint;

(2) Specific reference to each term or condition of the permit which the respondent is alleged to have violated, to each alleged inaccuracy or misrepresentation in respondent's permit application, to each fact which the respondent allegedly failed to disclose in his permit application, or to other reasons which form the basis for the complaint;

(3) A concise statement of the factual basis for such allegations;

(4) A request for an order to either revoke or suspend the permit and a statement of the terms and conditions of any proposed partial suspension or revocation;

(5) A statement indicating the basis for recommending the revocation, rather than the suspension, of the permit, or vice versa, as the case may be;

(6) Notice of the respondent's right to request a hearing on any material fact contained in the complaint, or on the appropriateness of the proposed revocation or suspension.

A copy of these rules of practice shall accompany each complaint served.

(c) *Derivation of proposed civil penalty.* The dollar amount of the proposed civil penalty shall be determined in accordance with any criteria set forth in the Act relating to the proper amount of a civil penalty and with any civil penalty guidelines issued under the Act.

(d) *Amendment of the complaint.* The complainant may amend the complaint once as a matter of right at any time before the answer is filed. Otherwise the complainant may amend the complaint only upon motion granted by the Presiding Officer or Regional Administrator, as appropriate. Respondent shall have twenty (20) additional days from the date of service of the amended complaint to file his answer.

(e) *Withdrawal of the complaint.* The complainant may withdraw the complaint, or any part thereof, without prejudice one time before the answer has been filed. After one withdrawal before the filing of an answer, or after the filing of an answer, the complainant may withdraw the complaint, or any part thereof, without prejudice, only upon motion granted by the Presiding Officer or Regional Administrator, as appropriate.

§ 22.15 Answer to the complaint.

(a) *General.* Where respondent (1) contests any material fact upon which the complaint is based; (2) contends that the amount of the penalty proposed in the complaint or the proposed revocation or suspension, as the case may be, is inappropriate; or (3) contends that he is entitled to judgment as a matter of law, he shall file a written answer to the complaint with the Regional Hearing Clerk. Any such answer to the complaint must be filed with the Regional Hearing Clerk within twenty (20) days after service of the complaint.

(b) *Contents of the answer.* The answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the complaint with regard to which respondent has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested.

(c) *Request for hearing.* A hearing upon the issues raised by the complaint and answer shall be held upon request of respondent in the answer. In addition, a hearing may be held at the discretion of the Presiding Officer, sua sponte, if issues appropriate for adjudication are raised in the answer.

(d) *Failure to admit, deny, or explain.* Failure of respondent to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegation.

(e) *Amendment of the answer.* The respondent may amend the answer to the complaint upon motion granted by the Presiding Officer.

§ 22.16 Motions.

(a) *General.* All motions, except those made orally on the record during a hearing, shall (1) be in writing; (2) state the grounds therefor with particularity; (3) set forth the relief or order sought; and (4) be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon. Such motions shall be served as provided by § 22.05(b)(2).

(b) *Response to motions.* A party's response to any written motion must be filed within ten (10) days after service of such motion, unless additional time is allowed for such response. The response shall be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon. If no response is filed within the designated period, the parties may be deemed to have waived any objection to the granting of the motion. The Presiding Officer, Regional Administrator, or Administrator, as appropriate, may set a shorter time for response, or make such other orders concerning the disposition of motions as they deem appropriate.

(c) *Decision.* Except as provided in § 22.04(d)(1) and § 22.28(a), the Regional Administrator shall rule on all motions filed or made before an answer to the complaint is filed. The Administrator shall rule on all motions filed or made after service of the initial decision upon the parties. The Presiding Officer shall rule on all other motions. Oral argument on motions will be permitted where the Presiding Officer, Regional Administrator, or the Administrator considers it necessary or desirable.

§ 22.17 Default order.

(a) *Default.* A party may be found to be in default (1) after motion, upon failure to file a timely answer to the complaint; (2) after motion or sua sponte, upon failure to comply with a prehearing or hearing order of the Presiding Officer; or (3) after motion or sua sponte, upon failure to appear at a conference or hearing without good cause being shown. No finding of default on the basis of a failure to appear at a hearing shall be made against the respondent unless the complainant presents sufficient evidence to the Presiding Officer to establish a prima facie case against the respondent. Any motion for a default order shall include a proposed default order and shall be served upon all parties. The alleged

defaulting party shall have twenty (20) days from service to reply to the motion. Default by respondent constitutes, for purposes of the pending action only, an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations. If the complaint is for the assessment of a civil penalty, the penalty proposed in the complaint shall become due and payable by respondent without further proceedings sixty (60) days after a final order issued upon default. If the complaint is for the revocation or suspension of a permit, the conditions of revocation or suspension proposed in the complaint shall become effective without further proceedings on the date designated by the Administrator in his final order issued upon default. Default by the complainant shall result in the dismissal of the complaint with prejudice.

(b) *Procedures upon default.* When Regional Administrator or Presiding Officer finds a default has occurred, he shall issue a default order against the defaulting party. This order shall constitute the initial decision, and shall be filed with the Regional Hearing Clerk.

(c) *Contents of a default order.* A default order shall include findings of fact showing the grounds for the order, conclusions regarding all material issues of law or discretion, and the penalty which is recommended to be assessed or the terms and conditions of permit revocation or suspension, as appropriate.

(d) For good cause shown the Regional Administrator or the Presiding Officer, as appropriate, may set aside a default order.

§ 22.18 Informal settlement; consent agreement and order.

(a) *Settlement policy.* The Agency encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the Act and applicable regulations. The respondent may confer with complainant concerning settlement whether or not the respondent requests a hearing. Settlement conferences shall not affect the respondent's obligation to file a timely answer under § 22.16.

(b) *Consent agreement.* The parties shall forward a written consent agreement and a proposed consent order to the Regional Administrator whenever settlement or compromise is proposed. The consent agreement shall state that, for the purpose of this proceeding, respondent (1) admits the jurisdictional allegations of the complaint; (2) admits the facts stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the assessment of a stated civil penalty or to the stated permit revocation or suspension, as the case may be. The consent agreement shall include any and all terms of the agreement, and shall be signed by all parties or their counsel or representatives.

(c) *Consent order.* No settlement or consent agreement shall dispose of any proceeding under these rules of practice without a consent order from the Regional Administrator. In preparing such an order, the Regional Administrator may require that the parties to the settlement appear before him to answer inquiries relating to the consent agreement or order.

§ 22.19 Prehearing conference.

(a) *Purpose of prehearing conference.* Unless a conference appears unnecessary, the Presiding Officer, at any time before the hearing begins, shall direct the parties and their counsel or other representatives to appear at a conference before him to consider:

(1) The settlement of the case;

(2) The simplification of issues and stipulation of facts not in dispute;

(3) The necessity or desirability of amendments to pleadings;

(4) The exchange of exhibits, documents, prepared testimony, and admissions or stipulations of fact which will avoid unnecessary proof;

(5) The limitation of the number of expert or other witnesses;

(6) Setting a time and place for the hearing; and

(7) Any other matters which may expedite the disposition of the proceeding.

(b) *Exchange of witness lists and documents.* Unless otherwise ordered by the Presiding Officer, each party at the prehearing conference shall make available to all other parties (1) the names of the expert and other witnesses he intends to call, together with a brief narrative summary of their expected testimony, and (2) copies of all documents and exhibits which each party intends to introduce into evidence. Documents and exhibits shall be marked for identification as ordered by the Presiding Officer. Documents that have not been exchanged and witnesses whose names have not been exchanged shall not be introduced into evidence or allowed to testify without permission of the Presiding Officer. The Presiding Officer shall allow the parties reasonable opportunity to review new evidence.

(c) *Record of the prehearing conference.* No transcript of a prehearing conference relating to settlement shall be made. With respect to other prehearing conferences, no transcript of any prehearing conferences shall be made unless ordered by the Presiding Officer upon motion of a party or sua sponte. The Presiding Officer shall prepare and file for the record a written summary of the action taken at the conference. The summary shall incorporate any written stipulations or agreements of the parties and all rulings and appropriate orders containing directions to the parties.

(d) *Location of prehearing conference.* The prehearing conference shall be held in the county where the respondent resides or conducts the business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional Office is located, or in Washington, D.C., unless (1) the Presiding Officer determines that there is good cause to hold it at another location in a region or by telephone, or (2) the Supplemental rules of practice provide otherwise.

(e) *Unavailability of a prehearing conference.* If a prehearing conference is unnecessary or impracticable, the Presiding Officer, on motion or sua sponte, may direct the parties to correspond with him to accomplish any of the objectives set forth in this section.

(f) *Other discovery.* (1) Except as provided by paragraph (b) of this section, further discovery, under this section, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not otherwise obtainable; and

(iii) That such information has significant probative value.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion therefor. Such a motion shall set forth;

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines that the motion should be granted, he shall issue an order for the taking of such discovery

together with the conditions and terms thereof.

(4) When the information sought to be obtained is within the control of one of the parties, failure to comply with an order issued pursuant to this paragraph may lead to (i) the inference that the information to be discovered would be adverse to the party from whom the information was sought, or

(ii) The issuance of a default order under § 22.17(a).

§ 22.20 Accelerated decision; decision to dismiss.

(a) *General.* The Presiding Officer, upon motion of any party or sua sponte, may at any time render an accelerated decision in favor of the complainant or the respondent as to all or any part of the proceeding, without further hearing or upon such limited additional evidence, such as affidavits, as he may require, if no genuine issue of material fact exists and a party is entitled to judgment as a matter of law, as to all or any part of the proceeding. In addition, the Presiding Officer, upon motion of the respondent, may at any time dismiss an action without further hearing or upon such limited additional evidence as he requires, on the basis of failure to establish a prima facie case or other grounds which show no right to relief on the part of the complainant.

(b) *Effect.* (1) If an accelerated decision or a decision to dismiss is issued as to all the issues and claims in the proceeding, the decision constitutes an initial decision of the Presiding Officer, and shall be filed with the Regional Hearing Clerk.

(2) If an accelerated decision or a decision to dismiss is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts remain controverted in good faith. He shall thereupon issue an interlocutory order specifying the facts which appear substantially uncontroverted, and the issues and claims upon which the hearing will proceed.

Subpart D—Hearing Procedure

§ 22.21 Scheduling the hearing.

(a) When an answer is filed, the Regional Hearing Clerk shall forward the complaint, the answer, and any other documents filed thus far in the proceeding to the Chief Administrative Law Judge who shall assign himself or another Administrative Law Judge as Presiding Officer, unless otherwise provided in the Supplemental rules of practice. The Presiding Officer shall then obtain the case file from the Chief Administrative Law Judge and notify the parties of his assignment.

(b) *Notice of hearing.* If the respondent requests a hearing in his answer, or one is ordered by the Presiding Officer under § 22.15(c), the Presiding Officer shall serve upon the parties a notice of hearing setting forth a time and place for the hearing. The Presiding Officer may issue the notice of hearing at any appropriate time, but not later than twenty (20) days prior to the date set for the hearing.

(c) *Postponement of hearing.* No request for postponement of a hearing shall be granted except upon motion and for good cause shown.

(d) *Location of the hearing.* The location of the hearing shall be determined in accordance with the method for determining the location of a prehearing conference under § 22.19(d).

§ 22.22 Evidence.

(a) *General.* The Presiding Officer shall admit all evidence which is not irrelevant, immaterial, unduly repetitious, or otherwise unreliable or of little probative value, except that evidence relating to settlement which would be excluded in the federal courts under Rule 408 of the Federal Rules of Evidence is not admissible. In the presentation, admission, disposition, and use of evidence, the Presiding Officer shall preserve the confidentiality of trade secrets and other commercial and financial information. The confidential or trade secret status of any information shall not, however, preclude its being introduced into evidence. The Presiding Officer may make such orders as may be necessary to consider such evidence *in camera,* including the preparation of a supplemental initial decision to address questions of law, fact, or discretion which arise out of that portion of the evidence which is confidential or which includes trade secrets.

(b) *Examination of witnesses.* Witnesses shall be examined orally, under oath or affirmation, except as otherwise provided in these rules of practice or by the Presiding Officer. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.

(c) *Verified statements.* The Presiding Officer may admit an insert into the record as evidence, in lieu of oral testimony, statements of fact or opinion prepared by a witness. The admissibility of the evidence contained in the statement shall be subject to the same rules as if the testimony were produced under oral examination. Before any such statement is read or admitted into evidence, the witness shall deliver a copy of the statement to the Presiding Officer, the reporter, and opposing counsel. The witness presenting the statement shall swear to or affirm the statement and shall be subject to appropriate oral cross-examination upon the contents thereof.

(d) *Admission of affidavits where the witness is unavailable.* The Presiding Officer may admit into evidence affidavits of witnesses who are unavailable. The term "unavailable" shall have the meaning accorded to it by Rule 804(a) of the Federal Rules of Evidence.

(e) *Exhibits.* Where practicable, an original and one copy of each exhibit shall be filed with the Presiding Officer for the record and a copy shall be furnished to each party. A true copy of any exhibit may be substituted for the original.

(f) *Official notice.* Official notice may be taken of any matter judicially noticed in the Federal courts and of other facts within the specialized knowledge and experience of the Agency. Opposing parties shall be given adequate opportunity to show that such facts are erroneously noticed.

§ 22.23 Objections and offers of proof.

(a) *Objection.* Any objection concerning the conduct of the hearing may be stated orally or in writing during the hearing. The party raising the objection must supply a short statement of its grounds. The ruling by the Presiding Officer on any objection and the reasons given for it shall be part of the record. An exception to each objection overruled shall be automatic and is not waived by further participation in the hearing.

(b) *Offer of proof.* Whenever evidence is excluded from the record, the party offering the evidence may make an offer of proof, which shall be included in the record. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. The offer of proof for excluded documents or exhibits shall consist of the insertion in the record of the documents or exhibits excluded. Where the Administrator decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence.

§ 22.24 Burden of presentation; burden of persuasion.

The complainant has the burden of going forward with and of proving that the violation occurred as set forth in the

complaint and that the proposed civil penalty, revocation, or suspension, as the case may be, is appropriate. Following the establishment of a prima facie case, respondent shall have the burden of presenting and of going forward with any defense to the allegations set forth in the complaint. Each matter of controversy shall be determined by the Presiding Officer upon a preponderance of the evidence.

§ 22.25 Filing the transcript.

The hearing shall be transcribed verbatim. Promptly following the taking of the last evidence, the reporter shall transmit to the Regional Hearing Clerk the original and as many copies of the transcript of testimony as are called for in the reporter's contract with the Agency, and also shall transmit to the Presiding Officer a copy of the transcript. A certificate of service shall accompany each copy of the transcript. The Regional Hearing Clerk shall notify all parties of the availability of the transcript and shall furnish the parties with a copy of the transcript upon payment of the cost of reproduction, unless a party can show that the cost is unduly burdensome. Any person not a party to the proceeding may receive a copy of the transcript upon payment of the reproduction fee, except for those parts of the transcript order to be kept confidential by the Presiding Officer.

§ 22.26 Proposed findings, conclusions, and order.

Within twenty (20) days after the parties are notified of the availability of the transcript, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer, proposed findings of fact, conclusions of law, and a proposed order, together with briefs in support thereof. The Presiding Officer shall set a time by which reply briefs must be submitted. All submissions shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on.

Subpart E—Initial Decision and Motion To Reopen a Hearing

§ 22.27 Initial decision.

(a) *Filing and contents.* The Presiding Officer shall issue and file with the Regional Hearing Clerk his initial decision as soon as practicable after the period for filing reply briefs under § 22.26 has expired. The Presiding Officer shall retain a copy of the complaint in the duplicate file. The initial decision shall contain his findings of fact, conclusions regarding all material issues of law or discretion, as well as reasons therefor, a recommended civil penalty assessment, if appropriate, and a proposed final order. Upon receipt of an initial decision, the Regional Hearing Clerk shall forward a copy to all parties, and shall send the original, along with the record of the proceeding, to the Hearing Clerk. The Hearing Clerk shall forward a copy of the initial decision to the Administrator.

(b) *Amount of civil penalty.* If the Presiding Officer determines that a violation has occurred, the Presiding Officer shall determine the dollar amount of the recommended civil penalty to be assessed in the initial decision in accordance with any criteria set forth in the Act relating to the proper amount of a civil penalty, and must consider any civil penalty guidelines issued under the Act. If the Presiding Officer decides to assess a penalty different in amount from the penalty recommended to be assessed in the complaint, the Presiding Officer shall set forth in the initial decision the specific reasons for the increase or decrease. The Presiding Officer shall not raise a penalty from that recommended to be assessed in the complaint if the respondent has defaulted.

(c) *Effect of initial decision.* The initial decision of the Presiding Officer shall become the final order of the Administrator within forty-five (45) days after its service upon the parties and without further proceedings unless (1) an appeal to the Administrator is taken from it by a party to the proceedings, or (2) the Administrator elects, sua sponte, to review the initial decision.

§ 22.28 Motion to reopen a hearing.

(a) *Filing and content.* A motion to reopen a hearing to take further evidence must be made no later than twenty (20) days after service of the initial decision on the parties and shall (1) state the specific grounds upon which relief is sought, (2) state briefly the nature and purpose of the evidence to be adduced, (3) show that such evidence is not cumulative, and (4) show good cause why such evidence was not adduced at the hearing. The motion shall be made to the Presiding Officer and filed with the Regional Hearing Clerk.

(b) *Disposition of motion to reopen a hearing.* Within ten (10) days following the service of a motion to reopen a hearing, any other party to the proceeding may file with the Regional Hearing Clerk and serve on all other parties an answer thereto. The Presiding Officer shall announce his intent to grant or deny such motion as soon as practicable thereafter. The conduct of any proceeding which may be required as a result of the granting of any motion allowed in this section shall be governed by the provisions of the applicable sections of these rules. The filing of a motion to reopen a hearing shall automatically stay the running of all time periods specified under these Rules until such time as the motion is denied or the reopened hearing is concluded.

Subpart F—Appeals and Administrative Review

§ 22.29 Appeal from or review of interlocutory orders or rulings.

(a) *Request for interlocutory appeal.* Except as provided in this section, appeals to the Administrator shall obtain as a matter of right only from a default order, an accelerated decision or decision to dismiss issued under § 22.20(b)(1), or an initial decision rendered after an evidentiary hearing. Appeals from other orders or rulings shall lie only if the Presiding Officer or Regional Administrator, as appropriate, upon motion of a party, certifies such orders or rulings to the Administrator on appeal. Requests for such certification shall be filed in writing within six (6) days of notice of the ruling or service of the order, and shall state briefly the grounds to be relied upon on appeal.

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify any ruling for appeal to the Administrator when (1) the order or ruling involves an important question of law or policy concerning which there is substantial grounds for difference of opinion, and (2) either (i) an immediate appeal from the order or ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) *Decision.* If the Administrator determines that certification was improvidently granted, or if he takes no action within thirty (30) days of the certification, the appeal is dismissed. When the Presiding Officer declines to certify an order or ruling to the Administrator on interlocutory appeal, it may be reviewed by the Administrator only upon appeal from the initial decision, except when the Administrator determines, upon motion of a party and in exceptional circumstances, that to delay review would be contrary to the public interest. Such motion shall be made within six (6) days of service of an order of the Presiding Officer refusing to certify a ruling for interlocutory appeal to the Administrator. Ordinarily, the interlocutory appeal will be decided on

the basis of the submissions made by the Presiding Officer. The Administrator may, however, allow further briefs and oral argument.

(d) *Stay of proceedings.* The Presiding Officer may stay the proceedings pending a decision by the Administrator upon an order or ruling certified by the Presiding Officer for an interlocutory appeal. Proceedings will not be stayed except in extraordinary circumstances. Where the Presiding Officer grants a stay of more than thirty (30) days, such stay must be separately approved by the Administrator.

§ 22.30 Appeal from or review of initial decision.

(a) *Notice of appeal.* (1) Any party may appeal any adverse ruling or order of the Presiding Officer by filing a notice of appeal and an accompanying appellate brief with the Hearing Clerk and upon all other parties and amicus curiae within twenty (20) days after the initial decision is served upon the parties. The notice of appeal shall set forth alternative findings of fact, alternative conclusions regarding issues of law or discretion, and a proposed order together with relevant references to the record and the initial decision. The appellant's brief shall contain a statement of the issues presented for review, a statement of the nature of the case and the facts relevant to the issues presented for review, argument on the issues presented, and a short conclusion stating the precise relief sought, together with appropriate references to the record.

(2) Within fifteen (15) days of the service of notices of appeal and briefs under paragraph (a)(1) of this section, any other party or amicus curiae may file and serve with the Hearing Clerk a reply brief responding to argument raised by the appellant, together with references to the relevant portions of the record, initial decision, or opposing brief. Reply briefs shall be limited to the scope of the appeal brief. Further briefs shall be filed only with the permission of the Administrator.

(b) *Sua sponte review by the Administrator.* Whenever the Administrator determines sua sponte to review an initial decision, the Hearing Clerk shall serve notice of such intention on the parties within forty-five (45) days after the initial decision is served upon the parties. The notice shall include a statement of issues to be briefed by the parties and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* The appeal of the initial decision shall be limited to those issues raised by the parties during the course of the proceeding. If the Administrator determines that issues raised, but not appealed by the parties, should be argued, he shall give counsel for the parties reasonable written notice of such determination to permit preparation of adequate argument. Nothing herein shall prohibit the Administrator from remanding the case to the Presiding Officer for further proceedings.

(d) *Argument before the Administrator.* The Administrator may, upon request of a party or sua sponte, assign a time and place for oral argument after giving consideration to the convenience of the parties.

Subpart G—Final Order on Appeal

§ 22.31 Final order on appeal.

(a) *Contents of the final order.* When an appeal has been taken or the Administrator issues a notice of intent to conduct review sua sponte, the Administrator shall issue a final order as soon as practicable after the filing of all appellate briefs or oral argument, whichever is later. The Administrator shall adopt, modify or set aside the findings and conclusions contained in the decision or order being reviewed, and shall set forth in the final order the reasons for his actions. The Administrator may, in his discretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the decision or order being reviewed, except that if the order being reviewed is a default order, the Administrator may not increase the amount of the penalty.

(b) *Payment of a civil penalty.* The respondent shall pay the full amount of the civil penalty assessed in the final order within sixty (60) days after receipt of the final order unless otherwise agreed by the parties. Payment shall be made by forwarding to the Regional Hearing Clerk a cashier's check or certified check in the amount of the penalty assessed in the final order, payable to the Treasurer, United States of America.

§ 22.32 Motion to reconsider a final order.

Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall not stay the effective date of the final order unless specifically so ordered by the Administrator.

Subpart H—Supplemental Rules

§ 22.33 Supplemental rules of practice governing the administrative assessment of civil penalties under the Toxic Substances Control Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding consolidated rules of practice (40 CFR Part 22), all formal adjudications for the assessment of any civil penalty conducted under section 16(a) of the Toxic Substances Control Act (15 U.S.C. 2615(a)). Where inconsistencies exist between these Supplemental rules and the Consolidated rules, (§§ 22.01–22.32), these Supplemental rules shall apply.

(b) *Subpoenas.* (1) The attendance of witnesses or the production of documentary evidence may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of (i) the grounds and necessity therefor, and (ii) the materiality and relevancy of the evidence to be adduced. Requests for the production of documents shall describe the evidence sought as specifically as practicable.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to a request initiated by the Presiding Officer, fees shall be paid by the agency.

§ 22.34 Supplemental rules of practice governing the administrative assessment of civil penalties under Title II of the Clean Air Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), all formal adjudications for the assessment of any civil penalty conducted under Section 211 of the Clean Air Act as amended (42 U.S.C. 7445). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules, (§§ 22.01–22.32), these Supplemental rules shall apply.

(b) *Headquarters enforcement.* Where the complainant is the Assistant Administrator for Enforcement or his delegate, the prehearing conference and hearing shall be held in Washington, DC, unless the Presiding Officer determines that there is good cause for it to be held at another location.

(c) *"Presiding Officer".* For purposes of hearings conducted pursuant to § 211

of the Clean Air Act, "Presiding Officer" means the Administrative Law Judge appointed under 5 U.S.C. 3105 (see also Pub. L. 95–251, 92 Stat. 183) or an attorney who is an employee or authorized representative of the Agency.

(d) *Assignment of a Presiding Officer.* Upon the filing of an answer, the Regional Hearing Clerk or Hearing Clerk, as appropriate, shall forward the complaint, answer, and any other documents filed thus far in the proceeding to the Regional Administrator or Administrator, respectively, who shall assign the Presiding Officer. The Regional Administrator or Administrator may, however, forward the case file to the Chief Administrative Law Judge and request that he assign an Administrative Law Judge as Presiding Officer. If the Chief Administrative Law Judge finds that such an assignment can be made without impairing the ability of his office to timely discharge its other responsibilities, he shall make the assignment. Otherwise, he shall notify the Regional Administrator or Administrator that he is unable to make such an assignment. The Presiding Officer assigned to the proceeding shall obtain the case file from the Chief Administrative Law Judge, Regional Administrator, or Administrator, as appropriate, and notify the parties of his assignment.

(e) *Evaluation of proposed civil penalty.* In determining the dollar amount of the recommended civil penalty assessed in the initial decision, the Presiding Officer shall consider (1) the gravity of the violation, (2) the size of respondent's business, (3) the respondent's history of compliance with the Act, (4) the action taken by respondent to remedy the specific violation, and (5) the effect of such proposed penalty on respondent's ability to continue in business. The Presiding Officer must also consider any guidelines for the Assessment of Civil Penalties issued under the Act.

§ 22.35 Supplemental rules of practice governing the administrative assessment of civil penalties under the Federal Insecticide, Fungicide, and Rodenticide Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), all formal adjudications for the assessment of any civil penalty conducted under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 1261(a)). Where inconsistencies exist between these Supplemental rules and the Consolidated rules, (§§ 22.01–22.32), these Supplemental rules shall apply.

(b) *Venue.* The prehearing conference and the hearing shall be held in the county, parish, or incorporated city of the residence of the person charged, unless otherwise agreed in writing by all parties.

(c) *Evaluation of proposed civil penalty.* In determining the dollar amount of the recommended civil penalty assessed in the initial decision, the Presiding Officer shall consider, in addition to the criteria listed in section 14(a)(3) of the Act, (1) respondent's history of compliance with the Act or its predecessor statute and (2) any evidence of good faith or lack thereof. The Presiding Officer must also consider the guidelines for the Assessment of Civil Penalties published in the **Federal Register** (39 FR 27711), and any amendments or supplements thereto.

§ 22.36 Supplemental rules of practice governing the administrative assessment of civil penalties and the revocation or suspension of permits under the Marine Protection, Research, and Sanctuaries Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), all formal adjudications conducted under Section 105(a) or (f) of the Marine Protection, Research, and Sanctuaries Act as amended (33 U.S.C. 1415(a) and (f)). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules, (§§ 22.01–22.32), these Supplemental rules shall apply.

(b) *Additional criterion for the issuance of a complaint for the revocation or suspension of a permit.* In addition to the three criteria listed in 40 CFR 22.13 for issuing a complaint for the revocation or suspension of a permit, complaints may be issued on the basis of a person's failure to keep records and notify appropriate officials of dumping activities, as required by 40 CFR 224.1 and 223.2.

§ 22.37 Supplemental rules of practice governing the administrative assessment of civil penalties under the Solid Waste Disposal Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), all proceedings to assess a civil penalty conducted under Section 3008 of the Solid Waste Disposal Act (42 U.S.C. 6928) (the "Act"). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules, (§§ 22.01–22.32), these Supplemental rules shall apply.

(b) *Issuance of notice.* Whenever, on the basis of any information, the Administrator determines that any person is in violation of (1) any requirement of Subtitle C of the Act, (2) any regulation promulgated pursuant to Subtitle C of the Act, or (3) a term or condition of a permit issued pursuant to Subtitle C of the Act, the Administrator shall issue notice to the alleged violator of his failure to comply with such requirement, regulation or permit.

(c) *Content of notice.* Each notice of violation shall include:

(1) A specific reference to each provision of the Act, regulation, or permit term or condition which the alleged violator is alleged to have violated; and

(2) A concise statement of the factual basis for alleging such violation.

(d) *Service of notice.* Service of notice shall be made in accordance with § 22.05(b)(2) of the Consolidated Rules of Practice.

(e) *Issuance of the complaint.* (1) Except as provided in paragraph (e)(3) of this section, the complainant may issue a complaint whenever he has reason to believe that any violation extends beyond the thirtieth day after service of the notice of violation.

(2) The complaint shall include, in addition to the elements stated in § 22.14 of the Consolidated Rules, an order requiring compliance within a specified time period. The complaint shall be equivalent to the compliance order referred to in Section 3008 of the Act.

(3) Whenever a violation is of a non-continuous or intermittent nature, the Administrator may issue a complaint, without any prior notice to the violator, pursuant to § 22.14 of the Consolidated Rules of Practice which may also require the violator to take any and all measures necessary to offset all adverse effects to health and the environment created, directly or indirectly, as a result of the violation.

(4) Notwithstanding § 22.15(a), any answer to the complaint must be filed with the Regional Hearing Clerk within thirty (30) days after the filing of the complaint.

(f) *Subpoenas.* (1) The attendance of witnesses or the production of documentary evidence may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of (i) the grounds and necessity therefor, and (ii) the materiality and relevancy of the evidence to be adduced. Requests for the production of documents shall describe with specificity the documents sought.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to a request initiated by the Presiding Officer, fees shall be paid by the Agency.

Appendix—Addresses of EPA Regional Offices

Region I—John F. Kennedy Federal Building, Boston, Massachusetts 02203
Region II—26 Federal Plaza, New York, New York 10007
Region III—Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106
Region IV—345 Courtland Street, NE, Atlanta, Georgia 30308
Region V—230 South Dearborn Street, Chicago, Illinois 60604
Region VI—First International Building, 1201 Elm Street, Dallas, Texas 75270
Region VII—1735 Baltimore Street, Kansas City, Missouri 64108
Region VIII—1860 Lincoln Street, Denver, Colorado 80203
Region IX—215 Fremont Street, San Francisco, California 94105
Region X—1200 6th Avenue, Seattle, Washington 98101

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Part IV

Department of Energy

DOE's Procurement Regulations; Amendments to Small Business Act

DEPARTMENT OF ENERGY

41 CFR Parts 9-1, 9-3, 9-7, 9-16, 9-50

Department of Energy Procurement Regulations; Amendments to Small Business Act

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule revises the Department of Energy Procurement Regulations (DOE-PR) to incorporate the requirements of Pub. L. 95-507, Amendments to the Small Business Act and Small Business Investment Act of 1951, the Office of Federal Procurement Policy's (OFPP) April 20, 1979 implementation of Pub. L. 95-507 (44 FR 23610), as modified on June 18, 1979 (44 FR 35068), and FPR Temporary Regulation 50 (44 FR 38478). Other minor changes are made.

EFFECTIVE DATE: April 9, 1980.

FOR FURTHER INFORMATION CONTACT:

Edward Lovett (PR-211), Procurement Policy Branch, Policy and Procedures Division, Procurement and Contracts, Management Directorate, M.S. 1J-009, Department of Energy, Washington, DC 20585, telephone (202) 252-8188.

Lester Schiefelbein, Jr., AGC for Procurement, Office of General Counsel, Department of Energy, Washington, D.C. 20585, telephone (202) 252-6902.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Statutory and Regulatory Requirements.
III. Public Comments.

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as the Act) (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. Accordingly, the DOE-PR was promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979). At the time of publication, the staffs of OFPP and the Federal Procurement Regulations were in the process of implementing Pub. L. 95-507. This necessitated reserving those subparts and sections of the DOE-PR dealing with Pub. L. 95-507. Those subparts and sections, together with other revisions of a minor nature, were published in the DOE proposed rule of November 23, 1979, (44 FR 67330, November 23, 1979). Pub. L. 95-507 authorized Federal agencies to provide incentives for subcontracting with small and small disadvantaged business concerns. It should be noted that OFPP and Department of Energy are conducting a pilot test of the application of subcontracting incentives under Pub. L. 95-507.

II. Statutory and Regulatory Requirements

To the extent that Section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentations on proposed rules is applicable to the proposed rule, and paragraph 9 of DOE Order 2030.1 relating to a regulatory analysis, the Department has determined that no substantial issue of fact or law exists and that this rule is unlikely to have substantial impact on the Nation's economy, or large numbers of individuals or businesses.

This conclusion is based on the fact that the Department was previously operating under Pub. L. 95-507, and this rule merely revises and formalizes those existing procedures to be consistent with OFPP's guidance, and FPR Temporary Regulation 50.

Note.—The Department has determined that the regulation will not affect the quality of the environment, and that the requirements of Section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

III. Public Comments

This final rule reflects the Department's efforts to comply with the statutory criteria contained in Pub. L. 95-507, OFPP's implementation of Pub. L. 95-507 and FPR Temporary Regulation 50. In addition, it reflects, as fully as possible, consistent with statutory requirements and policy and programmatic needs, the opinions and recommendations expressed by interested parties. Timely comments were received from nine organizations on the proposed rule.

A summary of the substantive comments received is set forth below, together with the Department's actions regarding the comments:

(1) Organizational Placement of the Director of Small and Disadvantaged Business Utilization (§ 9-1.704-1). A suggestion was made that § 9-1.704-1 of the DOE-PR should reflect the placement of the Director, SDBU within the organizational structure of the Department.

The Director SDBU reports directly to the Deputy Secretary of the Department. However, the organizational structure of the Department and the placement of an office within that structure is not properly a subject for the Department's Procurement Regulations. Accordingly, this recommendation has not been adopted.

This comment also prompted the Department to review the duties of the small business/small disadvantaged business (SB/DB) specialist set forth in § 9-1.704-3 of the proposed rule. The detailed description of the duties to be performed by the SB/DB specialist is an administrative matter which the Department feels should not be included in the DOE-PR. For this reason § 9-1.704-3 has been deleted in the final rule.

(2) Recurring Procurements (§ 9-1.705-7(b)(4) and § 9-1.751). Several organizations objected to the mandatory nature of these sections. One believed that approval of the Small Business Administration would be required if a product or service was not to be procured under these procedures. As a result, these sections have been rewritten. They now state that once a product or service has been procured successfully, from the SBA or through a small business set-aside, future requirements for similar products or services will also be considered for procurement in the same manner. However, a requirement has been added that a list of recurring procurements be maintained to alert the Contracting Officer to procurements subject to these subparts.

(3) Contractor Publication of Proposed Procurement Actions (§ 9-50.104(f)). Several organizations objected to the mandatory requirement that DOE operating and on-site service contractors synopsize proposed procurement actions of $100,000 and above in the Commerce Business Daily. The Department believes this to be a technique that will expand the participation of small and small disadvantaged business concerns in DOE contracts. However, the Department also recognizes that there are circumstances where publication may be inappropriate. Accordingly, we have revised this section to allow the contracting officer to waive the publication requirements where appropriate.

(4) Documentation of Small Purchases (§ 9-3.603-2). One organization pointed out that the information required to support small purchases, as set forth in § 9-3.603-2, would fail to provide historical purchasing data. Another requested that the regulations require more extensive documentation when award is made to other than a small business.

The need for historical purchasing data to determine sources of supply and the reasonableness of contract prices is recognized by the Department. The need

to document award to other than a small business is also recognized by the Department. However, the very purpose of the small purchase procedures is to meet the Government's needs with the minimum administrative expense consistent with sound business practices.

Section 9-3.603-2 has been revised in an attempt to balance the above factors.

For the Department of Energy.

Dated: April 3, 1980.

Berton J. Roth,

Director, Office of Policy, Procurement and Contracts Management Directorate.

The regulations in 41 CFR Chapter 9 are amended as follows:

1. By adding a new Subpart 9-1.7 to read as follows:

PART 9-1—GENERAL

Subpart 9-1.7—Small Business Concerns

Sec.

9-1.700 General.
9-1.703-1 Certification.
9-1.704 Agency program direction and operation.
9-1.704-1 DOE headquarters.
9-1.704-2 Other procuring activities.
9-1.705-3 Screening of procurements.
9-1.705-7 Performance of contract by SBA.
9-1.706 Procurement set-aside for small business.
9-1.706-1 General.
9-1.706-5 Total set-asides.
9-1.710 Subcontracting with small business concerns.
9-1.710-3 Required clauses.
9-1.710-5 Subcontracting certification.
9-1.750 Access to procurement information.
9-1.751 Small business set-aside—recurring procurements.

Authority: Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.).

Subpart 9-1.7—Small Business Concerns

§ 9-1.700 General.

This subpart sets forth the policies for the utilization of small busines concerns in DOE procurements. The policies and procedures prescribed in FPR 1-1.7 and this subpart apply to all DOE procurements.

§ 9-1.703-1 Certification.

The following certifications are to be used in procurements exceeding $10,000.

(a) The offeror certifies that he is ( ) is not ( ) a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632).

(b) The offeror certifies that he is a small business as set forth in (a) above and is ( ) is not ( ) owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one—

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 per centum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals, and

(3) Which certifies concerning said ownership and control in accordance with paragraph (c) of this section.

(c) The offeror certifies that he is ( ) is not ( ) a minority individual(s) in accordance with paragraph (c)(1) of this section or that he is ( ) is not ( ) socially and economically disadvantaged in accordance with paragraph (c)(2) or (c)(3) of this section. Socially and economically disadvantaged individuals are defined as:

(1) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorities;

(2) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 873); or

(3) Any other individual defined by the Small Business Administration as socially and economically disadvantaged, for purposes relating to other sections of the Small Business Act.

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

§ 9-1.704 Agency program direction and operation.

§ 9-1.704-1 DOE headquarters.

The Director of Small and Disadvantaged Business Utilization (SDBU), Headquarters, is responsible for the administration of the DOE small and small disadvantaged business programs. This includes responsibility for developing, implementing, executing, and managing these programs, providing advice on this programs, and representing DOE before other Government agencies on matters primarily affecting small and small disadvantaged businesses.

§ 9-1.704-2 Other procuring activities.

Heads of Procuring Activities (HPAs) or designees, with the advice and consent of the Director, SDBU, shall appoint a small business/small disadvantaged business (SB/DB) specialist.

§ 9-1.705-3 Screening of procurements.

(a) *Individual Set-Asides.* The Department has established a comprehensive review and screening process of procurement actions for possible participation in those actions by small business, small disadvantaged business, and labor surplus area concerns (see § 9-16.804).

(b) *Initiation of Class Set-Asides.*—(1) *Class Set-Asides.* By agreement with SBA, DOE has established a class set-aside for procurements of construction where the estimated value is from $10,000 through $2 million including new construction and repair and alteration of structures. Lists of other class set-asides shall be maintained by all DOE procuring offices, including contractors who manage Government-owned sites. These lists shall be updated at least annually.

(2) In establishing and reviewing small business class set-asides, consideration shall be given to contracting with SBA pursuant to FPR 1-1.705-7 as well as the set-aside priorities in FPR 1-1.706-1. The list of class set-asides maintained at DOE and contractor procuring activities shall identify corresponding priorities.

§ 9-1.705-7 Performance of contract by SBA.

(a) Consideration will be given to contracting with SBA in order to foster or assist in the establishment or growth of SBA-designated socially and economically disadvantaged small business concerns.

(b) The SBA has delegated to its field offices authority to negotiate contracts and subcontracts under Section 8(a) of the Small Business Act. Heads of procuring activities or designees should assure full cooperation with SBA in efforts to place procurements with firms which are eligible for subcontract awards by SBA under Section 8(a). They shall take the necessary steps to:

(1) Invite appropriate SBA field representatives to identify needs for 8(a) contracts and to provide for cooperation and assistance on the part of DOE in verifying the availability or nonavailability of requirements, funding and other pertinent factors;

(2) Propose any requirements which appear to offer potential opportunity for contracting with SBA under the authority of Section 8(a) of the Small Business Act, for consideration by appropriate SBA field representatives; and

(3) Work out detailed arrangements for individual 8(a) contracts with SBA offices, consistent with FPR 1-1.712. Any problems relating to contracting with SBA should be reported to the Director, SDBU, Headquarters.

(c) Once a product or service has been procured successfully from the SBA, future requirements for similar products

or services shall be considered for procurement from SBA. The SB/DB specialist shall maintain a list of recurring procurements subject to this subsection.

§ 9–1.706 Procurement set-aside for small business.

§ 9–1.706–1 General.

(a) Procurements of $10,000 or less awarded through small purchase procedures, are set-aside for small business. (See § 9–3.601)

(b) In addition to paragraph (a) of this section, Contracting Officers are authorized and encouraged to seek set-asides for all susceptible procurements including procurement of architectural and engineering services, research, development, test and evaluation.

§ 9–1.706–5 Total set-asides.

It is DOE policy to use the preferred method of procurement known as "Small Business Restricted Advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9–1.710 Subcontracting with small business concerns.

Procuring activities shall maintain lists of active prime contracts containing the clause entitled "Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

§ 9–1.710–3 Required clauses.

(a) On April 20, 1979, the Office of Federal Procurement Policy (OFPP) issued, in the **Federal Register** (44 FR 23610), its implementation of Section 211 of Pub. L. 95–507. This issuance as modified on June 18, 1979 (44 FR 35068), contains various subcontracting provisions and guidance for their use. FPR Temporary Regulation 50 (44 FR 38478) requires the use of OFPP's clauses and procedures.

(b) DOE activities shall not utilize Part D, "Incentive Subcontracting Program," of OFPP's April 20, 1979 issuance, without prior approval of the Senior Procurement Official, Headquarters, or his designee.

(c) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which quarterly reports are to be submitted.

"Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(a) The contractor agrees to comply in good faith with the Small and Small Disadvantaged Business Concerns Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

(1) Use his best efforts to attain such percentage goals as may be set forth in the plan.

(2) Designate an individual who will:

(i) Maintain liaison with the Government on matters relating to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(ii) Monitor compliance with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals"; and

(iii) Administer the contractor's plan.

(3) Provide adequate and timely consideration of the potentialities of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in all "make-or-buy" decisions.

(4) Assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will, consistent with efficient performance of the contract, have the maximum practicable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of such concerns. Where the Contractor's lists of potential subcontractors which are small business and small business concerns owned and controlled by socially and economically disadvantaged individuals are excessively long, reasonable effort shall be made to give all such concerns an opportunity to compete over a period of time.

(5) Maintain records showing:

(i) Whether each subcontractor is a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals; and

(ii) Procedures which have been adopted to comply with the plan and the policies set forth in this clause.

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of $10,000 if:

(i) No small business concern or small business concern owned and controlled by socially and economically disadvantaged individuals is to be solicited, and

(ii) The Contracting Officer's consent to the subcontract is required by a "Subcontracts" clause in this contract. Such notification will state the contractor's reasons for nonsolicitation of small business and small business concerns owned and controlled by socially and economically disadvantaged individuals and will be given as early in the procurement cycle as possible so that the Contracting Officer may suggest potentially qualified small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals. In no case will the procurement action be held up when to do so would, in the Contractor's judgment, delay performance under the contract and the Contractor's notification shall specify that he is proceeding with the solicitation.

(7) Include the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts over $10,000 which offer further subcontracting opportunities.

(8) Cooperate in any studies or surveys of the Contractor's subcontracting procedures and practices as may be required by the DOE or the Small Business Administration.

(9) Submit quarterly reports of subcontracting to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals on such forms as may be specified elsewhere in this contract.

(b) The Contractor agrees that failure to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," or the terms of the subcontracting plan incorporated into the contract will be a material breach of the contract and the contract may be terminated in whole or, in part, for default.

(c) The contractor further agrees to insert in all subcontracts hereunder (except those with small business concerns) which contain the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," which offer further subcontracting opportunities, and which may exceed $1,000,000 in the case of a subcontract for the construction of any public facility or in excess of $500,000 in the case of all other subcontracts, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of such subcontractors.

(d) The provisions of this clause shall not apply to small business concerns.

§ 9–1.710–5 Subcontracting certification.

The following certification shall be used in solicitations expected to exceed $500,000 or $1,000,000 if solely for construction of a public facility which contain the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(a) The offeror represents that the following conditions prevail which determine whether the firm shall be required to submit a subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals:

(1) He is ( ) a small business as defined in accordance with 13 CFR, Part 121 of the SBA regulations;

(2) Subcontracting possibilities are not offered with respect to this contract ( ); and

(3) The contract is not expected to exceed $1,000,000 (if solely for construction of a public facility) or $500,000 otherwise ( ).

(b) The offeror represents that he is not ( ) required to submit plans for subcontracting with small and small disadvantaged businesses because he has properly executed one or more of the above representations.

§ 9-1.750 Access to procurement information.

For any contract (except those which will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or which is for services which are personal in nature) to be let by the Department, any small business concern, upon its request, shall be provided:

(a) A copy of the bid sets and specifications with respect to the contract;

(b) The name and telephone number of the Contracting Officer responsible for the contract; and

(c) Adequate citations to each major Federal law or Department rule which must be complied with in performing the contract.

§ 9-1.751 Small business set-aside—recurring procurements.

Once a product or service has been procured successfully on the basis of a total or partial small business set-aside, future requirements for similar products or services shall be considered for small business set-asides. (See 9-3.601.) The SB/DB specialist shall maintain a list of recurring procurements subject to this subsection.

2. By adding §§ 9-1.800, 9-1.804, and 9-1.805 and by revising § 9-1.807 to read as follows:

Subpart 9-1.8—Labor Surplus Area Concerns

Sec.

9-1.800 General.

* * * * *

9-1.804 Total set-asides.

9-1.805 Subcontracting with labor surplus area concerns.

* * * * *

9-1.807 Records and reports.

Subpart 9-1.8—Labor Surplus Area Concerns

§ 9-1.800 General.

(a) This subpart sets forth the policies for the utilization of labor surplus area (LSA) concerns in DOE procurements.

(b) Procurement actions shall be reviewed for potential labor surplus area set-aside consideration in accordance with § 9-16.804-4.

§ 9-1.804 Total set-aside.

It is DOE policy to use the preferred method of procurement known as "labor surplus area restricted advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9-1.805 Subcontracting with labor surplus area concerns.

(a) DOE encourages prime contractors to place subcontracts, including purchase orders, with labor surplus area concerns.

(b) Procuring Activities shall maintain lists of active prime contracts of $500,000 or more which contain the Labor Surplus Area Subcontracting Program Clause set forth in FPR 1-1.805-3(b). Lists shall contain:

(1) The title, address, and telephone number of the prime contractor's liaison office.

(2) Estimated dollar value of the contract.

(3) Period of performance.

(4) Nature of the work to be performed.

(5) Contract number.

§ 9-1.807 Records and reports.

Records and reports shall be as required by "A Guide to Preparation of DOE Quarterly Procurement and Financial Assistance Reports."

3. By adding a new subpart 9-1.13 to read as follows:

Subpart 9-1.13—Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

Sec.

9-1.1300 Scope of subpart.

9-1.1310 Subcontracting with small disadvantaged business concerns.

Subpart 9-1.13—Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

9-1.1300 Scope of subpart.

This subpart implements and supplements the policies applicable to the participation of Small Disadvantaged Business Concerns in Government procurement, at the prime and subcontract level, as set forth in FPR Subpart 1-1.13.

§ 9-1.1310 Subcontracting with small disadvantaged business concerns.

See § 9-1.710 for guidance relative to subcontracting plans.

PART 9-3—PROCUREMENT BY NEGOTIATION

4. By adding a new § 9-3.603-2 to read as follows:

§ 9-3.603-2 Data to support small purchases.

(a) Purchases in excess of $500.00 shall be supported by documentation, in the file, in accordance with FPR 1-3.603-2(b).

(b) Noncompetitive purchases in excess of $500.00 shall contain, in the file, a brief justification for noncompetitive procurement. The justification shall set forth enough facts and circumstances to clearly and convincingly establish that competition would not have been feasible or practicable.

(c) Contracting Officers shall include in the contract file, an appropriate notation when award of small purchases is made to other than a small business.

PART 9-7—CONTRACT CLAUSES

5. By adding §§ 9-7.103-57, 9-7.203-58, 9-7.303-57, 9-7.403-55, 9-7.603-60, 9-7.703-52, and 9-7.803-56 to read as follows:

§ 9-7.103-57 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.203-58 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.303-57 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.403-55 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.603-60 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.703-52 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economicaly disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

§ 9-7.803-56 Subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause set forth in § 9-1.710-3(c) where appropriate.

PART 9-16—PROCUREMENT FORMS

6. By adding a new § 9-16.5002-1, Appendix B, Article B-XXV and revising § 9-16.804-4 to read as follows:

§ 9-16.5002-1 Special research contracts (SRC) with educational institutions.

* * * * *

Appendix B—General Provisions

* * * * *

Article B-XXV—Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

Insert the clause in FPR Temporary Regulation 50.

§ 9-16.804-4 Small business/labor surplus set-aside review.

(a) *Use of DOE Form 415.* Procurement request originators at the Headquarters and Field Activities shall initiate DOE Form 415, Small Business/Labor Surplus Set-Aside Review, with all procurement requests except:

(1) Procurements of $10,000 or less.

(2) Basic research contracts with educational institutions.

(3) Incremental funding, where there is no change in the scope of work.

(4) Unsolicited proposals.

(5) The exercise of options.

(b) *Preparation and Approval Procedures.* (1) Responsibility for initiation of DOE Form 415. All applicable procurement requests originating from Headquarters' organizations whether for procurement by Headquarters or Field Activities shall be accompanied by a completed DOE Form 415, initiated by Headquarters' program officials. All applicable procurement requests originating from field organizations shall be accompanied by a DOE Form 415 initiated by the Field Activity program officials.

(2) Responsibility for reviewing procurement requests. The Director, SDBU, or his designee, shall review all procurement requests which are accompanied by a DOE Form 415, originating from Headquarters' organizations in order to determine the feasibility of small business/small disadvantaged business/labor surplus area procurement action. The cognizant field office SB/DB specialist shall review all procurement requests, accompanied by a DOE Form 415, which are originated by the field office.

(c) *Requirements.* (1) The contracting officer shall review the recommendations on the DOE Form 415 and make the determinations required by FPR 1-1.706.1.

(2) After the form is completed, the procurement documents shall be made available to the cognizant SBA procurement center representative.

(3) Upon award of the contract, one copy of the fully completed Form 415 shall be returned to the cognizant SB/DB specialist. In addition, when the award results from a small business set-aside, a copy of the abstract of bids/proposals, including the address and telephone number of the bidders/offerors, shall accompany the Form 415. In all other competitive actions, furnish the name, address and telephone number of the SB/DB firms that were in the competitive range.

PART 9-50—OPERATING AND ONSITE SERVICE CONTRACTS

7. By adding a new § 9-50.104 to read as follows:

§ 9-50.104 Small business and small disadvantaged business concerns. (FPR 1-1.7 and 1-1.13)

(a) The policies and procedures in the following regulations shall be applied to procurement activities of operating and on-site service contractors.

FPR	*DOE-PR*
1-1.703-1	9-1.706-5
1-1.703-2	9-1.710
1-1.706-5	9-1.710-3
1-1.706-6	
1-1.712-2	

(b) Protests received by contractors regarding small business status or questions concerning small disadvantaged businesses shall be referred to the SBA through the DOE contracting officer.

(c) Procurement of construction between $2,500 and $2 million, including new construction, and repair and alteration of structures, shall be set aside on a class basis for small business concerns. When, in the judgment of the contractor, a particular procurement falling within these dollar limits is determined to be unsuitable for a small business set-aside, notification to SBA shall be made through the DOE contracting officer. Unless SBA appeals the decision (see FPR 1-1.706-2), the contractor shall proceed to process the procurement on an unrestricted basis. Small business set-aside preferences should be considered for construction procurements in excess of $2 million on a case-by-case basis, favoring such preferential participation of small business, whenever appropriate.

(d) Initiation of set-asides by contractors shall be made on a unilateral basis.

(e) Procuring activities shall require operating and on-site service contractors to prepare quarterly reports on small business, small disadvantaged business, and contracts placed in labor surplus areas.

(f) To expand participation of small and small disadvantage business sources by contractors having cost-type contracts, Government-owned plants and laboratories and other on-site service contractors shall publicize proposed actions of $100,000 and above in accordance with FPR 1-1.1003-7.

This procedure will be followed unless approval of the contracting officer to waive the requirements of this provision is obtained.

PART 9-1—GENERAL

§ 9-1.5407 [Amended]

8. By amending § 9-1.5407 in paragraph (a) of the solicitation provision entitled "Organizational Conflicts of Interest Disclosure or Representation" by adding the following immediately after the word "advantage.": "The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict."

PART 9-3—PROCUREMENT BY NEGOTIATION

9. By revoking and reserving paragraph (a) of § 9-3.404-50.

§ 9-3.404-50 Lump-sum contract for architect-engineer services with reimbursement for certain costs.

(a) [Reserved]

* * * * *

PART 9-7—CONTRACT CLAUSES

§§ 9-7.403-70—9-7.403-74 [Renumbered]

10. By renumbering § 9-7.403.

§§ 9-7.403-70, 9-7.403-71, 9-7.403-72, 9-7.403-73, and 9-7.403-74 are renumbered 9-7.403-50, 9-7.403-51, 9-7.403-52, 9-7.403-53, and 9-7.403-54, respectively.

PART 9-50—OPERATING AND ONSITE SERVICE CONTRACTS

§ 9-50.303 [Amended]

11. By amending paragraph (c)(1) of § 9-50.303 by adding the following immediately after the word "administrative": "including environmental, safety, health and energy conservation program considerations,".

12. By adding paragraph (c)(2)(iv) to § 9-50.304 to read as follows:

§ 9-50.304 Field recommendations to extend or compete operating contracts and onsite service contracts.

* * * * *

(c) * * *

* * * * *

(2) * * *

(iv) A separate appraisal shall be made of the contractor's performance in assuring consideration of environmental, safety, health and energy conservation in the operation of the facility and development of products.

§ 9-50.704-48 [Revoked]

13. By revoking Section 9-50.704-48.

§§ 9-50.1002-1 and 9-50.1003-1 [Amended]

14. By amending §§ 9-50.1002-1 and 9-50.1003-1 by deleting "$2,000" and substituting therefor "$25,000."

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federal register

Wednesday
April 9, 1980

Part V

Federal Reserve System; Comptroller of the Currency, Department of the Treasury; Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; and National Credit Union Administration

Management Official Interlocks; Final Amendments to Existing Regulations

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. R-0198]

Management Official Interlocks; Final Amendments to Existing Regulations

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final amendments to existing regulations.

SUMMARY: On July 19, 1979, the agencies published regulations, as well as proposed amendments to those regulations, under the Depository Institution Management Interlocks Act (Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978) (the "Interlocks Act"). The Interlocks Act prohibits certain management official interlocks between depository institutions, depository holding companies, and their affiliates. The final amended regulations published in full below include certain clarifying and technical changes in the regulations published in July, and add a definition of the term "representative or nominee," as well as provisions concerning "grandfather" rights and "changes in circumstances." In addition, the final amendments add a provision that extends the compliance period for depository organizations experiencing a disruptive loss of management as a result of a change in circumstances. These amendments are considered to be significant within the meaning of Executive Order 12044 ("Improving Government Regulations"), *i.e.*, they will be of substantial interest to the financial institutions community and the public because they include provisions that are determinative of whether or not certain interlocking relationships are prohibited.

EFFECTIVE DATE: May 9, 1980.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452–3564 or Melanie Fein (202) 452–3594, Board of Governors of the Federal Reserve System; Gwenn Hibbs (202) 447–1880 or Howard Finkelstein (202) 447–1880, Office of the Comptroller of the Currency; Pamela LeCren (202) 389–4433, Federal Deposit Insurance Corporation; Kathleen Topelius (202) 377–6444 or Kenneth Hall (202) 377–6443, Federal Home Loan Bank Board; Ross Kendall (202) 357–1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: The Depository Institution Management Interlocks Act was enacted on November 10, 1978, as Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3201 *et seq.*). On July 19, 1979, the agencies published regulations implementing the Interlocks Act (44 FR 42152), effective immediately upon publication. At the same time, the agencies issued proposed amendments to complete the regulations (44 FR 42212) by clarifying certain issues not addressed in the regulations. In addition, comment was sought on whether or not the agencies should define "person" so as to exclude corporations or other business entities from being considered "management officials" for the purposes of the Interlocks Act. Public comment was invited for sixty days, until September 17, 1979, regarding both the regulations and the proposed amendments.

The agencies received approximately 15 comments concerning the regulations and approximately 65 comments concerning the proposed amendments. Upon careful review of the comments, as well as experience gained in administering the Interlocks Act regulations, the agencies have decided to make certain technical and clarifying changes in the July regulations and to adopt the proposed amendments with certain modifications.

The final amended regulations are designed to further the purpose of the Interlocks Act to foster competition among depository institutions. Because the Interlocks Act requires that exceptions from the Act's prohibitions be created by regulations, it is necessary for the agencies to issue these formal regulations. However, consistent with Executive Order 12044 ("Improving Government Regulations," 43 FR 12661), the agencies have determined that no increased costs from recordkeeping or reporting will result from compliance with the regulations, and accordingly, no cost-benefit analysis of the regulations is necessary.

In accordance with section 553(d) of the Administrative Procedure Act (5 U.S.C. 500, *et seq.*), the final amendments to the regulations implementing the Interlocks Act will be effective May 9, 1980. An explanation of each of the changes to the regulations made by the final amendments and a discussion of the comments received are set forth below.

1. *Definition of "adjacent."* The regulations issued in July defined "adjacent" to mean cities, towns, or villages that are within ten miles of one another at their closest points. However, the agencies specifically solicited comment on whether a distinction should be made between adjacent areas in rural and urban locations. For example, consideration was given to treating as adjacent, cities, towns, or villages within ten miles of each other and located in an SMSA, and to treating as adjacent, cities, towns, or villages located within 25 miles of each other but not within an SMSA. The agencies received few comments on this proposal and therefore believe that a distinction between commuting and travel patterns in rural and urban areas is not warranted. Thus, the definition of adjacent has not been substantively amended at this time.

The final amendments do, however, clarify the definition of adjacent by specifying that the distance between cities, towns, or villages is measured by road miles. Thus, cities located on opposite banks of a river will not be considered adjacent if the distance between them via the nearest bridge is more than 10 miles.

2. *Definition of "affiliate."* The definition of "affiliate" has been clarified in two respects. Language has been added to the regulations to emphasize that, for the purposes of section 202(3)(B) of the Interlocks Act, the shares owned by a given individual include any shares that are owned by members of the individual's immediate family. In addition, the definition of "immediate family" has been amended to include specifically the spouse of an individual.

3. *Definition of "depository institution"—application of Interlocks Act to foreign banks.* The regulations are intended to subject only

management officials serving United States offices of foreign banks to the provisions of the Interlocks Act and not to prohibit certain interlocking relationships outside the United States between two foreign banks having subsidiary banks, branches or agencies located in the United States. The regulations issued in July may not have accurately reflected the agencies' determination in this respect. Accordingly, the agencies have amended the definition of "depository institution" to make clear that only institutions chartered in the United States and having a principal office located in the United States, as well as United States offices of foreign commercial banks, are depository institutions for the purposes of the Interlocks Act.

4. *Definition of "office."* The July regulations did not make any distinction in the definition of "office" between that of a depository institution and that of a depository holding company. Thus, in some cases, an office of a depository holding company could be interpreted to include a location at which the depository holding company conducts its operations, such as a plant or storage facility. The agencies do not believe that the provisions of section 203 of the Interlocks Act were intended to apply to locations of a depository holding company not involved in the conduct of depository business, and they did not intend the regulations to have that result. Accordingly, the agencies have added a technical amendment to clarify the scope of the definition of "office" with respect to a depository holding company. The regulation has been amended to define the office of a depository holding company (that is not also a depository institution) as its principal corporate headquarters.

5. *Definition of "management official"—exclusion of certain persons.* A manager of a depository holding company's retail or manufacturing subsidiary might be precluded by section 204 of the Interlocks Act from serving as a management official of any depository organization with assets in excess of $500 million, if the consolidated assets of the depository holding company exceed $1 billion. Because the agencies do not believe that Congress intended to prohibit management service by individuals whose functions relate exclusively to retail merchandising or manufacturing, the July regulations excluded such persons from the definition of "management official." The preamble to the July regulations requested comment concerning whether other categories of persons whose functions relate exclusively to nonfinancial business activities should also be excluded from the definition. While several commenters suggested that the agencies should broaden the class of persons excluded from the definition of "management official," no specific situations demonstrating the need for additional categories were cited. In the absence of any evidence of specific situations that would warrant further exclusions, the agencies have decided to retain the definition as originally promulgated. The agencies have made a technical amendment to the phrasing of the exclusionary sentence to clarify that the exclusion applies only to depository organizations subject to the prohibitions of section 204 of the Interlocks Act.

6. *Definition of "person."* Section 202(4) of the Interlocks Act defines the term "management official" to include "any person" who has a representative or nominee serving as an employee or officer with management functions or serving as a director. The term "any person" could be interpreted to include corporations and other businesses, and as a result, a nondepository corporation that has one officer serving as a director of one depository organization and another officer serving as a director of another depository organization could be regarded as a management official (through its "representatives" or "nominees") subject to the Interlocks Act prohibitions. The agencies requested comment concerning whether to define the term "person" for purposes of the Interlocks Act so as to exclude corporations or other businesses. Specifically, the agencies proposed three alternative approaches regarding this issue:

1. Define the term "any person" to mean only natural persons;

2. Define the term to mean corporations, other businesses, and natural persons; or

3. Define the term to mean corporations, other businesses, and natural persons, and in the case of corporations or other businesses to limit the applicability to those circumstances in which an individual acts in a demonstrably representative manner on behalf of the corporate or business principal.

The agencies received approximately 16 comments concerning this issue. A majority of the comments favored alternative 1, with a significant number also endorsing alternative 3 as a second choice, while one comment favored alternative 2. A number of commenters asserted that the inclusion of corporations in the definition of "person" would be anticompetitive since depository organizations often compete for a nondepository company's business by inviting company officials to serve on the depository organization's board of directors. The commenters also asserted that the inclusion of corporations in the definition of "person" would deprive many depository organizations of individuals possessing valuable business experience and talent.

After careful evaluation of all the comments and review of the legislative history and relevant legal principles, the agencies have adopted a modified version of alternative 3. The regulations define the term "person" to include corporations, other businesses, and natural persons, but limit the application of the provision by excepting corporations and other businesses from the definition of "representative or nominee." The agencies believe that inclusion of corporations and other businesses in the term "person" is required by the language of the Interlocks Act, the absence of any evidence of legislative intent to narrow the term, and by the statutory purpose to foster competition in the banking industry. Indeed, the agencies are of the view that situations may arise in which the indirect interlock created when representatives of a third firm serve as management officials of two or more depository institutions could inhibit competition among those depository institutions. Thus, an interpretation of the statute that in effect denied the agencies regulatory authority to deal with such anticompetitive relationships would unnecessarily frustrate the purpose of the Interlocks Act. Accordingly, the agencies have adopted the second proposed definition of the term "person" as a matter of statutory construction.

The agencies nevertheless recognize that not all situations involving indirect interlocks among depository institutions would inhibit competition among depository organizations. The agencies currently lack sufficient empirical data, however, to identify with specificity those situations involving indirect interlocks that would not inhibit competition, or to assess accurately the effect on competition in the banking industry of banning indirect interlocks. Accordingly, the agencies have provided an exception from the prohibitions of the Act for nondepository corporations involved in indirect interlocks by defining the term "representative or nominee" to include only representatives or nominees of natural persons. As a result, corporations will not be regarded as "management officials." However, the agencies

reserve their authority pursuant to § 209 of the Act to prohibit some or all of such indirect interlocking relationships in the future should information become available indicating that such action is justified.

7. *Definition of "representative or nominee"—individuals.* Section 202(4) of the Interlocks Act defines "management official" to include a person who has a representative or nominee serving in the capacity of a director, an officer with management functions, or an employee with management functions. Thus, a person may be regarded as a management official of a depository organization without actually serving as a management official. The proposed definition of the term "representative or nominee" issued in July stated that a person would be considered to be the representative or nominee of another if the person had an express or implied duty to act on behalf of the other person with respect to management responsibilities. Certain relationships, including family, employment, and agency, were said "normally" to be "sufficient" to establish the existence of an express or implied duty.

The comments received were evenly divided among those that supported the proposed definition and those that did not. Many commenters who opposed the proposal interpreted it as creating an absolute presumption of representative or nominee status based on the listed relationships. Because the agencies did not intend to create an absolute presumption, the definition has been rewritten to clarify their intent. Thus, a family, employment, or agency relationship between two persons *may* be evidence of an express or implied obligation to act on the other's behalf with respect to management functions. Similarly, the ability to elect a director and the exercise of that ability *may* be evidence of an express or implied obligation by the elected official to the elector. However, neither the relationship nor the election of a director will in itself create an express or implied obligation. In addition, a provision has been added to the definition specifying that whether or not such an obligation exists will be determined on a case by case basis taking into consideration all relevant facts, and the determination will be made only after the affected person or persons are given an opportunity to respond.

The following is an example of how the agencies would apply the definition of representative or nominee. If A is a management official of a bank in town X and A's spouse B becomes a management official at another bank in the same town, the appropriate supervisory agency may question whether B is the representative or nominee of A. If the facts indicate that B is not adequately qualified to be a management official and A was instrumental in placing B in the position, the agencies may determine that B is a representative or nominee of A, after A and B are given an opportunity to respond and fail to present facts or arguments to refute these findings.

Situations that could warrant special scrutiny by the agencies include those instances when a management official of a depository organization elects a director to the board of directors of another depository organization in the same community, or a major stockholder of two unaffiliated depository organizations in the same community elects directors to both organizations. These situations warrant careful review since the ability to elect or remove a director demonstrates potential ability to control the voting record and other conduct of management responsibilities by such director.

8. *Interlocking relationships permitted by agency order.* While the July regulations provide exceptions to the prohibitions contained in the Interlocks Act, the language of the exceptions could be read to imply that in order to apply for the exception, a person must be serving currently as a management official of the depository organizations involved. The agencies have amended the regulations to make clear that a person proposing to serve as a management official also may apply for the exceptions. For example, a proposed director of a State nonmember bank in the process of organization that has applied to the FDIC for deposit insurance may seek the approval of the Board of Directors of the FDIC to sit as a director of the newly-chartered institution while continuing to serve another bank in the same community.

9. *Interlocking relationships permitted by agency order—hardship resulting from change of circumstances.* Since the July regulations were published, the agencies have received requests for exceptions from the Act by depository organizations facing disruption of their operations by the loss of a substantial number of management officials due to the application of the Interlocks Act and the regulations. In view of the Congressional intent to avoid undue disruption to the operations of depository organizations, the agencies believe it is in keeping with the spirit of the Act to afford some relief in certain cases of undue hardship resulting from management loss. Accordingly, the agencies have provided an extension of the compliance period for depository organizations experiencing the loss of 50 per cent or more of their directors or total management officials as a result of changes in circumstances requiring the termination of management interlocks. Under the new exception, a compliance period of up to 30 months may be granted by the agencies in order to minimize the disruption caused by the departure of management officials whose service is determined to be necessary to provide management or operating expertise to the depository organization. To qualify for the exemption, a depository organization must submit a proposal for the orderly termination of service by affected management officials, and such officials must agree to sever their interlocking relationships no later than 30 months after the event requiring termination of the interlock.

10. *Grandfathered interlocking relationships.* Section 206 of the Interlocks Act grandfathers for a period of ten years management official interlocks in existence on November 10, 1978, that were not in violation of section 8 of the Clayton Act (15 U.S.C. § 19) immediately prior to that date. The proposed amendments included a provision that interpreted this section to mean that any person whose interlocking position as a management official meets these requirements may continue to serve in that position until November 10, 1988. While no comments were received in opposition to this proposed amendment, some comments indicated that some clarification is appropriate. In response, the agencies emphasize that, in order to be eligible for grandfather rights, it is not necessary that the person's interlocking service be otherwise prohibited under sections 203 or 204 of the Interlocks Act. It is sufficient that the interlock existed prior to November 10, 1978, and was not in violation of section 8 of the Clayton Act. The proposal has been incorporated with only a minor change.

Several commenters pointed out that the provision could be interpreted to grandfather service at a depository institution even when no interlock was involved. It was the agencies' intention rather to grandfather interlocking service in existence on November 10, 1978, at two or more depository institutions. The provision on grandfathered interlocking relationships has been amended to reflect this intent. It is not sufficient that a person served as a management official of only one depository institution or that a person

served as a management official of only one depository organization and a nondepository corporation. In this regard, the agencies will not consider a company to be a depository holding company by virtue of having entered into a binding contract to acquire a depository institution prior to November 10, 1978.

11. *Grandfathered interlocks—one-bank holding company formations.* Another provision in the proposed amendments provided that a person serving as a grandfathered management official of two or more unaffiliated depository organizations may not serve as a management official of a depository holding company created by the acquisition of one of the institutions while continuing to serve in an interlocking relationship at such institutions. The agencies have reviewed this provision and have determined to eliminate it. In effect, the provision would have prevented the formation of one-bank holding companies designed solely to effectuate a change in corporate form. In such cases where the management officials of the acquired depository institution are identical to that of the holding company and the majority ownership of the holding company is identical to that of the depository institution prior to the acquisition, the agencies do not believe that this type of internal reorganization and change of corporate form should affect grandfathered interlocks. For practical purposes, the agencies have determined that such reorganizations generally do not create new interlocks and do not affect competition among depository institutions. Therefore, grandfather rights are not affected and the management officials in question may serve the one-bank holding company and the other depository institution for the remainder of the grandfather period absent some other change of circumstances.

12. *Changes in circumstances—grandfathered interlocks.* Section 206 of the Interlocks Act provides that when a change in circumstances causes a particular interlocking relationship to become prohibited, the agencies may provide a period of up to fifteen months for the prohibited service to be terminated. The proposed amendments contained a provision defining the phrase "change in circumstances" as it applies to grandfathered, as well as nongrandfathered, interlocks. A majority of the total comments received on the regulations dealt with this provision as it applied to grandfathered interlocks.

A number of commenters objected to all or part of the proposed amendments that enumerated events that would be considered a change in circumstances causing a loss of grandfather rights. In large part the commenters objected that the agencies lacked authority to terminate grandfather rights by applying changes in circumstances to grandfathered interlocks and that defining certain events as changes in circumstances would inhibit competition in some areas and penalize aggressive institutions. In view of these comments, the agencies have carefully reviewed the legislative history of the Interlocks Act, the statutory language, and the general law regarding administrative rulemaking. It remains the firm opinion of the agencies that the Interlocks Act requires the application of the phrase "change in circumstances" to grandfathered interlocks and that it is well within the agencies' regulatory authority to apply the phrase to such interlocks.

The literal language of the Interlocks Act indicates that the drafters contemplated the loss of grandfathered rights under certain circumstances. The second sentence of section 206 of the Act states that the appropriate Federal banking agencies may provide a reasonable period of time for compliance with the Act after any change in circumstances that makes "such service" prohibited by this title. "Such service" refers to grandfathered service in the immediately preceding sentence of section 206. Moreover, section 209 of the Act gives the agencies a broad mandate to write regulations to carry out the provisions of the Act and is broad enough to authorize regulations clarifying the prohibitions of the Act with respect to the loss of grandfather rights. The final amendments, therefore, retain the provisions that apply the change in circumstances language to grandfathered interlocks.

With the exception noted below, the agencies also have rejected general objections to provisions within the change in circumstances proposals. Several commenters asserted that defining change in circumstances to include mergers, acquisitions, consolidations, and branching would penalize aggressive institutions by forcing them to terminate valuable management talent when expanding their operations. The agencies note that the Interlocks Act itself contemplates that depository organizations must choose between consummating certain transactions and losing certain management officials inasmuch as the statutory prohibitions are keyed to asset size and the location of offices. Neither the Act nor the regulations prohibit depository organizations from expanding by merger, acquisition, consolidation, or branching.

The proposed regulations included, as a change in circumstances that would defeat grandfather rights, a significant increase in the management responsibilities of a management official due to a change in position within an interlocked depository organization. Upon reconsideration, the agencies have concluded that the inclusion of this provision would have fostered uncertainty with respect to management officials of numerous depository institutions and that the provision would not be susceptible to consistent enforcement at this time. The agencies remain of the opinion, however, that the language of section 206 of the Interlocks Act could be correctly interpreted to require termination of grandfathered service due to any change in position and reserve the authority to adopt this interpretation in the future should it appear appropriate to do so for purposes of properly administering the Interlocks Act. It should be noted that deletion of the provision from the final regulation will not affect the manner in which the prohibitions of the Interlocks Act apply to management officials who shift positions among affiliated depository institutions.

A discussion of each type of change in circumstances that will affect grandfathered interlocks follows: (a) *Acquisitions, mergers, and consolidations.* Mergers, acquisitions, or consolidations will terminate grandfather rights for an interlocking relationship in those situations where one of the interlocked depository organizations is merged with, acquires or is acquired by, or is consolidated with another depository organization which, immediately prior to the transaction, was an organization for which the interlocking person could not have served as a management official under sections 203 or 204 of the Interlocks Act. The language of this provision has been simplified from that proposed in July and does not effect any substantive change. For the purposes of determining the date on which the change in circumstances occurs, a merger, acquisition, or consolidation is considered to have occurred upon consummation. Operation of this paragraph is illustrated by the following example:

Director X's service as a director of Bank A and Bank D, both located in SMSA 1, is grandfathered. Director Y's service as a director of Bank B and Bank C, both located in SMSA 1, is also grandfathered. All of the banks have assets of over $20 million but under $500 million. BHC I, which is located in

SMSA 1 and owns Bank B, acquires Bank A and merges it with Bank B.

Director X's grandfather rights are defeated for either of two reasons: (1) Under section 203, BHC I is a depository organization for which X could not have served as a management official immediately prior to the acquisition, *or* (2) under section 203, Bank B is a depository organization for which X could not have served as a management official immediately prior to the merger. Thus, X would have to decide whether to continue service with Bank A or Bank D.

Director Y's grandfather rights with respect to his service with Banks B and C are defeated because, under section 203, Bank A is a depository organization for which Y could not have served immediately prior to the merger. Y, thus, would have to decide whether to continue service with Bank B or Bank C.

In addition, a provision has been added in the regulation issued by the Federal Home Loan Bank Board that affects the manner in which the provision will be applied to acquisitions by diversified savings and loan holding companies. The provision states that, for purposes of § 563f.6(a)(1)(i) of the Federal Home Loan Bank Board's regulation, the term "depository organization" includes a nondepository corporation that will become, as a result of an acquisition of a savings and loan association, a diversified savings and loan holding company. The amendment would terminate the grandfather rights of a management official of a savings and loan association that is acquired by a nondepository corporation for which the management official could not have served prior to the transaction had the corporation been a depository organization. The addition reflects the original intention of the Federal Home Loan Bank Board that the grandfathered rights of a management official of a savings and loan association that is acquired by a diversified savings and loan holding company should be terminated.

(b) *Branching.* Newly established branches will terminate grandfather rights in those situations where one of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an office in the same community as the other depository organization, or its depository institution affiliate, where no such office existed previously; or where both depository organizations, or their depository institution affiliates, establish an office in a community or SMSA where neither previously had an office. For example, if a person's service as a director of Bank A and Bank B located in different cities in the same SMSA is grandfathered and Bank A establishes its first branch in a city where Bank B already has a branch or its main office, then the person's grandfathered rights would be terminated. However, if Bank A and Bank B each have a branch located in the same city, then the banks may establish additional branches in that city (and adjacent and contiguous cities thereto) without affecting the person's grandfather rights.

13. *Changes in circumstances—non-grandfathered interlocks.* The proposed amendments identified several events that would cause a non-grandfathered management official interlock to become prohibited. (A non-grandfathered interlock is any interlock created after November 10, 1978, or an interlock that was in violation of section 8 of the Clayton Act on that date.) In the case of certain involuntary events (for example, material growth in asset size, change in SMSA or community boundaries, designation of new SMSA), the organizations automatically would be given fifteen months to conform to the Interlocks Act unless the appropriate agency or agencies acted to establish a shorter period. In the event of certain voluntary events (mergers, acquisitions, consolidations, branching), the organizations would be given until the next annual shareholders' meeting to conform to the Interlocks Act. An extension of up to fifteen months would be available. It should be noted that the listed events are not exhaustive of all such events that may cause an interlock to become prohibited.

The agencies have relied on the rulemaking authority in section 209 of the Interlocks Act to apply the change in circumstances restrictions to non-grandfathered interlocks in addition to grandfathered interlocks. Inasmuch as the agencies recieved no unfavorable comments concerning these provisions, the agencies are retaining them in the final amendments with a minor change as noted in paragraph fourteen of the discussion below.

14. *Changes in circumstances—compliance period.* The proposed amendments listed changes in circumstances which, if they occurred after March 9, 1979, would require the termination of grandfathered interlocking service. The proposed amendments were based on section 206 of the Interlocks Act, which provides that when a change in circumstances causes a particular interlocking relationship between two depository organizations to become prohibited, the agencies may allow the relationship to continue for a period of time not exceeding 15 months from the date on which the relationship became prohibited. The agencies proposed the March 9 date because March 10, 1979, was the effective date of the Interlocks Act and thus was the date upon which the prohibitions of the Interlocks Act became applicable to interlocking relationships. A number of commenters felt that the March 9 date was inappropriate since the proposed amendments were not published until July 19, 1979. The commenters asserted that many depository organizations would have structured various transactions in a different manner had they been aware of the exact nature of the events that would terminate grandfather rights. Some commenters also asserted that publication of the regulations at a time when many depository organizations are holding their annual meetings would cause hardship for some organizations which have already sent out notices to shareholders nominating directors and have annual meetings scheduled to occur shortly. The commenters therefore suggested that the agencies amend the date after which changes in circumstances would terminate grandfather rights.

In response to these comments, the agencies have amended the change in circumstances provision to provide an additional grace period for compliance in cases where a change in circumstance requiring termination of grandfather rights occurred prior to the effective date of these final amendments. The agencies do not believe it is appropriate to ignore changes that occurred prior to the date of the proposed amendments, as some commenters suggested, since to do so would permit uninterrupted service until 1988 contrary to the prohibitions of the Interlocks Act. Thus, an event falling within the categories of changes in circumstances will be considered a change that terminates grandfather rights. However, if that event occurred prior to the effective date of the final amendments, the grace period will commence on the effective date of the amendments. The regulations also grant a grace period to persons whose grandfathered service was prohibited on March 10, 1979, due to a change in circumstances occurring between November 10, 1978, and March 9, 1979. Without such a grace period, the Interlocks Act would necessitate immediate termination of such service. The provisions of the proposed amendments concerning non-grandfathered interlocks that become prohibited as a result of a change in circumstances also have been rewritten to apply the grace period to interlocking service that becomes prohibited as a

result of a change in circumstances. The agencies are making the above changes pursuant to their authority under section 209 of the Interlocks Act to permit service that is otherwise prohibited.

The proposed amendments stated that a person may continue to serve for a certain period as a management official of "both organizations" involved in the prohibited interlocking relationship. Since many interlocks involve more than two organizations, the language has been revised to make clear that the person may continue to serve as a management official of "all" organizations involved in the prohibited interlocking relationship.

Accordingly, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration amend 12 CFR by revising Parts 212, 26, 348, 563f, and 711, respectively, to read as follows:

FEDERAL RESERVE SYSTEM

12 CFR Part 212

[Regulation L—Docket No. R-0198]

PART 212—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

212.1 Authority, purpose, and scope.
212.2 Definitions.
212.3 General prohibitions.
212.4 Permitted Interlocking Relationships.
212.5 Grandfathered Interlocking Relationships.
212.6 Changes in circumstances.
212.7 Effect of Interlocks Act on Clayton Act.
212.8 Enforcement.

Authority: Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 et seq.)

§ 212.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3210 *et seq.).*

(b) *Purpose and scope.* The general purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This part applies to management officials of State member banks, bank holding companies, and their affiliates.

§ 212.2 Definitions.

For the purpose of this part, the following definitions apply:

(a) "Adjacent cities, towns, or villages" means cities, towns or villages whose borders are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town, or village for the purpose of this definition.

(b) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory agency or agencies determine, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the agencies will consider, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(c) "Community" means city, town, or village, or contiguous or adjacent cities, towns, or villages.

(d) "Contiguous cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other.

(e) "Depository holding company" means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(f) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered in the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a "depository institution."

(g) "Depository organization" means a depository institution or a depository holding company.

(h) "Management official" means an employee or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (*e.g.,* a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. "Management official" does not mean a person whose management functions relate exclusively to the business of retail merchandising or manufacturing, for the purposes of section 212.3(c) of this Part, and does not mean a person whose management functions relate principally to the business outside the United States of a foreign commercial bank. "Management official" does not include persons described in the provisos of section 202(4) of the Interlocks Act.

(i) "Office" of a depository institution means a principal office or a branch office located in the United States, but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(j) "Person" means a natural person, corporation, or other business.

(k) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases, and the appropriate Federal supervisory agency or agencies will determine, after giving the affected persons an opportunity to respond, whether a person is a "representative or nominee." Certain relationships, including family, employment, or agency relationships, or the ability and exercise of ability by a shareholder of a depository organization to elect a director may be evidence of such an express or implied obligation by the management official to another person. For the purposes of this definition, "person" shall include only natural persons.

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of its depository institution affiliates for

the purposes of § 212.3(b) of this part, and include the total assets of all of its affiliates for purposes of § 212.3(c). Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

(m) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

§ 212.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) *SMSA.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same Standard Metropolitan Statistical Area ("SMSA") and either has total assets of $20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of $20 million or more.

(c) *Major Assets.* Without regard to location, a management official of a depository organization with total assets exceeding $1 billion or a management official of any affiliate of the greater than $1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets exceeding $500 million or a management official of any affiliate of the greater than $500 million depository organization.

§ 212.4 Permitted interlocking relationships.

(a) *Interlocking relationships permitted by statute.* The prohibitions of § 212.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(1) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(2) A corporation operating under section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations");

(3) A depository organization that has been placed formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) A credit union being served by a management official of another credit union;

(5) A State-chartered savings and loan guaranty corporation; or

(6) A Federal Home Loan Bank or any other bank organized solely for the purpose of serving depository institutions (commonly referred to as "bankers' banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

(b) *Interlocking relationships permitted by Board order.* A management official or a prospective management official of a State member bank, bank holding company, or affiliate of either may apply for the Board's prior approval to enter into a relationship involving another depository organization that would otherwise be prohibited under § 212.3, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain the prior approval of that other agency.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in Paragraph (b)(1)(i) or (ii) of this; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) *Organization sponsoring credit union.* A management official of a depository organization or its affiliate may serve at the same time as a management official of a Federally-insured credit union that is sponsored by the depository organization or its affiliate primarily to serve employees of the depository organization.

(5) *Loss of management officials due to changes in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a)(1), (b)(1), or (b)(2) of § 212.6, and the change requires the termination of service at the depository organization of 50 per cent or more of the organization's directors or of 50 per cent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods

provided in paragraphs (a)(2), (b)(1), and (b)(2) of § 212.6: *Provided,* That: (i) The appropriate Federal supervisory agency or agencies determines that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

§ 212.5 Grandfathered Interlocking Relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988, except as provided in § 212.6(a).

§ 212.6 Changes in circumstances.

(a)(1) *Grandfathered interlocks.* If a person's service as a management official is grandfathered under § 212.5 the person must terminate such service if the service becomes prohibited by the occurrence of any of the following changes in circumstances:

(i) *Acquisitions, mergers, and consolidations.* One of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization for which prior to the transaction the person could not have served as a management official under § 212.3; or

(ii) *Branching.* One of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution affiliate, or both of the depository organizations, or their depository institution affiliates, establish offices in a community or SMSA where neither previously had an office.

(2) *Grace period.* If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for purposes of this paragraph.

(b)(1) *Non-grandfathered interlocks; involuntary changes; grace period.* If a person's service as a management official is not grandfathered under § 212.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, or as a result of a change in SMSA or community boundaries or the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for purposes of this subparagraph.

(2) *Non-grandfathered interlocks; voluntary changes; grace period.* If a person's service as a management official is not grandfathered under § 212.5 and becomes prohibited as a result of an acquisition, merger, consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for purposes of this paragraph.

§ 212.7 Effect of Interlocks Act on Clayton Act.

The Board of Governors of the Federal Reserve System regards the provisions of the first three paragraphs of section 8 of the Clayton Act (15 U.S.C. 19) to have been supplanted by the revised and more comprehensive prohibitions on management official interlocks between depository organizations in the Interlocks Act.

§ 212.8 Enforcement.

The Board of Governors of the Federal Reserve System administers and enforces the Interlocks Act with respect to State member banks, bank holding companies, and their affiliates, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of a State member bank or bank holding company is primarily subject to the regulation of another Federal supervisory agency, then the Board does not administer and enforce the Interlocks Act with respect to that affiliate.

Board of Governors of the Federal Reserve System, April 3, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

DEPARTMENT OF THE TREASURY

12 CFR Part 26

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

26.1 Authority, purpose, and scope.
26.2 Definitions.
26.3 General prohibitions.
26.4 Permitted interlocking relationships.
26.5 Grandfathered interlocking relationships.
26.6 Change in circumstances.
26.7 Enforcement.

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*)

§ 26.1 Authority, purpose, and scope.

(a) *Authority.* This Part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 *et seq.).*

(b) *Purpose and scope.* The general purpose of the Interlocks Act and this

Part is to foster competition by generally prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This part applies to management officials of national banks, banks located in the District of Columbia and their affiliates.

§ 26.2 Definitions

For the purpose of this part, the following definitions apply:

(a) "Adjacent cities, towns, or villages" means cities, towns or villages whose borders are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town or village for the purpose of this definition.

(b) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory agency or agencies determine, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the agencies will consider, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a minimal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(c) "Community" means city, town, or village, or contiguous or adjacent cities, towns, or villages.

(d) "Contiguous cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other.

(e) "Depository holding company" means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(f) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States (including federal law) and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a "depository institution."

(g) "Depository organization" means a depository institution or a depository holding company.

(h) "Management official" means an employee or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. "Management official" does not mean a person whose management functions relate exlusively to the business of retail merchandising or manufacturing for the purposes of § 26.3(c), and does not mean a person whose management functions relate principally to the business outside the United States of a foreign commercial bank. "Management official" does not include persons described in the provisos of section 202(4) of the Interlocks Act.

(i) "Office" of a depository institution means a principal office or a branch office located in the United States, but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(j) "Person" means a natural person, corporation or other business.

(k) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases, and the appropriate Federal supervisory agency or agencies will determine, after giving the affected persons an opportunity to respond, whether a person is a "representative or nominee." Certain relationships, including family, employment, or agency relationships, or the ability and exercise of ability by a shareholder of a depository organization to elect a director, may be evidence of such an express or implied obligation. For the purposes of this subsection, "person" shall include only natural persons.

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of its depository institution affiliates for the purposes of § 26.3(b), and include the total assets of all of its affiliates for purposes of § 26.3(c). Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

(m) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

§ 26.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) *SMSA.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same Standard Metropolitan Statistical Area ("SMSA") and either has total assets of $20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of $20 million or more.

(c) *Major Assets.* Without regard to location, a management official of a depository organization with total assets exceeding $1 billion or a management official of any affiliate of the greater than $1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets

exceeding $500 million or a management official of any affiliate of the greater than $500 million depository organization.

§ 26.4 Permitted interlocking relationships.

(a) *Interlocking relationships permitted by statute.* The prohibitions of § 26.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(1) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(2) A corporation operating under section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations");

(3) A depository organization that has been placed formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) A credit union being served by a management official of another credit union;

(5) A State-chartered savings and loan guaranty corporation; or

(6) A Federal Home Loan Bank or any other bank organized solely for the purpose of serving depository insitutions (commonly referred to as "bankers' banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

(b) *Interlocking relationships permitted by Comptroller's order.* A management official or a prospective management official of a national bank, bank located in the District of Columbia, or affiliate of either may apply for the Comptroller's prior approval to enter into a relationship involving another depository organization that would otherwise be prohibited under § 26.3, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain the prior approval of that other agency.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in (i) or (ii) above; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations (or any affiliate thereof) if one of the depository organizations is a newly-chartered organization, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness: And (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) *Organization sponsoring credit union.* A management official of a depository organization or its affiliate may serve at the same time as a management official of a Federally-insured credit union that is sponsored by the depository organization or its affiliate primarily to serve employees of the depository organization.

(5) *Loss of management officials due to changes in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a)(1), (b)(1) or (b)(2) of § 26.6, and the change requires the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a)(2), (b)(1), and (b)(2) of section 26.6: *Provided,* That: (i) The appropriate Federal supervisory agency or agencies determine that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

§ 26.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988, except as provided in § 26.6(a).

§ 26.6 Changes in circumstances.

(a)(1) *Grandfathered interlocks.* If a person's service as a management official is grandfathered under § 26.5, the person must terminate such service if the service becomes prohibited by the occurrence of any of the following changes in circumstances:

(i) *Acquisitions, mergers, and consolidation.* One of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization for which prior to the transaction the person could not have served as a management official under § 26.3; or

(ii) *Branching.* One of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution

affiliate, or both of the depository organizations or their depository institution affiliates, establish offices in a community or SMSA where neither previously had an office.

(2) *Grace Period.* If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship through the date, after the date on which the change in circumstances occurred, of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for the purposes of this subparagraph.

(b)(1) *Non-grandfathered interlocks; involuntary changes; grace period.* If a person's service as a management official is not grandfathered under § 26.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, or as a result of a change in SMSA or community boundaries, or the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. If the change in circumstances occurrred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for purposes of this paragraph.

(2) *Non-grandfathered interlocks; voluntary changes; grace period.* If a person's service as a management official is not grandfathered under § 26.5 and becomes prohibited as a result of an acquisition, merger, consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date, after the date on which the change in circumstances occurred, of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for purposes of this paragraph.

§ 26.7 Enforcement.

The Comptroller of the Currency administers and enforces the Interlocks Act with respect to national banks, banks located in the District of Columbia, and their affiliates, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of a national bank or a bank located in the District of Columbia is primarily subject to the regulation of another Federal depository organization supervisory agency, then the Comptroller does not administer and enforce the Interlocks Act with respect to that affiliate.

Dated: March 31, 1980.

John G. Heimann,

Comptroller of the Currency.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

348.1 Authority, purpose, and scope.
348.2 Definitions.
348.3 General prohibitions.
348.4 Permitted interlocking relationships.
348.5 Grandfathered interlocking relationships.
348.6 Change in circumstances.
348.7 Enforcement.

Authority: Sec. 209, Pub. L. 95–630, 92 Stat. 3675 (12 U.S.C. 3207).

§ 348.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 *et seq.*).

(b) *Purpose and scope.* The general purpose of the Interlocks Act and this part is to foster competition by prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This part applies to management officials of insured nonmember banks and their affiliates.

§ 348.2 Definitions.

For the purpose of this part, the following definitions apply:

(a) "Adjacent cities, towns, or villages" means cities, towns, or villages whose borders are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town, or village for the purpose of this definition.

(b) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory agency or agencies determine, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the agencies will consider among other things whether a person, including members of his or her immediate family whose shares are necessary to constitute the group, owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares of the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother or any of their spouses, whether or not any of their shares are held in trust.

(c) "Community" means city, town, or village or contiguous or adjacent cities, towns, or villages.

(d) "Contiguous cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other.

(e) "Depository holding company" means a bank holding company or a savings and loan holding company (as

more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(f) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. A United States office, including a branch or agency, of a foreign commercial bank is a "depository institution."

(g) "Depository organization" means a depository institution or a depository holding company.

(h) "Management official" means an employee or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. For the purposes of section 348.3(c) of this Part, "management official" does not mean a person whose management functions relate exclusively to the business of retail merchandising or manufacturing. Management official does not mean a person whose management functions relate principally to the business outside the United States of a foreign commercial bank nor does it include persons described in the provisos of section 202(4) of the Interlocks Act.

(i) "Office" of a depository institution means a principal office or a branch office located in the United States but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(j) "Person" means natural persons, corporations, or other business entities.

(k) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases. The appropriate Federal supervisory agency or agencies will determine, after giving the affected persons the opportunity to respond whether a person is a "representative or nominee". Certain relationships (including family, employment, and agency relationships), or the ability and exercise of ability by a shareholder of a depository organization to elect a director, may be evidence of such an express or implied obligation. For the purposes of this subsection, person shall include only natural persons.

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of its depository institution affiliates for the purposes of § 348.3(b), and include the total assets of all of its affiliates for the purposes of § 348.3(c). Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

(m) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

§ 348.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) *SMSA.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it, if: (1) Offices of both are located in the same standard metropolitan statistical area ("SMSA") and either has total assets of $20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of $20 million or more.

(c) *Major Assets.* Without regard to location, a management official of a depository organization with total assets exceeding $1 billion or a management official of any affiliate of the greater than $1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets exceeding $500 million or a management official of any affiliate of the greater than $500 million depository organization.

§ 348.4 Permitted interlocking relationships.

(a) *Interlocking relationship with exempt organization.* The prohibitions of section 348.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(1) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(2) A corporation operating under section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations");

(3) A depository organization that has been placed formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) A credit union being served by a management official of another credit union;

(5) A state-chartered savings and loan guaranty corporation; or

(6) A Federal Home Loan bank or any other bank organized solely for the purpose of serving depository institutions (commonly referred to as "banker's banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

(b) *Interlocking relationship permitted by Board order.* A management official or a prospective management official of an insured nonmember bank or any affiliate thereof may apply for the prior approval of the Board of Directors of the FDIC to enter into a relationship involving a depository organization that would otherwise be prohibited under § 348.3, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain the prior approval of that other agency.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two depository organizations (or any affiliate thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the

following conditions: (A) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two depository organizations (or any affiliate thereof) if one of the depository organizations is a newly-chartered organization, subject to the following conditions: (i) No interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; (ii) the appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two depository organizations (or any affiliate thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) *Organization sponsoring credit union.* A management official of a depository organization or its affiliate may serve at the same time as a management official of a Federally-insured credit union that is sponsored by the depository organization or its affiliate primarily to serve employees of the organization.

(5) *Loss of management officials due to change in circumstance.* If a depository organization is involved in an event described in §§ 348.6(a)(1), 348.6(b)(1), or 348.6(b)(2), and such event results in the termination of service at the depository organization of 50 percent or more of the organization's directors or of 50 percent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in §§ 348.6(a)(2), 348.6(b)(1), or 348.6(b)(2) subject to the following conditions: (i) Each management official so affected must agree to sever his or her relationship with the depository organization no later than 30 months after the event (so long as the interlock remains prohibited); (ii) the appropriate Federal supervisory agency or agencies determine that the service by such management officials is necessary to provide management or operating expertise; (iii) the depository organization submits a plan for the termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

§ 348.5 Grandfathered Interlocking Relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988, except as provided in § 348.6(a).

§ 348.6 Change in Circumstances.

(a)(1) If a person's service as a management official is grandfathered under § 348.5, the person must terminate such service only if the service becomes prohibited by the occurrence of any of the following changes in circumstances;

(i) One of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization for which prior to the transaction the person could not have served as a management official under § 348.3; or (ii) One of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution affiliate, or both of the depository organizations, or their depository institution affiliates, establish an office in a community or SMSA where neither previously had an office.

(2) If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship through the date, after the date on which the change in circumstances occurred, of the next regularly scheduled annual shareholder's meeting of any of the organizations involved, whichever occurs later, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. The person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurs prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980 for the purposes of applying this subparagraph.

(b)(1) If a person's service as a management official is not grandfathered under § 348.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, a change in SMSA or community boundaries, or the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for the purposes of applying this paragraph.

(2) If a person's service as a management official is not grandfathered under § 348.5 and becomes prohibited as a result of an acquisition, a merger, a consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date, after the date on which the change in circumstances occurred, of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs later, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. The person may request the appropriate agency or agencies to continue the

interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for the purposes of applying this paragraph.

§ 348.7 Enforcement.

The FDIC administers and enforces the Interlocks Act with respect to insured nonmember banks and their affiliates and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of an insured nonmember bank is primarily subject to the regulation of another Federal depository supervisory agency, then the FDIC does not administer and enforce the Interlocks Act with respect to that affiliate.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation on March 3, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

[No. 80-149]

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

563f.1 Authority, purpose, and scope.
563f.2 Definitions.
563f.3 General prohibitions.
563f.4 Permitted Interlocking Relationships.
563f.5 Grandfathered Interlocking Relationships.
563f.6 Changes in circumstances.
563f.7 Enforcement.

Authority. Depository Institution Management Interlocks Act "Interlocks Act" (12 U.S.C. 3201 et seq.)

§ 563f.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 *et seq.*)

(b) *Purpose and scope.* The general purpose of the Interlocks Act and this Part is to foster competition by generally prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This part applies to management officials of insured institutions, savings and loan holding companies, and their affiliates.

§ 563f.2 Definitions.

For the purpose of this part, the following definitions apply:

(a) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory agency or agencies determine, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the agencies will consider, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(b) "Community" means city, town, or village, or contiguous or adjacent cities, towns, or villages. "Contiguous or adjacent cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other or are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town, or village for the purpose of this definition.

(c) "Depository holding company" means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(d) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered in the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a "depository institution."

(e) "Depository organization" means a depository institution or a depository holding company.

(f) "Management official" means an employee or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. "Management official" does not mean a person whose management functions relate exclusively to the business of retail merchandising or manufacturing, for the purposes of § 563f.3(c), and does not mean a person whose management functions relate principally to the business outside the United States of a foreign commercial bank. "Management official" does not include persons described in the provisos of section 202(4) of the Interlocks Act.

(g) "Office" of a depository institution means a principal office or a branch office located in the United States, but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(h) "Person" means a natural person, corporation, or other business.

(i) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases, and the appropriate Federal supervisory agency or agencies will determine, after giving the affected persons an opportunity to respond, whether a person is a "representative or nominee." Certain relationships, including family, employment, or agency relationships, or the ability and exercise of ability by a shareholder of a depository organization to elect a director may be evidence of such an express or implied obligation by the management official to another person. For the purposes of this definition, "person" shall include only natural persons.

(j) "Total assests" means assets measured on a consolidated basis as of the close of the organization's last fiscal

year. The total assets of a depository holding company include the total assets of its deporitory institution affiliates for the purposes of § 563f.3(b), and include the total assets of all of its affiliates for purposes of § 563f.3(c). Total assets of a United States branch or agency of a foreign commercial bank means total sssets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

(k) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

§ 563f.3 General Prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) *SMSA.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same Standard Metropolitan Statistical Area ("SMSA") and either has total assets of $20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of $20 million or more.

(c) *Major Assets.* Without regard to location, a management official of a depository organization with total assets exceeding $1 billion or a management official of any affiliate of the greater than $1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets exceeding $500 million or a management official of any affiliate of the greater than $500 million depository organization.

§ 563f.4 Permitted Interlocking Relationships.

(a) *Interlocking relationships permitted by statute.* The prohibitions of § 563f.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(1) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(2) A corporation operating under section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations");

(3) A depository organization that has been placed formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) A credit union being served by a management official of another credit union;

(5) A State-chartered savings and loan guaranty corporation; or

(6) A Federal Home Loan Bank or any other bank organized solely for the purpose of serving depository institutions (commonly referred to as "bankers' banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

(b) *Interlocking relationships permitted by Board order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or affiliate of either may apply for the Board's prior approval to enter into a relationship involving another depository organization that would otherwise be prohibited under § 563f.3, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain the prior approval of that other agency.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in Paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) *Organization sponsoring credit union.* A management official of a depository organization or its affiliate may serve at the same time as a management official of a Federally-insured credit union that is sponsored by the depository organization or its affiliate primarily to serve employees of the depository organization.

(5) *Loss of management officials due to changes in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a)(1), (b)(1), or (b)(2) of § 563f.6, and the change requires the termination of service at the depository

organization of 50 per cent or more of the organization's directors or of 50 per cent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a)(2), (b)(1), and (b)(2), of § 563f.6: *Provided*, That: (i) The appropriate Federal supervisory agency or agencies determines that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

§ 563f.5 Grandfathered Interlocking Relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (12 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988, except as provided in § 563f.6(a).

§ 563f.6 Changes in Circumstances.

(a)(11) *Grandfathered interlocks.* If a person's service as a management official is grandfathered under § 563f.5, the person must terminate such service if the service becomes prohibited by the occurrence of any of the following changes in circumstances:

(i) *Acquisitions, mergers, and consolidations.* One of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization for which prior to the transaction the person could not have served as a management official under § 563f.3. For purposes of this paragraph, the term "depository organization" includes a nondepository corporation that will, as a result of acquisition of a depository institution, become a diversified savings and loan holding company.

(ii) *Branching.* One of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution affiliate, or both of the depository organizations, or their depository institution affiliates, establish offices in a community or SMSA where neither previously had an office.

(2) *Grace period.* If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for the purposes of this paragraph.

(b)(1) *Non-grandfathered interlocks; involuntary changes; grace period.* If a person's service as a management official is not grandfathered under § 563f.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, or as a result of a change in SMSA or community boundaries or the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for purposes of this paragraph.

(2) *Non-grandfathered interlocks; voluntary changes; grace period.* If a person's service as a management official is not grandfathered under § 563f.5 and becomes prohibited as a result of an acquisition, merger, consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, which ever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to May 9, 1980, the change will be considered to have occurred on May 9, 1980, for purposes of this paragraph.

§ 563f.7 Enforcement.

The Federal Home Loan Bank Board administers and enforces the Interlocks Act with respect to FSLIC-insured institutions, savings and loan holding companies, and their affiliates, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of an FSLIC-insured institution or savings and loan holding company is primarily subject to the regulation of another Federal supervisory agency, then the Board does not administer and enforce the Interlocks Act with respect to that affiliate.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

711.1 Authority, purpose, and scope.
711.2 Definitions.
711.3 General prohibitions.
711.4 Permitted Interlocking Relationships.
711.5 Grandfathered Interlocking Relationships.
711.6 Change in circumstances.
711.7 Enforcement.

Authority: Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 et seq.)

§ 711.1 Authority, purpose, and scope.

(a) *Authority.* This Part is issued under the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act") (12 U.S.C. 3201 *et seq.*).

(b) *Purpose and scope.* The general purpose of the Interlocks Act and this

Part is to foster competition by generally prohibiting a management official of a depository institution or depository holding company from also serving as a management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This Part applies to management officials of federally insured credit unions.

§ 711.2 Definitions.

For the purpose of this part, the following definitions apply:

(a) "Adjacent cities, towns, or villages" means cities, towns or villages whose borders are within ten road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is regarded as the boundary line of that city, town, or village for the purpose of this definition.

(b) "Affiliate" has the meaning given in section 202 of the Interlocks Act. For purposes of section 202, an individual's shares include shares of members of his or her immediate family. For the purpose of section 202(3)(B) of the Interlocks Act, an affiliate relationship based on common ownership does not exist if the appropriate Federal supervisory agency or agencies determined, after giving the affected persons the opportunity to respond, that the asserted affiliation appears to have been established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depositiory organizations. In making this determination, the agencies will consider, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate with that person's ownership of shares in the other organization. "Immediate family" includes spouse, mother, father, child, grandchild, sister, brother, or any of their spouses, whether or not any of their shares are held in trust.

(c) "Community" means city, town, or village, or contiguous or adjacent cities, towns or villages.

(d) "Contiguous cities, towns, or villages" means cities, towns, or villages whose borders actually touch each other.

(e) "Depository holding company" means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act) having its principal office located in the United States.

(f) "Depository institution" means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States, or the several states, and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commerical bank is a "depository institution."

(g) "Depository organization" means a depository institution or a depository holding company.

(h) "Management official" means an employee or officer with management functions (including a branch manager), a director (including an advisory director or honorary director), a trustee of a business organization under the control of trustees (e.g., a mutual savings bank), or any person who has a representative or nominee serving in any such capacity. For the purposes of § 711.3(c) "management official" does not mean a person whose management functions relate exclusively to the business of retail merchandising or manufacturing. Nor does the term include a person whose management functions relate principally to the business outside the United States of a foreign commercial bank. "Management official" does not include persons described in the provisos of section 202(4) of the Interlocks Act.

(i) "Office" of a depository institution means a principal office or a branch office located in the United States, but does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office. "Office" of a depository holding company means its principal corporate headquarters.

(j) "Person" means natural persons, corporations, or other businesses.

(k) "Representative or nominee" means a person who serves as a management official and has an express or implied obligation to act on behalf of another person with respect to management responsibilities. Whether a person is a "representative or nominee" depends upon the facts in individual cases, and the appropriate Federal supervisory agency or agencies will determine, after giving the affected persons an opportunity to respond, whether a person is a "representative or nominee." Certain relationships, including family, employment, agency relationships, or the ability and exercise of ability by a shareholder of a depository organization to elect a director may be evidence of such an express or implied obligation. For the purposes of this subsection, "person" shall include only natural persons.

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of its depository institution affiliates for the purposes of § 711.3(b) and include the total assets of all of its affiliates for purposes of § 711.3(c). Total assets of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

(m) "United States" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

§ 711.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same community; (2) offices of depository institution affiliates of both are located in the same community; or (3) an office of one of the depository organizations is located in the same community as an office of a depository institution affiliate of the other.

(b) *SMSA.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if: (1) Offices of both are located in the same Standard Metropolitan Statistical Area ("SMSA") and either has total assets of $20 million or more; (2) offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or (3) an office of one of the depository organizations is located in the same SMSA as an office of a depository institution affiliate of the other and either the depository organization or the depository institution affiliate has total assets of $20 million or more.

(c) *Major Assets.* Without regard to location, a management official of a depository organization with total assets exceeding $1 billion or a management official of any affiliate of the greater than $1 billion depository organization may not serve at the same time as a management official of a nonaffiliated depository organization with total assets exceeding $500 million or a management official of any affiliate of the greater

than $500 million depository organization.

§ 711.4 Permitted Interlocking Relationships.

(a) *Interlocking relationships permitted by statute.* The prohibitions of § 711.3 do not apply in the case of any one or more of the following organizations or their subsidiaries:

(1) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(2) A corporation operating under section 25 or 25(a) of the Federal Reserve Act ("Edge Corporations" and "Agreement Corporations");

(3) A depository organization that has been placed formally in liquidation, or that is in the hands of a receiver, conservator, or other official exercising a similar function;

(4) A credit union being served by a management official of another credit union;

(5) A State-chartered savings and loan guaranty corporation; or

(6) A Federal Home Loan Bank or any other bank organized solely for the purpose of serving depository institutions (commonly referred to as "bankers' banks") or solely for the purpose of providing securities clearing services and services related thereto for depository institutions, securities companies, or both.

(b) *Interlocking relationships permitted by Board order.* A management official or a prospective management official of a federally insured credit union may apply for the Board's prior approval to enter into a relationship involving another depository organization that would otherwise be prohibited under § 711.3, if the relationship falls within any of the classifications enumerated in this paragraph. If the relationship involves a depository organization subject to the supervision of another Federal supervisory agency as specified in section 207 of the Interlocks Act, the management official or prospective management official must also obtain prior approval of that other agency.

(1) *Organization in low income area; minority or women's organizations.* A person may serve at the same time as a management official of two depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii), of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(2) *Newly-chartered organizations.* A person may serve at the same time as a management official of two depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) No interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; (ii) the appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the newly-chartered organization; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two depository organizations (or affiliates thereof) if the primary Federal supervisory agency of one of the depository organizations believes that such depository organization faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The appropriate Federal supervisory agency or agencies determine the relationship to be necessary to provide management or operating expertise to the organization facing conditions endangering safety of soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

(4) *Credit union sponsored by another depository organization.* A management official of a federally insured credit union that is sponsored by another depository organization primarily to serve its employees or the employees of its affiliates may serve at the same time as a management official of such sponsoring depository organization.

(5) *Loss of management officials due to changes in circumstances.* If a depository organization experiences a change in circumstances described in paragraphs (a)(1), (b)(1), or (b)(2) of § 711.6, and the change requires the termination of service at the depository organization of 50 per cent or more of the organization's directors or of 50 per cent or more of the total management officials of the depository organization, such management officials may continue to serve in excess of the time periods provided in paragraphs (a)(1), (b)(1), and (b)(2) of § 711.6: *Provided,* That: (i) the appropriate Federal supervisory agency or agencies determines that the service by such management officials is necessary to provide management or operating expertise; (ii) each management official so affected agrees to sever the prohibited interlocking relationship no later than 30 months after the change in circumstances; (iii) the depository organization submits a proposal for the orderly termination of service by such management officials over the time period provided; and (iv) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency or agencies in any specific case.

§ 711.5 Grandfathered Interlocking Relationships.

(a) A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988, except as provided in § 711.6(a).

§ 711.6 Change in Circumstances.

(a)(1) If a person's service as a management official is grandfathered under § 711.5, the person must terminate such service if the service becomes prohibited by the occurrence of any of the following changes in circumstances:

(i) One of the depository organizations involved in the interlocking relationship acquires or is acquired by, is merged into or with, or is consolidated with another depository organization for which prior to the transaction the person could not have served as a management official under § 711.3; or

(ii) One of the depository organizations involved in the grandfathered interlocking relationship, or its depository institution affiliate, establishes an initial office in the same community as the other depository organization, or its depository institution affiliate, or both of the depository organizations, or their depository institution affiliates, establish an office in a community or SMSA where neither previously had an office.

(2) If a person's grandfathered service becomes prohibited under paragraph (a)(1) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to the effective date of this section, the change will be considered to have occurred on the effective date of this section for the purposes of this subparagraph.

(b)(1) If a person's service as a management official is not grandfathered under § 711.5 and becomes prohibited as a result of an increase in the asset size of an organization due to natural growth, a change in SMSA or community boundaries, or the designation of a new SMSA, the person has 15 months from the date of the change in circumstances to comply with this part, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. If the change in circumstances occurred prior to the effective date of this section, the change will be considered to have occurred on the effective date of this section for purposes of this subparagraph.

(2) If a person's service as a management official is not grandfathered under § 711.5 and becomes prohibited as a result of an acquisition, merger, consolidation, or the establishment of an office, the person may continue to serve as a management official of all organizations involved in the prohibited interlock through the date of the next regularly scheduled annual shareholders' meeting of any of the organizations involved, whichever occurs last, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period. However, the person may request the appropriate agency or agencies to grant an additional extension of time to continue the interlocking relationship, but the prohibited interlocking relationship may not continue for more than 15 months from the date of the change in circumstances. If the change in circumstances occurred prior to the effective date of this section, the change will be considered to have occurred on the effective date of this section for purposes of this subparagraph.

§ 711.7 Enforcement.

The National Credit Union Administration Board administers and enforces the Interlocks Act with respect to federally insured credit unions, and may refer the case of a prohibited interlocking relationship involving any such organization, regardless of the nature of any other organization involved in the prohibited relationship, to the Attorney General of the United States to enforce compliance with the Interlocks Act and this part.

Beatrix D. Fields,

Acting Secretary of the Board, National Credit Union Administration.

[FR Doc. 80-10774 Filed 4-8-80; 8:45 am]

BILLING CODES 6210-01-M, 4810-33-M, 6714-01-M, 7535-01-M

federal register

Wednesday
April 9, 1980

Part VI

Department of Health, Education, and Welfare

Office of Human Development Services

Social Services Program for Individuals and Families, Title XX; Fiscal Year 1980 Federal Allotment Limitation for State and Local Training Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Social Services Program for Individuals and Families, Title XX; Fiscal Year 1980 Federal Allotment Limitation for State and Local Training Program

AGENCY: Administration for Public Services (APS), Office of Human Development Services (OHDS), DHEW.

ACTION: Notice of final allocation formula for FY 1980 training funds.

SUMMARY: This issuance sets forth the Department's final formula for distributing the Federal allotment limitation for State and local training under title XX of the Social Security Act for fiscal year 1980 under current law. The appropriation limit, $75 million, applies to all Federal expenditures made during fiscal year 1980, whether such expenditures are for fiscal years 1979 or 1980 costs. States' Quarterly Statement of Expenditures (Form OA–41's) for fiscal year 1979 quarters total about $104 million. To complete funding requirements for fiscal year 1979, $20 million was deducted from the fiscal year 1980 appropriation of $75 million, leaving a balance of $55 million available for fiscal year 1980 training activity.

The Congress is currently considering proposed legislation (H.R. 3434) which, if enacted and signed into law, will have an impact on State and local training entitlements for fiscal year 1980. The impact is due to an increase in the total authorization for fiscal year 1980, a specific allocation method, and a hold-harmless provision, all of which will require a new promulgation.

EFFECTIVE DATE: October 1, 1979.

SUPPLEMENTARY INFORMATION: On November 8, 1979, a Notice of the Department's proposed distribution formula was published in the **Federal Register** (44 FR 64916–17). Interested agencies, organizations, and individuals were invited to submit written comments. About 235 comments were received from members of the United States Congress; State, county and city government officials; college, university and professional association representatives; and other interested individuals.

The comments were considered in developing the final formula for distributing the FY 1980 State and local training funds. Although all commenters were opposed to the limitation placed on State and local training, some agreed with the formula proposed by the Department for distributing the FY 1980 funds; some disagreed but offered no recommendations and others raised questions about the proposal and suggested alternatives. The more significant comments received and the Department's responses to them are discussed below.

Comment: Many commenters felt that FY 1979 training costs should not be paid out of the limited FY 1980 appropriation of $75 million.

Response: The fiscal year 1979 costs must be given priority since they were incurred in good faith before any limitation became law. The only funds available to reimburse States are from the FY 1980 appropriation.

Comment: Many commenters felt that the Department should send a supplemental budget request to Congress for the approved FY 1979 training costs rather than using FY 1980 available funds.

Response: The Department has submitted to the Congress a supplemental budget request. The supplemental budget request, if approved, will be distributed to the States in accordance with the Departmental formula.

Comment: The majority of commenters recommended the Department use the alternative distribution formula Method No. 1 published in the November 8, 1979, **Federal Register**. This method is based on State population and is the same as that used to determine the Federal allotment ceiling of each State under title XX social services.

Response: The Department did not adopt the population method due to a number of inequities. Vigorous training programs in States with both large and small populations would receive severe and disproportionate reductions in Federal funding. This would result in drastic disassembling of the training programs for many of these States, while conservative training programs in States with both large and small populations would receive Federal allotments far in excess of the FY 1979 training costs. In some cases the States could not use their total training allotment for FY 1980.

Comment: Several commenters suggested a formula that would provide each State with an amount equal to a minimum of 2 percent, but no more than a maximum of 4 percent, of their title XX social services ceilings.

Response: The Department did not adopt this recommendation as it is primarily a population-based formula. The reasons for not using a pure population-based formula are cited in the above response and would apply in this instance, although to a lesser degree in some cases.

Comment: Some commenters recommended a formula based on Method No. 2 published in the November 8, 1979, **Federal Register**. This method provides for a uniform percentage reduction of each State's anticipated fiscal year 1980 training costs. The percentage is derived by dividing the available funds for distribution by anticipated fiscal year 1980 training costs of $124 million.

Response: The Department did not adopt this recommendation for several reasons. Past experience has shown, based on the State Agency Quarterly Statement of Financial Plan, form OA–25, that while some States' estimates are reasonably accurate, others are unrealistic. This would have an imbalancing effect on the distribution of fiscal year 1980 funds. Additionally, this method does not provide any consideration for State population size.

Comment: One commenter recommended an amount be set aside from the fiscal year 1980 appropriation sufficient to cover all allowable training costs prior to FY 1980, whether disbursed or not by the States.

Response: The Department did not adopt this recommendation due to the limited availability of fiscal year 1980 funds. Also, the establishing of a contingent liability for all States under the current reporting requirements would not be practical.

Comment: Several commenters recommended the issuance of new training regulations to identify allowable or unallowable training costs, in addition to the submission of State training plans. This would preclude the need for any allocation formula.

Response: The Department has begun a revision of the title XX regulations including the training regulations. However, revised regulations could not be issued in time to eliminate the need for a fiscal year 1980 allocation formula. Nor would revisions to the regulations per se, necessarily achieve the cost containment goal. In any case, there is a need for a distribution formula to determine State allocations where a funding cap has been placed on the program.

Comment: Some commenters suggested the adoption of an allocation formula that would be applicable to fiscal year 1980 and future years, but no specific formula was recommended.

Response: The Department did not consider it necessary to adopt a formula that would be applicable to fiscal years beyond 1980. The Congressional action

to limit fiscal year 1980 training funds under current law did not include any allocation formula, phase-down or hold-harmless provisions. Proposed legislation (HR 3434) includes an allocation formula and a phase-down or hold-harmless provision.

FINAL ALLOCATION FORMULA: Set forth below is the final allocation formula of the Department for State and local training under title XX of the Social Security Act. The schedule shows the fiscal year 1980 Federal Allotment limitation for each State. Each State will receive an amount equal to 1 percent of their proportionate share of the $2.5 billion currently authorized for title XX Social Services, or the same amount of Federal financial participation received for fiscal year 1979 training costs, whichever is lower. In addition States with fiscal year 1979 training costs in excess of such 1 percent will receive a proportionate share of the remaining fiscal year 1980 funds, distributed on a ratio of each State's fiscal year 1979 training costs in excess of the 1 percent to such remaining available fiscal year 1980 funds.

(Fiscal year 1979 training costs are defined as those FY 1979 costs claimed and paid on the Quarterly Statement of Expenditures, form OA–41, for the four quarters of FY 1979.)

FY 1980 Federal Allotment for State and Local Training

States:	*Allotment*
Alabama	$592,583
Alaska	110,662
Arizona	918,920
Arkansas	883,868
California	3,277,675
Colorado	552,507
Connecticut	4,702,531
Delaware	133,243
Dist. of Col	142,150
Florida	1,248,458
Georgia	1,440,946
Hawaii	99,034
Idaho	181,110
Illinois	821,857
Indiana	90,741
Iowa	451,825
Kansas	589,536
Kentucky	1,282,331
Louisiana	954,238
Maine	550,578
Maryland	1,066,146
Massachusetts	1,867,744
Michigan	1,431,657
Minnesota	822,152
Mississippi	698,684
Missouri	887,304
Montana	517,448
Nebraska	263,278
Nevada	151,739
New Hampshire	130,236
New Jersey	1,493,305
New Mexico	509,452
New York	7,216,404
North Carolina	1,985,094
North Dakota	256,681
Ohio	1,091,886
Oklahoma	474,778
Oregon	611,212
Pennsylvania	2,714,640
Rhode Island	366,704
South Carolina	642,790
South Dakota	183,393
Tennessee	850,482
Texas	4,456,177
Utah	537,625
Vermont	299,102
Virginia	914,183
Washington	1,186,425
West Virginia	1,067,218
Wisconsin	1,182,754
Wyoming	242,740
Total	55,144,226

Note.—All allowable fiscal year 1979 claims submitted by a State on a Quarterly Statement of Expenditures (form OA–41) for fiscal year 1980 quarters, will be reimbursed from the above allotment for that State.

FOR FURTHER INFORMATION CONTACT: James J. Gigante, Director, Office of Administration and Management, Administration for Public Services, 330 C Street, S.W., Washington, D.C. 20201, Telephone: 202–245–0802.

(Catalog of Federal Domestic Assistance Program No. 13.644, Social Services Training Grants—Title XX)

Dated: April 1, 1980.

Michio Suzuki,

Acting Commissioner, Administration for Public Services.

Approved: April 3, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80–10786 Filed 4–8–80; 8:45 am]

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federal register

Wednesday
April 9, 1980

Part VII

Department of the Treasury

Office of Foreign Assets Control

Census of Blocked Iranian Assets and Claims Against Iran and Iranian Entities

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Census of Blocked Iranian Assets and Claims Against Iran and Iranian Entities

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations by the addition of §§ 535.615 and 535.616 providing respectively for a census of blocked Iranian assets and a census of claims against Iran and Iranian entities. The purpose of the amendment is to impose a requirement that reports be filed (1) under § 535.615 with respect to blocked Iranian assets held by any person subject to the jurisdiction of the United States between November 14, 1979 and March 31, 1980; and (2) under § 535.616 with respect to claims by U.S. nationals against Iran and Iranian entities. The need for § 535.615 is to obtain information on blocked assets, on a one-time basis, for planning purposes and to monitor compliance with the Regulations. The need for § 535.616 is to obtain information regarding claims of U.S. nationals against Iran, on a one-time basis, for planning purposes. The effect of the amendment will be to obtain complete and accurate information on blocked Iranian assets and on claims of U.S. nationals against Iran and Iranian entities in order to further the purposes of Executive Order No. 12170 and the Regulations.

EFFECTIVE DATE: April 9, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376-0236.

SUPPLEMENTARY INFORMATION: Samples of Forms TFR-615 and TFR-616 with instructions appear in an appendix to this amendment. Copies of the forms with reporting instructions are being distributed through the Federal Reserve System to all member banks. Other persons required to report or otherwise interested in obtaining copies of the forms and instructions may do so by applying to the nearest Federal Reserve Bank or to the Office of Foreign Assets Control, Department of the Treasury, Washington D.C. 20220.

Forms are to be completed in triplicate and two copies are to be returned in a set to either Unit 615 or Unit 616, as appropriate, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 by May 15, 1980. Observance of the filng deadline is extremely important. Reporting under these sections is mandatory, and no extensions of the filing deadline will be granted.

The submission of a Form TFR-616 report on a claim against Iran or an Iranian entity does not constitute the filing with the United States Government of a formal claim for compensation. No decision has yet been reached on whether a formal claims adjudication program will be established. It should be noted, however, that failure to file complete information with respect to claims in a timely fashion not only would constitute failure to comply with the Regulations, but would also preclude the inclusion of the information in U.S. Government planning. Such a failure may therefore be prejudicial to the interests of the claimant and other U.S. claimants. Espousal of claims of U.S. nationals against a foreign government is in the discretion of the Secretary of State.

Since this amendment involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

31 CFR Part 535 is amended as follows:

1. Section 535.615 is added as follows:

§ 535.615 Reports on Form TFR-615.

(a) *Requirement for report.* Reports on Form TFR-615 are hereby required to be filed on or before May 15, 1980, in the manner prescribed herein, with respect to all property subject to the jurisdiction of the United States or in the possession or control of any person subject to the jurisdiction of the United States at any time between the effective date and March 31, 1980, in which Iran or an Iranian entity has or has had any interest.

(1) *Who must report.* Reports on Form TFR-615 must be filed by each of the following:

(i) Any person subject to the jurisdiction of the United States or his successor, who on the effective date or any subsequent date up to and including March 31, 1980, had in his custody, possession or control, directly or indirectly, in trust or otherwise, property in which there was any direct or indirect interest of Iran or any Iranian entity, whether or not the property continued to be held by that person on March 31, 1980; and

(ii) Any business or non-business entity in the United States in which Iran or an Iranian entity held any financial interest on the effective date or on any subsequent date.

(2) *Property not required to be reported.* A report on Form TFR-615 is not required with respect to:

(i) Property of a private Iranian national; and

(ii) Patents, copyrights, trademarks and inventions; *Provided, however,* That a report is required with respect to any royalties due and unpaid in connection with such property.

(b) *Filing Form TFR-615.* Reports on Form TFR-615 shall be prepared in triplicate. On or before May 15, 1980, two copies shall be sent in a set to Unit 615, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

(c) *Certification.* Every report on Form TFR-615 shall contain the certification required in Part F of the Form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(d) *Confidentiality of reports.* Reports on Form TFR-615 are regarded as privileged and confidential.

2. Section 535.616 is added as follows:

§ 535.616 Reports on Form TFR-616.

(a) *Requirement for reports.* Reports on Form TFR-616 are hereby required to be filed on or before May 15, 1980, in the manner prescribed herein, with respect to claims for losses due to expropriation, nationalization, or other taking of property or businesses in Iran, including any special measures such as Iranian exchange controls directed against such property or businesses; claims for debt defaults, for damages for breach of contract or similar damages; and personal claims for salaries or for injury to person or property.

(b) *Who must report.* Reports on Form TFR-616 must be filed by every person subject to the jurisdiction of the United States which had a claim against Iran or an Iranian entity which arose before April 15, 1980. No report is to be submitted by a U.S. branch of a foreign firm not owned or controlled by a person subject to the jurisdiction of the United States or by a nonresident alien.

(c) *Filing Form TFR-616.* Reports on Form TFR-616 shall be prepared in triplicate. On or before May 15, 1980, two copies shall be sent in a set to Unit 616, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. The third copy

must be retained with the reporter's record.

(d) *Certification.* Every report on Form TFR–616 shall contain the certification required on Part E of the Form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(e) *Confidentiality of reports.* Reports on Form TFR–616 are regarded as privileged and confidential.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729)

Dated: April 7, 1980.

Stanley L. Sommerfield,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

Appendix

(Not for Publication in the *Code of Federal Regulations*)

Census of Blocked Iranian Assets Instructions for Reporting on Form TFR–615

The Office of Foreign Assets Control, Department of the Treasury, under section 535.615 of the Iranian Assets Control Regulations (31 CFR Part 535), is conducting a census of all blocked Iranian assets.

Reporting under the census is mandatory. Reports on Form TFR–615 are hereby required to be filed on or before May 15, 1980, in the manner prescribed herein, by any holder of blocked Iranian assets who is a person subject to the jurisdiction of the United States. The reporting requirement applies to any person subject to the jurisdiction of the United States who had in his possession or control, between 8:10 a.m., e.s.t., November 14, 1979, and March 31, 1980, any property in which the Government of Iran, its agencies, instrumentalities or controlled entities, or the Central Bank of Iran had any direct or indirect interest of any kind whatsoever. The information to be reported is needed by the United States Government for planning purposes and to monitor compliance with the Regulations.

Each question on the form must be answered and all the specific information called for must be given. When there is nothing to report under any question, of if information is lacking, state "No," "None," or "Unknown," as the case may be. If the space provided on the form for answers should prove inadequate, the answer may be made or continued on a blank sheet of paper securely attached to the form. No person is excused from furnishing any information he reasonably should have furnished.

Deadline

May 15, 1980. No extensions will be granted.

This form is to be completed in triplicate and two copies are to be returned in a set to Unit 615, Office of Foreign Assets Control, Washington, D.C. 20220 by the May 15, 1980 deadline.

Observance of the filing deadline is extremely important.

For Further Information Contact

Unit 615, (202) 376–0968 or 376–0969.

Part I—General Instructions

A. Reporting Requirements

1. *Who must report.*—a. Any person subject to the jurisdiction of the United States (or his successor) who on November 14, 1979, or any subsequent date up to and including March 31, 1980, had in his custody, control or possession, directly or indirectly, in trust or otherwise, property in which there was, as of such date, any direct or indirect interest of the Government of Iran, its instrumentalities of controlled entities, or the Central Bank of Iran, with respect to any such property, whether or not such property continued to be held by that person on March 31, 1980. If a U.S. parent company or any foreign firm(s) which it owns or controls are subject to the reporting requirements, the U.S. parent company must submit Form TFR–615 for itself and any such foreign firm(s). The parent firm must certify any report for an owned or controlled foreign firm in Part F.

b. All business or nonbusiness entities in the United States in which an Iranian entity held any financial interest on November 14, 1979, or on any subsequent date up to and including March 31, 1980.

c. In general, the following persons subject to the jurisdiction of the United States who held, between 8:10 a.m., e.s.t., November 14, 1979, and March 31, 1980, property in which Iran or an Iranian entity had any interest, will have reporting obligations:

(1) All banks within the United States, including U.S. subsidiaries, branches and agencies of foreign banks which held deposits or other property;

(2) Foreign subsidiaries, branches and agencies of U.S. banks which held deposits or other property;

(3) Foreign branches and agencies of U.S. subsidiaries of foreign banks which held deposits or other property;

(4) All banks, brokers, dealers or other custodians (including their foreign branches and subsidiaries) which held securities or other property;

(5) Nonbanking business enterprises and other entities subject to the jurisdiction of the United States, including the foreign branches and subsidiaries of such enterprises and entities, which had commercial or financial liabilities to Iranian entities or which had in their possession or control other property in which Iranian entities have any interest; and

(6) All U.S. persons not otherwise defined who act as agents for any Iranian entity with property in the United States, including U.S. Government agencies which are custodians of property of an Iranian entity.

2. *What must be reported.*—a. Property subject to the jurisdiction of the United States or in the possession of or control of persons subject to the jurisdiction of the United States, in which Iran or an Iranian entity had any interest of any nature whatsoever between 8:10 a.m., e.s.t., November 14, 1979, and March 31, 1980. *A separate Form TFR–615 must be filed with respect to each blocked account held by the holder.*

b. The following property should *not* be reported:

(1) Property of an individual Iranian national or of an Iranian company not owned or controlled by the Government of Iran.

(2) Patents, trademarks, copyrights and inventions, but this exemption shall not constitute a waiver of any reporting requirement with respect to royalties due and unpaid.

3. *Primary responsibility for reporting.*—Primary responsibility for reporting any property rests on the actual holder of the property with the following exceptions: primary responsibility for reporting any asset held by a foreign firm owned or controlled by a person subject to the jurisdiction of the United States is on the U.S. parent, and primary responsibility for reporting any trust is on the trustee. A report may be filed on behalf of a holder by an attorney, agent or other person. However, the pertinent information regarding the person holding the property must be included in Part E. No person is excused from filing Form TFR–615 by reason of the fact that another person has submitted a report with regard to the same property, unless he has actual knowledge that the other person has filed a report with respect to the property as full and complete as that which such person would otherwise be required to file.

4. *Obtaining Form TFR–615.*—Copies of Form TFR–615 with reporting instructions have been distributed through the Federal Reserve System to

all member banks. Other persons required to report or otherwise interested in obtaining copies of Form TFR–615 and the reporting instructions may do so by applying to the Office of Foreign Assets Control, Unit 615, Department of the Treasury, Washington, D.C. 20220, or to the nearest Federal Reserve bank.

5. *Filing Form TFR–615.*—Reports on Form TFR–615 shall be prepared in triplicate. On or before May 15, 1980, two copies shall be sent in a set to Unit 615, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. Retain a copy for your records.

6. *Certification.*—Every report filed on Form TFR–615 must be certified in Part F of the form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with the reporting requirements of 535.615 of the Regulations.

7. *Confidentiality of reports.*—Reports filed on Form TFR–615 are regarded as privileged and confidential.

8. *Penalties.*—Reporting on Form TFR–615 is mandatory under section 535.615 of the Iranian Assets Control Regulations for persons who are subject to the reporting requirements. In this regard, section 206 of the International Emergency Economic Powers Act provides as follows:

Penalties

Sec. 206. (a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

B. Definitions

The definitions below shall be used for the purpose of reporting on Form TFR–615. Any reference to "the Regulations" in these instructions or in Form TFR–615 shall refer to the Iranian Assets Control Regulations (31 CFR Part 535), and any term not defined in these instructions shall have the meaning ascribed to it in the Regulations.

1. *Person.* An individual, partnership, association, corporation or other organization.

2. *Person subject to the jurisdiction of the United States.* The term "person subject to the jurisdiction of the United States" includes:

(a) Any person wheresoever located who is a citizen or resident of the United States;

(b) Any person actually within the United States;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession or district of the United States; and

(d) Any partnership, association, corporation or other organization wheresoever organized or doing business which is owned or controlled by persons specified in (a), (b), or (c) above.

3. *Successor.* A person who succeeds to the ownership or custody of blocked property by operation of law, such as a trustee in bankruptcy, administrator, etc., or by change in organization, such as by merger, dissolution or acquisition.

4. *Financial interest.* Any right or claim to ownership or control, or participation in ownership or control, or other financial interest as follows:

(a) Any shares of stock of any business or nonbusiness entity;

(b) Any profits or income derived from shares of stock;

(c) Any bonds, debentures, notes or other funded obligations of any business or nonbusiness entity;

(d) Any other outstanding securities of any business or nonbusiness entity; or

(e) Any other right or claim with respect to any trust or similar organization.

5. *Iran; Iranian entity.* (a) The term "Iran" and "Iranian entity" includes:

(1) The State and the Government of Iran as well as any political subdivision, agency or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof;

(2) The Central Bank of Iran (Bank Markazi Iran);

(3) Any partnership, association, corporation or other organization substantially owned or controlled by any of the foregoing;

(4) Any person to the extent that such person is or has been, or to the extent that there is reasonable cause to believe that such person is or has been, since the effective date, acting or purporting to act, directly or indirectly, on behalf of any of the foregoing;

(5) Any territory which on or since the effective date is controlled or occupied by the military, naval or police forces or other authority of Iran; and

(6) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) hereof.

(b) A person specified in paragraph (a)(3) of this section shall not be deemed to fall within the definition of Iran solely by reason of being located in, organized under the laws of, or having its principal place of business in, Iran.

6. *Property; property interests.* The terms "property" or "property interests" shall, for purposes of reporting on Form TFR–615, include, but not be limited to, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidence of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, letters of credit, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

7. *Interest.* Any interest of any nature whatsoever, direct or indirect.

C. Valuation Principles

1. Where valuation is called for, the following table may be used as a guide.

Examples of property types	Principle
Checks, drafts, acceptances and notes.	Face or estimated value.
Commodities, including gold and other metals.	Market value.
Currency and coin	Face value.
Debts, claims and demands	Face or estimated value.
Deposits and cash balances	Balance of the account.
Foreign exchange futures	Difference between market price of currency and price specified in contract.
Franchises and concessions	Market or estimated value.
Goods, merchandise and other personal property.	Market or estimated value.
Land, buildings and mortgages on real estate.	Market or estimated value.
Letters of credit	Available amount.
Royalties, gas and oil	Capitalized value.
Securities	Market or estimated value.

All amounts reported should be given in dollars to the nearest dollar.

2. *Valuation date.* Values shall be given as of the close of business on March 31, 1980.

3. *Market or estimated values.* Where market or estimated value is required, enter the market price at the close of business on March 31, 1980, or, if such price is not available, the estimated value on that date. In estimating value, the last sale price or bid, if reasonably close to March 31, 1980, may be used as a basis.

4. *Value expressed in foreign currency.* Property valued in a foreign currency, or which is to be paid or liquidated in a foreign currency, shall be valued in dollars if dollar market value exists for such property itself. If dollar market value does not exist, the foreign currency value thereof shall be converted into dollar value in accordance with the latest rate next before March 31, 1980, as generally quoted by foreign exchange dealers or other recognized sources of information. In no case shall a value expressed in a foreign currency be entered in the report, but the fact that property was originally valued in a foreign currency should be indicated in Part C.

5. *Property of indeterminable value.* In reporting property of indeterminable value, enter "IN" in the space opposite the appropriate property type and describe the property briefly in Part C. When both property of determinable value and property of indeterminable value are to be reported under any one property type, only the determinable value should be reported. However, in response to Part C, both kinds of property should be described and the property of indeterminable value should be so described.

Part II—Specific Instructions

Part A. Information Concerning Iranian Entity Whose Property Is Reported

If more than one Iranian entity has an interest in property required to be reported, a separate report shall be made with respect to each such entity. The value of the property reported in Part B of Form TFR–615 shall be an amount equivalent to the pro rata share to which the entity would be entitled. Each such report shall be identified as a multiple report by entering in the box marked "Multiple Report" on page one of Form TFR–615 the total number of reports submitted with respect to this property. The other entities with an interest in this property shall be identified in line 6. of Part A. Multiple reports should be filed together as a set.

Line A4. Enter in boxes at right the ownership interests, expressed as percentages, in joint ventures, consortia, corporations and other organizations, of (1) Iranian entities, (2) U.S. nationals, and (3) other persons.

Part B. Schedule of Property Required To Be Reported

Important: Be sure that the same property is not reported on more than one line.

Report the amount held on the effective date, 8:10 a.m., e.s.t., November 14, 1979, in column (1) and the amount held on March 31, 1980, in column (2). If property was acquired after the effective date, report in column (1) the amount as of date of acquisition and explain in line 14.

Important: Be certain to report in column (1) of Part B the *full* amount of any property held regardless of any subsequent debit to the account or other licensed transfer after the date of acquisition (see part B, line 14). Be certain to report in column (2) the full amount of any property held on March 31, 1980, notwithstanding any set-off or other claim asserted against the property (see Part D).

Line 1.a. Include certificates of deposit.

Line 3. This category generally includes commercial paper, negotiable instruments and other obligations held for the account of an Iranian entity not reportable in other specific lines. Obligations of the holder would generally not be reported in line 3. but in lines 1., 4., 5. and 6.

Line 4. This does not include deposits (line 1.) or debt securities (lines 5.–6.).

Lines 5.–6. Include equity and debt securities of all types, including government securities, regardless of maturity. Do not report securities on these lines if the Iranian entity holds a 10 percent or greater interest in the equity securities of the issuer; in that case, the Iranian entity's holdings should be reported in line 7.

Line 7. "Direct investment" means a 10 percent or greater interest in the equity of a U.S. business. Where the Iranian entity's interest is represented by marketable securities, report market value of all holdings, including debt securities, in line 7. Where the Iranian entity's interest is not represented by marketable securities, report sum of the U.S. company's debt obligations to the Iranian entity and the Iranian entity's share of the equity of the business (as represented by the book value of the business). Identify in Part C the U.S. firm and percentage of Iranian ownership.

Line 9.a. Report market value of goods owned by Iranian entities and intended for export to Iran.

Line 9.b. Report the value of other Iranian property in the possession or control of a person subject to the jurisdiction of the United States; for example: an Iranian vessel under charter; aircraft, machinery or equipment in the United States for servicing; or furniture and office equipment of the U.S. branch of an Iranian entity.

Line 10. Report the outstanding amounts of commercial letters of credit issued by U.S. banks in favor of the Iranian entity.

Line 11. Report the outstanding amounts of commercial letters of credit confirmed by U.S. banks in favor of the Iranian entity.

Line 12. Report the amount available under any standby letter of credit issued by a U.S. bank in favor of the Iranian entity on line 12.a. If the account party has established an account pursuant to Treasury license under § 535.568 of the Regulations, report the amount of this account on line 12.b.

Part C. Additional Information Concerning Property Items

Line 1. Briefly describe the property the value of which has been set forth in Part B. Breakdowns into specific property items and detailed descriptions are unnecessary. Property may be described in some general but reasonable manner. Tangible property should be more thoroughly described than financial items, which are more self-explanatory. Enter in the "Type" column the appropriate line number from Part B indicating the type of property.

Part D. Adverse Claims

Line 1. (a. through e.). Report on as many lines as apply. If a line applies but amount is indeterminate, write "IN" in space provided. Report only claims that are specific to the asset reported, such as a lien or set-off. Do not report other claims that the holder may have against the Iranian entity for which the property is reported or against other Iranian entities. Use Form TFR–616 for this purpose.

Report amount of property subject to writs of attachment. Do not submit detailed information or material on attachment suits, such as court orders or other documents.

Part E. Person Holding Property

Report the holder's name and address in lines 1. and 2.

If the holder is an individual, report social security number in box at right.

If holder is a business firm, report the holder's EIN in block at right, unless the holder is a foreign firm owned or controlled by a person subject to the jurisdiction of the United States. In that case, assign a one-letter code to each owned or controlled foreign firm and report U.S. parent company's EIN and

foreign firm's code letter in blocks marked EIN and FFC (foreign firm code), respectively.

Each U.S. parent company should submit a list of all foreign firms for which reports are or will be submitted on a separate sheet filed with its first report for itself or any such firm, as follows:

Holder	EIN code	FFC code
XYZ Bank (parent)	123-45-6789	
XYZ Bank, London subsidiary	123-45-6789	A
XYZ Bank, Paris branch	123-45-6789	B
XYZ Bank, Brussels branch	123-45-6789	C

Part F. Certification

Be certain not to omit the required certification in Part F.

Report Not Valid Without Certification

BILLING CODE 4810-25-M

FORM TFR-615

CENSUS OF BLOCKED IRANIAN ASSETS

OFFICE OF FOREIGN ASSETS CONTROL

UNIT 615

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

Multiple Report __ M

DEADLINE: This form is to be completed and returned to the above address by May 15, 1980.

Form TFR-615 is to be used by all persons required to file reports pursuant to section 535.615 of Title 31 of the Code of Federal Regulations. BEFORE PREPARING THIS REPORT READ THE INSTRUCTIONS CAREFULLY. All information reported will be regarded as privileged and confidential. For assistance, call (202) 376-0968 or 376-0969.

To the Secretary of the Treasury:

The undersigned, pursuant to section 535.615 of Title 31 of the Code of Federal Regulations, hereby makes the following report:

Part A - INFORMATION CONCERNING IRANIAN ENTITY WHOSE PROPERTY IS REPORTED (See instructions for Part A.)

1. Name _____

Any variant name _____

2. Address _____ (Street)

_____ (City)

_____ (State or foreign country)

2. Iran ___ I
U.S.A. ___ U
Other ___ O
(check one)

3. Place of incorporation or principal place of business .....

3. Iran ___ I
U.S.A. ___ U
Other ___ O
(check one)

4. Ownership interests in entity ..... 4. Iran ___% I

U.S.A. ___% U

Other ___% O

5. Type of entity:

a. Iranian Government or any agency or instrumentality thereof, excluding diplomatic and consular missions ..... ___ I

b. Iranian diplomatic and consular missions ..... ___ D

c. Iranian Central Bank (Bank Markazi Iran) ..... ___ M

d. Iranian commercial bank ..... ___ B

e. Other Iranian corporation ..... ___ C

f. Consortium or joint venture ..... ___ J

g. Unincorporated association ..... ___ U

h. Other ..... ___ O

6. Joint interests: List other Iranian entities with an interest in property reported (applies only to multiple reports (box M on page 1))._____

_____

_____

_____

_____

_____

_____

_____

_____

Part B - SCHEDULE OF PROPERTY REQUIRED TO BE REPORTED(See instructions for individual lines)

(Enter value in whole dollars)

Type	(1) Original Amount	(2) Amount 3/31/80
1. Deposits		
a. Time	_____	_____
b. Demand	_____	_____
2. Bullion, currency and coin	_____	_____
3. Notes, checks, drafts, acceptances, commercial paper, etc.	_____	_____
4. Debts	_____	_____
5. Financial securities payable in dollars	_____	_____
6. Financial securities payable in other currencies	_____	_____
7. Direct investment in U.S. businesses .	_____	_____
8. Real estate	_____	_____
9. Personal property		
a. Goods consigned to Iran	_____	_____
b. Other	_____	_____
10. Commercial letters of credit issued by U.S. banks	_____	_____
11. Commercial letters of credit confirmed by U.S. banks	_____	_____
12. Standby letters of credit		
a. Amount of credit	_____	_____
b. Amount of section 535.568 account	_____	_____
13. Miscellaneous	_____	_____
TOTAL (1 through 13)	_____	_____

14. If amount in column (2) differs from amount in column (1) for any line above, explain increase or decrease by checking the appropriate box:

a. General license 535.508 ..... ___A

b. General license 535.531 ..... ___B

c. General license 535.532 ..... ___C

d. General license 535.566 ..... ___D

e. General license 535.902 ..... ___E

f. Specific license (give license number) _____ ___F

g. Other (explain) _____ ___U

_____

_____

_____

Part C - ADDITIONAL DESCRIPTION OF PROPERTY ITEMS

TYPE	BRIEF DESCRIPTION OF PROPERTY
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Part D - ADVERSE CLAIMS AGAINST PROPERTY REPORTED

1. Type	Amount	
a. Attachment	_____	A
b. Lien	_____	L
c. Set-off	_____	S
d. Disputed liability	_____	D
e. Title dispute	_____	T

2. Indicate at right the citizenship of the adverse claimant ..... (check one)

Iran	___	I
U.S.A.	___	U
Other	___	O

3. Is the holder an adverse claimant?..... (check one)

Yes	___	Y
No	___	N

Part E - PERSON HOLDING PROPERTY (see instructions)

	EIN/SSN	FFC
1. Name _____	_____	___

2. Address _____
(Street)

_____
(City)

_____
(State)

3. If owned or controlled firm is located in Iran, check box ..... ___ I

4. Type of holder (check one)

Bank	___	B
Broker or securities dealer	___	S
Oil company or oilfield services company ...	___	O
Defense-related industry	___	D
Construction company	___	C
Other business firm	___	T
Individual	___	I
U.S. Government agency	___	G
Other (explain) _____	___	U

(Submit list of owned or controlled foreign firms per instructions)

Part F - CERTIFICATION (see instructions)

I, _____, certify that I am
(Type or Print Name)

the _____
(state relationship of signatory to holder, e.g., Treasurer)

of the _____.
(name of holder)

that I am authorized to make this certification, and that, to the best of my knowledge and belief, the statements set forth in this report, including any papers attached hereto or filed herewith, are true and accurate, and that all material facts in connection with said report have been set forth herein.

_____ _____
(Date) (Signature)

Address _____
(Street)

_____
(City)

_____
(State)

Person to contact regarding this report:

_____ _____
(name) (telephone number)

BILLING CODE 4810-25-C

Penalties: Attention is directed to Title 18 U.S.C. section 1001, which provides:

"Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or issues any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Attention is also directed to 50 U.S.C. section 1705 which provides:

"(a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

"(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both, and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

Census of Claims by U.S. Persons Against Iran, Instructions for Reporting on Form TFR–616

The Office of Foreign Assets Control, Department of the Treasury, at the request of the Department of State and under section 535.616 of the Iranian Assets Control Regulations (31 CFR Part 535), is conducting a census of information relative to claims of persons subject to the jurisdiction of the United States against the Government of Iran, its agencies or instrumentalities or controlled entities, and the Central Bank of Iran.

Reporting under the census is mandatory for persons who are subject to the reporting requirements. Reports on Form TFR–616 are hereby required to be filed on or before May 15, 1980, in the manner prescribed herein, by such persons subject to the jurisdiction of the United States. The report must describe any claim of any such person against any Iranian entity which arose before April 15, 1980. The report must indicate for each claim (as provided in the specific instructions) whether the claim arose on or after October 1, 1978. The report must also cover any loans outstanding to Iran or an Iranian entity, whether or not a default has been declared.

Each question on the form must be answered, and all the specific information called for must be given. When there is nothing to report under any question, or if information is lacking, state "No," "None," or "Unknown," as the case may be. If the space provided on the form for any answer should prove inadequate, the answer may be made or continued on a blank sheet of paper securely attached to the form. No person is excused from furnishing any information he reasonably should have furnished.

The information to be reported is needed by the United States Government for planning purposes. However, the submission of this report does not constitute the filing with the United States Government of a formal claim for compensation. No decision has yet been reached on whether a formal claims adjudication program will be established. However, failure to file complete information in a timely fashion not only would constitute failure to comply with the Regulations, it also would preclude the inclusion of the information in U.S. government planning and may therefore be prejudicial to the claimant and other U.S. claimants. Espousal of claims of U.S. nationals against a foreign government is in the discretion of the Secretary of State.

Deadline: May 15, 1980. No extensions will be granted.

This form is to be completed in triplicate and two copies are to be returned in a set to Unit 616, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 by the May 15, 1980 deadline.

Observance of the filing deadline is extremely important.

FOR FURTHER INFORMATION CONTACT: Unit 616, (202) 376–0968 or 376–0969.

Part I—General Instructions

A. Reporting Requirements

1. *Who must report.* Any person subject to the jurisdiction of the United States, whether an individual or business enterprise, which has a claim against the Government of Iran or any of its agencies or instrumentalities or controlled entities, which arose before April 15, 1980. Claims by U.S. branches of foreign firms not owned or controlled by persons subject to the jurisdiction of the United States, or by nonresident aliens, are not to be reported on Form TFR–616.

If a U.S. parent company or any foreign firm(s) which it owns or controls are subject to the reporting requirements, the U.S. parent company must submit *one* Form TFR–616 covering its claims and those of any such foreign firm(s). (See specific instructions for Part C.)

2. *What must be reported.* (a) *Business claims.* United States business firms and individuals should report in Part B.1. losses due to expropriation, nationalization or other taking of property or businesses in Iran including any special measures, such as Iranian exchange controls, directed against such property or businesses. Claims against Iranian entities for other business losses, such as debt defaults, damages for breach of contract, and other damages, should also be reported.

Example (1). The London branch of a United States bank has a general loan outstanding to an Iranian entity which is in default. The amount of the default is to be reported in Part B, line 1.b.

Example (2). A United States construction company is operating in Iran under contract with a private Iranian company. An agency of the Government of Iran takes over the operation of the Iranian company's operations and terminates the U.S. firm's contract. The U.S. company is forced to withdraw its U.S. employees but leave its equipment. The company must report its breach of contract claim in Part B, line 1.g., and may have other reportable claims for expropriation or other losses on behalf of the company or its U.S. employees.

Example (3). A United States company has a wholly-owned subsidiary incorporated in Iran, Although the subsidiary has not been nationalized, the parent company cannot repatriate earnings or capital because of Iranian exchange control laws. The amount of dividends or other capital restricted under such laws is to be reported in Part B, line 1.e.

b. *Personal claims.* Any citizen or permanent resident who has suffered losses due to expropriation or who has claims for salaries or for injury to person or property resulting from actions of the Government of Iran or any Iranian entity must report such claims in Part B.2.

Example. A United States engineering consultant under contract to an Iranian entity is dismissed from his employment without cause and is forced to leave the country without a final salary payment and without being able to evacuate his household goods. The individual must report his claims for salary and other benefits and for breach of contract in Part B, line 2.c. and may have other reportable claims for expropriation (line 2.a.) or other damages (lines 2.e.).

3. *Primary responsibility for reporting.* Primary responsibility for reporting any claim rests on the claimant with the following exceptions: primary responsibility for reporting any claim of a foreign firm owned or controlled by a person subject to the jurisdiction of the United States is on the U.S. parent; primary responsibility for reporting the claim of any trust is on

the trustee, and for any estate on the executor or administrator. A report may be filed on behalf of a claimant by an attorney, agent, bank, insurance company or other person. However, the pertinent information regarding the person making the report must be included in Part D. No person is excused from filing Form TFR–616 by reason of the fact that another person has submitted a report with regard to the same claim unless he has actual knowledge that the other person has filed a report with respect to the claim as full and complete as that which such person would otherwise be required to file.

4. *Obtaining Form TFR–616.* Copies of Form TFR–616 with reporting instructions have been distributed through the Federal Reserve System to all member banks. Other persons required to report or otherwise interested in obtaining copies of Form TFR–616 may do so by applying to the Office of Foreign Assets Control, Unit 616, Department of the Treasury, Washington, D.C. 20220, or to the nearest Federal Reserve bank.

5. *Filing Form TFR–616.* Reports on Form TFR–616 shall be prepared in triplicate. On or before May 15, 1980, two copies shall be sent in a set to Unit 616, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. Retain one copy for your records.

6. *Certification.* Every report filed on Form TFR–616 must be certified in Part E of the form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with the reporting requirements of section 535.616 of the Regulations.

7. *Confidentiality of reports.* Reports filed on Form TFR–616 are regarded as privileged and confidential.

8. *Penalties.* Reporting on Form TFR–616 is mandatory under section 535.616 of the Iranian Assets Control Regulations. In this regard, section 206 of the International Emergency Economic Powers Act provides as follows:

Penalties

Sec. 206. (a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

B. Definitions

The definitions below shall be used for the purpose of reporting on Form TFR–616. Any reference to "the Regulations" in these instructions or in Form TFR–616 shall refer to the Iranian Assets Control Regulations (31 CFR Part 535), and any term not defined in these instructions shall have the meaning ascribed to it in the Regulations.

1. *Person.* An individual, partnership, association, corporation or other organization.

2. *Persons subject to the jurisdiction of the United States.* The term "person subject to the jurisdiction of the United States" includes:

(a) Any person wheresoever located who is a citizen or resident of the United States;

(b) Any person actually within the United States;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession or district of the United States; and

(d) Any partnership, association, corporation or other organization wheresoever organized or doing business which is owned or controlled by persons specified in (a), (b) or (c) above.

3. *Successor.* A person who has succeeded to a claim by operation of law, such as a trustee in bankruptcy, an executor or administrator, etc., or by change in organization, such as by merger, dissolution or acquisition.

4. *Financial interest.* Any right or claim to ownership or control, or participation in ownership or control, or other financial interests as follows:

(a) Any shares of stock of any business or nonbusiness entity;

(b) Any profits or income derived from shares of stock;

(c) Any bonds, debentures, notes or other funded obligations of any business or nonbusiness entity;

(d) Any other outstanding securities of any business or nonbusiness entity; or

(e) Any other right or claim with respect to any trust or similar organization.

5. *Iran; Iranian entity.* (a) The term "Iran" and "Iranian entity" includes:

(1) The State and the Government of Iran as well as any political subdivision, agency or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof;

(2) The Central Bank of Iran (Bank Markazi Iran);

(3) Any partnership, association, corporation or other organization substantially owned or controlled by any of the foregoing;

(4) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date acting or purporting to act, directly or indirectly, on behalf of any of the foregoing;

(5) Any territory which on or since the effective date is controlled or occupied by the military, naval or police forces or other authority of Iran; and

(6) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) hereof.

(b) A person specified in paragraph (a)(3) of this section shall not be deemed to fall within the definition of Iran solely by reason of being located in, organized under the laws of, or having its principal place of business in Iran.

6. *Property; property interests.* The terms "property" or "property interests", for purposes of reporting claims on Form TFR–616, shall include, but not be limited to, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidence of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, letters of credit, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal or mixed, tangible or intangible, or interest or interests therein, present, furture or contingent.

7. *Interest.* Any interest of any nature whatsoever, direct or indirect.

C. Valuation Principles

1. The following table may be used as a guide to valuation principles for various types of property:

Examples of property types	Principle
Checks, drafts, acceptances and notes.	Face or estimated value.
Commodities, including gold and other metals.	Market value.

Examples of property types	Principle
Currency and coin	Face value.
Debts, claims and demands	Face or estimated value.
Deposits and cash balances	Balance of the account.
Foreign exchange futures	Difference between market price of currency and price specified in contract.
Goods, merchandise and other personal property.	Market or estimated value.
Land, buildings and mortgages on real estate.	Market or estimated value.
Letters of credit	Available amount.
Royalties, gas and oil	Capitalized value.
Franchises and concessions	Market or estimated value.
Securities	Market or estimated value.

All amounts reported should be given in dollars to the nearest dollar.

1. *Valuation date.* Date of loss.

2. *Market or estimated values.* Where market or estimated value is required, enter the market price on the date of loss, or, if such price is not available, the estimated value on that date. In estimating value, the last sale price or bid, if reasonably close to the date of loss, may be used as a basis.

3. *Dollar value.* Report claims in U.S. dollars to nearest dollar. Convert foreign currency values at exchange rate prevailing on date of loss, as generally quoted by foreign exchange dealers or other recognized sources of information.

Part II—Specific Instructions

Part A. Information Concerning U.S. Claimant

If claimant is an individual, report social security number in box at right.

If claimant is a business firm, report the claimant's EIN in block at right.

If the claimant is a foreign firm owned or controlled by a person subject to the jurisdiction of the United States, enter the name, EIN code and other identifying information on *the U.S. parent company.*

Line 4. Check box indicating the primary business of the claimant.

Lines 5–7. (The Treasury Department is concerned primarily with claims against Iran by persons subject to the jurisdiction of the United States.)

Line 8. Identify any other person having an interest in the claim.

Part B. Summary of Claims Required To Be Reported

1. *Claims totals.* Each claimant is to enter the *total* of all its claims and all the claims of foreign firms owned or controlled by it in each category as well as an overall total. Part B is for reporting the *totals* of *all* claims by a given claimant. More detailed information on each *separate* claim is to be reported in Part C.

2. *Category.* Report the claim for the most appropriate or likely category by entering amount for claim(s) of that type in block at right. Enter amount in whole dollars. (Each syndicated loan or other bank loan must also be reported on a separate Part C. See instructions for Part C.)

Line 1.a. In the case of syndicated loans where the United States bank is a member of the paying agent, report total principal amount(s) outstanding for the syndicate(s) in the block at left and the reporter's share in the block to the right. If a default has been declared on any loan or loans, check "Yes." Indicate the total amount of default(s) for the syndicate(s) in the block at left and the reporter's share of the default(s) in the right-hand column. (NOTE: For each syndicated loan included in the amount reported on line 1.a., prepare a separate Part C. Report the following information in Part C, line 7., regardless of whether the loan is in default: (1) name of the paying agent, (2) name of lenders, and (3) status of payments.)

Lines 1.b. and 1.c. Report total amount outstanding in the block at left and the amount due or in default in the right-hand column.

Line 3. The reporter must enter in lines 3.a. and b. any other actual or potential compensation which the claimant may receive from a U.S. government agency or an insurance company, surety or similar person. Line 3.a. refers to submission of a claim to the Overseas Private Investment Corporation or some other agency which may have an obligation to indemnify the claimant for the loss. It does not refer to a previous submission to the Department of the Treasury or any other agency of information on claims against Iran of the sort that is required by this form.

Part C. Schedule for Separate Description of Claims

1. *General.* a. Submit a separate Part C on each claim.

b. For example, a separate Part C must be prepared on each syndicated loan or other bank loan.

c. However, claims of a given type or involving a common set of circumstances may be aggregated (e.g., a single expropriation causing loss of several types of property).

d. Claims by a foreign firm owned or controlled by a U.S. parent company should be reported by the U.S. parent company on its Form TFR–616. A separate Part C should be included with the U.S. parent's Form TFR–616 for each such claim.

e. Photocopies of Part C may be used for each additional claim to be reported.

Do not submit documentary evidence.

2. *Line items.*

Line 1.a. Enter SSN or EIN Code from Part A. In the case of an owned or controlled foreign firm, separate identifying data on any such foreign firm is to be reported in Part C. Assign a one-letter code to each such firm and report foreign firm's code letter in block marked FFC (foreign firm code).

In addition, the U.S. parent company should submit a list of all foreign firms for which Part C is being submitted on a separate sheet of paper filed with its report as follows:

Claimant	EIN code	FFC code
XYZ Company	123–45–6789	
XYZ Company, London subsidiary	123–45–6789	A
XYZ Company, Iranian subsidiary	123–45–6789	B
XYZ Company, Paris branch	123–45–6789	C

Line 2. Describe claim and enter letter for type of claim (taken from right margin of relevant line in Part B) in box in right-hand column.

Line 4. Identify the entity to the best of the reporter's knowledge.

Line 4.c. An "agency or instrumentality" is a part of the Government of Iran itself (e.g., Iranian Navy, Post Office, etc.), as opposed to a commercial entity such as Iran Air or National Iranian Oil Company.

Line 4.d. Give a brief statement of basis for concluding that an entity is owned or controlled by the Government of Iran.

Line 7. Be certain to enter on line 7 for each syndicated loan: (1) name of the paying agent, (2) names of lenders, and (3) status of payments.

Part D. Identity of Person Making Report

A person reporting his own claim need not fill out Part D other than to check the box opposite line 3.a. designated "Claimant."

Part E. Certification

The reporting requirement only applies to persons subject to the jurisdiction of the United States. Check that claimant is a person subject to the jurisdiction of the United States in space provided. Be certain not to omit the required certification in Part E.

Report not Valid Without Certification

Form TFR–616

Census of Claims by United States Persons Against Iran

Office of Foreign Assets Control, Unit 616, Department of the Treasury, Washington, D.C. 20220

DEADLINE: This form is to be completed and returned to the above address by May 15, 1980.

IMPORTANT NOTE: The submission of this report does not constitute the filing with the United States Government of a formal claim for compensation, nor does it guarantee that the claim will be included in any future agreement. However, failure to file complete information in a timely fashion not only would constitute failure to comply with the Regulations, it also would preclude the inclusion of information in U.S. government planning and may therefore be prejudicial to the claimant and other U.S. claimants.

Form TFR–616 is to be used by all persons required to file reports pursuant to section 535.616 of Title 31 of the Code of Federal Regulations.

BEFORE PREPARING THIS REPORT READ THE INSTRUCTIONS CAREFULLY. All information reported will be regarded as privileged and confidential. For assistance, call (202) 376–0968 or 376–0969.

To the Secretary of the Treasury:

The undersigned, pursuant to section 535.616 of Title 31 of the Code of Federal Regulations, hereby makes the following report:

BILLING CODE 4810-25-M

Part A - INFORMATION CONCERNING U.S. CLAIMANT

(EIN/SSN)

1. Name _____
(First) (Middle) (Last)

2. Any variant name (trade name, etc.) _____

_____

3. Mailing address _____
(Street)

_____
(City)

_____
(State or foreign country)

4. Type of claimant (Check one of the following):

Bank	___ B
Oil company or oilfield services company	___ O
Defense-related industry	___ D
Construction company	___ C
Other business	___ T
Individual	___ I
U.S. government agency	___ G
Other (explain) _____	___ U

5. a. If claimant is an individual, state nationality:

Iran	___ I
U.S.A.	___ U
Other	___ O

b. If "Other," specify nationality_____

6. If claimant is a corporation or other legal entity:

a. State date and place of incorporation _____

_____

_____

b. State percentage of the outstanding capital stock of all classes or of other beneficial interest owned, directly or indirectly, by persons who were U.S. nationals on the date of loss:_____

_____

7. Has there been any change in the nationality status of claimant since the date of loss?

Yes ___ Y

No ___ N

If "Yes," explain _____

_____

8. If any other person, firm, corporation or other entity which, either at present or since the date of loss, has or has had any interest in the claim, indicate names and present addresses of all such parties:

_____

_____

_____

PART B - SUMMARY OF CLAIMS REQUIRED TO BE REPORTED. Report value as of date of loss. See specific instructions. (Use schedule in Part C for reporting claims separately.)

1. Business Claims

TYPE	AMOUNT

a. Syndicated loans

Total amount _____ S1

Claimant's share _____ S2

Any default(s) declared? Yes ___ Y

No ___ N

Total amount _____ S3 Claimant's share _____ S4

b. Other bank loans

Total amount _____ B1 Amount due or in default _____ B2

c. Loans by nonbank companies

Total amount _____ N1 Amount due or in default _____ N2

d. Receivables ..... _____ R

e. Losses due to Iranian exchange controls ... _____ F

f. Oil company contract damages ..... _____ O

g. Other contract damages ..... _____ K

h. Other damage claims ..... _____ D

i. Expropriation losses:

(1) Loss of equity, concessions, or going concern value ..... _____ E

(2) Loss of tangible assets ..... _____ T

j. Other ..... _____ U

Subtotal 1. _____

2. Personal Claims

a. Expropriation losses ..... _____ X

b. Exchange controls..... _____ F

c. Salaries, receivables, insurance, other contractual claims ..... _____ R

d. Personal injury, property damage, and other tort claims ..... _____ I

e. Other ..... _____ U

Subtotal 2. _____

TOTAL (Subtotals 1. plus 2.) _____

3. Summary of actual or potential compensation

a. Claim(s) filed with U.S. government agency .... _____ G

b. Insurance or other indemnity or benefit ..... _____ I

Total (line 3 a & b only): _____

PART C - SCHEDULE FOR SEPARATE DESCRIPTION OF CLAIMS

(Attach separate sheets or additional copies of Part C, as needed)

EIN/SSN _____ FFC ___

1. a. Name of claimant _____
(First) (Middle) (Last)

b. Is claim for a foreign branch, subsidiary or office?

Yes ___ Y

No ___ N

2. Type of claim _____ Code

_____ ___

3. a. Amount of loss on this claim (except syndicated loans) _____

b. Syndicated loan. Total amount _____ S1

Claimant's share _____ S2

Any default(s) declared? ..... Yes ___ Y

No ___ N

Total Amount _____ S3

Claimant's share _____ S4

4. Iranian entity against which claim is reported.

a. Name _____

Any variant name _____

b. Address _____

_____

_____

c. Type of entity.

1. Central Bank of Iran (Bank Markazi Iran) ... ___ M
2. Iranian government or agency or instrumentality ..... ___ I
3. Government controlled entity ..... ___ E

d. State basis for belief that entity is owned or controlled by Government of Iran:

_____

_____

5. a. Date of Loss _____

b. Did loss occur on or after October 1, 1978? .... Yes ___ Y

No ___ N

6. Method of valuation _____
(Enter appropriate principle from Instructions, e.g., "market value")

7. Describe circumstances of loss and measures which caused the loss, including description of property or nature of business which is the subject of claim:

_____

_____

_____

_____

8. Is contract governed by Iranian law? ..... Yes ___ Y

No ___ N

9. Does contract specify Iranian forum? ..... Yes ___ Y

No ___ N

10. Documentary evidence of loss available?
(Do not enclose documents) ..... Yes ___ Y

No ___ N

11. a. On the date of loss, did you own this claim or any property on which the claim is based? ..... Yes ___ Y

No ___ N

b. If not, was owner a U.S. person on such date? Yes ___ Y

No ___ N

12. Has the claimant filed an attachment or other judicial proceedings? ..... Yes ___ Y

No ___ N

13. Has claimant obtained a waiver of sovereign immunity? ..... Yes ___ Y

No ___ N

14. Does claimant hold any property (e.g., bank deposits) against which a remedy such as a set-off can be asserted? ..... Yes ___ Y

No ___ N

15. Is claim liquidated (e.g., specific sum conceded by Iranian entity)? ..... Yes ___ Y

No ___ N

PART D - IDENTITY OF PERSON PREPARING REPORT

1. Name _____

2. Address _____
(Street)

_____
(City)

_____
(State or foreign country)

4. Relationship to claimant

a. Claimant ..... ___ C
b. Agent ..... ___ A
c. Trustee ..... ___ T
d. Banker ..... ___ B
e. Insurance Company ..... ___ I
f. Other ..... ___ O

PART E - CERTIFICATION

Claimant is a person subject to the jurisdiction of the United States ..... Check ___

I, _____ certify that I am the
(Type or Print Name)

_____ of the
(State relationship of signatory to the person)

_____
(Name of claimant)

that I am authorized to make this certification, and that, to the best of my knowledge and belief, the statements set forth in this report, including any papers attached hereto or filed herewith, are true and accurate, and that all material facts in connection with said report have been set forth herein.

_____ _____
(Date) (Signature)

Address _____
(Street)

_____
(City)

_____
(State)

Person to contact regarding this report:

_____ _____
(Name) (telephone number)

PENALTIES: Attention is directed to Title 18 U.S.C. section 1001, which provides:

BILLING CODE 4810-25-C

"Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Attention is also directed to 50 U.S.C. section 1705 which provides:

"(a) A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulations issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

[FR Doc. 80-10904 Filed 4-7-80; 5:11 pm]

BILLING CODE 4810-25-M

federal register

Wednesday
April 9, 1980

Part VIII

Department of the Treasury

Office of Foreign Assets Control

Imposing Additional Prohibitions on Dealings With Iran

DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Additional Prohibitions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to impose additional prohibitions on dealings with Iran. The need for the amendment is to implement the provisions of Executive Order No. 12205, signed by the President on April 7, 1980. The effect of the amendment is that exports to Iran, except those involving food, medicine, medical supplies, or donations of clothing intended to be used to relieve human suffering, are prohibited; restrictions are placed on the shipment of goods to Iran; restrictions are placed on new service contracts with Iran; and restrictions are placed on various financial transactions to which Iran is a party.

EFFECTIVE DATE: April 7, 1980, 4:19 p.m., e.s.t.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. 202/376–0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

The United Nations Security Council voted 12–0 on December 31, 1979 to impose economic sanctions on Iran if the American hostages were not freed by January 7, 1980. A resolution mandating economic sanctions was acted upon by the Security Council of the United Nations on January 13, 1980 and would have been adopted but for the veto cast by the Soviet Union.

The resolution called upon all countries to:

a. Prevent the sale or supply by their nationals or from their territories, whether or not originating in their territories, to or destined for Iranian governmental entities in Iran or any other person or body in Iran, or to or destined for any other person or body for the purposes of any enterprise carried on in Iran, of all items, commodities or products, except food, medicine and supplies intended strictly for medical purposes;

b. Prevent the shipment by vessel, aircraft, railway, or other land transport of their registration or owned by or under charter to their nationals or the carriage whether or not in bond by land transport facilities across their territories of any of the items, commodities, and products covered by subparagraph (a) which are consigned to or destined for Iranian governmental entities or any person or body in Iran, or to any enterprise carried on in Iran;

c. Not make available to the Iranian authorities or to any person in Iran or to any enterprise controlled by an Iranian governmental entity any new credits or loans; shall not, with respect to such persons or enterprises make available any new deposit facilities or allow substantial increases in existing nondollar deposits or allow more favorable terms of payment than customarily used in international commercial transactions; and shall act in a businesslike manner in exercising any rights when payments due on existing credits or loans are not made on time and shall require any persons or entities within their jurisdiction to do likewise;

d. Prevent the shipment from their territories on vessels or aircraft registered in Iran of products and commodities covered by subparagraph (a) above;

e. Prevent their nationals, or firms located in their territories, from engaging in service contracts, in support of industrial projects in Iran, other than those concerned with medical care;

f. Prevent their nationals or any person or body in their territories from engaging in any activity which evades or has the purpose of evading any of the decisions set out in this resolution:

The United States now is implementing the sanctions contemplated by this resolution. The President on April 7, 1980, signed Executive Order 12205 pursuant to the International Emergency Economic Powers Act imposing these sanctions. These regulations are being issued as amendments to the Iranian Assets Control Regulations to implement that order.

In reading these regulations, the following should be considered:

1. The prohibitions involved in these sanctions are listed in § 535.206 and § 535.207 and are in addition to the sanctions previously imposed under § 535.201;

2. All provisions in the form of general licenses, definitions, interpretations and other provisions previously issued under this part and still in effect apply, where relevant, to the sanctions contained in the regulations being published today;

3. Exports to Iran are now governed by the prohibition in § 535.207(a) and related provisions. It is expected that overseas subsidiaries of United States persons will not make exports prohibited by these regulations. U.S. parent entities must inform the Office of Foreign Assets Control ten days before any of its subsidiaries proposes to make any export to Iran; and

4. The prohibitions contained in the resolution acted upon by the U.N. Security Council concerning new loans and credits are governed by § 535.201, as interpreted by § 535.419.

31 CFR, Part 535 is amended as follows:

1. Section 535.201 is revised to read as follows:

§ 535.201 Transactions involving property in which Iran or Iranian entities have an interest.

No property subject to the jurisdiction of the United States or which is in the possession of or control of persons subject to the jurisdiction of the United States in which on or after the effective date Iran has any interest of any nature whatsoever may be transferred, paid, exported, withdrawn or otherwise dealt in except as authorized.

2. Section 535.203 is amended by the addition of paragraph (f), as follows:

§ 535.203 Effect of transfers violating the provisions of this part.

* * * * *

(f) For the purpose of this section the term "property" includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2(l) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

3. Section 535.206 is added as follows:

§ 535.206 Financial Transactions.

(a) Except as authorized by means of regulations, rulings, instructions, licenses or otherwise, no person subject to the jurisdiction of the United States shall, directly or indirectly, in any transaction involving Iran, an Iranian governmental entity, an enterprise controlled by Iran or an Iranian governmental entity, or any person in Iran:

(1) Make available any new deposit facilities or allow substantial increases in existing non-dollar deposits.

(2) Allow more favorable terms of payment than customarily used in international commercial transactions.

(3) Fail to act in a business-like manner in exercising any rights when payments due on existing credits or loans are not made in a timely manner, provided the exercise of such rights is not otherwise prohibited by this part.

(b) The prohibitions contained in paragraph (a) of this section shall not apply to transactions by any person subject to the jurisdiction of the United States which is a non-banking association, corporation or other organization organized and doing business under the laws of any foreign country. The U.S. parent of any such person must report to the Office of Foreign Assets Control any prospective transaction with Iran contained in paragraph (a) of this section ten days before any subsidiary enters into such a transaction.

4. Section 535.207 is added as follows:

§ 535.207 Trade, shipping and service transactions.

(a) All of the following transactions are prohibited, except as authorized by means of regulations, rulings, instructions, licenses or otherwise:

(1) The sale, supply or other transfer, by any person subject to the jurisdiction of the United States, of any items, commodities or products, except food, medicine or supplies intended strictly for medical purposes, and donations of clothing intended to be used to relieve human suffering, from the United States, or from any foreign country, whether or not originating in the United States, either to or destined for Iran, an Iranian governmental entity in Iran, any other person or body in Iran, or any other person or body for the purposes of any enterprise carried on in Iran.

(2) The shipment by vessel, aircraft, railway or other land transport of United States registration or owned by or under charter to a person subject to the jurisdiction of the United States or the carriage (whether or not in bond) by land transport facilities across the United States of any of the items, commodities or products covered by paragraph (a) of this section which are consigned to or destined for Iran, an Iranian governmental entity, or any person or body in Iran, or to any enterprise carried on in Iran.

(3) The shipment from the United States of items, products or commodities covered by paragraph (a) of this section on vessels or aircraft registered in Iran.

(4) The engaging, by any person subject to the jurisdiction of the United States, in any service contract in support of industrial projects in Iran, except any such contracts entered into prior to the effective date or concerned with the provision of medical services.

(b) The prohibitions contained in paragraph (a) of this section shall not apply to transactions by any person subject to the jurisdiction of the United States which is a non-banking association, corporation or other organization organized and doing business under the laws of any foreign country. The U.S. parent of any such person must report to the Office of Foreign Assets Control any transaction with Iran contained in paragraph (a) of this section ten days before any subsidiary enters into such a transaction.

5. Section 535.208 is added as follows:

§ 535.208 Evasions; effective date.

(a) Any transaction for the purpose of, or which has the effect of, evading or avoiding any of the prohibitions set forth in this subpart is hereby prohibited.

(b) The term "effective date" means, with respect to transactions prohibited in § 535.201, 8:10 a.m. eastern standard time, November 14, 1979, and with respect to the transactions prohibited in §§ 535.206 and 535.207, 4:19 p.m. eastern standard time, April 7, 1980.

6. Subpart C is amended by the addition of §§ 535.308 and 535.331 as follows:

Subpart C—General Definitions

* * * * *

§ 535.308 Person.

The term "person" means an individual, partnership, association, corporation or other organization.

* * * * *

§ 535.331 Food.

The term "food" as used in §535.207(a) shall include commodities directly consumed by humans or by animals when such animals are primarily used as a source of food.

7. Subpart D is amended by the addition of §§ 535.401, 535.402, 535.403, 535.419(e), 535.421, 535.422, 535.423, 535.424 and 535.425, as follows:

Subpart D—Interpretations

§ 535.401 Reference to amended sections.

Reference to any section of this part or to any regulation, ruling, order, instruction, direction or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 535.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation and all penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 535.403 Termination and acquisition of an interest of Iran or an Iranian entity.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from Iran or an Iranian entity, such property shall no longer be deemed to be property in which Iran or an Iranian entity has or has had an interest, unless there exists in the property another such interest the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this part, if property (including any property interest) is transferred to Iran or an Iranian interest, such property shall be deemed to be property in which there exists an interest of Iran or an Iranian entity.

§ 535.419 Extensions of credit to Iran.

* * * * *

(e) The prohibition in § 535.201 does not apply to extensions or renewals of credits to Iran or an Iranian entity by any person subject to the jurisdiction of the United States which is a non-banking association, corporation or other organization organized and doing business under the laws of any foreign country.

* * * * *

§ 535.421 Prior contractual commitments not a basis for licensing.

Specific licenses are not issued on the basis that an unlicensed firm commitment or payment has been made in connection with a transaction prohibited by this part. Contractual commitments to engage in transactions subject to the prohibitions of this part

should not be made, unless the contract specifically states that the transaction is authorized by general license or that it is subject to the issuance of a specific license.

§ 535.422 New deposit facilities.

(a) The prohibition contained in § 535.206(a) includes the opening of any new accounts as well as the acceptance of non-dollar deposits in any existing accounts where the resulting balance would be substantially greater than that existing on the effective date.

(b) A balance is substantially greater if it is more than 10% greater than the average daily balance during the six-month period prior to the effective date of § 535.206.

(c) An account is not a new account if it is established as a result of a transfer authorized by § 535.508 or otherwise licensed under this part.

§ 535.423 Customary international commercial terms.

(a) § 535.206(b) prohibits the sale to Iran, any Iranian entity or any person in Iran of any commodity on conditions markedly different from those customarily offered by other sellers of that commodity in terms of price, method of payment and time of payment.

(b) This section shall not be construed to authorize any transaction which is otherwise prohibited by this part.

§ 535.424 Service contracts in support of industrial projects in Iran.

Specific licenses to enter into any service contract in support of any enterprise in Iran will be considered on a case-by-case basis. No service contract should be entered into without a specific license.

§ 535.425 Iranian enterprise.

For purposes of § 535.206, the term "enterprise" means any business or commercial activity or venture of any kind whatsoever, whether operated or organized as a corporation, partnership, joint venture, association, sole proprietorship, or otherwise.

8. Subpart E is amended by the revocation of § 535.533, and the addition of §§ 535.572 and 535.574, as follows:

Subpart E—Licenses

* * * * *

§ 535.533 [Revoked]

* * * * *

§ 535.572 Authorization of exports of certain types of goods to Iran.

All transactions not inconsistent with § 535.419 and ordinarily incident to the export to Iran of the following types of goods are hereby authorized:

(a) Medicines and supplies intended strictly for medical purposes.

(b) Food.

(c) Donations of clothing intended to be used to relieve human suffering.

§ 535.574 Service contracts in support of telecommunications in Iran.

Specific licenses will be considered for transactions incident to telecommunications with Iran.

§ 535.903 [Revoked]

9. Section 535.903 is revoked.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099.)

Dated: April 7, 1980.

Stanley L. Sommerfield,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80-10905 Filed 4-7-80; 5:11 pm]

BILLING CODE 4810-25-M

federal register

Wednesday
April 9, 1980

Part IX

Department of State

Travel Documentation; Additional Requirements Imposed on Nationals of Iran and Revocation of Certain Nonimmigrant Visas

DEPARTMENT OF STATE

22 CFR Part 46

[Dept. Reg. 108.787]

Additional Requirements in the Case of Certain Nonimmigrant Aliens

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: A new § 46.8 is added to Part 46 of Title 22 to impose certain additional requirements on nationals of Iran, other than Iranian Government officials travelling on Government business to the United Nations. These requirements shall apply to both the bearers of immigrant and nonimmigrant visas issued prior to April 7, 1980, and applicants for immigrant or nonimmigrant visas on and after that date. A previously-issued visa will not meet the requirements of section 212 (a)(20) or (26)(B), as applicable, of the Immigration and Nationality Act, as amended, unless it has been presented to a consular officer on or after April 7, 1980, and the consular officer has endorsed the visa.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully III, Acting Director, Office of Legislation, Regulations and Advisory Assistance, Visa Services, Bureau of Consular Affairs, Department of State, (202) 632–1980.

SUPPLEMENTARY INFORMATION: Section 215(a)(1) (92 Stat. 971, 8 U.S.C. 1185) of the Immigration and Nationality Act, as amended, authorizes the President to promulgate "reasonable rules, regulations, and orders" respecting the entry of aliens into the United States and to subject such entry to "such limitations and exceptions as he may prescribe." The President has delegated this power to the Secretary of State, subject to the concurrence of the Attorney General.

In light of the fact that the Government of Iran has failed to resolve the hostage crisis, it is in the national interest to review all outstanding visas and further to restrict the entry of Iranians into the United States. Many nationals of Iran outside the United States are bearers of valid visas. Action to prevent the use of these visas is therefore necessary. Similar action to limit the issuance of visas to Iranians is also necessary. For this reason a new § 46.8 is added to Part 46 of Title 22 requiring presentation of previously-issued immigrant and nonimmigrant visas, other than those issued pursuant to section 101(a)(15)(G), to a consular officer for endorsement.

A visa issued to a national of Iran prior to April 7, 1980, not appropriately endorsed will not be valid for travel to the United States. Adjudication of new applications for visas on or after April 7, 1980, will be subject to the same conditions as those affecting indorsement of previously-issued visas.

The provisions of the Administrative Procedure Act (5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States. Part 46 is amended by adding at the end thereof a new § 46.8 to read as follows:

§46.8 Documentation of certain Iranian nationals seeking entry into the United States.

(a) An inmigrant or nonimmigrant visa, other than one issued pursuant to section 101 (a)(15)(g), of the Act, issued prior to April 7, 1980, to a national of Iran shall not be valid within the meaning of section 212(a) (20) or (26)(B), as applicable, of the Immigration and Nationality Act unless such visa shall have been presented to a consular officer on or after April 7, 1980, and the consular officer shall have endorsed the visa in the manner prescribed by the Department of State.

(b) The issuance of immigrant and nonimmigrant visas to nationals of Iran, on or after April 7, 1980, other than those issued pursuant to section 101(a)(15)(G), shall be subject to the same conditions as those affecting endorsement of previously-issued visas.

(Sec. 215(a)(1), Immigration and Nationality Act, (92 Stat. 971, 8 U.S.C. 1185) and delegation of authority of November 26, 1979, as amended April 7, 1980)

Dated: April 7, 1980.

Cyrus R. Vance,

Secretary of State.

Concurrence:

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-10944 Filed 4-8-80; 11:55 am]

BILLING CODE 4710-06-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 710]

Revocation of Certain Nonimmigrant Visas

Notice is hereby given that on this date the Secretary of State, acting in pursuance of the authority conferred on him by section 221(i) of the Immigration and Nationality Act, has revoked all nonimmigrant visas issued to nationals of Iran pursuant to section 101(a)(15)(A) of the Immigration and Nationality Act.

This action has been taken in connection with the termination of relations between the United States and Iran. The termination of relations is necessary because of the continuing failure by the Government of Iran to put an end to the unlawful detention of United States citizens in Tehran, Iran.

Dated: April 7, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-10945 Filed 4-8-80; 11:55 am]

BILLING CODE 4710-06-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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

REMINDERS

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[*See also* 45 FR 7566, 2–4–80]

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9953 2–14–80 / California state implementation plan revisions; comments by 4–14–80

16209 3–13–80 / Health and safety data reporting; submission of lists and copies of health and safety studies; comments extended to 4–14–80

[Originally published at 44 FR 77470; 12–31–79]

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[Originally published at 44 FR 75926, 12–21–79]

16502 3–14–80 / Revisions to California Bay area air quality management district's and Ventura County air pollution control district's emergancy episode plans; comments by 4–14–80

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[Corrected at 45 FR 11513, 2–21–80]

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15578 3–11–80 / Receipt of permanent program submission from State of Tenn.; comments by 4–15–80

15580 3–11–80 / Receipt of permanent program submission from State of Indiana; comments by 4–15–80

15583 3–11–80 / Receipt of permanent program submission from State of Illinois; comments by 4–15–80

Surface Mining Office—

15947 3–12–80 / Receipt of permanent program submission from the State of Alabama; comments by 4–14–80

15948 3–12–80 / Receipt of permanent program submission from the State of Kentucky; comments by 4–17–80

Water and Power Resources Service—

17165 3–18–80 / Sale of replacement farm units to Teton flood victims; comments by 4–17–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

9293 2–12–80 / Suppliers of commodity and commodity-related services ineligible for A.I.D. financing; comments by 4–14–80

INTERSTATE COMMERCE COMMISSION

13480 1–29–80 / Adoption of sampling procedures to collect motor carriers commodity statistics; comments by 4–14–80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

9289 2–12–80 / Proposed limitations on import of narcotic raw materials; comments by 4–14–80

Justice Assistance, Research and Statistics Office—

13902 3–3–80 / Financial and Administrative guide for grants; comments by 4–17–80

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—

9302 2–12–80 / Solicitation provisions and contract clauses; comments by 4–16–80

NUCLEAR REGULATORY COMMISSION

13104 2–28–80 / Disposal of low-level radioactive waste; availability of preliminary draft regulation; comments by 4–14–80

10360 2–15–80 / Domestic licensing of production and utilization facilities; comments by 4–15–80

POSTAL SERVICE

17164 3–18–80 / Official mail; revised procedures for handling postage meters used by Federal agencies; comments by 4–17–80

SECURITIES AND EXCHANGE COMMISSION

5972 1–24–80 / Annual report form; integration of Securities Acts Disclosure Systems; comments by 4–15–80

17024 3–17–80 / Broker-dealers; recordkeeping requirements; comments by 4–18–80

5934 1–24–80 / Business Combination Transactions; comments by 4–15–80

15942 3–12–80 / Notice obligations of self-regulatory organizations with respect to final disciplinary actions, denials, bars, or limitations respecting membership, association, participation or access to services, and summary suspensions; comments by 4–18–80

TRANSPORTATION DEPARTMENT

Coast Guard—

13982 3–3–80 / Electrical engineering provisions; revision of regulations; comments by 4–17–80

Federal Aviation Administration—

3316 1–17–80 / Aerial application of pesticides; comments by 4–17–80

4314 1–21–80 / Metropolitan Washington Airports; comments by 4–15–80

9944 2–14–80 / Summary of rulemaking positions received and dispositions of petitions denied; comments by 4–14–80

Urban Mass Transportation Administration—

13994 3–3–80 / Emergency stockpiling of buses; policy and guidelines; comments by 4–16–80

TREASURY DEPARTMENT

Customs Service—

10365 2–15–80 / Establishment, on a two year experimental basis of a new customs port of entry at Huntsville, Alabama, in the Mobile, Alabama, customs district; comments by 4–15–80

Office of the Secretary—

17160 3–18–80 / Regulations on post employment conflict of interest; comments by 4–17–80

WAGE AND PRICE STABILITY COUNCIL

17125 3–18–80 / Anti-inflationary pay and price standards; procedural rules; data requests; miscellaneous amendments; comments by 4–17–80

Deadline for Comments on Proposed Rules for the Week of April 20 through April 26, 1980

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

15880 3–11–80 / Animal welfare: revision of standards for the humane handling, care, treatment, and transportation of dogs and cats; comments by 4–25–80

Animal and Plant Health Inspection Service—

18394 3–21–80 / Indeminty payment provisions for cattle destroyed because of brucellosis; comments by 4–21–80

Food Safety and Quality Service—

10810 2–19–80 / Food labeling; tentative positions; comments by 4–21–80

[Originally published at 43 FR 25296; 6–9–78]

11815 2–22–80 / Freedom of information procedures; comments by 4–22–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

10800 2–19–80 / Commercial tanner crab fishery off coast of Alaska; amendment to fishery management plan; comments by 4–20–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

21196 3–31–80 / Mandatory petroleum allocation; crude oil buy/sell program; comments by 4–15–80

ENVIRONMENTAL PROTECTION AGENCY

19278 3–25–80 / Alabama; proposed revision of emergency episode plan and oxidant alert level; comments by 4–24–80

18407 3–21–80 / Missouri; State Implementation Plan revision correction; comments by 4–21–80

19282 3–25–80 / Propanil; proposed tolerances; comments by 4–24–80

19277 3–25–80 / Proposal conditional approval of Texas State Implementation Plan; comments by 4–24–80

FEDERAL COMMUNICATIONS COMMISSION

19578 3–26–80 / Adding frequency channeling requirements and restrictions and requiring monitoring for signal leakage from cable television systems; comments by 4–25–80

16214 3–13–80 / American Telephone and Telegraph Co.; private line rate structure and volume discount practices; replies to counter proposals by 4–23–80

[*See also* 45 FR 13139, 2–28–80 and 45 FR 16214, 3–13–80]

3064 1–16–80 / Establishment of automated, interconnected maritime ship/shore communications system on the Mississippi River System; reply comments by 4–23–80

[Corrected at 45 FR 13477, 2–29–80; 45 FR 17042, 3–17–80

8673 2–8–80 / FM assignment to Big Rapids, Mich., comments by 4–21–80

9023 2–11–80 / FM Broadcast Stations in Blue Ridge, Ga. and Murphy, N.C.; changes in tables of assignments; reply comments by 4–24–80

14076 3–4–80 / FM table of assignments; Columbia, Jamestown, and Smiths Grove, Ky.; comments by 4–21–80

19279 3–25–80 / FM table of assignments; Effingham, Ill.; reply comments by 4–21–80

[Originally published at 45 FR 6122, 1–16–80]

9022 2–11–80 / FM Broadcast Station in Hudson Falls, N.Y.; changes in table of assignments; reply comments by 4–24–80

9755 2–13–80 / FM Broadcast Station in Los Osos-Baywood Park, Calif., proposed changes in table of assignments; reply comments by 4–21–80

14078 3–4–80 / FM table of assignments; Marshall and Robinson, Ill.; comments by 4–21–80

8674 2–8–80 / FM assignment to Olympia, Wash.; reply comments by 4–21–80

20142 3–27–80 / FM broadcast station, Snowmass Village, Colo.; comments by 4–24–80

19583 3–26–80 / Implementing a provision of the New (1974) Safety Convention regarding compulsory carriage of radar on board vessels of 1,600 tons gross tonnage and over; comments by 4–25–80

17611 3–19–80 / Implementing the provision of Chapter 4 of the 1974 Safety Convention pertaining to Radio equipment required on compulsorily fitted vessels; reply comments by 4–24–80

57636 10–5–80 / Inquiry and proposed rulemaking deregulation of radio; reply comments by 4–25–80

12446 2–26–80 / Public mobile radio services; elimination of financial qualifications; reply comments by 4–25–80

9024 2–11–80 / Television Broadcast station in Crossville, Tenn.; changes in table of assignments; reply comments by 4–24–80

FEDERAL DEPOSIT INSURANCE CORPORATION

10802 2–19–80 / Elimination of information contained on existing forms issued by FDIC to insured State nonmember banks; comments by 4–21–80

FEDERAL MARITIME COMMISSION

18991 3–24–80 / Rules of practice and procedure to limit application of certain provisions of the rule to vessel operating common carriers (VOCC's); comments by 4–23–80

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

18034 3–20–80 / Freedom of Information Act; implementation; comments by 4–21–80

FEDERAL TRADE COMMISSION

12261 2–25–80 / Commercial Lighting Products, Inc.; consent agreement; comments by 4–25–80

10810 2–19–80 / Food labeling; tentative positions of agencies; comments by 4–21–80

[Originally published at 43 FR 25296; 6–9–78]

18946 3–24–80 / 1977 line of business reports program and quarterly financial reports program; confidentially rules and procedures; comment period reopens to 4–23–80

[*See also* 44 FR 59552, 10–16–79]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Child Support Enforcement Office—

10793 2–19–80 / Requirements for Federal funding of State and local acquisition of automatic data processing equipment and services; comments by 4–21–80

Education Office—

10821 2–19–80 / Grant regulations for Law School Clinical Experience Program; comments by 4–21–80

Food and Drug Administration—

11849 2–22–80 / Bioequivalence requirements for carbonic anhydrose inhibitors; comments by 4–22–80

75666 12–21–79 / Exocrine pancreatic insufficiency drug products for over-the-counter human use; establishment of a monograph; reply comments by 4–21–80

19265 3–25–80 / Exocrine pancreatic insufficiency drug products for over-the-counter human use; establishment of monograph; comments by 4–21–80

[*See also* 44 FR 75666, 12–21–79 and 45 FR 19266, 3–25–80]

10810 2–19–80 / Food labeling; tentative positions of agencies; comments by 4–21–80

[Originally published at 43 FR 25296; 6–9–78]

11842 2–22–80 / Sodium hydroxide and potassium hydroxide; proposed affirmation of GRAS status as direct human food ingredients; comments by 9–22–80

Health Care Financing Administration—

10793 2–19–80 / Requirements for Federal funding of State and local acquisitions of automatic data processing equipment and services; comments by 4–21–80

Human Development Services Office—

10793 2–19–80 / Requirements for Federal funding of State and local acquisitions of automatic data processing equipment and services; comments by 4–21–80

Office of the Secretary—

10820 2–19–80 / Publicizing adverse information to news media; procedures for obtaining retraction or correction; comments by 4–21–80

Social Security Administration—

10793 2–19–80 / Requirements for Federal funding of State and local acquisitions of automatic data processing equipment and services; comments by 4–21–80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

15584 3–11–80 / Receipt of permanent program submission from the State of Utah; comments by 4–21–80

14230 3–5–80 / Receipt of permanent program submission from the State of New Mexico; comments by 4–25–80

INTERSTATE COMMERCE COMMISSION

19585 3–26–80 / Common carrier status of States, State agencies and instrumentalities, and political subdivisions; comments by 4–25–80

19280 3–25–80 / Direct routes for regular route movements; comments by 4–24–80

12273 2–25–80 / No suspend zone—motor common carriers of property; comments by 4–25–80

11142 2–20–80 / Standards and expeditious procedures for establishing railroads rates based on seasonal, regional, or peak-period demand for rail services; comments by 4–21–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

10802 2–19–80 / Petition for rulemaking allowing closing and locking of flight crew compartment to be at discretion of captain; comments by 4–21–80

Research and Special Programs Administration—

18994 3–24–80 / Conversion of individual exemptions into regulations of general applicability; comments by 4–23–80

TREASURY DEPARTMENT

Internal Revenue Service—

5754 1–24–80 / Income tax; limitations on benefits and contributions under qualified plans; comments by 4–23–80

VETERANS ADMINISTRATION

18989 3–24–80 / Veterans education; proportionate reduction in monthly training assistance allowance less than 120 hours; comments by 4–23–80

Next Week's Meetings

ADMINISTRATIVE CONFERENCES OF THE UNITED STATES

20145 3–27–80 / Ratemaking and Economic Regulation Committee, Washington, D.C. (open), 4–14–80

AGRICULTURE DEPARTMENT

21325 4–1–80 / Food and Agricultural Sciences Joint Council, Executive Committee, Arlington, Va. (open), 4–16–80

Science and Education Administration—

21324 4–1–80 / Food and Agricultural Sciences Joint Council, Arlington, Va. (open), 4–16 through 4–18–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

18208 3–20–80 / Humanities Panel, Washington, D.C. (closed), 4–15 and 4–16–80

11965 2–22–80 / Humanities Panel, Washington, D.C. (closed), 4–18–80

21064 3–31–80 / Literature Panel, Washington, D.C. (open), 4–17 through 4–19–80

20253 3–27–80 / Media Arts Panel (Programming in the Arts), Washington, D.C. (closed), 4–17 and 4–18–80

CIVIL RIGHTS COMMISSION

17056 3–17–80 / Arkansas Advisory Committee, Little Rock., Ark. (open), 4–19–80

17056 3–17–80 / Connecticut Advisory Committee, Hartford, Conn. (open), 4–15–80

[Rescheduled at 45 FR 20987, March 31, 1980]

19015 3-24-80 / Pennsylvania Advisory Committee, Pittsburgh, Pa. (open), 4-16-80

19015 3-24-80 / Washington Advisory Committee, Seattle, Wash. (open), 4-18-80

COMMERCE DEPARTMENT

International Trade Administration—

20988 3-31-80 / Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially closed), 4-17-80

20150 3-27-80 / Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee, Washington, D.C. (closed) 4-16-80

19595 3-26-80 / Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (partially open), 4-15-80

International Trade Administration—

20149 3-27-80 / Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, Washington, D.C. (open), 4-16-80

21668 4-2-80 / Export Administration Subcommittee of the President's Export Council, Washington, D.C. (open), 4-17-80

20989 3-31-80 / Management—Labor Textile Advisory Committee, Washington, D.C. (open), 4-17-80

19015 3-24-80 / Semiconductor Technical Advisory Committee, Washington, D.C., (partially open), 4-14-80

19594 3-26-80 / Semiconductor Technical Advisory Committee, Discrete Semiconductor Device Subcommittee, Washington, D.C. (closed), 4-15-80

19595 3-26-80 / Semiconductor Technical Advisory Committee, Microcircuit Subcommittee, Washington, D.C. (closed), 4-15-80

19596 3-26-80 / Semiconductor Technical Advisory Committee, Semiconductor Manufacturing Materials and Equipment Subcommittee, Washington, D.C. (closed), 4-15-80

CONSUMER PRODUCT SAFETY COMMISSION

20519 3-28-80 / Discussion of process of selection of chemicals for toxicological testing, Washington, D.C. (open), 4-18-80

DEFENSE DEPARTMENT

Air Force Department—

14915 3-7-80 / USAF Scientific Advisory Board, Wright-Patterson AFB, Ohio (closed), 4-14 and 4-15-80

Army Department—

8332 2-7-80 / Historical Advisory Committee, Washington, D.C. (open), 4-18-80

17173 3-18-80 / Shoreline Erosion Advisory Panel, Alexandria, Va. (open), 4-15-80

Office of the Secretary—

18422 3-21-80 / DOD Advisory Group on Electron Devices, New York, N.Y. (closed), 4-15 and 4-16-80

20521 3-28-80 / Advisory Group on Electron Devices, New York, N.Y. (closed), 4-17 and 4-18-80

16524 3-14-80 / Defense Science Board Task Force on Acquisition Policy, Washington, D.C. (closed), 4-17 and 4-18-80

11874 2-22-80 / DOD Wage Committee, Washington, D.C. (closed), 4-15-80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

21333 4-1-80 / Automotive Propulsion Research and Development; Fifth International symposium on Automotive Propulsions Systems, Dearborn, Mich. (open), 4-14 through 4-18-80

Energy Research Office—

21345 4-1-80 / Conservation Panel of the Energy Research Advisory Board, Washington, D.C. (open), 4-14 and 4-15-80

21700 4-2-80 / High Energy Physics Advisory Panel, Accelerator R&D subpanel, Stanford, Calif. (open), 4-18 and 4-19-20

Nuclear Energy Office—

21700 4-2-80 / Radioactive Waste Management State Planning Council, Arlington, Va. (open), 4-19 and 4-20-80

ENVIRONMENATAL PROTECTION AGENCY

18474 3-21-80 / National Air Pollution Control Techniques Advisory Committee, Raleigh, N.C. (open), 4-16 and 4-17-80

21702 4-2-80 / Science Advisory Board, Health Risk Assessment Subcommittee, Washington, D.C. (open), 4-18-80

FEDERAL COMMUNICATIONS COMMISSION

21037 3-31-80 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 4-17-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

16009 3-12-80 / Adult Education National Advisory Council, Kansas City, Mo. (open), 4-14 through 4-16-80

Food and Drug Administration—

19316 3-25-80 / Consumer Participation Meeting, Great Falls, Mont. (open), 4-17-80

19318 3-25-80 / Consumer Participation Meeting, Honolulu, Hawaii (open), 4-15-80

15673 3-11-80 / Consumer Participation Meeting, Nashville, Tenn. (open), 4-17-80

19318 3-25-80 / Consumer Participation Meeting, Winchester, Va. (open), 4-16-80

15675 3-11-80 / Miscellaneous Internal Drug Products Panel, Rockville and Bethesda, Md. (Open), 4-18 and 4-19-80

15675 3-11-80 / Ophthalmic; Ear, Nose, and Throat, Dental Devices Section; and Dental Devices Panel, Washington, D.C. (open), 4-14-80

Health Services Administration—

14251 3-5-80 / Migrant Health National Advisory Council, Rockville, Md. (open), 4-14 through 4-17-80

Human Development Services Office—

19618 3-26-80 / Model State Adoption Act and Model Adoption Procedures (open):

Dallas, Tex., 4-14-80

Denver, Colo., 4-14-80

National Institutes of Health—

11196 2-20-80 / Cancer National Advisory Board Working Group on Board Activities and Agenda, Bethesda, Md. (open), 4-17-80

13822 3-3-80 / National Institute of Dental Research Programs Advisory Committee, Bethesda, Md. (open), 4-15-80

Office of the Secretary—

22193 4-3-80 / Ethics Advisory Board, Washington, D.C. (open), 4-18-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

20503 3-28-80 / Consideration of reproposal of critical habitat for callipe silverspot butterfly, Millbrae, Calif. (open), 4-17-80

19860 3-26-80 / Proposal of critical habitat for the Palos Verdes blue butterfly, Palos Verdes, Calif., 4-18-80

19864 3-26-80 / Reproposal of critical habitat for the Oregon Silverspot butterfly, Newport, Oreg., 4-15-80

Land Management Bureau—

20165 3-27-80 / California Desert Conservation Area, San Diego, Calif. (open), 4-17 and 4-18-80

21356 4-1-80 / Intensive Wilderness inventory, Nevada:

Elko, 4-14-80

Gerlach, 4-15-80

Alamo, 4–15–80

Battle Mountain, 4–15–80

Las Vegas, 4–16–80

Eureka, 4–16–80

Winnemucca, 4–17–80

Goldfield, 4–17–80

Carson City, 4–17–80

Ely, 4–17–80

Tonopah, 4–17–80

11916 2–22–80 / Intergovernmental Planning Program's Gulf of Mexico Regional Technical Working Group, New Orleans, La. (open), 4–15 and 4–16–80

18130 3–20–80 / Outer Continental Shelf Advisory Board, North Atlantic Technical Working Group, Boston, Mass. (open), 4–15–80

15267 3–10–80 / Winnemucca District Grazing Advisory Board, Winnemucca, Nev. (open), 4–15–80

National Park Service—

18494 3–21–80 / Gateway National Recreation Area, Staten Island, N.Y. (open), 4–16–80

20577 3–28–80 / Santa Monica Mountains National Recreation Area Advisory Commission, Westwood, Calif. (open), 4–14–80

Surface Mining and Reclamation Office—

20175 3–27–80 / East Gillette Mine, proposed mining and reclamation plans, Gillette, Wyo. (open), 4–17–80

14598 3–6–80 / Permanent program submission from State of Iowa, Des Monies, Iowa (open), 4–15–80

14230 3–5–80 / Permanent program submission from the State of New Mexico, Albuquerque, N. Mex., 4–15–80

14599 3–6–80 / Permanent program submission from State of Oklahoma, Oklahoma City, Okla. (open), 4–17–80

15581 3–11–80 / Receipt of Permanent Program submission from State of Colorado, Denver, Colo., (open), 4–17–80

15947 3–12–80 / Receipt of permanent program submission from the State of Alabama, Jasper, Ala., 4–14–80

15948 3–12–80 / Receipt of permanent program submission from the State of Kentucky, Madisonville, Ky., 4–16–80 and Pikeville, Ky. 4–17–80

15578 3–11–80 / Receipt of Permanent Program submission from State of Tennessee, Knoxville, Tenn. (open), 4–15–80

14883 3–7–80 / Review of permanent regulatory program submitted by State of Ohio, Columbus, Ohio (open), 4–16–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

17697 3–19–80 / Asia Regional Work Group, Rosslyn, Va. (open), 4–14–80

17647 3–19–80 / Latin America Regional Work Group, Washington, D.C. (open), 4–14–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

10732 2–15–80 / Occupational safety and health hazards in grain handling facilities, Superior, Wis. (open), 4–15 through 4–17–80

METRIC BOARD

20596 3–28–80 / Consumer Forum, St. Louis, Mo. (open), 4–16–80

NATIONAL SCIENCE FOUNDATION

19101 3–24–80 / Advisory Committee for Environmental Biology, Subcommittee on Systematic Biology, Washington, D.C. (closed), 4–17 and 4–18–80

21064 3–31–80 / Advisory Committee for Social and Economic Science; Subcommittee for Law and Social Sciences, Washington, D.C. (closed), 4–17 and 4–18–80

PENSION POLICY, PRESIDENT'S COMMISSION

21067 3–31–80 / Meeting, Washington, D.C. (open), 4–17 and 4–18–80

4488 1–22–80 / Meeting, Washington, D.C. (open), 4–18–80

SMALL BUSINESS ADMINISTRATION

20608 3–28–80 / Advisory Committee on Small and Minority Business ownership, Washigton, D.C. (open), 4–18–80

17709 3–19–80 / Region III Advisory Council, Richmond, Va. (open), 4–17 and 4–18–80

17708 3–19–80 / Region IV Advisory Council, Columbia, S.C. (open), 4–15–80

17709 3–19–80 / Region IV Advisory Council, Owensboro, Ky. (open), 4–17 and 4–18–80

17708 3–19–80 / Region VIII Advisory Council, Ogden, Utah (open), 4–18–80

19708 3–26–80 / Region IX Advisory Council Meeting, Las Vagas, Nev. (open), 4–18–80

17709 3–19–80 / Region IX Advisory Council, Phoenix, Ariz. (open), 4–16–80

STATE DEPARTMENT

20617 3–28–80 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4–17–80

19106 3–24–80 / Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 4–15–80

TRANSPORTATION DEPARTMENT

Coast Guard—

16438 3–13–80 / New and existing tank barges; prevention of oil pollution; workshop; Washington, D.C. (open), 4–15 and 4–16–80

Federal Railroad Administration—

19109 3–24–80 / Amtrak Employee Compensation and Incentive Commission, Washington, D.C. (open and closed), 4–15–80

National Highway Traffic Safety Administration—

19109 3–24–80 / Safety, Bumper, and Consumer Information Program question and answer session, Ann Arbor, Mich. (open), 4–16–80

Research and Special Programs Administration—

17103 3–17–80 / Technical Pipeline Safety Standards Committee, Washington, D.C. (open), 4–15 through 4–17–80

13153 2–28–80 / Transportation of wet electric storage batteries on passenger-carrying aircraft, Denver, Colo. (open), 4–16–80

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

20596 3–28–80 / Austin, Tex.; 4–19–80

VETERANS ADMINISTRATION

17714 3–19–80 / Wage Committee, Washington, D.C. (closed), 4–17–80

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

16506 3–14–80 / Proceedings on amendment of Atlantic bluefin tuna regulations: Hyannis, Mass., 4–14–80; Warwick, RI, 4–15–80; West Long Branch, N.J., 4–16–80; Norfolk, Va., 4–18–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

4359 1–22–80 / New buildings energy performance standards, Atlanta, Ga., 4–14 and 4–15–80

4359 1–22–80 / New buildings energy performance standards, Kansas City, Mo., 4–14 through 4–16–80

ENVIRONMENTAL PROTECTION AGENCY

17048 3–17–80 / Kentucky-Indiana interstate pollution abatement, Louisville, Ky., 4–17–80

INTERIOR DEPARTMENT

Heritage Conservation and Recreation Service—

17622 3–19–80 / Archaeological Resources Protection Act of 1979, Knoxville, Tenn., 4–19–80

Land Management Bureau—

17644 3–19–80 / Bannock-Oneida grazing draft environmental impact statement, Malad, Idaho, 4–15–80; Pocatello, Idaho, 4–16–80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

19697 3–26–80 / Fullerton-Kedzie Pharmacy, Inc., Chicago, Ill., 4–16–80

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration—

14609 3–6–80 / Highway routing of radioactive materials, Seattle, Wash., 4–18–80

14609 3–6–80 / Highway routing of radioactive materials, Denver, Colo., 4–15–80

TREASURY DEPARTMENT

Internal Revenue Service—

8668 2–8–80 / Changes in deposit requirements for Social Security and withheld income taxes, Washington, D.C., 4–16–80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing April 8, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

21126 3–31–80 / HEW/HDSO—Grants for State and Community Programs on Aging; effective 3–31–80

22494–22806 4–3–80 / HEW/OE issues Education Division General Administrative Regulations (EDGAR) regarding direct grant and State-administered programs, publishes 15 documents describing grant programs.

DEADLINES FOR COMMENTS ON PROPOSED RULES

21657 4–2–80 / HEW/NIE—Program of research grants on organization processes in education; comments by 5–19–80

21303 4–1–80 / HEW/OE—Direct grant programs, State-administered programs, and general regulations; comments by 6–2–80

22806 4–3–80 / HEW/OE—Selection criteria for fiscal year 1981 grants and contracts; comments by 6–2–80

22680 4–3–80 / HEW/OE—State Leadership Programs; comments by 6–2–80

21405 4–1–80 / Justice/LEAA—Violent Juvenile Offender Research and Development Program; request for comments on proposed guideline; comments by 5–1–80

APPLICATIONS DEADLINES

22190 4–3–80 / HEW/OE—Community Education Program; closing date for submission of applications extended from 3–10–80 to 6–30–80

22191 4–3–80 / HEW/OE—Cooperative Education Program; apply by 5–22–80

22192 4–3–8 / HEW/OE—Emergency Adult Education Program for Indochina Refugees; apply by 6–18–80

21755 4–2–80 / Justice/LEAA—Announcement of a solicitation for applications to conduct the evaluation component of the Office of Juvenile Justice and Delinquency Prevention's Prevention of Delinquency through Alernative Education Program; apply by 6–4–80

21755 4–2–80 / Justice/LEAA—Solicitation for applicants to conduct the evaluation component of the Office of Juvenile Justice and Delinquency Prevention, Violent Juvenile Offender Research and Development Program; apply by 6–9–80

22309 4–3–80 / Justice/NIJ—Pre-Indictment Decision Making; competitive research solicitation; proposals by 5–23–80

22310 4–3–80 / Justice/NIJ—Role of Grand Jury; competitive research solicitation; proposals by 5–17–80

21409 4–1–80 / Justice/NIJ—Supervised Release Program Test Design; competitive research cooperative agreement program; papers by 5–30–80

21600 4–1–80 / USDA/SEA—Native Latex Research Grants Program for fiscal year 1980; apply by 5–19–80

MEETINGS

21355 4–1–80 / HEW/HRA—Nurse Training National Advisory Council, Hyattsville, Md. (partially closed), 5–19 through 5–21–80

21416 4–1–80 / NSF—Engineering and Applied Science Advisory Committee, Subcommittee for applied Physical, Mathematical, and Biological Sciences and Engineering, Washington, D.C. (closed), 4–21 and 4–22–80

21416 4–1–80 / NSF—Engineering and Applied Science Advisory Committee, Subcommittee for Applied Social and Behavioral Sciences, Washington, D.C. (closed), 4–24 and 4–25–80

21437 4–1–80 / Truman, Harry S, Scholarship Foundation—Board of Trustees, Washington, D.C. (open), 4–14–80

OTHER ITEMS OF INTEREST

21663 4–2–80 / Action—final notice of guidelines for State Office of Voluntary Citizen Participation (S/OVCP Program Grants); effective 5–19–80

21041 3–31–80 / HEW/OE—Special Services for Disadvantaged Students; Transmittal of Applications for National Demonstration Projects for FY 1980

21414 4–1–80 / LSC—Legal Services of North Eastern Wisconsin, Green Bay, Wis. consideration of grant application

21414 4–1–80 / LSC—Western Wisconsin Legal Services, LaCrosse, Wis.; consideration of grant application

21416 4–1–80 / NSF—Renewal of Alan T. Waterman Award Committee

22320 4–3–80 / OMB—Agency forms under review; HEW/NIE Survey on Training needs and HEW/HDSO Information Collection and Research Evaluation Form

21836 4–2–80 / OMB—Circular 102; Uniform requirements for grants to State and local governments; effective 3–17–80

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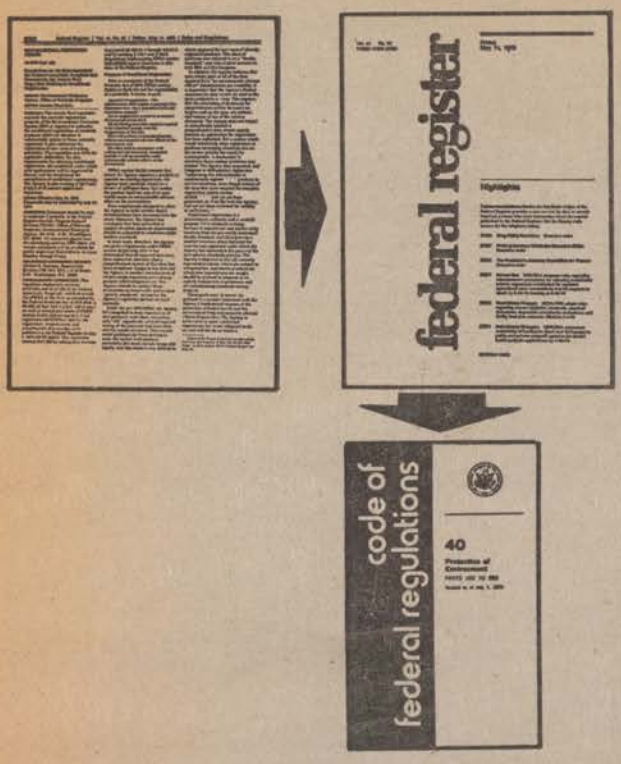
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WHERE: Room 204A, Dirksen Federal Bldg., Chicago, Ill.
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WHERE: Room 125, Hale Boggs Federal Bldg 500 Camp Street, New Orleans, La.
RESERVATIONS: Call Mary Malouse, 504–589–6601.

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